ZONING BYLAW

CHAPTER 135 OF THE CODE OF THE TOWN OF LEXINGTON

INCORPORATES AMENDMENTS
THROUGH 2008

Lexington Planning Board

$10.00

Types of questions:	Person to ask:	Location, telephone:
Administration, enforcement of the Zoning Bylaw	David George, Zoning Administrator	Community Development Office Room G-8 (781) 862-0500, Ext. 216 Fax: (781) 861-2780
Interpretation of the Zoning Bylaw	David George, Zoning Administrator	Community Development Office Room G-8 (781) 862-0500, Ext. 216 Fax: (781) 861-2780
Appeals of the Zoning Bylaw Variances, Special Permits	Dianne Cornaro, Board of Appeals Clerk	Zoning Board of Appeals Room G-8 (781) 862-0500, Ext. 207 Fax: (781) 861-2780
Amendments to Zoning Map or text of Zoning Bylaw; Special Zoning Districts	Maryann McCall-Taylor; Planning Director	Planning Department Room G-1 (781) 862-0500, Ext. 242 Fax: (781) 861-2748
Residential Development in Subdivisions	Maryann McCall-Taylor; Planning Director Aaron Henry, Senior Planner	Planning Department Room G-1 (781) 862-0500, Ext. 242, 246 Fax: (781) 861-2748
Unaccepted Street Improvement Plans	Maryann McCall-Taylor; Planning Director Aaron Henry, Senior Planner	Planning Department Room G-1 (781) 862-0500, Ext. 242, 246 Fax: (781) 861-2748
Wetland Protection District Conservation Restrictions; Stormwater Management Plans	Karen Mullins. Conservation Administrator	Conservation Office Room G-8 (781) 862-0500, Ext. 227 Fax: (781) 861-2780

Town Office Building
1625 Massachusetts Avenue
Lexington, MA 02420

8:30 a.m. – 4:30 p.m. Monday – Friday

A link to the Zoning Bylaw and the Development Regulations, can be found on the Planning webpage on the Internet at:
http://www.lexingtonma.gov/planning/bylaws.cfm

Chapter 135

ZONING

ARTICLE XIII
Signs

ARTICLE XIV
Outdoor Lighting

ARTICLE XV
Wireless Communication Facilities

ARTICLE XVI
Dead-End Streets and Drives

[HISTORY: Adopted by the Special Town Meeting of the Town of Lexington 6-4-1968 by Art. 10; amended in its entirety by the Annual Town Meeting 3-24-1980 by Art. 36. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Board of Appeals — See Chs. 12 and 138.
Housing conversion — See Ch. 63.
Wetland protection — See Ch. 130.
Planning Board regulations — See Ch. 175.

ARTICLE I

Purpose, Districts and Authority

[Amended 3-23-1981 ATM by Art. 22; 4-8-1985 ATM by Art. 11; 4-14-1986 ATM by Art. 40; 5-6-1987 ATM by Art. 43]

§ 135-1. 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; the relationship between land development and traffic congestion; 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.

§ 135-2. Division of Town into zoning districts.

In order to carry out the purposes of this bylaw, the Town of Lexington is divided into zoning districts, as specified hereinafter.

A. Applicability.

(1) Every parcel of land and every building or other structure in the Town shall be in a zoning district and, except as otherwise provided by law or by this bylaw, shall be subject to the regulations, restrictions, and requirements specified for the zoning district in which it is located.

(2) Zoning districts are hereby established as shown on a map entitled "Zoning Map of the Town of Lexington Mass." (hereinafter referred to as the Zoning Map) or as hereafter amended. The Zoning Map by this reference and all boundaries, notations, and other data shown thereon are made as much a part of this bylaw as if fully described in detail herein.

(3) Any change in the location or boundaries of zoning districts shall be by the same procedure as amendment to the text of the Zoning bylaw.

B. Classes of districts.

(1) There shall be three classes of districts as follows:

	Symbol	Title
Standard Districts		
Residential Districts		
	RO	One-Family Dwelling

Symbol	Title
RS	One-Family Dwelling
RT	Two-Family Dwelling
RM	Multifamily Dwelling

Commercial Districts

CN	Neighborhood Business
CRS	Retail Shopping
CS	Service Business
CB	Central Business
CLO	Local Office
CRO	Regional Office
CM	Manufacturing

Planned Development District

RD	Planned Residential Development
CD	Planned Commercial Development

The development standards for each planned development district are different and are set forth in the preliminary site development and use plan voted by the Town Meeting for each such district. Such standards are on file in the office of the Town Clerk.

Overlay Districts

WPD	Wetland Protection
NFI	National Flood Insurance

(2) Each such zoning district may be designated in this bylaw or on the Zoning Map by its symbol only.

C. Description, purpose of districts.

(1) Residential districts. Each of the residential districts is intended to secure for residents a pleasant environment retaining as many natural features as possible and secure from the intrusion of incompatible and disruptive activities that belong in other zoning districts.

(a) RO One-Family Dwelling; RS One-Family Dwelling: are intended to be districts with a low density of development providing housing for families with children and small households with related public and institutional uses.

(b) RT Two-Family Dwelling: is intended to be a district with a low density of development providing housing for both families and small households and opportunities for both ownership and rental.

(c) RM Multifamily Dwelling: is intended to be a district with a higher density of development providing dwelling units in apartment buildings principally for small households desiring rental accommodations. The district describes multifamily developments approved by the Town Meeting prior to 1980. It is not intended that new RM Districts will be added but that the RD Planned Residential District will be used instead.

(d) RD Planned Residential Development: is intended to be a district with a higher density of development providing housing in dwelling units or group quarters for families or small households or single persons in a variety of types of housing, all in a planned setting for which the approval of the Town Meeting is obtained.

(2) Commercial districts.

(a) CN Neighborhood Business: is intended to be a district with a low intensity of development for small establishments, oriented to one or more nearby neighborhoods, which provide a few services and convenience goods that are purchased frequently and require a minimum of consumer travel. The range of goods and services offered should not be so broad as to attract substantial trade from outside the neighborhood. Due to the location of CN Districts adjacent to residential areas, development should be small in scale and architecturally compatible with nearby residential buildings.

(b) CRS Retail Shopping: is intended to be a district with a low intensity of development for establishments offering a variety of goods and services, serving the whole, or large sections of, the town. Development in the CRS District is best achieved by a group of stores in a building developed and managed as a unit served by a common parking area so as to comprise an efficient and architecturally integrated shopping area. In some cases, individual establishments on separate lots, which are not part of a larger shopping complex, may occur in the CRS District.

(c) CS Service Business: is intended to be a district with a low intensity of development for establishments providing certain types of business services; for the shops and yards of local tradesmen providing building construction and repair services primarily for the residents and small businesses in the town; or automotive services necessary for the residents of the Town which may not be compatible with uses permitted in other districts. The pattern of development generally is individual establishments on separate lots, each with its own off-street parking. Frequent automobile turning movements off and on abutting arterial streets are anticipated and must be regulated.

(d) CB Central Business: is intended to be a district with a medium intensity of development for establishments and institutional uses offering a wide variety of goods and services. The CB District is intended to recognize and enhance the role of Lexington Center as the focus of civic, cultural, retail and service activity in the town. Its contribution to the history, culture and image of the Town requires special development standards not appropriate for other

locations in the town. A compact and more intensive development oriented to pedestrians and people entering several businesses, public or institutional uses is anticipated. Most off-street parking will be in a few larger lots serving a variety of uses. Mixed-use development is appropriate. Uses which interrupt the continuity of the pedestrian circulation and shopping patterns are discouraged.

(e) CLO Local Office: is intended to be a district with a medium intensity of development for offices and related services that are oriented primarily to residents of the Town and other businesses in the Town but not to a regional clientele. In some locations, the proximity to adjacent residential areas, or the re-use of buildings originally constructed as dwellings, may warrant special design controls in the CLO District that ensure retention of a residential scale and the use of exterior building materials characteristic of residential construction.

(f) CRO Regional Office: is intended to be a district with a higher intensity of development for offices and related services appropriate for larger companies oriented primarily to a regional clientele. Buildings are assumed to be placed in an open, park-like or campus setting.

(g) CM Manufacturing: is intended to be a district with a low intensity of development for the manufacture, assembly, processing or handling of materials, subject to certain performance standards, which are incompatible with and need to be well separated from residential, institutional or certain business uses.

(h) CD Planned Commercial: is intended to be a district to permit considerable flexibility in the development of land for commercial or mixed-use purposes without predetermined standards. The CD District procedure is intended to permit the Town Meeting to approve development standards unique to a particular location and not applicable to other locations in the town. Where land not now zoned for commercial development is proposed for new commercial development, it is intended that the CD procedure be used rather than rezoning to one of the standard commercial zoning districts.

D. Preparation of the Zoning Map. The Official Zoning Map of the Town of Lexington shall be prepared by the Planning Board and shall be on file in the office of the Town Clerk and in the office of the Planning Board. The Planning Board may also prepare and print "Zoning District Maps" showing the boundaries of districts at a larger scale and on individual sheets which shall also be as much a part of this bylaw as the Zoning Map. The Zoning Map and the Zoning District Maps may be revised, from time to time, by the Planning Board as amendments to the Zoning Map are voted by the Town Meeting. Both the Zoning Map and the Zoning District Maps may include geographical features, streets, notations and such other information as the Planning Board may add to keep the maps reasonably current and to facilitate orientation.

E. Boundaries of overlay districts.

(1) Wetland Protection Districts WPD are shown on maps entitled "Wetland Protection Districts, Lexington, Massachusetts - 1973" consisting of an index sheet 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 and W-39.

(2) The National Flood Insurance Districts NFI are 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 maps are on file with the Town Clerk.

F. Rules for interpretation of district boundaries.

(1) The boundaries between zoning districts are as shown on the Zoning Map and on the Zoning District Maps. In the event of any difference between the boundary of a zoning district as shown on the Zoning Map or the Zoning District Maps and the perimeter description set forth in the vote of the Town Meeting establishing or amending said boundary, the vote of the Town Meeting shall govern. Where uncertainty exists with respect to the boundaries of the various zoning districts as shown on the Map, the following rules shall apply:

(a) Where the boundary is indicated as a street, highway, railroad right-of-way, or utility easement, the boundary shall be the center line of the street, highway, railroad right-of-way, or utility easement.

(b) Where the district boundary is indicated as approximately parallel to a street, highway, railroad right-of-way, or utility easement, the boundary shall be taken as parallel thereto and, unless otherwise indicated, 100 feet from the center line thereof.

(c) Where the district boundary is indicated as following a watercourse, the boundary shall coincide with the center line thereof as said center line existed as of the effective date of this bylaw or any amendment to the Zoning Map applicable to that watercourse.

(d) Where the district boundary is indicated as following the shore line of a body of water (such as a pond), or of a contour line, the boundary shall be the elevation above the datum mean sea level of such body of water, or contour, and shall be labeled el. with the elevation of the Zoning Map, such as el. 150. If the elevation is not labeled, it shall be as shown on the U.S. Geological Survey Map, Lexington quadrangle of 1971 and Concord quadrangle of 1958, and if the elevation is not indicated on the USGS map, the boundary shall be the water line, or contour line, as shown on the photogrammetric maps of the Town prepared by the James W. Sewall Company in 1972.

(e) Where the district boundary is designated as approximately following a lot line, such line shall be construed to be the boundary and shall be labeled L.L. on the Zoning Map.

(f) Where the district boundary is indicated as the extension of another district boundary line, the boundary shall be the straight line extension thereof.

(g) In cases not covered by Subsection F(1)(a) through (f) above, the locations of the district boundaries shall be determined by the distances, if given, from other lines or features on the Zoning Map, or, if distances are not given, then by the scale of the Zoning Map.

(2) If, after the application of the rules set forth in Subsection F(1)(a) through (g), uncertainty still exists with respect to the boundaries of a district, the Building Commissioner or designee[1] shall make a determination after first seeking an advisory opinion from the Planning Board. **[Amended 4-4-1990 ATM by Art. 36]**

§ 135-3. Amendments. [Amended 4-1-1991 ATM by Art. 31; 4-9-2008 ATM by Art. 49]

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

§ 135-4. Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

§ 135-5. More restrictive provisions to control.

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

§ 135-6. Continuity of bylaw.

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

§ 135-7. Headings. [Added 3-22-1999 ATM by Art. 6]

Headings, subheadings and captions at the head of subsections and paragraphs are for reference only and are not substantive provisions of the Zoning Bylaw. They are not legally adopted parts of the Zoning Bylaw as voted by Town Meeting.

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1. **Editor's Note: Throughout the Zoning Bylaw, references to the "Zoning Officer" were amended to "Building Commissioner or designee" 4-22-2002 ATM by Art. 21.**

ARTICLE II
Definitions

§ 135-8. Word usage and definitions.

For the purpose of this bylaw 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 subordinate in size to the principal dwelling unit on an owner-occupied lot, located in either the principal dwelling or an existing accessory structure. The apartment is constructed so as to maintain the appearance and essential character of a one-family dwelling and any existing accessory structures. **[Added 4-6-1983 ATM by Art. 14; amended 4-4-2005 ATM by Art. 10]**

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. **[Amended 3-18-1981 ATM by Art. 13]**

ACT — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

ADEQUATE COVERAGE — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

ANTENNA — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

APARTMENT BUILDING — Same as "dwelling, multifamily." **[Added 4-8-1985 ATM by Art. 11]**

ASSISTED LIVING RESIDENCE — See "living facilities for seniors." **[Added 4-10-1996 ATM by Art. 28]**

ATTIC — A space directly under a sloping roof which is unfinished and which is not accessible by an approved stairway and is not designed or intended to be used for human occupancy. **[Added 3-25-1998 ATM by Art. 35]**

AVAILABLE SPACE — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

BALANCED HOUSING DEVELOPMENT — A type of special permit residential development as defined in § 135-45. **[Added 4-9-2008 ATM by Art. 49]**

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

BASEMENT — A space in a building which is partly below and partly above the level of the adjoining ground and having at least 1/2 of its floor-to-ceiling height above the average level of the adjoining ground. A basement shall have a floor-to-ceiling height of seven feet or greater. **[Added 4-8-1985 ATM by Art. 11; amended 3-25-1998 ATM by Art. 35]**

BED-AND-BREAKFAST HOME — A private owner-operated dwelling unit where three or fewer bed-and-breakfast units (See definition.) are let and a breakfast is included in the rent, as an accessory use, in which accommodations are available for overnight. See § 135-22. **[Added 4-30-1990 ATM by Art. 37]**

BED-AND-BREAKFAST UNIT — A rental guest unit in a bed-and-breakfast home (See definition and § 135-22.) consisting of one bedroom and an adjoining bathroom, if provided. **[Added 4-30-1990 ATM by Art. 37]**

BEDROOM — A private room, however named, planned, intended or used for sleeping and separated from other rooms by walls and a door. **[Added 4-6-1983 ATM by Art. 14]**

BILLBOARD — Any sign, regardless of size, which advertises, calls attention to or promotes for commercial purposes any product, service or activity other than one manufactured, sold or engaged in on the premises at which the sign is located. **[Amended 4-7-2003 ATM by Art. 20]**

BOARDER — Same as "roomer" although a distinction may be made that a boarder is a person who receives meals as part of the rent. **[Added 4-8-1985 ATM by Art. 11]**

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."

BUILDING HEIGHT **[Deleted 4-16-1986 ATM by Art. 45]** —

BUSINESS DISTRICT — Same as "commercial district." **[Added 5-6-1987 ATM by Art. 43]**

CAMOUFLAGED — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

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.

CARRIER — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

CELLAR — A space in a building which has less than 1/2 of its floor-to-ceiling height above the average level of the adjoining ground. A cellar shall have a floor-to-ceiling height of seven feet or greater. **[Added 4-8-1985 ATM by Art. 11; amended 3-25-1998 ATM by Art. 35]**

CERTIFICATE OF OCCUPANCY — The certificate issued by the Building Commissioner or designee[2] which permits the use of a building in accordance with approved plans and in compliance with the Zoning Bylaw.[3] **[Added 4-6-1983 ATM by Art. 14]**

CHANNEL — See Article XV, Wireless Communication Facilities, for definition.[4] **[Added 4-1-1998 ATM by Art. 32]**

CMR: CODE OF MASSACHUSETTS REGULATIONS — Regulations promulgated by agencies of the Commonwealth of Massachusetts. **[Added 4-10-1996 ATM by Art. 28]**

CO-LOCATION — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

COLOR RENDERING INDEX (CRI) — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

COMMERCIAL 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 nonconforming uses, by special permit, by variance, or otherwise. **[Added 4-9-1980 ATM by Art. 65; amended 5-6-1987 ATM by Art. 43]**

COMMERCIAL VEHICLE — A registered motor vehicle used for business purposes which: has advertising or the logo of a business displayed, or has equipment or tools used for business purposes visible on the outside of the vehicle, or has commercial registration plates, or has a gross vehicle weight rating of 5,000 pounds or more. An automobile, van, pickup truck or recreational vehicle which has commercial registration plates or a gross vehicle weight rating of 5,000 pounds or more will not be considered to be a commercial vehicle if it does not have advertising or equipment or tools visible on the outside of the vehicle. **[Added 4-27-1988 ATM by Art. 39]**

COMMUNICATION EQUIPMENT SHELTER — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

CONCEALED — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

CONGREGATE LIVING FACILITY **[Amended 4-8-1985 ATM by Art. 11; deleted 4-10-1996 ATM by Art. 28]** —

CONVENTIONAL SUBDIVISION —

The division of a tract of land into two or more lots complying with the dimensional standards set forth in this bylaw, accompanied by the construction of certain public facilities, in accordance with Chapter 41, Sections 81K - 81GG, MGL, "The Subdivision Control Law,"

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2. **Editor's Note: Throughout the Zoning Bylaw, references to the "Building Commissioner" were amended to "Building Commissioner or designee" 4-22-2002 ATM by Art. 21.**

3. **Editor's Note: The former definition of "cluster development" that immediately followed this definition was deleted 4-8-1985 ATM by Art. 11.**

4. **Editor's Note: The former definition of "cluster subdivision," added 4-8-1985 ATM by Art. 11, as amended 4-14-1986 ATM by Art. 41 and 4-22-2002 ATM by Art. 21, which immediately followed this definition, was repealed 4-9-2008 ATM by Art. 49.**

and the Planning Board's "Development Regulations."[5] **[Added 4-8-1985 ATM by Art. 11; amended 4-10-1989 ATM by Art. 41]** —

CRAWL SPACE — A space in a building similar to a basement or a cellar which has a floor-to-ceiling height less than seven feet. **[Added 3-25-1998 ATM by Art. 35]**

CUTOFF ANGLE — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

DAY-CARE CENTER — Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives seven or more children not of common parentage under seven years of age, or under 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents, and as further described in Chapter 28A, § 9, MGL, as amended. (See also family day-care home.) **[Added 3-27-1991 ATM by Art. 33]**

DBM — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

DECK — An unroofed structure attached to or accessory to a building, constructed on a structural frame, open under, the top surface of which is elevated above the average level of the finished grade of the adjoining ground. **[Added 3-25-1998 ATM by Art. 35]**

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 § 135-41. **[Added 4-9-1984 ATM by Art. 16]**

DEVELOPMENT REGULATIONS — The document adopted and amended from time to time by the Planning Board, containing various regulations, procedures, standards and fees for actions which the Planning Board uses in dealing with subdivision control, zoning and other matters relative to residential and commercial development in Lexington.[6] **[Added 4-6-1988 ATM by Art. 38]**

DIRECT LIGHT — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

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, or interior drive, and leads to or from a parking space or loading bay (or its related maneuvering aisle). **[Added 4-4-1984 ATM by Art. 14; 4-14-1986 ATM by Art. 42]**

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

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5. **Editor's Note: See Ch. 175.**

6. **Editor's Note: See Ch. 175.**

Characteristics of dwellings: **[Added 4-6-1983 ATM by Art. 14; amended 4-8-1985 ATM by Art. 11; 4-9-2008 ATM by Art. 49]**

A. ONE-FAMILY DETACHED DWELLING — A dwelling which is not attached to any other dwelling by any means and is surrounded by open space or yards on all sides.

B. TWO-FAMILY DWELLING — A building containing two dwelling units.

C. TOWNHOUSE — A building containing three or more dwelling units in a row in which each dwelling unit has its own front and rear access to the ground, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated from any other dwelling unit by one or more party walls.

D. THREE-FAMILY DWELLING — A building containing three dwelling units, each of which has direct access to the outside or to a common hall that leads to the outside.

E. FOUR-FAMILY DWELLING — A building containing four dwelling units, each of which has direct access to the outside or to a common hall that leads to the outside.

F. MULTIFAMILY DWELLING — A building containing five or more dwelling units, each occupied by one family.[7]

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. **[Amended 4-6-1983 ATM by Art. 14]**

ELDERLY — For the purposes of this bylaw, persons who are 60 years of age or older. **[Added 4-8-1985 ATM by Art. 11]**

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

FACILITY SITE — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

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; any roomer, not so related, living in the dwelling unit shall be included in determining the number of unrelated individuals. **[Amended 4-6-1983 ATM by Art. 14; 4-6-1988 ATM by Art. 38]**

FAMILY DAY-CARE HOME — Any private residence which on a regular basis receives for temporary custody and care during part or all of the day children under seven years of age, or under 16 years of age if such children have special needs; provided, however, in either

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7. **Editor's Note: The former definition of "dwelling conversion," as amended 4-9-1980 ATM by Art. 66, which immediately followed this definition, was deleted 4-6-1983 ATM by Art. 14. In addition the former definitions of "dwelling, one-family detached," added 4-6-1983 ATM by Art. 14, and "dwelling, two-family," which immediately followed, were deleted 4-8-1985 ATM by Art. 11.**

case, that the total number of children under 16 in a family day-care home shall not exceed six, including participating children living in the residence, and as further described in Chapter 28A, § 9, MGL, as amended. Family day-care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor. (See also day-care center.) **[Added 3-27-1991 ATM by Art. 33]**

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 Fire Chief or his designee, 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 15 feet equidistant from a building. **[Amended 4-14-1986 ATM by Art. 40]**

FIXTURE — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

FLOOR AREA:[8] —

FLOOR AREA RATIO, NONRESIDENTIAL — The ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot. **[Added 4-9-1984 ATM by Art. 16; amended 4-8-2002 ATM by Art. 19]**

GROSS FLOOR AREA — The sum, in square feet, of the horizontal areas of all stories 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. Gross floor area shall also include garages, basements, cellars, porches and half stories, but shall exclude crawl spaces, attics, and decks. Where the text of this bylaw refers to floor area, the term shall mean gross floor area unless the term net floor area is used. [9] **[Added 4-6-1983 ATM by Art. 14; amended 3-25-1998 ATM by Art. 35]**

NET FLOOR AREA — 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: **[Added 4-6-1983 ATM by Art. 14]**

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.

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8. **Editor's Note: The former definition of "floor area" was deleted 4-6-1983 ATM by Art. 14. This new definition was added 4-8-2002 ATM by Art. 19 to include the following definitions, originally added to the Zoning Bylaw and/or amended as a part thereof as noted, as subsections.**

9. **Editor's Note: The former definition of "living area of a dwelling," added 4-8-2002 ATM by Art. 19, which immediately followed this definition, was repealed 4-9-2008 ATM by Art. 49.**

E. Porches, balconies, and fire escapes. **[Amended 3-25-1998 ATM by Art. 35]**

F. Areas used for a child care facility as provided in § 135-41C. **[Added 3-27-1991 ATM by Art. 33]**

FOOTPRINT — Same as "site coverage." **[Added 4-8-2002 ATM by Art. 19]**

FRONTAGE, LOT — The continuous portion of the line separating a lot from a street to which the owner of the lot can provide the physical access to a principal building on the lot, in compliance with applicable bylaws, regulations or laws, for motor vehicles to reach required off-street parking spaces or loading bays, and for emergency services such as fire protection or ambulance service, and for other vehicles to gain access to the principal building for deliveries, such as mail. **[Amended 5-7-1984 ATM by Art. 20; 4-14-1986 ATM by Art. 40; 5-4-1987 ATM by Art. 42; 4-6-1988 ATM by Art. 38]**

FRONTAGE STREET — A street to which the owner of the lot has a legal right of access and which provides the required lot frontage. **[Amended 5-7-1984 ATM by Art. 20; 5-4-1987 ATM by Art. 42]**

FULLY-SHIELDED LUMINAIRE — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

GARAGE — A space in a building designed and intended for the parking or storage of motor vehicles whether or not used for that purpose. **[Added 3-25-1998 ATM by Art. 35]**

GARDEN APARTMENT **[Deleted 4-8-1985 ATM by Art. 11]** —

GLARE — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

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

GROUP CARE FACILITY — A type of group quarters in which a group of individuals not related by blood, marriage or adoption live together as a single housekeeping unit under a common housekeeping management plan in which some form of health care is provided. **[Added 4-8-1985 ATM by Art. 11]**

GROUP QUARTERS — A dwelling, or part thereof, which is not divided into dwelling units but may be divided into rooming units in which persons live who are not related by blood, marriage or adoption. Examples are dormitory, housing for religious orders. **[Added 4-8-1985 ATM by Art. 11]**

HALF STORY — See "story, half."

HEIGHT OF LUMINAIRE — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

HOME OCCUPATION — Any business, occupation, or activity undertaken for gain within a residential structure, by a person residing in the structure, that is incidental and secondary to the use of that structure as a dwelling unit. **[Amended 5-5-2004 ATM by Art. 8[10]]**

HOME OCCUPATION, INSTRUCTION — A home occupation that consists of teaching that takes place inside the dwelling unit of the instructor. Typical instruction includes music lessons and academic tutoring

HOME OCCUPATION, MINOR — A home occupation with no nonresident employee, partner, or contractor working on the premises; no more than two business-related visitors to the premises at a time; and no more than six business-related visitors to the premises over the course of a day

HOME OCCUPATION, MAJOR — A home occupation subject to a special permit with no more than one nonresident employee, partner, or contractor working on the premises; and no more than 10 business-related visitors to the premises over the course of a day

HOTEL, MOTEL — An establishment providing lodging for 15 or more guests on a short-term basis, usually less than one week; dining rooms, function rooms and other support services may be included. In a hotel, access to the individual sleeping rooms is usually through a lobby and interior corridors; in a motel, access to the individual sleeping rooms is usually directly from parking spaces or by an exterior walkway. **[Amended 4-14-1986 ATM by Art. 40]**

IMPERVIOUS SURFACE — Any surface which reduces or prevents the absorption of stormwater into previously undeveloped land. Examples are buildings, parking lots, driveways, streets, sidewalks, and any areas surfaced with concrete or asphalt. **[Added 4-8-1985 ATM by Art. 11]**

IMPERVIOUS SURFACE RATIO — The ratio of the sum of all impervious surfaces on a lot to the developable site area of the lot. **[Added 4-8-1985 ATM by Art. 11]**

INDIRECT LIGHT — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

INTERIOR DRIVE — A roadway which is privately owned and maintained and serves a residential or commercial development. It may have many of the physical characteristics of a street but does not meet the legal standards for street, road or way as defined in this section. An interior drive is not the same as a driveway, which is the means of access to a parking lot or parking space; an interior drive is the connecting link between a public street and a driveway. **[Added 4-8-1985 ATM by Art. 11]**

JUNKYARD — Without limiting the generality of Table 1, line 18.3, 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

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10. **Editor's Note: This article was originally adopted 3-29-2004. Subsequently a notice of reconsideration was served, and the article was reconsidered, amended by more than the necessary two-thirds, and declared adopted 5-5-2004.**

used or intended to be used by the occupant of the property. **[Amended 5-6-1987 ATM by Art. 43]**

LAMP — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

LEXHAB — Acronym for the Lexington Housing Assistance Board created by Chapter 521 of the Acts of 1983[11] and appointed by the Board of Selectmen. **[Added 5-8-1996 ATM by Art. 29]**

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.

LIGHT TRESPASS — See Article XIV, Outdoor Lighting, for definition.[12] **[Added 4-1-1998 ATM by Art. 40]**

LIVING AREA OF A DWELLING UNIT — See definitions under "floor area." **[Added 4-8-2002 ATM by Art. 19]**

LIVING FACILITIES FOR SENIORS **[Added 4-10-1996 ATM by Art. 28]:** —

ASSISTED LIVING RESIDENCE — A non-institutional facility as defined by MGL Chapter 19D, providing room and board, which provides assistance with activities of daily living and personal care services for three or more non-related adults. See § 135-23

ASSISTED LIVING UNIT — One or more rooms in an assisted living residence designed for and occupied by one or two individuals. See § 135-23

CONGREGATE LIVING FACILITY — A non-institutional, shared living environment which integrates shelter and service needs of functionally impaired and/or socially isolated older persons who are otherwise in good health and can maintain a semi-independent life style and who do not require constant supervision or intensive health care as provided by an institution. See § 135-23

CONTINUING CARE RETIREMENT COMMUNITY — Includes combinations of independent living residence, congregate living facility, assisted living residence, and long-term care facility within a single facility or on the same tract, offering lifetime housing and a variety of health care, social, and recreational services. See § 135-23

CONVALESCENT HOME — Same as "long-term care facility."

EXTENDED CARE FACILITY — Same as "long-term care facility."

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11. **Editor's Note: Chapter 521 of the Acts of 1983 is included in Chapter A201, Special Acts.**

12. **Editor's Note: The definition of "living area of one-family dwelling unit," added 5-8-1996 ATM by Art. 29, as amended 3-25-1998 ATM by Art. 35, which immediately followed this definition was repealed 4-8-2002 ATM by Art. 19. See now the definition of "floor area." The former definition of "living area of a dwelling unit," added 4-8-2002 ATM by Art. 19, was removed at the direction of the Town pursuant to 4-9-2008 ATM by Art. 49.**

INDEPENDENT LIVING RESIDENCE — A dwelling that provides accommodations in dwelling units for elderly persons. These residences may include common areas, a common dining facility and space for the provision of social, psychological, and educational programs. See § 135-23

INTERMEDIATE CARE FACILITY — Same as "long-term care facility."

LONG-TERM CARE FACILITY — An institution or distinct part of an institution which is licensed by the Massachusetts Department of Public Health to provide twenty-four-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. See § 135-23. [13]

LODGER — Same as "roomer." **[Added 4-8-1985 ATM by Art. 11]**

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° 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° or less.

LOT FRONTAGE — See "frontage, lot."

LUMEN — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

LUMINAIRE — See Article XIV, Outdoor Lighting, for definition. **[Added 4-1-1998 ATM by Art. 40]**

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. **[Added 4-4-1984 ATM by Art. 14]**

MGL — Massachusetts General Laws. **[Added 4-10-1996 ATM by Art. 28]**

MODIFICATION OF AN EXISTING FACILITY — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

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13. **Editor's Note: A former definition of "long-term care facility," which was added 4-8-1985 ATM by Art. 11, was deleted 4-10-1996 ATM by Art. 28.**

MONITORING — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

MONOPOLE — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

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. **[Added 4-4-1984 ATM by Art. 14]**

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

NONCOMMERCIAL MESSAGE — Any statement or message, including but not limited to a political election campaign endorsement, that does not advertise, call attention to or promote for commercial purposes any product, service or activity; and for the display of which no consideration is provided or received. **[Added 4-7-2003 ATM by Art. 20]**

NONCONFORMING — Those uses, buildings, structures, parking spaces, loading bays, signs, landscaping and other activities that are now subject to the provisions of this bylaw which were lawful before this bylaw was adopted or before amendments to this bylaw which are applicable to the situation were adopted, and such situations do not now conform to the provisions of this bylaw. **[Amended 4-27-1988 ATM by Art. 40]**

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.

NURSING HOME — Same as "long-term care facility." **[Added 4-8-1985 ATM by Art. 11; amended 4-10-1996 ATM by Art. 28]**

OLDER PERSONS — Same as "elderly." **[Added 4-8-1985 ATM by Art. 11]**

OPEN AREA, PERCENTAGE **[Deleted 4-14-1986 ATM by Art. 40]** —

OPEN SPACE, COMMON — Land within or related to a development which is not individually owned and is designed and intended for the common use or enjoyment of the residents of a development and may include such complementary structures and improvements as are necessary and appropriate.[14] **[Added 4-8-1985 ATM by Art. 11]**

PARKING LOT — An area on a lot which includes five or more parking spaces and their related maneuvering aisle. Where there are five 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. **[Added 4-4-1984 ATM by Art. 14[15]]**

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14. **Editor's Note: The former definition of "open space, usable," added 4-8-1985 ATM by Art. 11, which immediately followed this definition, was repealed 4-9-2008 ATM by Art. 49.**

15. **Editor's Note: This article also repealed the former definition of "parking space," added 4-6-1983 ATM by Art. 14, which immediately followed.**

PERSON — The word "person" shall include one or more individuals, a partnership, an association or a corporation. **[Added 4-9-1980 ATM by Art. 65]**

PORCH — A roofed structure attached to or accessory to a building, which is open-sided or screened. The area of a porch shall be measured to the outer face of the posts or other structure supporting its roof. **[Added 3-25-1998 ATM by Art. 35]**

PRIVATE POSTAL SERVICES — A retail use which includes private postal box rentals and mailing services. Such facility shall not be used as a distribution center, parcel delivery or commercial mail delivery center but shall remain as a retail convenience store for consumers. **[Added 3-25-1992 ATM by Art. 21]**

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

PUBLIC BENEFIT DEVELOPMENT — A type of special permit residential development as defined in § 135-45. **[Added 4-9-2008 ATM by Art. 49]**

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

RADIO-FREQUENCY RADIATION (RFR) — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

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 or designee 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. **[Amended 4-4-1983 ATM by Art. 12]**

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.

RECYCLING COLLECTION STORE — A recycling collection store is a center for the acceptance by donation, redemption or purchase of reusable domestic containers from the public. Reusable domestic container means containers used primarily in residences and made of materials including, but not limited to, paper, glass, metal or plastic that are intended for reuse, remanufacture or reconstruction. Reusable domestic container does not include refuse or hazardous materials. **[Added 4-3-1995 ATM by Art. 27]**

REPEATER — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

RESIDENTIAL DISTRICT — Any district in Lexington whose designation begins with R and any district in an abutting city or Town intended for residential use. **[Amended 3-27-1985 ATM by Art. 10]**

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

REST HOME — Same as "long-term care facility." **[Added 4-10-1996 ATM by Art. 28]**

ROADSIDE STAND — The land and the structures thereon for the sale of edible farm products, flowers, fireplace wood, preserves and similar products; no goods except plants, flowers and fireplace wood shall be stored or offered for sale outdoors. **[Amended 4-1-1991 ATM by Art. 32]**

ROOMER — An individual, other than a member of a family occupying a dwelling unit, who occupies a rooming unit, for living and sleeping but not for cooking and eating purposes, and paying rent, which may include an allowance for meals, by prearrangement for a week or more at a time to an owner or operator to whom he/she is not related by blood, marriage or adoption. **[Added 4-8-1985 ATM by Art. 11]**

ROOMING HOUSE — A dwelling, or part thereof, which is divided into four or more rooming units and is occupied by roomers for periods greater than one week. **[Added 4-8-1985 ATM by Art. 11]**

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. **[Added 4-6-1983 ATM by Art. 14]**

RULES AND REGULATIONS **[Added 4-8-1985 ATM by Art. 11; deleted 4-6-1988 ATM by Art. 38]** —

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

SCHOOL AGE CHILD CARE PROGRAM — Any program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or 16 years of age if such child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. It provides for a planned daily program of activities that is attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months, and as further described in Chapter 28A, § 9, MGL, as amended. (See also day-care center.) **[Added 3-27-1991 ATM by Art. 33]**

SENIOR CITIZEN — Same as "elderly." **[Added 4-10-1996 ATM by Art. 28]**

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 display device, including but not limited to a board, placard, poster, flag or banner, which advertises or communicates information to persons not on the premises on which it is located. **[Amended 4-7-2003 ATM by Art. 20]**

SIGN, ACCESSORY — Any sign which advertises, calls attention to, or indicates the person or activity occupying the premises on which the sign is located; advertises the property or some part of it for sale or lease; or contains a lawful, noncommercial message displayed by an occupant of the premises. **[Amended 4-7-2003 ATM by Art. 20]**

SIGN, COMMERCIAL — Any sign, regardless of size, which advertises, calls attention to, or indicates any commercial product, service or activity, whether or not manufactured, sold or

engaged in on the premises at which the sign is displayed. **[Added 4-7-2003 ATM by Art. 20]**

SIGN, NON-ACCESSORY — Any sign that is not an accessory sign. **[Amended 4-7-2003 ATM by Art. 20]**

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. **[Added 4-9-1980 ATM by Art. 65]**

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. **[Added 4-9-1980 ATM by Art. 65]**

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. **[Added 4-9-1980 ATM by Art. 65]**

SIGN, WALL — A sign securely fixed parallel to the face of a building wall. **[Added 4-9-1980 ATM by Art. 65]**

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. **[Added 4-9-1980 ATM by Art. 65]**

SITE COVERAGE — The sum of all parts of a lot that are covered by a principal or accessory building or other structure, such parts of the lot to be delineated by the intersection of the ground with the vertical plane of the outermost walls or projections of a building or structure whether in contact with the ground or projecting over it. **[Added 4-14-1986 ATM by Art. 40]**

SITE SENSITIVE DEVELOPMENT — A type of special permit residential development as defined in § 135-45. **[Added 4-9-2008 ATM by Art. 49]**

SKILLED NURSING FACILITY — Same as "long-term care facility." **[Added 4-10-1996 ATM by Art. 28]**

SPECIAL PERMIT CONVENTIONAL DEVELOPMENT — A type of special permit residential development as defined in § 135-45. **[Added 4-10-1996 ATM by Art. 28]**

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 bylaws.

SPECIAL PERMIT RESIDENTIAL DEVELOPMENT — A residential development in which a tract of land is divided into one or more lots for constructing dwellings in one or more groups and common open space. **[Added 4-14-1986 ATM by Art. 41; 4-8-2002 ATM by Art. 21; 4-9-2008 ATM by Art. 49]**

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 a cellar, a crawl space, or the uppermost portion so contained if under a sloping roof and not accessible by an approved stairway, or not designed or intended for human occupancy. **[Amended 4-16-1986 ATM by Art. 45; 3-25-1998 ATM by Art. 35; 4-8-2002 ATM by Art. 17]**

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. Dormers may be constructed on those exterior walls provided the length of the dormer(s) as measured between the lowest bearing points of the dormer(s) on the rafters of the sloping roof does not exceed 50% of the length of the sloping roof to which it is attached. The area of a half story shall be the area within which the height from the floor to the bottom of the rafters is five feet or greater. Where this height occurs at an exterior wall, the horizontal measurement shall be from the exterior face of such wall. **[Amended 4-16-1986 ATM by Art. 45; 4-1-1991 ATM by Art. 29; 3-25-1998 ATM by Art. 35]**

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

STREET, ROAD or WAY —

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

   (1) 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

   (2) A way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law and constructed in accordance with such plan; or **[Amended 4-6-1988 ATM by Art. 38]**

   (3) 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.

B. 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.

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, but not including paved surfaces such as a driveway, a walk or a patio. **[Amended 4-16-1986 ATM by Art. 45; 4-6-1988 ATM by Art. 38]**

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

TAKEOUT FOOD SERVICE — An establishment primarily for dispensing prepared food to persons carrying the food away for consumption elsewhere.

TEMPORARY STRUCTURE **[Amended 4-6-1988 ATM by Art. 38; deleted 3-22-1999 ATM by Art. 6]** —

TEMPORARY USE **[Amended 4-6-1988 ATM by Art. 38; deleted 3-22-1999 ATM by Art. 6]** —

THROUGH STREET — A continuous street which connects to the Town's street system in at least two places. **[Added 4-8-1985 ATM by Art. 11]**

TOWER — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

TRACT — One or more lots, whether or not in common ownership, under unified development control and designated to be developed in accordance with a plan approved by the Town. **[Added 4-8-1985 ATM by Art. 11]**

UNIT PARKING DEPTH — The distance required to accommodate two rows of parking and a common maneuvering aisle. **[Added 4-4-1984 ATM by Art. 14]**

WAY — See "street, road or way."

WIRELESS COMMUNICATION FACILITY — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

WIRELESS COMMUNICATION SERVICE PROVIDER — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

WIRELESS COMMUNICATION SERVICES — See Article XV, Wireless Communication Facilities, for definition. **[Added 4-1-1998 ATM by Art. 32]**

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 bylaw 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.

ARTICLE III
Administration and Enforcement

§ 135-9. Enforcement officer; penalty; permits; exemptions. [Amended 3-18-1981 ATM by Arts. 13 and 15; 4-10-1989 ATM by Art. 41]

A. Building Commissioner or designee.

(1) The Building Commissioner or designee appointed under the provisions of 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 bylaw.

(2) If the Building Commissioner or designee is informed or has reason to believe that any provision of this bylaw is being violated, he/she shall make or cause to be made an investigation of the facts and inspect the property where such violation may exist.

(3) If upon such investigation and inspection he/she finds evidence of such violation, he/she 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 or designee 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.

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

(5) If the Building Commissioner or designee is requested in writing to enforce this bylaw against any person allegedly in violation of the same, he/she shall notify in writing the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within 14 days of receipt of such request.

B. Penalty. Anyone who violates a provision of this bylaw, or of any condition of a variance, a special permit or a special permit with site plan review, shall be punishable by a fine of not more than $100 for each offense, except that the penalty for the removal of earth materials in violation of this bylaw shall be provided for in the General Bylaws of the Town of Lexington.[16] Each day during which any portion of a violation continues under the provisions of this section shall constitute a separate offense.

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16. Editor's Note: See Ch. 1, General Provisions.

C. Building permits. Applications for building permits and certificates of occupancy shall be filed with the Building/Inspection Department on forms furnished by it. 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 or designee with such information as he/she may deem necessary for the enforcement of the Zoning Bylaw and other applicable laws, bylaws, rules and regulations of the Town.

D. Conforming to subsequent amendments. Construction on or use of property under a building permit shall conform to any subsequent amendment of this bylaw 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.[17]

E. Limited exemptions from zoning. **[Added 3-27-1991 ATM by Art. 30]**

(1) Religious, nonprofit educational institutions. The use of land or structures for religious purposes or for educational purposes on land owned or leased by a religious sect or denomination or by a nonprofit educational corporation, as described in Chapter 40A, the Zoning Act, § 3, MGL, is permitted as a matter of right in all zoning districts. Such land or structures are subject to reasonable regulations concerning the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements as set forth in this bylaw.

(2) Child care facilities. **[Added 3-27-1991 ATM by Art. 33]**

(a) The use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility is permitted as a matter of right in all zoning districts. Such land or structures are subject to regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. As used in this subsection, the term "child care facility" shall mean a day-care center or a school age child care program, as those terms are defined in § 135-8 of this bylaw and as further described in Chapter 28A, § 9, MGL, as amended.

(b) A family day-care home (See definition.) for not more than six children is not covered by the partial exemption from zoning regulations afforded by Chapter 40A, § 3, the Zoning Act, MGL, as amended and is subject to the provisions of this bylaw.

F. Permits for temporary uses. **[Added 3-22-1999 ATM by Art. 6]**

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17. **Editor's Note: Original Sec. 3.1.4, Occupancy permit, which immediately followed this subsection, was deleted 3-23-1981 ATM by Art. 23. Original Sec. 3.1.5, Certificate of compliance, was deleted 6-8-1981 ATM by Art. 24.**

(1) Temporary use. A building permit or certificate of occupancy may be granted for a temporary use where authorized by this bylaw. A special permit for a temporary use may be granted by the special permit granting authority or a permit for a temporary use may be issued by the Building Commissioner or designee for a specific period of time that is consistent with the needs of the proposed use. No temporary use is permitted without a written permit for a time period prescribed by the SPGA or the Building Commissioner or designee or as set forth in this bylaw; provided, however, that temporary signs and any permits that may be required therefor shall be governed by the provisions of §§ 135-74 through 135-78 rather than this § 135-9. **[Amended 4-7-2003 ATM by Art. 20]**

(2) Terminology - temporary. The term temporary use in this context shall mean use, operation or occupancy of a parcel of land, building or structure, off-street parking, or outdoor lighting where the intent and the nature of the installation are not permanent and it will be removed or discontinued after the temporary use. A temporary use may be recurrent provided it is for a time period of not more than one month and the time between the issuance of permits for a recurrent temporary use is at least two months. **[Amended 4-7-2003 ATM by Art. 20]**

(3) Time period for a temporary use.

(a) The time period for which a permit for a temporary use is issued may vary depending on the needs of the proposed use. The maximum time period for uses permitted by right as provided elsewhere in this bylaw shall be two years. The maximum time period for which the Building Commissioner or designee may issue a permit for a temporary use shall be three months. The maximum time period for which the Board of Appeals may grant a special permit for a temporary use shall be two years.

(b) The Board of Appeals or the Building Commissioner or designee may disapprove the issuance of a permit for a temporary use if either the Board or the Building Commissioner or designee determines that:

[1] A permit for such use has been issued previously for long periods of time;

[2] The use is recurrent for long periods of time;

[3] A permit for such would have the effect of allowing a use that would not otherwise be permitted by Table 1, Permitted Uses; or

[4] A permit for such is inconsistent with the purpose of the zoning district in which it is located, as described in § 135-2C, or with other specific purposes or objectives of zoning, as set forth in this bylaw.

(4) Extension of time period for a temporary use.

(a) The Board of Appeals may grant a special permit for a temporary use to be extended beyond the maximum time period specified above or elsewhere in this bylaw provided:

[1] Only one such extension may be granted;

[2] The period of the extension is not more than one additional year;

[3] The Board of Appeals determines that granting the extension does not allow a use that would not otherwise be permitted by Table 1, Permitted Uses, and is consistent with the purpose of the zoning district in which it is located, as described in § 135-2C, or with other specific purposes or objectives of zoning, as set forth in this bylaw; and

[4] There is no relaxation during the period of the extension of the dimensional and other standards referred to in Subsection F(5).

(b) A permit for temporary uses that are permitted by right, as provided elsewhere in this bylaw, may be extended but only upon the granting of a special permit by the Board of Appeals.

(5) Relaxation of dimensional and other standards.

(a) A permit for a temporary use, whether granted by the Building Commissioner or designee or the SPGA, may authorize a temporary relaxation of the dimensional standards set forth in Table 2, Schedule of Dimensional Controls, where it can be demonstrated it is not feasible or practicable to comply with those standards. In the case where the installation of a temporary dwelling (See Table 1, line 1.17.) or a temporary building incidental to the construction or reconstruction of a building (See Table 1, lines 5.21 and 16.12.) would result in a greater floor area ratio or a percentage of site coverage greater than authorized by Table 2, the amount of floor space occupied shall not exceed the maximum floor area ratio for the district.

(b) A temporary use may not be required to comply with the standards in Article X for landscaping, transition and screening or in Article XI, Off-Street Parking and Loading.

(c) Nothing in this subsection shall reduce the authority of the Board of Appeals to attach conditions and limitations, as described in § 135-11C, to its grant of a special permit.

(6) Appeal of permit for temporary use granted by Building Commissioner or designee. An interested person who believes the permit for temporary use issued by the Building Commissioner or designee is inconsistent with the purposes of the zoning district in which it is located, as described in § 135-2C, or with other specific purposes or objectives of zoning, as set forth in this bylaw, may appeal the action of the Building Commissioner or designee following the procedures set forth in § 135-10 of this bylaw.

§ 135-10. 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.

A. Appeals. **[Amended 4-4-1990 ATM by Art. 36]**

(1) 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 areas 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 designee or other administrative official in violation of any provision of Chapter 40A, General Laws, or of this bylaw.

(2) Such appeal shall be taken within 30 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 100 days of the filing.

B. Variances. The Board of Appeals may authorize upon appeal, or upon petition with respect to particular land or structures or to an existing building thereon, a variance from the terms of this bylaw where, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and owing to conditions especially 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 bylaw 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 bylaw, but not otherwise. **[Amended 4-14-1986 ATM by Art. 40; 4-22-2002 ATM by Art. 21]**

C. Procedures for appeals and variances. **[Added 4-6-1988 ATM by Art. 38]**

(1) The procedures for an appeal brought under Subsection A or for a petition for a variance filed under Subsection B shall be the same as those for a petition for a special permit or a special permit with site plan review as set forth in § 135-13A(1) (information required), § 135-13A(2) (acceptance of application), § 135-13B first sentence only (SPGA procedures), and § 135-13D (extension of time for action; leave to withdraw), except where:

(a) Chapter 40A, the Zoning Act, may provide for different time periods or other procedures than those for an appeal or a variance; or

(b) The context of the appeal or the petition for the variance is clearly different given the substance of the appeal or the petition.

(2) A petition for a variance shall state the section, paragraph or line for which the variance is sought, what would need to be provided to comply with this bylaw, what the petitioner proposes, spelled out in specific terms, and the difference between what is required and what is proposed.

(3) The applicant shall be responsible for filing in the Registry of Deeds or, where applicable, the Land Court of the commonwealth a copy of the Board of Appeals' decision granting a variance. Prior to the issuance of a building permit, the applicant shall present evidence of such recording to the Building Commissioner or designee. **[Added 4-4-1990 ATM by Art. 36]**

§ 135-11. Special permits. [Amended 3-27-1985 ATM by Art. 10; 5-6-1987 ATM by Art. 43]

A. The special permit granting authority (SPGA) may, in its discretion, grant a special permit for a use, building, structure, sign, off-street parking or loading, modification of dimensional standards, screening or landscaping, or other activity where it would not otherwise be permitted but only in those cases where this bylaw specifically refers to a change from the provisions of this bylaw by the granting of a special permit and only in those cases where the SPGA makes the finding and determination set forth in Subsection B. An applicant is not entitled to a special permit and the SPGA, in its discretion, may decline to grant a special permit if it is unable to make a positive finding and determination as required in Subsection B.

B. Finding and determination.

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, off-street parking or loading, modification of dimensional standards, screening or landscaping, or other activity, which is the subject of the application for the special permit:

(a) Complies with such criteria or standards as may be set forth in the section of this bylaw which refers to the granting of the requested special permit;

(b) Is consistent with the general purposes of this bylaw as set forth in § 135-1 and the more specific objectives and purposes applicable to the requested special permit which may be set forth elsewhere in this bylaw, such as, but not limited to, those at the beginning of the various sections (for example, see § 135-44 or 135-71 or § 135-2C, 135-19A or 135-62A);

(c) Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area.

(d) Does not result in the removal of protected trees when the subject of the special permit meets any of the circumstances of § 120-4 (See definition of protected tree in § 120-3.), or, where such protected trees are proposed to be

removed, that the removal is mitigated through replanting or other means. **[Added 4-4-2007 ATM by Art. 5]**

(2) Where the SPGA determines that one or more of the following objectives are applicable to the particular application for a special permit, the SPGA shall make a finding and determination that the objective will be met:

(a) The circulation patterns for motor vehicles and pedestrians which would result from the use or structure which is the subject of the special permit will not result in conditions that unnecessarily add to traffic congestion or the potential for traffic accidents on the site or in the surrounding area; and

(b) The proposed use, structure or activity will not constitute a demonstrable adverse impact on the surrounding area resulting from:

[1] Excessive noise, level of illumination (See Article XIV, Outdoor Lighting.), glare, dust, smoke, or vibration which is higher than levels now experienced from uses permitted in the surrounding area; **[Amended 4-1-1998 ATM by Art. 40]**

[2] Emission or discharge of noxious or hazardous materials or substances;

[3] Pollution of waterways or groundwater; or

[4] Transmission of signals that interfere with radio or television reception.

C. Conditions for approval of a special permit. In addition to the conditions, standards and criteria as may be set forth in the section of this bylaw that refers to the granting of the special permit, the SPGA may impose additional conditions and limitations as it deems necessary to ensure that the finding and determination that it must make under Subsection B are complied with, including but not limited to:

(1) Dimensional standards more restrictive than those set forth in Table 2, Schedule of Dimensional Controls;

(2) Screening or landscaping of structures or of principal or accessory uses from view from adjoining lots or from a street, by planting, walls, fences or other devices; planting of larger planting strips, with more or larger plant materials or higher walls or fences than that required in Article X;

(3) Modification of the exterior features or appearance of a building or structure;

(4) Limitations on the size, number of occupants or employees, method or hours of operation, extent of facilities or other operating characteristics of a use;

(5) Regulation of the number, design and location of access drives or other traffic features of the proposed use;

(6) Provision of a greater number of off-street parking spaces or loading bays, and with greater yard setbacks, landscaping and screening than the minimum standards set forth in Article XI;

(7) Limitations on the number, location, type and size of signs or illumination (See Article XIV, Outdoor Lighting.), or modification of the design features thereof; **[Amended 4-1-1998 ATM by Art. 40]**

(8) Limitations on construction activities, such as but not limited to, the hours during which construction activity may take place, the movement of trucks or heavy equipment on or off the site, and measures to control dirt, dust, and erosion and to protect existing vegetation on the site;

(9) Requirements for independent monitoring, at the expense of the applicant, and reporting to the Building Commissioner or designee, if necessary to ensure continuing compliance with the conditions of a special permit or of this bylaw;

(10) Limitations on the period of time the special permit shall be in effect; and

(11) Such other limitation as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the proposed use, structure or activity with, the surrounding area.

§ 135-12. Special permits with site plan review. [Amended 3-18-1981 ATM by Art. 14; 5-17-1982 ATM by Art. 57; 4-25-1984 ATM by Art. 19; 3-27-1985 ATM by Art. 10; 4-8-1985 ATM by Art. 11; 4-14-1986 ATM by Art. 40; 5-4-1987 ATM by Art. 42; 5-6-1987 ATM by Art. 43]

A. A special permit with site plan review (SPS) is a type of special permit in which a use, or one or more buildings that comprise a development, may be permitted if the proposed development of the site meets certain criteria, standards or conditions as set forth in the section of this bylaw that refers to the granting of a special permit with site plan review and to other standards and objectives as set forth in this section. The SPGA may, in its discretion, grant a special permit with site plan review but only in those cases where this bylaw specifically refers to the granting of a special permit with site plan review and only in those cases where the SPGA makes a finding and determination, as set forth in Subsection B. An applicant is not entitled to a special permit with site plan review and the SPGA, in its discretion, may decline to grant a special permit with site plan review if it is unable to make a positive finding and determination as required in Subsection B.

B. Finding and determination.

(1) Prior to granting a special permit with site plan review, the SPGA shall make a finding and determination that the proposed development of the site:

(a) Complies with such criteria or standards as may be set forth in the section of this bylaw which refers to the granting of the requested special permit with site plan review;

(b) Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area;

(c) Does not result in the removal of protected trees when the subject of the special permit with site plan review meets any of the circumstances of

§ 120-4 (See definition of protected tree in § 120-3.), or, where such protected trees are proposed to be removed, that the removal is mitigated through replanting or other means. **[Added 4-4-2007 ATM by Art. 5[18]]**

(d) Meets accepted design standards and criteria for the functional design of facilities, structures and site construction;

(e) Will not create impacts on the public services and facilities serving the development, such as the sanitary sewer system, the storm drainage system, the public water supply, the street system for vehicular traffic, the sidewalks and footpaths for pedestrian traffic, and, in addition, for residential developments, the recreational facilities, which cannot be accommodated by such services and facilities, or where there is insufficient capacity in such services and facilities, improvements will be made to provide sufficient capacity (See Article XII for the standards for the adequacy of the street system to accommodate additional traffic.);

(f) Will not create adverse impacts, including those that may occur off the site, or such potential adverse impacts will be mitigated in connection with the approved development, so that the development will be compatible with the surrounding area;

(g) Is consistent with the general purposes of this bylaw as set forth in § 135-1 and the more specific objectives and purposes applicable to the requested special permit with site plan review which may be set forth elsewhere in this bylaw, such as, but not limited to, those at the beginning of the various sections. (For example, see § 135-42A, 135-44 or 135-71 or § 135-2C or 135-62A.)

(2) Where the SPGA determines that one or more of the following objectives are applicable to the particular application for a special permit with site plan review, the SPGA shall make a finding and determination that the objective will be met:

(a) That the proposed development will not present a demonstrable adverse impact on the surrounding area resulting from:

[1] Excessive noise, level of illumination (See Article XIV, Outdoor Lighting.), glare, dust, smoke, or vibration which is higher than levels now experienced from uses permitted in the surrounding area; **[Amended 4-1-1998 ATM by Art. 40]**

[2] Emission or discharge of noxious or hazardous materials or substances;

[3] Pollution of waterways or groundwater; or

[4] Transmission of signals that interfere with radio or television reception;

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18. **Editor's Note: This article also renumbered former Subsection B(1)(c) through B(1)(f) as Subsection B(1)(d) through B(1)(g), respectively.**

(b) That the existing land form is preserved in its natural state, insofar as practicable, by minimizing grading and the erosion or stripping of vegetation that may result therefrom, particularly from development on steep slopes; by preserving mature trees; and by maintaining man-made features that enhance the land form, such as stone walls, with minimal alteration or disruption; **[Amended 4-4-2007 ATM by Art. 5]**

(c) That buildings are located:

[1] Harmoniously with the land form, vegetation and other natural features of the site;

[2] Effectively for solar and wind orientation for energy conservation; and

[3] Advantageously for views from the building while minimizing the intrusion on views from other buildings;

(d) That a system of routes for pedestrians, including bicycles, with minimal conflicts with vehicles, is provided;

(e) That all measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area of a proposed development are taken, such as, but not limited to, minimizing the velocities of water runoff, maximizing protection of disturbed areas from stormwater runoff, and retaining sediment within the development site as early as possible following disturbances;

(f) The removal or substantial alteration of buildings of historic or architectural significance is minimized and that new uses or the erection of new buildings is compatible with buildings or places of historic or architectural significance;

(g) That the natural character and appearance of the Town is enhanced. Awareness of the existence of a development, particularly a nonresidential development or a higher density residential development, should be minimized by screening views of the development from nearby streets, single-family neighborhoods or Town property by the effective use of existing land forms, or alterations thereto, such as berms, and by existing vegetation or supplemental planting;

(h) That open space on the site, particularly such common open space and usable open space as may be required by this bylaw, is located and designed so as to increase the visual amenities for the surrounding area as well as for the occupants of the development;

(i) That the scale, massing and detailing of buildings are compatible with those prevalent in the surrounding area, without specifying any particular architectural style;

(j) That construction on the site conforms to good design practice for features such as parking and loading, grading, landscaping, drainage, utilities, and lighting;

(k) That there is easy access to buildings, and the grounds adjoining them, for operations by fire, police, medical and other emergency personnel and equipment;

(l) That there is improved access to, or the development of additional links and connections to, a Town system of public facilities such as conservation areas, recreation facilities, footpaths or bicycle paths, streets or utility systems;

(m) That the location of intersections of access drives with the Town's arterial or collector streets minimizes traffic congestion;

(n) That electric, telephone, cable TV and other such lines and equipment are either placed underground or are as inconspicuous as possible; that support facilities such as storage, refuse disposal, utility buildings and structures for recreational activities are located, and screened, to form as effective a visual screen of them as is possible;

(o) That no development shall cause downstream properties, watercourses, channels, or conduits to receive stormwater runoff from a proposed development at a higher peak flow rate, or to receive other unreasonable impacts, than would have resulted from the same storm event occurring over the site of the proposed development in its natural undeveloped condition;

(p) That adequate water quality standards are promoted giving due regard to the conservation of surface and ground waters for the protection of fish and wildlife, recreational purposes and the use of such water for public water supply in communities which are downstream, by requiring that adequate pollution abatement controls be incorporated into the drainage design of the proposed development.

C. Conditions for approval of special permit with site plan review.

(1) In addition to such conditions, standards and criteria as may be set forth in the section of this bylaw that refers to the granting of a special permit with site plan review, the SPGA may attach such conditions and limitations as it deems necessary to ensure that the finding and determination that it must make under Subsection B are complied with, including, but not limited to:

(a) Any of the conditions set forth in § 135-11C which apply to the granting of a special permit;

(b) Reduction in the density of development such as the number of dwelling units or buildings in a residential development or in the amount of floor area in a commercial development;

(c) Compliance with traffic trip reduction techniques, such as those set forth in § 135-73D;

(d) To require the provision of security, as set forth in § 135-15.

(2) Where an applicant proposes, and will be responsible for carrying out, mitigating measures or the construction of improvements to deal with the impacts of a proposed development or to provide sufficient capacity in Town facilities or services, the SPGA:

(a) Shall make compliance with such measures or completion of such construction a condition of the granting of, or the continued compliance with, the special permit with site plan review;

(b) May link the stages of construction of such improvements to the stages of construction of the proposed development.

(3) Where an applicant offers to make a financial contribution to the Town for the construction of improvements to increase the capacity of Town facilities or services, with the work not to be performed by the applicant, the SPGA:

(a) Shall make the special permit with site plan review, if approved, conditional upon the receipt of the funds; and

(b) May link the stages of construction of the proposed development to the stages of the completion of the improvement. **[Amended 4-22-2002 ATM by Art. 21]**

§ 135-13. Procedures for special permits and special permits with site plan review. [Added 5-6-1987 ATM by Art. 43]

A. Application procedures.

(1) Information required.

(a) A person applying for a special permit under § 135-11 or a special permit with site plan review under § 135-12 shall file an application and plans, one copy of each, with the Town Clerk and seven copies of each with the SPGA. Such application and site plan shall refer to the specific section of this bylaw, other than § 135-11 or 135-12, which refers to the granting of a special permit or special permit with site plan review and shall include information on the conditions, standards and criteria sufficient for the SPGA to make the finding and determination required by § 135-11B or 135-12B.

(b) In the event a person seeks a special permit under more than one provision of this bylaw as part of one building or site development proposal, he/she shall file an application that clearly identifies each provision of the bylaw for which such special permit is sought. The SPGA may issue notice, conduct a hearing and issue a decision in a concurrent manner that does not require a separate application, notice, hearing and decision on each such special permit, provided that it clearly identifies the separate provisions of the bylaw for which each special permit is sought or granted. In the event a person seeks a special permit and a variance as part of one building or site development proposal, he/she shall file a separate application for each and a

separate decision shall be rendered for each. **[Added 4-6-1988 ATM by Art. 38]**

(c) The application to the SPGA for a special permit under § 135-11 shall be accompanied by the following materials:

[1] A plot plan, showing the location of all buildings and structures on the lot including existing conditions and proposed changes, if applicable. In the case of a building or structure which is, or is proposed to be, close to a minimum yard setback line, the SPGA may require submittal of a certified plot plan.

[2] If applicable, an off-street parking and loading plan, as described in § 135-63.

[3] If applicable, a landscaping plan, described in § 135-53.

[4] If applicable, a copy of the determination of applicability issued by, or of a notice of intent filed with, the Conservation Commission pursuant to Chapter 130, Wetland Protection, of the General Bylaws and Chapter 131, Section 40, MGL.

[5] If applicable, a traffic study, and a proposal for mitigating measures to improve capacity or for trip reduction programs, if any, as described in Article XII. **[Added 4-6-1988 ATM by Art. 38]**

[6] If applicable, proposals for mitigating measures or the construction of improvements to deal with the impacts, other than traffic impacts, of the proposed development or to provide sufficient capacity in Town facilities or services. **[Amended 4-6-1988 ATM by Art. 38]**

[7] Any other material necessary for the SPGA to make the finding and determination required by § 135-11B or 135-12B or as may be required by the written rules of the SPGA;

and the application to the SPGA for a special permit with site plan review under § 135-12 shall, in addition, be accompanied by the following material:

[8] A definitive site development plan, as described in § 135-14C.

(d) The term "application" as used in this section shall include the accompanying materials described in Subsection A(1)(c)[1] through [8] above.

(e) Upon written request from the applicant prior to the filing of an application, the SPGA may waive the submission of such information, plans, studies or analyses, or parts thereof, as may not be needed for, or germane to, consideration of the application.

(2) Acceptance of application.

(a) Upon the original submittal of an application to the Town Clerk and the SPGA, the application shall be considered to be conditionally accepted pending review of its contents. Within 14 days of the original submittal of the application, the SPGA, or its designee, shall determine whether the application is complete. The determination that an application is complete means that the required plans, maps, studies, analyses, exhibits and other documents have been submitted and is not a determination that the proposed use, building or development complies with the Zoning Bylaw and does not relieve the applicant of the obligation to do so. An application which does not contain any of the material described in Subsection A(1)(c)[1], [2], [3], [4], [5], [6], [7] or [8] above shall be considered incomplete, shall not be considered to have been filed and shall not be accepted for processing. If an application is determined to be incomplete, the SPGA or its designee shall notify the Town Clerk and the applicant in writing that the application has been determined to be incomplete setting forth the reasons for that determination and that the application is not considered to have been filed. **[Amended 4-10-1989 ATM by Art. 41]**

(b) If the application is considered to be complete, or if the applicant and the Town Clerk are not notified that the application is incomplete within 14 days, the application shall be considered to be complete as of the date originally submitted.

(c) If a revised application is submitted, it shall be considered to be a new application and shall be subject to the same procedures and determinations as to completeness as are set forth above and to the same time periods as if it were a new application. **[Amended 4-10-1989 ATM by Art. 41]**

(d) The time periods set forth in this bylaw and Chapter 40A, MGL, during which the SPGA shall notify parties in interest, hold a public hearing and issue a decision will not start until the application, or revised application, is considered to be complete. **[Amended 4-10-1989 ATM by Art. 41]**

B. SPGA procedures.

(1) Upon the determination that an application for a special permit with site plan review is complete, or is considered to be complete because of the expiration of 14 days without notification to the applicant, the SPGA shall promptly notify the Conservation Commission, the Engineering Department, the Fire Department, the Board of Health and the Planning Board (when it is not the SPGA) of the receipt of the application and such other boards, commissions or departments as it may consider appropriate, given the substance of the application. In the case where the Planning Board is not the SPGA, the SPGA shall furnish the Planning Board with one copy of the complete application for a special permit with site plan review and the Planning Board shall submit a report and recommendation to the SPGA on the application.

(2) In the case where the Planning Board is the SPGA, the Chairman of the Planning Board may have the associate member sit on the Board for the purpose of acting

on a special permit application, in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. The associate member will be elected by a majority of the Planning Board to serve for one year, or until replaced. **[Added 4-9-2008 ATM by Art. 51]**

C. Public hearing; receipt of recommendations. The SPGA shall hold a public hearing on the application, as provided in Chapter 40A, MGL, within 65 days after the filing of an application which has been determined to be complete and, except as hereinafter provided, shall take final action on an application within 90 days after the hearing. The SPGA shall not make a decision on an application for a special permit with site plan review until boards, commissions and departments which have been notified have submitted reports or recommendations thereon or, if reports are not received, until 35 days have elapsed since the date of filing of an application which has been determined to be complete.

D. Extension of time for action; leave to withdraw. 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 plans and evidence included with the application or presented to it at the public hearing are inadequate to permit the SPGA to make a finding and determination, in its discretion, instead of denying the application, it may:

(1) 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 ninety-day period within which final action shall be taken by the SPGA, unless said period is extended to a day certain by mutual consent; or

(2) Grant a leave to withdraw without prejudice so that the applicant may submit a revised application which shall not be considered as a repetitive petition. Such revised application shall be treated as a new application.

E. Decision of the SPGA.

(1) The SPGA may grant, grant with conditions, deny, or grant a leave to withdraw an application for a special permit or a special permit with site plan review. A decision to grant, or grant with conditions, shall cite the specific section of this bylaw which refers to the granting of a special permit or special permit with site plan review and shall incorporate by reference the plans referred to in Subsection A which have been filed with the application. A copy of the decision shall be filed with the Town Clerk and the Planning Board, when it is not the SPGA, and shall be furnished to the applicant.

(2) Any person aggrieved by a decision of the SPGA may file an appeal to a court of the commonwealth by bringing an action within 20 days of the date the decision was filed with the Town Clerk, as provided in Chapter 40A, Section 17, MGL.

(3) An applicant is not entitled to a special permit or a special permit with site plan review and the SPGA, in its discretion, may decline to grant it if the SPGA is

unable to make a positive finding and determination as required in § 135-11B or 135-12B.

(4) The applicant shall be responsible for filing in the Registry of Deeds or, where applicable, in the Land Court of the commonwealth a copy of the decision of the SPGA granting a special permit or special permit with site plan review. Prior to the issuance of a building permit, the applicant shall present to the Building Commissioner or designee evidence of such recording.

F. Conditions for approval of special permit with site plan review.

(1) In addition to the conditions, standards and criteria set forth in the section of this bylaw that authorizes the granting of a special permit or a special permit with site plan review, the SPGA may attach such conditions and limitations as it deems necessary to ensure that the finding and determination that it must make under § 135-11B or 135-12B are complied with.

(2) In the event that the SPGA approves a special permit or a special permit with site plan review, any use or any construction, or any subsequent reconstruction or substantial exterior alteration, shall be carried out only in conformity with all conditions and limitations included in the decision of the SPGA, and only in essential conformity with the application and the definitive site plan on the basis of which the finding and determination were made.

G. SPGA failure to take action. In the event the SPGA shall fail to hold a public hearing or shall fail to take action on an application within the times set forth in Subsection C or within such extended period as may have been mutually agreed under Subsection D, then upon the expiration of said times the SPGA shall be deemed to have granted the application.

H. Revision of special permit. Subsequent to a special permit or a special permit with site plan review granted by the SPGA, minor revisions in the plan may be made from time to time in accordance with applicable law, bylaws, and regulations, but the use or development approved under such special permit or special permit with site plan review shall otherwise be in accordance with the plans referred to, and such conditions as may be included, in the decision of the SPGA. The developer shall notify the SPGA in advance of any such revision which shall not be effective until approved by vote of the SPGA. If the SPGA determines such revisions not to be minor, it shall order that an application for a revised special permit or special permit with site plan review be filed and a public hearing be held in the same manner as set forth in Subsection C.

I. Conforming to subsequent amendments. Construction on or use of property under a special permit or special permit with site plan review shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within six months after the granting 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 or special permit with site plan review 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.

§ 135-14. Types of plans; information required. [Added 4-8-1985 ATM by Art. 11; amended 4-14-1986 ATM by Art. 40]

A. Preliminary site development plan.

(1) The objectives of a preliminary site development plan are:

(a) For the developer to demonstrate an understanding of the characteristics of the tract and adjoining land and to present a proposal consistent with those characteristics;

(b) To make a general determination of the feasibility of the development; and

(c) To make an evaluation of the off-site impacts of the development and the ability of public services to accommodate it.

(2) A preliminary site development plan shall include:

(a) A site analysis map (or series of maps) showing:

[1] Existing contours at two-foot intervals;

[2] Steep slopes (15% or more);

[3] Significant soil types;

[4] Significant rock outcroppings;

[5] Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the one-hundred-year flood elevation);

[6] Significant vegetation (including mature trees, unique specimens of vegetation and vegetation that indicates wetness);

[7] Significant noise/visual impact (including views from the site and sources of noise affecting the site); and

[8] Historically or architecturally significant structures and sites on or adjacent to the site.

(b) A locus-context map of all land within 500 feet of any part of the tract and showing: all dwellings and principal buildings, the land use of each lot, lot and right-of-way lines, existing contours at two-foot intervals, principal natural features [See Subsection A(2)(a) above.] in general, zoning district boundaries, recorded easements abutting the tract, and public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets. The SPGA may require the submittal of cross-sections showing elevations on the lot to be developed and those on adjacent properties. Information taken from

the Town's photogrammetric or property maps is acceptable where applicable. **[Added 4-14-1986 ATM by Art. 41]**

(c) A traffic analysis, if § 135-71B is applicable, and meeting the requirements set forth in § 135-72. **[Amended 5-6-1987 ATM by Art. 43; 4-1-1991 ATM by Art. 29]**

(d) A utilities analysis showing:

[1] The location and size of the Town's existing water mains, fire hydrants, sanitary sewers, and storm drains;

[2] The proposed location and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development.

(e) A property rights and dimensional standards plan showing:

[1] The location of existing easements or other property rights affecting the development;

[2] The approximate location of any sections of the land to which the Town would be granted property rights, either easements or transfer of ownership for street, utility, conservation or other purposes;

[3] The anticipated division of the property into parcels in private ownership, if any, if it affects zoning provisions;

[4] The yard setback in feet for buildings and parking lots from lot lines and, where applicable, a zoning district boundary, a brook or a pond;

[5] The boundaries of any common open space or usable open space;

[6] The maximum height of buildings; and

[7] The distance, in feet, between buildings.

(f) A preliminary site construction plan showing in a general manner:

[1] The location of buildings;

[2] Existing and proposed contours;

[3] The location and dimensions of drives and parking areas;

[4] The location and characteristics of any common open space or usable open space;

[5] The proposed drainage system; and

[6] Proposed landscaping.

(g) A table showing:

[1] Total land area;

[2] Developable site area;

[3] Common or usable open space, if any;

[4] Site coverage of buildings;

[5] Area covered with impervious surface;

[6] Impervious surface ratio;

[7] ATM by Art. 38] Gross floor area and, if applicable, net floor area of all nonresidential buildings; **[Amended 4-6-1988**

[8] Floor area ratio, if applicable;

[9] Density of dwelling units, or their equivalent, if applicable; and

[10] Number of off-street parking spaces and, if applicable, loading bays.

B. Preliminary site development and use plan. Where the preliminary site development plan is submitted with a petition for a change of zoning district, it shall be known as a preliminary site development and use plan and shall include the following additional information:

(1) For a CD Planned Commercial District:

(a) Uses to be permitted in the buildings, which may be a narrative describing the type and character of uses and/or a listing, by cross-reference, of uses to be permitted as they appear in Table 1, Permitted Uses and Development Standards, and the maximum floor area ratio; **[Amended 5-6-1987 ATM by Art. 43]**

(b) Other zoning provisions; this may be a narrative describing special regulations unique to the development and/or a cross-reference to provisions of this bylaw that will apply to the CD District.

(2) For an RD Planned Residential Development District:

(a) Number of dwelling units, or their equivalent;

(b) The types of buildings;

(c) Approximate number of dwelling units by bedroom type (efficiency-studio, one-bedroom, two-bedroom, three-bedroom, etc.) including the approximate number of square feet in each dwelling unit and the total number of square feet of floor area in the development; and

(d) Estimated sales or rental level of the dwelling units.

(3) For either a CD Planned Commercial District or an RD Planned Residential Development District:

(a) A visual representation, such as sketches or photographs, of the general scale and massing of buildings;

(b) Special conditions, if any, applicable to the proposed development which may include grants of benefits to the Town such as land for public purposes, construction of improvements (or financial contributions therefor) in behalf of the Town, or other development limitations such as aesthetic features.

C. Definitive site development plan.

(1) The objectives of a definitive site development plan are:

(a) Presentation of specific plans, of the construction documents type, for the development of the site;

(b) Provision of a specific plan for reference in granting a special permit with site plan approval.

(2) The definitive site development plan shall include all of the material and information contained in the preliminary site development plan with the following modifications and additions:

(a) A site analysis map based on a field survey;

(b) A utilities plan showing the location, size, materials and connections to the Town's utilities;

(c) A property rights plan based on an instrument survey identifying parcels to be conveyed to the Town whether by deed or easement;

(d) A site construction plan showing construction details and proposed changes in contours and identifying landscaping by materials, species of plants and sizes, and specific plans for any common open space; **[Amended 4-22-2002 ATM by Art. 21]**

(e) A traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic level of service;

all in accordance with the Planning Board's Development Regulations, as applicable; and further

(f) The off-street parking and loading plan described in § 135-63;

(g) Elevations of proposed buildings;

(h) Preliminary drafts of any deed, easement, offer or agreement to carry out any special condition.

§ 135-15. Security for special permits.

A. 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 Subsection A(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.

B. Reduction of security. Until completion of the development the penal sum of any deposit or security held under Subsection A(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.

C. 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.

D. SPGA failure to act. If the SPGA fails to send such a notice within 60 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.

E. 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.

ARTICLE IV

Permitted Uses and Development Standards

[Amended 4-4-1983 ATM by Art. 12; 4-8-1985 ATM by Art. 11; 4-14-1986 ATM by Art. 40; 5-6-1987 ATM by Art. 43]

§ 135-16. Applicability.

A. Permitted uses. No land shall be used and no structure shall be erected or used except in compliance with the provisions of this bylaw and as set forth in Table 1, Permitted Uses and Development Standards, or as permitted by Article VI, Nonconforming Situations.

(1) Use of land in:

(a) Overlay zoning districts, such as the Wetland Protection District or the National Flood Insurance District, shall be subject to the additional requirements of § 135-43A and B respectively; and

(b) A Planned Commercial CD District shall be subject to the preliminary site development and use plan approved by the vote of the Town Meeting as provided in § 135-42B.

(2) While Table 1 sets forth the uses that may be permitted in Planned Residential RD Districts generally, the uses permitted in a particular Planned Residential RD District shall be only those set forth in the preliminary site development and use plan approved by the vote of the Town Meeting for that district.

B. Use of symbols in Table 1. The symbols in Table 1, Permitted Uses and Development Standards, shall have the following meanings: **[Amended 4-6-1988 ATM by Art. 38; 4-1-1991 ATM by Art. 29; 3-27-1991 ATM by Art. 30]**

Y YES: Permitted as of right, provided however that all nonresidential uses or developments with 10,000 square feet or more of gross floor area, including any existing floor area, but not including any floor area devoted to residential use or to off-street parking, or all residential uses or developments with three or more dwelling units, or their equivalent, including any existing dwelling units, are not permitted as of right but are allowed only upon the granting of a special permit with site plan review (SPS*).

SP: Special permit required. (See § 135-11.)

SPS: Special permit with site plan review required. (See § 135-12.)

N NO: Not permitted.

* A religious or nonprofit educational use, as described in § 135-9E(1), is permitted as a matter of right in all zoning districts.

C. Uses not listed in Table 1 are prohibited. All uses which are not listed in Table 1 are prohibited.

D. More than one classification. Where a use, structure, development or activity might be classified under more than one of the uses on the lines in Table 1, the more specific

classification shall apply; if equally specific, the more restrictive classification shall be used.

E. Compliance with all standards. In several sections of Table 1, in the various groups of uses and at the beginning of the major sections of the table, there are listed standards for permissible uses, operating characteristics and development standards. A use, building, activity or development must comply with each of those standards which may be applicable. Failure to comply with any one of the standards will be the basis for denial of a building permit or certificate of occupancy; failure to continue to comply with any one of the standards will be the basis for revocation of the certificate of occupancy. **[Amended 4-10-1989 ATM by Art. 41]**

F. Principal uses; accessory uses.

(1) A principal use is a main or primary use of a lot or structure. More than one principal use may be allowed on a lot, except where such use is a dwelling as provided in § 135-35D, and provided that each principal use is permitted by Table 1 and the sum of such principal uses complies with the other requirements of this bylaw. **[Amended 4-1-1991 ATM by Art. 29]**

(2) An accessory use is one that constitutes only an incidental or insubstantial part of the total activity that takes place on a lot and is commonly associated with and integrally related to the principal use. Even though a use may be a principal use in another situation, it may be conducted as an accessory use in conjunction with another principal use provided it is insubstantial, incidental, commonly associated with and integrally related to that principal use and does not exceed the size set forth in Subsection G. A use or structure not listed in Table 1 and not prohibited by line 18.2 or 18.3 is permitted provided it is a use or structure that is accessory to a principal use or structure that is permitted by Table 1 and conforms to all other provisions of this bylaw and is not in violation of any other Town bylaw or the General Laws.

G. Limit on size of accessory uses. An accessory use shall not occupy more than 25% of the area of a lot or more than 25% of the gross floor area on a lot except that such limitation shall not apply to off-street parking, or to accessory apartments which will be governed by § 135-19 and other applicable provisions hereof. **[Amended 4-4-2005 ATM by Art. 10]**

H. Change in use. Prior to a substantial change in use, a new certificate of occupancy shall be obtained. If the existing use or the proposed new use is one which requires a special permit or special permit with site plan review, as set forth in Table 1, prior to a substantial change in use, a new special permit or special permit with site plan shall be obtained.

(1) A substantial change of use occurs when:

(a) The change is from one principal use category to another, i.e. use classifications which are on a different line in Table 1;

(b) The existing use of a lot is a combination of several different principal uses, such as different stores or offices or eating establishments within one building, and the change alters the off-street parking requirements for the overall use of the lot;

(c) The operating characteristics of the new use differ substantially from that of the use which it replaces because there are adverse impacts on nearby properties, or the capacity of public services or facilities is not adequate to accommodate the new use; or

(d) In a residential development, if the type of dwelling units is changed. **[Amended 4-22-2002 ATM by Art. 21]**

(e) In the case where a special permit or variance is in effect, the change would result in exceeding any conditions included in the special permit or variance, even if the preceding use and the new use are in the same line in Table 1. **[Added 4-4-1990 ATM by Art. 36]**

(2) A change in the ownership or management of an establishment, without the type of changes enumerated in Subsection H(1), is not considered a substantial change in use.

Table 1
Permitted Uses and Development Standards
[Added 5-6-1987 ATM by Art. 43; as last amended 4-30-2008 ATM by Art. 55]

Part A Residential, Institutional, Agricultural Uses											
Line		**RO RS**	**RT**	**RM**	**RD***	**CN**	**CRS**	**CS**	**CB CLO**	**CRO**	**CM**
*For uses permitted in RD Districts, see §§ 135-16A and 135-42C(3)											
1.	Residential Uses										
1.1	Permitted Residential Uses (Must also comply with operating and development standards)										
1.11	One-family dwelling	Y	Y	Y	SP	Y	N	N	N	N	N
1.12	Two-family dwelling, semi-detached dwelling	N	Y	Y	SP*	Y	N	N	N	N	N
1.13	(Reserved)										
1.14	Conversion of one-family dwelling to congregate living facility (See § 135-21 elsewhere in this bylaw.)	SP	SP	Y	SP*	SP	N	N	N	N	N
1.15	Dwelling unit in commercial or institutional building for security, maintenance or administrative employee	Y	Y	Y	SP*	Y	Y	Y	Y	Y	Y
1.16	(Reserved)										
1.17	Temporary dwelling, which may include a mobile home to replace a permanent dwelling which has been damaged or destroyed by fire, natural catastrophe, or by demolition or substantial reconstruction (See § 135-9F.)	Y	Y	Y	Y	N	N	N	N	N	N
1.18	Residential developments. Balanced housing developments, public benefit developments, site sensitive developments and special permit conventional developments require a special permit with site plan review (SPS). See Art. IX.	SPS	SPS	N***	SPS	N	N	N	N	N	N

Part A Residential, Institutional, Agricultural Uses											
Line		RO RS	RT	RM	RD*	CN	CRS	CS	CB CLO	CRO	CM
*For uses permitted in RD Districts, see §§ 135-16A and 135-42C(3)											
	Types of dwellings and residential facilities.The types of dwellings and residential facilities permitted vary according to the type of district and the type of residential developments. Listed below, for information purposes, is a general summary. Sections 135-42C(5) and 135-47A control which types of dwellings are permitted.										
	1.181 One-family detached	Y	Y	N***	SP*	N	N	N	N	N	N
	1.182 Two-family	SP	Y	N***	SP*	N	N	N	N	N	N
	1.183 Townhouse	SP	SP	N***	SP*	N	N	N	N	N	N
	1.184 Three-family, four-family, multifamily	N	N	N***	SP*	N	N	N	N	N	N
	1.185 Rooming house, group quarters	N**	N**	N***	SP*	N	N	N	N	N	N
	1.186 Group care facility, congregate living facility, long-term care facility, assisted living residence, independent living residence	N	N	N***	SP*	N	N	N	N	N	N
	1.187 Conversion of a municipal building to residential use (See § 135-42D.)	SPS	SPS	N***	SP*	N	N	N	N	N	N
	*Subject to a preliminary site development and use plan [See §§ 135-16A and 135-42C(3).]										
	**Y, if accessory to a religious or educational use.										
	***Development of new multifamily dwellings is not permitted in the RM District; these uses are permitted in RM Districts in existence in January 1985.										
1.2	Accessory Uses for Residential Uses (See also line 5, accessory uses permitted in all residential, institutional, agricultural uses.)										
1.21	Rooming units, without kitchen facilities, for not more than three persons in an existing dwelling, provided the building contains a dwelling unit occupied by a family	Y	Y	Y	SP	N	N	N	N	N	N
1.22	Accessory apartment (See § 135-19 elsewhere in this bylaw.)										
	A. By-right accessory apartment, in compliance with § 135-19C	Y	N/A	Y	N/A	Y	N	N	N	N	N
	B. Special permit accessory apartment, in compliance with § 135-19D	SP	N/A	SP	N/A	SP	N	N	N	N	N
	C. Accessory structure apartment, in compliance with § 135-19E	SP	SP	SP	N/A	SP	N	N	N	N	N
1.23	Bed-and-breakfast home (See § 135-22.)	Y	N	N	N	N	N	N	N	N	N
1.24	Home occupation, instruction (See § 135-25.1.)	Y	Y	Y	SP	Y	N	N	N	N	N
1.251	Home occupation, minor (See § 135-25.1.)	Y	Y	Y	SP	Y	N	N	N	N	N
1.252	Home occupation, major (See § 135-25.1.)	SP	SP	SP	SP	Y	N	N	N	N	N
1.26	Tool shed, storage shed, garden house subject to the same dimensional controls as a principal building	Y	Y	Y	Y	Y	N	N	N	N	N
1.27	Greenhouse not used for commercial purposes subject to the same dimensional controls as a principal building	Y	Y	Y	Y	Y	N	N	N	N	N
1.28	Swimming pool (See § 135-25A.)	Y	Y	Y	SP	Y	N	N	N	N	N
1.29	Tennis court or court for a sport played with a racquet or paddle including handball (See § 135-25A.)	SP	SP	SP	SP	Y	N	N	N	N	N
1.30	Satellite receiving antenna (See § 135-25B.)	Y	Y	Y	SP	Y	N	N	N	N	N
1.31	Off-street parking for automobiles. If outdoor parking spaces are provided for more than four automobiles for a dwelling unit, a special permit is required.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
1.32	An off-street parking space, which may be in a garage or outdoors, for not more than one commercial vehicle, not larger than 10,000 pounds, gross vehicle weight rating, which is used by a resident of the dwelling. Not more than one other commercial vehicle not in excess of 15,000 pounds, gross vehicle weight rating, which is used by a resident of the dwelling, may be parked in a garage only.	Y	Y	Y	Y	Y	N	N	N	N	N

Part A Residential, Institutional, Agricultural Uses											
Line		RO RS	RT	RM	RD*	CN	CRS	CS	CB CLO	CRO	CM
*For uses permitted in RD Districts, see §§ 135-16A and 135-42C(3)											
1.33	Outdoor storage of not more than one unregistered automobile which shall be parked only in an area not within the minimum yard required for the principal dwelling and which is screened from the view of abutting lots and the street. This limitation does not apply to such vehicles stored within a building.	Y	Y	Y	Y	Y	N	N	N	N	N
1.34	Convenience business or other commercial uses in a multi-family development (See § 135-45B.)	N	N	N	SP	N	N	N	N	N	N
2.	Institutional Uses										
2.1	Permitted Institutional Uses (Must also comply with operating and development standards)										
2.11	Churches, synagogues, and temples (including associated dwellings for religious personnel and associated buildings used for religious purposes)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.12	Day-care center (See definition.), school age child care program (see definition), nursery school, kindergarten	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.13	Family day-care home (See definition.) for not more than six children	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP
2.14	Elementary or secondary school, trade or vocational school for elementary and secondary school students, operated by a public agency, or by a religious sect or denomination, or a nonprofit educational corporation; includes associated buildings and land used for educational purposes	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.15	Public or private nonprofit college or technical school, trade or vocational school operated for college-age students; includes buildings, land or other facilities used for educational purposes but not including space used for revenue-producing purposes not directly associated with the education of students (for space used for revenue-producing purposes, see commercial uses)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.16	Public parks, playgrounds, municipal buildings or uses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.17	Museum, art gallery, private library	SP	SP	SP	SP	Y	Y	N	Y	Y	N
2.18	Nonprofit community service center or charitable organization	SP	SP	SP	SP	Y	Y	N	Y	Y	Y
2.19	Private, nonprofit club or lodge of social, fraternal, veterans, professional or political association; union hall; not including a recreational club	SP	SP	SP	SP	Y	Y	N	Y	Y	Y
2.20	Private nonprofit recreational facility such as golf course, tennis or swimming club	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y
2.21	Cemetery	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
2.3	Accessory Uses, Institutional Uses (See also line 5, accessory uses permitted in all residential, institutional, agricultural uses.)										
2.31	Within a lodge or recreational club, kitchen, dining room, function room available for members but not open to the general public	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y
2.32	Within a recreational club, place for the sale of related equipment, such as balls; snack bar	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y
2.33	Within a school, kitchen and dining facilities for staff or students; dwelling units for staff	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y
2.4	Development Standards										
2.41	Uses and structures with less than 10,000 square feet of gross floor area, including the area of any existing structure but not including any floor area devoted to parking, on a lot provided the use is permitted	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y

Part A Residential, Institutional, Agricultural Uses											
Line		RO RS	RT	RM	RD*	CN	CRS	CS	CB CLO	CRO	CM
*For uses permitted in RD Districts, see §§ 135-16A and 135-42C(3)											
2.42	Uses and structures with 10,000 square feet or more of gross floor area, including the area of any existing structure but not including any floor area devoted to parking, on a lot provided the use is permitted and the SPGA grants a special permit with site plan (See §§ 135-12 and 135-13.) [A religious or nonprofit educational use, as described in § 135-9E(1), is permitted as a matter of right in all zoning districts.]	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS
3.	Agricultural, Natural Resource Uses										
3.1	Permitted Agricultural, Natural Resource Uses										
3.11	Farm for the raising of crops	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.12	Farm or ranch for the raising or boarding, breeding of cattle, poultry, horses or other livestock provided the area of the lot is at least five acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.13	Commercial greenhouse or nursery with retail sales (See § 135-24.)	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*
3.14	Roadside stand (for two-year terms)	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*	SP*
3.15	Removal from a lot of earth materials for sale such as loam, sod, sand, gravel, stone, rock or clay	SP	N	N	N	N	N	N	N	SP	SP
	*Y, if the use satisfies all of the requirements for the so-called agricultural exemption in the State Zoning Act, Chapter 40A, Section 3.										
4.	Commercial Uses in Residential Districts										
4.1	Permitted Commercial Uses in Residential Districts					For permitted commercial uses in commercial districts, see Part B of this table					
4.11	Privately owned for-profit recreational facilities for golf, tennis or swimming	SP	SP	SP	SP						
4.12	Horseback riding area, stables operated for profit	SP	SP	SP	SP						
4.13	Utility substation or pumping station provided no public business office is permitted and all outdoor storage of equipment or material is permanently screened from the view of adjoining lots and the street (See Article X.)	Y	Y	Y	Y						
4.14	Seasonal sale of Christmas trees and wreaths	SP	SP	SP	SP						
4.15	Wireless communication facility (See Article XV.)	SP	SP	SP	SP						
5.	Accessory and Temporary Uses Permitted for all Residential, Institutional and Agricultural Uses										
5.11	Off-street parking, off-street loading (See Article XI.)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5.12	Dwelling unit in institutional building for security, maintenance or administrative personnel	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y
5.13	Building for storage of tools, lawn and garden equipment and supplies subject to same dimensional controls as a principal building.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5.14	Greenhouse not used for commercial purposes subject to the same dimensional controls as a principal building	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y
5.15	Swimming pool (See § 135-25A.)	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y
5.16	Tennis court or court for a sport played with a racquet, includes handball (See § 135-25A.)	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y
5.17	Satellite receiving antenna (See § 135-25B.)	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y
5.18	Parking of trucks or other equipment to be used for the maintenance of buildings and grounds only; shall be parked only in a garage or in an area not within the minimum yard for the principal building and shall be screened from the view of abutting lots and the street (See Article X.)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Part A Residential, Institutional, Agricultural Uses											
Line		**RO RS**	**RT**	**RM**	**RD***	**CN**	**CRS**	**CS**	**CB CLO**	**CRO**	**CM**
*For uses permitted in RD Districts, see §§ 135-16A and 135-42C(3)											
5.19	Convenience business or other commercial uses in an institutional building; provided the use is conducted entirely within the principal building, is conducted primarily for the occupants or employees of the principal use and there is no evidence of the conduct of the accessory use from the street or from any lot line	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y
5.20	Accessory sign, as permitted by Article XIII.	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y
Temporary Uses						For permitted temporary uses in commercial districts, see Part B of this table					
5.21	Temporary building(s) or trailer(s) incidental to the construction of a building or land development (See § 135-9F.)	Y	Y	Y	Y						
5.22	Temporary structures and uses not otherwise permitted in the district provided the SPGA makes a finding that the proposed structure or use is compatible with the neighborhood (See § 135-9F.)	SP	SP	SP	SP						

Table 1 Permitted Uses and Development Standards
[Amended 4-8-2002 ATM by Art. 16; 4-8-2002 by Art. 17]

Part B Commercial Uses Note: Commercial uses are not permitted in residential districts except as indicated in Part A								
Line		**CN**	**CRS**	**CS**	**CB**	**CLO**	**CRO**	**CM**
	All Commercial Uses							
B.1	Operating Standards							
B.11	All operations are conducted entirely within an enclosed building	Y	Y	Y	Y	Y	Y	Y
B.12	Operations, in part or in whole, conducted outdoors during operating hours and subject to the transition and screening requirements set forth in Article X	SP	Y	Y	SP	SP	SP	Y
B.13	Storage of equipment and products outdoors during non-operating hours	N	Y	Y	Y	N	SP	SP
B.2	Development Standards							
B.21	Uses and structures with less than 10,000 square feet of gross floor area including the area of any existing structures but not including any floor area devoted to off-street parking, on a lot provided the use is permitted and complies with the operating and development standards in this table	Y	Y	Y	Y	Y	Y	Y
B.22	Uses and structures with 10,000 or more square feet of gross floor area including the area of any existing structures but not including any floor area devoted to off-street parking, on a lot provided the SPGA grants an SPS as provided in §§ 135-12 and 135-13	SPS	SPS	SPS	SPS	SPS	SPS	SPS
6.	Office Uses							
6.1	Permitted Office Uses (Must also comply with operating and development standards)							
6.11	Real estate development, management	N	Y	N	Y	Y	Y	Y
6.12	Finance, credit, investment but not a bank (See line 7.15.)	N	Y	N	Y	Y	Y	Y
6.13	Medical, dental, psychiatric office, but not a clinic (See line 7.21.)	Y	Y	N	Y	Y	Y	Y
	a. With related laboratory	N	Y	N	Y	Y	Y	Y
6.14	Professional services such as law, engineering, architecture, consulting service	N	Y	N	Y	Y	Y	Y
6.15	Advertising, editing, composition, but not including printing or other reproduction service	N	N	N	N	Y	Y	Y
6.16	Employment agency, office of a business, professional, labor, civic or social association	N	Y	N	Y	Y	Y	Y

Part B Commercial Uses Note: Commercial uses are not permitted in residential districts except as indicated in Part A								
Line		**CN**	**CRS**	**CS**	**CB**	**CLO**	**CRO**	**CM**
6.17	Office of manufacturer's representative or salesman with no sales or storage and distribution of products from the premises	N	Y	N	Y	Y	Y	Y
6.18	Other business or administrative office, not elsewhere classified	N	N	N	Y	Y	Y	Y
6.2	Development Standards							
6.21	Office located on a street level floor	Y	N	N	N	Y	Y	Y
6.22	Office located on any floor other than on a street level floor; * permitted in a basement	N*	Y	N	Y	Y	Y	Y
6.23	Office space of all companies in a building occupies a total of more than 50% of the floor area in a building	N	N	N	Y	Y	Y	Y
6.24	Offices in which one company has not more than 1,000 square feet of floor area in a building	Y	Y	N	Y	Y	Y	Y
6.25	Offices in which one company has more than 1,000 square feet of floor area but not more than 2,500 square feet of floor area in a building	N	Y	N	Y	Y	Y	Y
6.26	Building used for offices without limit as to the amount of floor area one company may occupy or the percentage of floor area occupied by offices	N	N	N	N	N	Y	Y
7.	Personal, Business Services							
7.1	Permitted Personal, Business Service Uses (Must also comply with operating and development standards)							
7.11	Beauty salon, barber shop	Y	Y	Y	Y	Y	N	N
7.12	Laundry or dry cleaning pickup station with processing done elsewhere; laundry or dry cleaning with processing on the premises subject to the development standards for the district; self-service laundromat or dry cleaning	Y	Y	Y	N	N	N	N
7.13	Tailor, dressmaker, shoe repair	Y	Y	Y	Y	N	N	N
7.14	Real estate sales or rental	Y	Y	N	Y	Y	Y	Y
7.15	Bank, credit union	N	Y	N	Y	Y	Y	Y
	a. Automatic teller machine which may be either a principal use or an accessory use	SP	Y	Y	Y	Y	Y	Y
	b. With drive-up window or auto-oriented branch bank	N	SP	N	N	N	SP	SP
7.16	Travel agency, insurance agency, ticket agency	N	Y	N	Y	Y	Y	Y
7.17	Photographic services including commercial photography	Y	Y	Y	Y	Y	Y	Y
7.18	Repair of household appliances, small tools or equipment, rental of equipment or tools for use in a home	Y	Y	Y	Y	N	N	N
7.19	Funeral parlor	N	N	Y	N	Y	N	N
7.20	Photocopying, reproduction services but not commercial printing	Y	Y	Y	Y	Y	Y	Y
7.21	Medical clinic for out-patient services	N	Y	N	Y	Y	Y	Y
7.22	For-profit school for instruction in art, skills or vocational training	N	Y	Y	Y	Y	Y	Y
7.23	Commercial printing, publishing	N	N	Y	Y	Y	N	Y
7.24	Newspaper distribution agency	N	N	Y	N	Y	N	Y
7.25	Office of veterinarian	N	N	Y	N	N	N	N
7.26	Kennel, boarding of household pets	N	N	Y	N	N	N	N
7.27	Pet grooming service provided that it shall be conducted entirely within the principal building and no pets shall be boarded overnight; where conducted as accessory to a kennel (line 7.26), those restrictions shall not apply	N	Y	Y	Y	N	N	N
7.28	Private postal services (See definition)	N	Y	Y	N	Y	Y	Y
7.29	Recycling collection store (See also § 135-17A.)	N	N	SP	N	N	N	N
7.3	Development Standards							
7.31	Services with less than 1,500 square feet of floor area per establishment	Y	Y	Y	Y	Y	Y	Y
7.32	Services with 1,500 or more square feet of floor area per establishment	N	Y	Y	Y	Y	Y	Y
8.	Sales or Rental of Goods, Equipment							
8.1	Permitted Retail Sales and Rental Uses (Must also comply with operating and development standards)							
8.11	Convenience goods often bought on a daily basis such as food, candy, newspapers, tobacco products	Y	Y	Y	Y	Y	N	N
8.12	General merchandise, department stores	N	Y	N	Y	N	N	N
8.13	Food, but not that intended for consumption on the premises, includes delicatessen or bakery, but not a takeout or fast-food service	Y	Y	N	Y	N	N	N

Part B Commercial Uses Note: Commercial uses are not permitted in residential districts except as indicated in Part A								
Line		**CN**	**CRS**	**CS**	**CB**	**CLO**	**CRO**	**CM**
8.14	Package liquor store, with no consumption of beverages on the premises	N	SP	N	Y	N	N	N
8.15	Apparel, fabrics and accessories	Y	Y	N	Y	N	N	N
8.16	Furniture, home furnishings, home appliances and equipment, carpets	N	Y	N	Y	N	N	N
8.17	Other retail goods such as books, stationery, drugs, sporting goods, jewelry, photographic equipment and supplies, flowers, novelties, cards, footwear, and the like which are typically of a size that a customer can carry by hand	Y	Y	N	Y	N	N	N
8.18	Hardware, paint, wallpaper	Y	Y	Y	Y	N	N	N
8.19	Building materials	N	Y	Y	Y	N	N	N
8.20	Lawn and garden supplies and equipment	N	Y	Y	N	N	N	N
8.21	Sale or rental of equipment and supplies such as office furniture, to other businesses	N	Y	Y	N	N	N	N
8.3	Development Standards							
8.31	Stores with less than 2,000 square feet of floor area per establishment	Y	Y	Y	Y	Y	N	N
8.32	Stores with 2,000 or more square feet of floor area per establishment	N	Y	Y	Y	N	N	N
8.33	All sales or rental conducted entirely within a fully enclosed building; temporary display of products outdoors during operating hours permitted	Y	Y	Y	Y	Y	N	N
8.34	Sales or rental conducted in part outdoors with permanent display of products during non-operating hours; subject to screening requirements in Article X	N	Y	Y	Y	N	N	N
9.	Eating and Drinking, Transient Accommodations							
9.1	Permitted Eating and Drinking Establishments, Transient Accommodations (Must also comply with operating and development standards)							
9.11	Restaurant	N	SP	N	SP	N	SP	SP
9.12	Fast-food or takeout service serving enough food to comprise a meal	N	SP	N	SP	N	N	N
9.13	Takeout or fast-food service serving food or beverages, such as coffee, snacks, ice cream, or donuts, but not enough to comprise a meal	SP	SP	SP	SP	N	N	N
9.14	Caterer or other establishment preparing meals for groups of people	N	N	SP	N	N	N	N
9.15	Drive-in or drive-thru food service establishment	N	N	N	N	N	N	N
9.16	Hotel, motel	N	N	N	SP	N	SP	SP
10	Commercial Recreation, Amusement, Entertainment							
10.1	Permitted Commercial Recreation, Amusement, Entertainment Uses (Must also comply with operating and development standards)							
10.11	Movie theater (indoor)	N	N	N	Y	N	N	N
10.12	Indoor athletic and exercise facilities, weight reduction salon	N	SP	Y	N	N	N	N
11.	Motor Vehicle Related Sales and Service Uses							
11.1	Permitted Motor Vehicle Related Sales and Service Uses (Must also comply with operating and development standards)							
11.11	Motor vehicle sales or rental; includes automobiles, trucks, campers, vans, recreational vehicles, or trailers	N	SP	SP	N	N	N	SP
11.12	Service station, sale of fuel and other motor oil products and accessories such as batteries, tires	N	SP	SP	N	N	N	N
11.13	Sales and installation of automotive parts such as tires, mufflers, brakes and motor vehicle accessories	N	N	SP	N	N	N	N
11.14	Motor vehicle maintenance and minor repairs limited to engine tune-up, lubrication and installation of replacement parts, adjustment or replacement of brakes or tires, washing and polishing, but not including engine overhaul, body work or painting	N	SP	SP	N	N	N	SP
11.15	Substantial motor vehicle repair including engine overhaul, body work and painting	N	N	SP	N	N	N	N
11.16	Car wash conducted entirely within a building	N	N	SP	N	N	N	N
11.17	Automobile parking lot where the parking spaces do not serve a principal use on the same lot and where no sales or service takes place	N	N	SP	SP	N	SP	SP
11.18	Storage of automobiles or trucks where the principal user of the vehicles is not on the same lot	N	N	SP	N	N	N	N
11.2	Development Standards							

Part B Commercial Uses Note: Commercial uses are not permitted in residential districts except as indicated in Part A								
Line		**CN**	**CRS**	**CS**	**CB**	**CLO**	**CRO**	**CM**
11.21	Activities conducted entirely within a fully enclosed building	N	SP	SP	N	N	N	SP
11.22	Activities conducted outside of a building, in an open area	N	SP	SP	SP	N	SP	SP
11.23	Open-air storage of inoperable and unregistered motor vehicles where accessory to a permitted principal use	N	N	SP	N	N	N	N
12.	Construction, Storage, Distribution and Industrial Services							
12.1	Permitted Construction, Storage, Distribution and Industrial Service Uses (Must also comply with operating and development standards)							
12.11	Laundry, dry cleaning where clothes or other fabrics are washed or cleaned, but not including carpets	N	N	SP	N	N	N	N
12.12	Bakery	N	N	Y	N	N	N	N
12.13	Industrial services such as machine shop, welding	N	N	SP	N	N	N	Y
12.14	Commercial mover, associated storage facilities	N	N	SP	N	N	N	Y
12.15	Distribution center, parcel delivery, commercial mail delivery center	N	N	N	N	N	Y	Y
12.16	Office, display or sales space of a wholesale or distributing establishment, provided that not more than 25% of the floor area is used for assembly of products	N	N	Y	N	N	N	N
12.17	Shop and storage facilities for tradesmen such as carpenter, plumber, electrician etc. engaged in the construction and repair of residential buildings and other light frame structures with incidental sale of building materials or products on the premises	N	N	Y	N	N	N	N
12.18	Office, yard and storage facilities for construction company such as a general contractor, landscape contractor	N	N	SP	N	N	N	N
12.19	Fuel oil dealer including sale and repair of heating equipment but not including bulk storage of fuel oil	N	N	SP	N	N	N	N
13	Manufacturing							
13.1	Permitted Manufacturing Uses (Must also comply with operating and development standards)							
13.11	Light manufacturing	N	N	N	N	N	N	Y
13.12	Laboratory engaged in research, experimental and testing activities, which may include the development of mock-ups and prototypes but not the manufacture of finished products	N	N	N	N	N	Y	Y
14.	Utility, Communications and Transportation							
14.1	Permitted Utility, Communications and Transportation Uses (Must also comply with operating and development standards)							
14.11	Substation, pumping station or automatic telephone exchange of a regulated public utility	SP	Y	Y	Y	Y	Y	Y
14.12	Radio, television studio, but without transmitting or receiving towers	N	Y	Y	N	N	Y	Y
14.13	Transmitting or receiving tower or antenna for commercial activities other than those which are used exclusively for wireless communication facilities	N	N	N	N	N	N	Y
14.14	Commercial ambulance service	N	N	SP	N	N	N	N
14.15	Taxicab garage, parking area	N	N	SP	N	N	N	N
14.16	Bus garage or storage facility	N	N	SP	N	N	N	Y
14.17	Parking, maintenance facilities for commercial vehicles where it is a principal use	N	N	SP	N	N	N	Y
14.18	Landing place for helicopters not including storage or maintenance facilities	N	N	N	N	N	SP	SP
14.19	Wireless communication facility (See Article XV) (* Y if concealed, see § 135-88B)	SP*	SP*	SP*	SP*	SP*	SP*	SP*
15.	Open-Air, Seasonal and Special Events							
15.1	Permitted Open-Air, Seasonal and Special Events Uses (Must also comply with operating and development standards)							
15.11	Flea market	N	N	SP	N	N	N	N
15.12	Fund-raising event conducted by Lexington nonprofit organization provided permission, if required, is granted by the appropriate town agency	N	Y	Y	Y	N	N	N
15.13	Seasonal sale of Christmas trees and wreaths	SP	Y	Y	N	SP	SP	SP
16.	Accessory Uses for Commercial Uses							
16.1	Off-street parking for vehicles associated with the principal use. (See Article XI.) Note: An off-street parking structure must comply with the dimensional controls for a building.	Y	Y	Y	Y	Y	Y	Y

Part B Commercial Uses Note: Commercial uses are not permitted in residential districts except as indicated in Part A								
Line		**CN**	**CRS**	**CS**	**CB**	**CLO**	**CRO**	**CM**
16.2	Off-street loading for vehicles associated with the principal use (See Article XI.)	Y	Y	Y	Y	Y	Y	Y
16.3	Parking of trucks or other equipment to be used for the maintenance of the buildings and grounds only; shall be parked only in a garage or in an outdoor area not within the minimum yard for the principal building and shall be screened from the view of abutting lots and the street (See Article X.)	N	Y	Y	Y	Y	Y	Y
16.4	Temporary overnight outdoor parking of freight carrying or material handling equipment	N	Y	Y	Y	Y	Y	Y
16.5	Building for storage of tools, lawn and garden equipment and supplies subject to same dimensional controls as a principal building	Y	Y	Y	Y	Y	Y	Y
16.6	Dumpster or other refuse disposal equipment subject to Article X	Y	Y	Y	Y	Y	Y	Y
16.7	a. Convenience business use	N	Y	Y	Y	Y	Y	Y
	b. Commercial use not otherwise permitted in district provided the use is conducted entirely within the principal building, is conducted primarily for the employees or clientele of the principal use and not for the general public and there is no evidence of the conduct of the accessory use from the street or from any lot line	N	SP	SP	SP	SP	SP	SP
16.8	Cafeteria, dining room, conference rooms, function rooms, recreational facilities for the employees and clientele of the principal use; if the use is not otherwise permitted in the district, it shall not be available to the general public and shall be conducted entirely within the principal building with no evidence of the existence of the use from the street or from any lot line	N	Y	Y	Y	Y	Y	Y
16.9	Accessory sign, as permitted by Article XIII	Y	Y	Y	Y	Y	Y	Y
16.10	Processing, storage and limited manufacturing of goods and materials related solely to research, experimental and testing activities	N	N	N	N	N	Y	Y
16.11	Uses accessory to permitted scientific research, development or related production activities	N	N	N	N	N	Y	Y
16.12	Temporary building(s) or trailer(s) incidental to the construction of a building or land (See § 135-9F.)	Y	Y	Y	Y	Y	Y	Y
16.13	Light manufacturing	N	N	N	N	N	SP	Y
17.	Temporary Uses							
17.1	Temporary structures and uses not otherwise permitted in the district provided the SPGA makes a finding that the proposed structure or use is compatible with the neighborhood (See § 135-9F.)	SP	SP	SP	SP	SP	SP	SP
18.	Prohibited Uses: All Commercial and Residential Districts							
18.1	Any use, structure, operation or activity not expressly permitted by this bylaw or not accessory to a permitted use, structure, operation or activity	N	N	N	N	N	N	N
18.2	Any use, structure, operation or activity whether otherwise permitted or accessory to a permitted use, structure, operation, or activity or not, which may be disturbing, detrimental or hazardous to persons working or living in the neighborhood by reason of special danger of fire, explosion, pollution of water ways or groundwater, corrosive or toxic fumes or materials, excessive heat, smoke, soot, obnoxious dust or glare, excessively bright or flashing lights, electromagnetic radiation, or excessive noise or vibration	N	N	N	N	N	N	N
18.3	The following uses are specifically prohibited. This is not intended to be an all inclusive list and the fact that a use, structure, operation or activity is not listed below does not mean it is permitted if it is excluded by 18.1 or 18.2. Prohibited uses are: junkyards (See definition.), automobile graveyards, billboards.	N	N	N	N	N	N	N

§ 135-17. Supplementary commercial use regulations. [Added 4-3-1995 ATM by Art. 27]

A. Recycling collection store. In a recycling collection store (See definition.) sorting, limited cleaning, compaction or shredding of containers or other light processing activities

necessary for efficient temporary storage and subsequent shipment to a recycling processing facility are permitted.

§ 135-18. Historic preservation incentives. [Added 3-22-1999 ATM by Art. 4]

A. General objectives. The general objectives of this section are to: **[Amended 4-22-2002 ATM by Art. 21]**

(1) Encourage preservation of buildings, structures, sites and settings, and elements of historical or architectural significance.

(2) Establish eligibility criteria for buildings, structures, sites and settings, and elements attaining protected status under Subsection B.

(3) Expand economic options for the owner/investor, by broadening the permitted uses in various zoning districts and removing barriers presented by development standards governing those permitted uses.

(4) Permit the flexibility of development options by modifying dimensional requirements that might be an impediment to historic preservation.

(5) Provide incentives to preserve contributory elements of historic or architectural significance, such as settings and sites, objects, monuments, trees or other elements.

B. Historic eligibility defined.

(1) Any historic element, as defined below, may qualify for eligibility under this section, if it is included on any of the following lists or surveys:

(a) National Register of Historic Places.

(b) State (Commonwealth of Massachusetts) Register of Historic Places.

(c) Inclusion by the Lexington Historical Commission in its Comprehensive Cultural Resources Survey, or identification by that Commission of historic and/or architectural significance and thereby potential inclusion in the Comprehensive Cultural Resources Survey.

(d) Pending nominations in good standing to the National or State Register.

(2) Primary qualifying elements shall include the following: buildings, and other structures and outbuildings located on the property.

(3) Secondary qualifying elements shall include the following: sites and settings, objects, monuments, trees or any element of historical, architectural and/or cultural significance which indicates their contributory value in establishing historical context.

(4) Priority in granting special permits under these historic preservation incentives shall, in all cases, be placed upon keeping buildings and structures in place, rather than moving them to other locations, provided that the existing siting can be shown

to represent valid historical setting and context. Moving of buildings, structures and elements to other locations shall be considered only if no other preservation measures are practical or reasonable on the existing site, or if the proposed removal is to return a building, structure or element to an original or more historically accurate location. The SPGA shall determine the validity of any such requests.

C. Special permit authorized. The Board of Appeals, or the Planning Board where it is authorized to be the special permit granting authority (SPGA), may grant a special permit to authorize actions that would otherwise not comply with the provisions of this bylaw and that would allow the renovation, repair, adaptive reuse or, in limited instances, removal of historic or architecturally significant buildings.

(1) The following uses, identified by the line in which they appear in Table 1 of this bylaw, that are not usually permitted in the districts identified below may be allowed in those districts, provided the SPGA makes the findings listed in Subsection D:

(a) 1.13. Residential/institutional/agricultural uses: the conversion of single-family to two-family residences in the RD, CB and CLO Districts.

(b) 1.14. The conversion of single-family residences to congregate living facilities in the CB and CLO Districts.

(c) 1.187. The conversion of municipal buildings to residential use in the RM, CB and CLO Districts.

(d) 1.21. The creation of rooming units in the CB, CLO and CN Districts.

(e) 1.22. The creation of accessory apartments in single-family residences in the CB and CLO Districts.

(f) 1.23. The creation of bed-and-breakfast homes in the RT, RM, RD, CN, CB, and CLO Districts.

(g) 1.24. General home occupation uses with a maximum of one employee other than an owner occupant and with a maximum of four customers per hour, as an average during the course of the business day, in all districts.

(h) 1.25. Professional office home occupation uses with a maximum of one employee other than an owner occupant, in all districts.

(i) 6.14. Office uses, professional services, in CN Districts.

(j) 6.15. Advertising/editing, in CN and CB Districts.

(k) 6.16. Employment agency and similar uses, in CN Districts.

(l) 6.17. Manufacturer's representative and similar uses, in CN Districts.

(m) 6.18. Other business and administrative and similar uses, in CN Districts.

(n) 7.13. Professional and business services, tailor, dressmaker and shoe repair, in CLO Districts.

(o) 7.14. Real estate sales or rental office, in CS Districts.

(p) 7.18. Repair of household appliances, in CLO Districts.

(q) 7.28. Private postal service, in CB Districts.

(2) Modifying 6.2, Development Standards for Offices (6.21 - 6.26) and 7.3, Development Standards for Personal, Business Services (7.31 - 7.32), provided that any negative impacts to the surrounding area can be feasibly mitigated.

(3) Modifying the standards in Table 2, Schedule of Dimensional Controls, with regard to minimum: lot area; lot frontage; front, side and rear setbacks; maximum percentage of site coverage; and maximum height (stories).

(4) Modifying the standards in Article V, Supplementary Use Regulations, §§ 135-19, 135-20, 135-21 and 135-22.

(5) Modifying the dimensional and intensity controls in Article VII, §§ 135-35 to 135-39, 135-41A and B.

(6) Modifying the landscaping, transition and screening requirements in Article X, §§ 135-54 to 135-59.

(7) Modifying the off-street parking and loading requirements in Article XI, §§ 135-62 to 135-70, inclusive.

D. Findings required. In order to grant a special permit, the SPGA shall determine:

(1) That the uses authorized in Subsection C or the modification of standards and requirements authorized in Subsection C(2) to (7) are necessary to maintain the historic or architecturally significant building, structure or element on the site on which it was originally constructed or to relocate it back to such a site;

(2) That the proposed renovation, repair, adaptive reuse or removal preserves, to the maximum extent feasible, the historical and architectural features of the building, structure or element, said determination to be made by the SPGA;

(3) Failure to grant the special permit is likely to result in inappropriate use or physical modification or pursuit of a demolition permit; and

(4) That the proposed use will not generate negative impacts to the surrounding area or zoning district or that any negative impacts generated may be feasibly mitigated.

E. Contributory lots. For one or more lots that do not otherwise qualify under Subsection B above and are shown on a definitive site development plan submitted by an applicant, the SPGA may grant a special permit to modify: the standards in Table 2, Schedule of Dimensional Controls, the standards in Article V, Supplementary Use Regulations (entire article, covering the special uses identified), the dimensional and intensity controls in Article VII, Dimensional Controls, §§ 135-35 to 135-39, the landscaping, transition and

screening requirements in Article X, Landscaping, Transition and Screening (entire article), or the off-street parking and loading requirements in Article XI, Off-Street Parking and Loading (entire article), provided the SPGA makes a finding that such modifications are necessary to make historic preservation feasible on another lot within the same development on which an historic element, as defined in Subsection B, is located. The use of one or more lots that do not otherwise qualify may apply to a conventional subdivision or special permit residential development. (See Art. IX.) **[Amended 4-9-2008 ATM by Art. 49]**

ARTICLE V
Supplementary Use Regulations, Residential Uses

[Amended 4-16-1983 ATM by Art. 14; 4-4-1984 ATM by Art. 14; 5-7-1984 ATM by Art. 21; 3-27-1985 ATM by Arts. 10 and 12; 4-8-1985 ATM by Art. 11; 4-16-1986 ATM by Arts. 44 and 46; 5-4-1987 ATM by Art. 42; 5-6-1987 ATM by Art. 43]

§ 135-19. Accessory apartments. [Amended 5-2-1988 ATM by Art. 41; 4-10-1989 ATM by Art. 41; 4-4-1990 ATM by Art. 36; 4-4-2005 ATM by Art. 10]

An accessory apartment is a second dwelling subordinate in size to the principal dwelling unit on an owner-occupied lot, located in either the principal dwelling or an existing accessory structure. The apartment is constructed so as to maintain the appearance and essential character of a one-family dwelling and any existing accessory structures. Three categories of accessory apartments are permitted: by-right accessory apartments, which are permitted as of right, and special permit accessory apartments and accessory structure apartments, which may be allowed by a special permit.

A. General objectives. The provision of accessory dwelling units in owner-occupied 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.

B. Conditions and requirements applicable to all accessory apartments.

(1) General.

(a) There shall be no more than two dwelling units in a structure, and no more than two dwelling units on a lot.

(b) There shall be no boarders or lodgers within either dwelling unit.

(c) No structure that is not connected to the public water and sanitary sewer systems shall have an accessory apartment.

(d) The owner of the property on which the accessory apartment is to be created shall occupy one or the other of the dwelling units, except for temporary absences as provided in Subsection B(1)(e). 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.

(e) Temporary absence of owner. An owner of a property 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:

[1] Written notice thereof shall be made to the Building Commissioner or designee on a form prescribed by him.

[2] The owner shall be resident on the property for at least two years prior to and between such temporary absences.

(2) Exterior appearance of a dwelling with an accessory apartment. The accessory apartment shall be designed so that the appearance of the structure maintains that of a one-family dwelling, subject further to the following conditions and requirements:

(a) All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.

(b) Any new entrance shall be located on the side or in the rear of the dwelling.

(c) Where two or more entrances already exist on the front facade of a dwelling, modifications made to any of the entrances shall result in one entrance appearing to be the principal entrance and other entrances appearing to be secondary.

(3) 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 single-family appearance of the property, all parking spaces on the lot shall be subject further to the following conditions and requirements:

(a) 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 the parking spaces.

(b) No 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.

(c) There shall be no more than four outdoor parking spaces on the lot.

(d) No parking space shall be located within the boundary of a street right-of-way.

(e) 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.

(f) 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.

C. By-right accessory apartments shall be permitted so long as the requirements set forth in the § 135-19B are satisfied and the following criteria in this section are met:

(1) The lot area shall be at least 10,000 square feet.

(2) The apartment shall be located in the principal structure.

(3) The maximum gross floor area of the by-right accessory apartment shall not exceed 1,000 square feet.

(4) There shall not be more than two bedrooms in a by-right accessory apartment.

(5) There shall be no enlargements or extensions of the dwelling in connection with any by-right 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.

(6) The entire structure containing the by-right accessory apartment must have been in legal existence for a minimum of five years at the time of application for a by-right accessory apartment.

D. Special permit accessory apartments. If a property owner cannot satisfy the criteria for by-right accessory apartments that are set forth in § 135-19C above, the property owner may apply for a special permit from the Board of Appeals. The Board of Appeals may grant a special permit for a special permit accessory apartment as provided in § 135-16, Table 1, line 1.22B, subject to the following:

(1) The lot area shall contain at least the minimum area required in the district in which it is located, as shown in Table 2 "Schedule of Dimensional Controls."[19]

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19. Editor's Note: Table 2 is included at the end of this chapter.

(2) The maximum gross floor area of the special permit accessory apartment shall not exceed 40% of the gross floor area of the dwelling, excluding areas of the structure used for parking.

(3) The special permit accessory apartment shall be located in the principal structure.

(4) A special permit accessory apartment may be created by enlargement or additions to the existing principal structure, or within a newly constructed dwelling, provided that the Board of Appeals determines that:

(a) The architectural character of a detached one-family dwelling is maintained; and

(b) The structure is consistent with the typical size of nearby one-family detached dwellings.

E. Accessory structure apartments. Notwithstanding any provisions of this Zoning Bylaw that state an accessory apartment shall be located in a structure constructed as a detached one-family dwelling and the prohibition in § 135-35D against having more than one dwelling on a lot, the Board of Appeals may grant a special permit as provided in § 135-16, Table 1, line 1.22C, to allow the construction of an accessory apartment in an existing accessory structure which is on the same lot in the RS, RT, RO, RM or CN District as an existing one-family dwelling provided:

(1) Lot area is at least 18,000 square feet if in the RS, RT, or CN District, at least 33,000 square feet if in the RO District, and at least 125,000 square feet if in the RM District;

(2) The structure containing the accessory structure apartment was in legal existence for a minimum of five years and had a minimum of 500 square feet of gross floor area as of five years prior to the time of application;

(3) The maximum gross floor area of the accessory structure apartment does not exceed 1,000 square feet. An addition to an accessory structure may be permitted, but no addition shall be allowed which increases the gross floor area of the structure to more than 1,000 square feet. The gross floor area for the accessory apartment shall not include floor area used for any other permitted accessory use. The accessory apartment cannot contain floor area that has been designed, intended or used for required off-street parking to serve the principal dwelling;

(4) The creation of the accessory apartment shall not reduce the number of existing parking spaces in the accessory structure which are designed, intended or used for required off-street parking spaces to serve the principal dwelling;

(5) All existing and proposed off-street parking spaces shall comply with the requirements for the location, layout, design and screening of off-street parking spaces set forth in § 135-19B(3) and in Article XI of this Zoning Bylaw;

(6) Not more than one accessory structure on the lot may have an accessory apartment. There shall be not more than two dwelling units on the lot;

(7) The accessory apartment shall comply with all building, health and safety codes for a dwelling;

(8) The Board of Appeals determines that the exterior appearance of the accessory structure maintains the essential character of the purpose for which it was originally constructed and is compatible with the principal dwelling on the same lot and with other dwellings on adjoining lots.

F. Procedures.

(1) No accessory apartment shall be constructed without issuance of a building permit by the Building Commissioner or designee.

(2) The application for a building or special permit shall be accompanied by:

(a) Floor plans, drawn to scale, of the dwelling to be created and the structure where it is to be located;

(b) Where exterior changes are proposed, an elevation, or other visual representation, of the facade to be changed sufficient to show the architectural character of the dwelling;

(c) An off-street parking plan as described in § 135-63A; and

(d) A filing fee and such further plans and other documentation related to the conditions and requirements of Subsections B, C, D or E as the SPGA, Building Commissioner, or his designee may require.

(3) The Building Commissioner or designee shall act on the application within 30 days of receipt.

(4) No use as an accessory apartment shall be permitted prior to issuance of a certificate of occupancy by the Building Commissioner or designee. A certificate of occupancy shall be issued after the Building Commissioner or designee determines that the accessory apartment as constructed is in conformity with the approved plans and with the provisions of this Zoning Bylaw.

G. Expansion of pre-existing, nonconforming two-family dwelling. In accordance with § 135-11, and where consistent with the objectives set forth in Subsection A, the Board of Appeals may grant a special permit to allow the expansion of a pre-existing, nonconforming two-family dwelling in an RS, RO, RM or CN District provided the proposed expansion complies with the conditions and requirements set forth in Subsection D of this § 135-19 to the maximum extent practicable.

§ 135-20. (Reserved) [20]

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20. **Editor's Note: Former § 135-20, Conversion of one-family dwellings, as amended 3-25-1998 ATM by Art. 34, was repealed 4-4-2005 ATM by Art. 10.**

§ 135-21. Conversion of dwelling to congregate living facility.

A. Objectives. The conversion of an existing dwelling to a congregate living facility is intended to:

(1) Encourage alternative living arrangements for the town's elderly residents;

(2) Permit housing arrangements compatible in size and scale with one-family and two-family neighborhoods; and

(3) Encourage an economic, energy-efficient use of the town's housing supply while maintaining the appearance and character of the town's neighborhoods.

B. Conditions and requirements. A dwelling may be converted to a congregate living facility provided that each of the following conditions and requirements is met:

(1) General.

(a) In the RO, RS and RT Districts, there shall be not more than one converted dwelling on any one lot and there shall be accommodations for not more than 15 residents in the dwelling. The provisions of § 135-45A relative to equivalent density shall not apply in the RO, RS, and RT Districts. A converted dwelling in an RM or RD District shall conform to the standards of that district.

(b) The lot area shall be at least 10,000 square feet.

(c) The gross floor area, excluding areas in the structure used for parking, prior to the issuance of any building permit, shall be at least 2,000 square feet.

(d) The dwelling shall be connected to the public water and sanitary sewer system.

(e) No dwelling in an RS, RO, RT or RD District may be converted without the granting of a special permit by the Board of Appeals and no dwelling in an RM District may be converted without the issuance of a building permit by the Building Commissioner or designee, and no dwelling in any district may be occupied as a congregate living facility without the issuance of a certificate of occupancy by the Building Commissioner or designee.

(f) This section shall not be used to create a long-term care facility, a multifamily dwelling or a rooming house. If the Building Commissioner or designee has sufficient information to indicate that the converted dwelling is being used for other purposes not allowed in the zoning district or not allowed by the special permit or that sufficient support services are not being provided, the Building Commissioner or designee shall notify the owner, and if, within 90 days, the occupancy is not returned to conformity, the special permit and certificate of occupancy shall be suspended or revoked.

(2) Services and facilities for residents.

(a) Supportive services, such as nutrition, housekeeping, or social activities and access to other services, such as health care, recreation or transportation, shall be provided. At least one meal per day shall be served to residents in a common dining room.

(b) There shall be rooms and facilities that promote a shared living experience for residents including at least: a dining room, one living/common room suitable for social activities, space for outdoor activities and other rooms for other supportive services.

(c) A service providing organization, with sufficient resources, responsible for the provision of the supportive services shall be identified. If the relationship between that organization and the facility is terminated, and if, within 90 days, another comparable service providing organization is not designated, the certificate of occupancy shall be suspended or revoked. The service providing organization shall employ a manager or coordinator to direct the supportive services, and the manager or coordinator, or a designee, who shall not be a client of the congregate living facility, shall be on the site at least eight hours per day, seven days per week.

(d) A resident may occupy a separate bedroom or a suite of rooms which may have one or more of the following: a private full or half bath, a kitchenette of a size and type suitable for preparation of light meals for one or two persons, but not larger, or a living room.

(e) There shall be provided at least 150 square feet of usable open space, as described in § 135-46E, for each resident.

(f) The dwelling may not contain any dwelling unit (See definition.) other than that provided for the manager or coordinator.

(3) Exterior appearance of the dwelling. The dwelling to be converted shall be designed so that the appearance of the structure is that of a dwelling characteristic of the zoning district in which it is located, i.e. a detached one-family dwelling if located in an RO, RS or RT District; a two-family dwelling if located in an RT District; or a multifamily dwelling if located in an RM or RD District, subject further to the following conditions and requirements:

(a) Any stairway to a second or third story shall be enclosed within the exterior walls of the dwelling. There shall be no exterior fire escapes.

(b) Any enlargement or addition to the dwelling shall maintain the architectural character of a one-family dwelling or, in the RT District, a two-family dwelling. The architectural detailing and the exterior materials shall be those characteristic of a one-family neighborhood. The additional floor space created shall not be counted toward the requirement of minimum net floor area set forth in Subsection B(1)(c) above.

(c) Any new entrance shall be located on the side or rear of the dwelling.

(4) Off-street parking. In order to maintain the appearance of a one-family neighborhood, all parking spaces shall be subject further to the following conditions and requirements:

(a) Not more than two outdoor spaces shall be located in the front yard. All other parking spaces shall comply with the standards in Article XI for a parking lot (five or more spaces). Additional screening may be required to minimize the visual impact of parking on adjacent properties.

C. Procedures.

(1) A dwelling located in an RM District may be converted upon the issuance of a building permit. A dwelling located in an RO, RS, RT or RD District may be converted only upon the granting of a special permit by the Board of Appeals. Each application for a building permit or special permit shall be accompanied by:

(a) A statement identifying the supportive services to be provided and the service providing organization which will provide them.

(b) Floor plans of the dwelling drawn to scale showing the living spaces of the residents and the common facilities.

(c) Where exterior changes are proposed, elevations, or other visual representations, of the facade to be changed sufficient to show the architectural character of the dwelling before and after the change.

(d) An off-street parking plan as described in § 135-63A.

(e) A preliminary site development plan, as described in § 135-14A, except that a traffic analysis need not be submitted.

(2) Prior to the granting of a special permit or the issuance of a building permit, the SPGA, or the Building Commissioner or designee, shall submit a copy of the application to the Human Services Committee and the Board of Health which shall be given a reasonable time period in which to make a recommendation on the application.

(3) Each building permit or special permit shall include a condition that the certificate of action is subject to suspension or revocation if the dwelling is no longer used as a congregate living facility or if the support services are no longer rendered. Each special permit shall be recorded in the Registry of Deeds.

§ 135-22. Bed-and-breakfast home. [Added 4-30-1990 ATM by Art. 37]

A bed-and-breakfast home is a private owner-occupied dwelling unit where three or fewer bed-and-breakfast units (See definition.) are let, and a breakfast is included in the rent, as an accessory use, in which accommodations are available for overnight.

A. Objective. The conversion of an existing single-family dwelling unit into a bed-and-breakfast home containing not more than three bed-and-breakfast units is intended to provide standards to ensure that any dwelling containing a bed-and-breakfast

home is maintained primarily as a residence and the bed-and-breakfast accommodations are subordinate and incidental to the principal use of the dwelling as a residence.

B. Conditions and requirements. The Building Commissioner or designee may issue a certificate of occupancy for a bed-and-breakfast home to be conducted in a one-family dwelling unit in an RO or RS District provided that each of the following conditions and requirements are met:

(1) General.

(a) No bed-and-breakfast home, new or pre-existing, shall be operated without first being granted a certificate of occupancy from the Building Commissioner or designee. Each bed-and-breakfast home in existence on the effective date of this provision is not a nonconforming use, is in violation of the Zoning Bylaw and is not entitled to remain in operation without the issuance of a certificate of occupancy.

(b) A bed-and-breakfast home is an accessory use and the primary use of the dwelling unit shall remain as a residence and not as a lodging house or as a "bed-and-breakfast establishment," as that term is defined in Chapter 64G of the Massachusetts General Laws. As an accessory use, the bed-and-breakfast operation shall not occupy more than 45% of the gross floor area of the dwelling unit and shall meet the criteria for an accessory use set forth in § 135-16F.

(c) Within one dwelling unit there shall be a maximum of three bedrooms which are rented to roomers, boarders or bed-and-breakfast units. Within a dwelling (the structure, see definition of dwelling) there shall be a maximum of three bedrooms which are occupied as an accessory apartment, or rented to roomers, boarders or bed-and-breakfast units.

(d) Food for a fee may be served only to overnight guests.

(e) No signs beyond those allowed by § 135-75B of this bylaw shall be permitted.

(2) The dwelling unit containing the bed-and-breakfast home shall be designed so that the exterior appearance of the structure remains that of a one-family dwelling, subject further to the following conditions and requirements:

(a) All stairways to upper stories shall be enclosed within the exterior walls of the dwelling. There shall be no exterior fire escapes.

(b) An enlargement or addition to the structure is permitted provided the architectural character of a one-family dwelling is maintained.

(3) Parking. In order to maintain the appearance of a single-family neighborhood, all parking spaces on the lot shall be subject to the following conditions and requirements in addition to those set forth in Article XI, Off-Street Parking and Loading:

(a) There shall be one parking space provided for each bed-and-breakfast unit.

(b) Newly created parking spaces may be located only in the rear and side yard.

C. Procedures.

(1) Each application for a certificate of occupancy shall be accompanied by:

(a) Floor plans, drawn to scale, of the dwelling showing each of the bed-and-breakfast units to be designated and the access to, and egress from, each such unit.

(b) An off-street parking plan as required in § 135-63.

(c) Where exterior changes are proposed, an elevation, or other visual representation, of the facade to be changed sufficient to show the architectural character of the dwelling is maintained as a one-family house.

(d) An application for inspection of the property by the Building Commissioner or designee to determine compliance with the current requirements of the Massachusetts State Building Code.

(2) The certificate of occupancy for the bed-and-breakfast operation shall be limited to a maximum of three years. A certificate of occupancy shall be issued only to the owner of the property and shall not be transferable. Any changes in ownership of the property shall require a new certificate of occupancy.

(3) Upon issuance of a certificate of occupancy, the Building Commissioner or designee shall notify abutters of the lot that a certificate of occupancy has been issued and of the terms and conditions under which it has been issued.

§ 135-23. Living facilities for seniors. [Added 4-10-1996 ATM by Art. 28]

Types and characteristics of living facilities for seniors:

A. Assisted living residence. Assisted living residences are for frail elders who do not require twenty-four-hour skilled nursing care. Assisted living residences provide only single or double assisted living units. The operator of an assisted living facility may also provide optional services on the site, including but not limited to: local transportation, barber/beauty services, sundries for personal consumption and other amenities.

B. Assisted living unit. One or more rooms in an assisted living residence designed for and occupied by one or two individuals per bedroom as the private living quarters of such individuals.

C. Congregate living facility. Each resident in a congregate living facility has his/her own bedroom and may have a separate living room, kitchen, dining area, or bathroom, and may share dining, leisure, and other service facilities in common with other older persons, such as in a common dining facility.

D. Continuing care retirement community. Continuing care retirement communities may include various types of living facilities for seniors within which residents can stay as their service and health care needs change.

E. Independent living residence. In addition to separate dwelling units for elderly persons, an independent living residence may include common areas and the provision of meals and social, psychological, and educational programs.

F. Long-term care facility. Long-term care facilities provide assistance with activities of daily living as defined by 651 CMR 12.02, as well as skilled nursing and medical care by a skilled nursing staff.

§ 135-24. Nurseries.

A. 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 § 135-11: 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, bird feeders, birdhouses, and ornamental or decorative items intended for use with plants.

B. 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. A nursery granted 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: **[Amended 4-1-1998 ATM by Art. 40]**

(1) Minimum lot area: two acres;

(2) Building (other than greenhouses) may cover no more than a maximum of 20% of the lot area;

(3) Greenhouses shall not be used for retail sales of items other than plants;

(4) Buildings (other than greenhouses) used for retail sales shall not exceed a maximum of 7,500 square feet;

(5) 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;

(6) 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 (See Article XIV, Outdoor 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.

§ 135-25. Accessory structures.

A. Swimming pools and racquet courts. **[Amended 5-4-1987 ATM by Art. 44; 4-4-1990 ATM by Art. 36; 4-1-1998 ATM by Art. 40]**

(1) The Building Commissioner or designee may grant a building permit for a swimming pool and the SPGA may grant a special permit for the construction of a racquet court, accessory to a residential use, subject to the following minimum conditions:

(a) No racquet court shall be constructed within 15 feet and no swimming pool shall be constructed within 20 feet of a lot line or within the required minimum yard setback for a principal building, whichever is greater. The setback of the swimming pool shall be measured to the edge of the water in the pool; the setback of the racquet court shall be measured to the fence enclosing the court.

(b) Screening at least five feet high shall be provided around the pool or court.

(c) A fence or wall, at least eight feet high for the racquet court, shall be provided so that the court is completely enclosed. A principal or accessory building may form part of the enclosure. A fence around a swimming pool shall be provided as required by state law. **[Amended 4-8-2002 ATM by Art. 17]**

(d) No swimming pool or racquet court shall be constructed without the issuance of a building permit.

(2) Applications for a special permit shall contain an order under the provisions of Chapter 130, Wetland Protection, of the General Bylaws, or a determination by the Conservation Commission that Chapter 130 is not applicable or that an order of conditions is not necessary.

B. Satellite receiving antenna.

(1) A satellite receiving antenna is a device or instrument for the reception of television or other electronic communications broadcast or relayed from a satellite orbiting the earth. A satellite receiving antenna with a receiving dish with a diameter equal to or less than three feet may be installed in any district subject to § 135-39B, Structures other than buildings. A satellite receiving antenna with a receiving dish with a diameter greater than three feet may not be erected in a residential district unless it is accessory to a residential or institutional use and it is located in a rear yard. **[Amended 3-29-1995 ATM by Art. 26]**

(2) A satellite receiving antenna with a receiving dish with a diameter greater than three feet may be erected after the issuance of a building permit provided the following conditions are met: **[Amended 3-29-1995 ATM by Art. 26]**

(a) The antenna is located in a rear yard but not within the required minimum setback set forth in Table 2.

(b) The antenna shall be permanently secured to the ground. No antenna shall be installed on a building or on a portable or movable structure, such as a trailer.

(c) Size. No antenna shall exceed an overall diameter of 12 feet or a height of 15 feet above the natural grade when measured to its uppermost point when in an upright position.

(d) Screening. The base of the antenna shall be screened from view from any abutting lot or from the street by an opaque fence, at least six feet high, or by planting providing comparable screening and opacity.

(e) Appearance. The antenna shall be of a nonreflecting and inconspicuous color and compatible with the appearance and character of its surroundings. No advertising material shall be permitted.

(f) The antenna shall not be used for commercial purposes except where accessory to a use permitted in the district by special permit, provided the antenna is subject to the conditions of the special permit.

(3) Where the SPGA determines any of the conditions set forth in Subsection B(2) operate to prevent reception of satellite transmitted signals by the receiving antenna, the SPGA may issue a special permit to locate the antenna elsewhere on the lot, or on a building, where it may receive such signals. **[Added 4-10-1989 ATM by Art. 41]**

§ 135-25.1. Home occupations. [Added 5-5-2004 ATM by Art. 8[21]]

A. Intent. The provisions of this section are intended to accommodate limited business uses in dwellings, conducted by the residents thereof, in order to promote wider economic opportunities for Lexington residents, while at the same time protecting residential neighborhoods from adverse impacts.

B. Applicability. The provisions of this section shall apply to all permitted home occupations except where specifically stated otherwise.

C. Accessory use. Home occupations shall be considered accessory uses to the principal residential use of a dwelling, and shall be conducted by a resident of the dwelling. A home occupation shall be incidental to the principal use as a residence, but need not be a use that is customarily associated with residential use.

D. Maintenance of residential character. There shall be no exterior indication of the home occupation, except as provided herein in the form of off-street parking.

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21. **Editor's Note: This article was originally adopted 3-29-2004. Subsequently a notice of reconsideration was served, and the article was reconsidered, amended by more than the necessary two-thirds, and declared adopted 5-5-2004.**

(1) The business shall not require alterations to the exterior of the building.

(2) There shall be no exterior storage of materials, supplies, or equipment related to the business.

(3) There shall be no sign indicating the business.

E. Number of home occupations. More than one home occupation may be established in a dwelling, subject to the use regulations of § 135-16, but all home occupations combined shall not exceed any of the standards of this section.

F. Hours of operation: Business visits to a home occupation shall be limited to the hours from 7:00 a.m. to 9:00 p.m., unless otherwise authorized by special permit.

G. Employees.

(1) A minor home occupation or instruction home occupation shall have no nonresident employee, contractor, or partner.

(2) A major home occupation shall have no more than one full-time nonresident employee, contractor, or partner (or the equivalent thereof) on the premises at any one time.

(3) The number of nonresident employees working at off-premises locations is not limited, provided that such employees do not regularly visit the premises.

H. Commercial vehicles, pickups and deliveries.

(1) Commercial vehicle parking shall be subject to Article IV, Table 1, Part A, line 1.32.

(2) Vehicles used to deliver goods to the home-based business shall be limited to passenger vehicles, mail carriers, and panel trucks or small vans such as used by express package carriers and office supply companies.

(3) Pickups and deliveries shall not exceed those normally and reasonably occurring at a residence and shall not include more than an average of two pickups and deliveries of products or materials per day.

I. Parking. A major home occupation shall provide off-street parking spaces for the home occupation, in addition to two spaces for the dwelling unit, as follows:

(1) One parking space shall be provided for a nonresident employee, partner, or contractor regularly working on the premises;

(2) When a home occupation requires a special permit, the Board may require, at its discretion, the provision of up to one parking space for each client or customer expected to visit the premises at one time, if site-specific conditions warrant it. Provision of such a space shall be in addition to parking required for the dwelling unit and nonresident employees.

J. Environmental impacts. The equipment used by the home occupation and the operation of the home occupation shall not:

(1) Create any heat, glare, dust, odors, or smoke discernable at the property lines;

(2) Exceed the noise standards in the Lexington Noise Control Bylaw (Code of Lexington, Chapter 80, §§ 80-1 through 80-11, inclusive);

(3) Create any electrical, magnetic or other interference off the premises; or

(4) Use and/or store hazardous materials (as defined in Massachusetts General Laws, Chapter 21E, § 2) in excess of quantities permitted in residential structures.

ARTICLE VI
Nonconforming Situations
[Amended 3-18-1981 ATM by Art. 17; 5-7-1984 ATM by Art. 21; 3-27-1985 ATM by Art. 10; 4-14-1986 ATM by Art. 43; 4-27-1988 ATM by Art. 40]

§ 135-26. Objectives and applicability.

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

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

C. Noncomplying structures 10 years or older. In accordance with Section 7, Chapter 40A, MGL, a structure which has not been in compliance with this bylaw, or with the conditions set forth in any special permit or variance affecting the structure, for a period of 10 years or more from the commencement of the violation may not be the subject of an enforcement action by the Town to compel the removal, alteration, or relocation of such structure. Structures which qualify under Section 7, Chapter 40A, MGL, are considered to be nonconforming structures and are entitled to treatment as such as provided in this article.

D. Objectives. The provisions of this article are intended to achieve the following purposes:

(1) To allow nonconforming situations to continue until they are discontinued or abandoned.

(2) To encourage change in nonconforming situations toward greater compliance with the provisions of this bylaw and to reduce the degree of nonconformity.

(3) To discourage any expansion of a nonconforming use, as measured either by the amount of floor space or land area used or by the volume of activity in the use; and to encourage the substitution of other uses, which may also be nonconforming,

but which are more compatible with, and have fewer adverse impacts on, the surrounding area.

(4) To permit some expansion of nonconforming buildings provided there are not demonstrable adverse impacts on adjoining properties.

(5) Where a nonconforming situation is proposed to be changed, to encourage greater conformity with all the provisions of the bylaw and the objectives and purposes stated in this bylaw.

(6) In the event of the partial destruction of a nonconforming situation, to permit the reconstruction of the nonconforming situation so that the owner and tenants, if any, are not subjected to substantial economic loss while, at the same time, seeking to achieve greater conformity with the provisions of this bylaw and to reduce any adverse impacts on the surrounding area.

(7) To permit the treatment of nonconforming situations to be varied by the type of zoning district and the type of nonconformity, i.e. to have a different approach for uses, structures, parking or lots, for example.

§ 135-27. General provisions.

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

B. Lawfully created.

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

(a) It was in existence on March 17, 1924, when the Zoning Bylaw was originally adopted; or

(b) Subsequent to March 17, 1924, it was permitted by right by the Zoning Bylaw and was in existence prior to the effective date of any amendment which renders it nonconforming, and, if required at the time of its creation, a building permit or certificate of occupancy was issued.

(2) As the records of the Building/Inspection Department in earlier years are incomplete, the Building Commissioner or designee may accept such evidence of lawful creation for those years as he/she may deem to be adequate in lieu of official Town records. **[Amended 4-4-1990 ATM by Art. 36]**

C. Special permit and variance are not nonconforming.

(1) A use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity which is not otherwise permitted by right and does not comply with

this bylaw, due to the granting of a variance or special permit, is not a nonconforming situation, is not entitled to the treatments afforded by this article and is bound to the conditions of the special permit or variance, as granted.

(2) In the case of a special permit or variance which is not entitled to treatment as a nonconforming situation, the Board of Appeals may grant an additional special permit or variance which has the effect of extending such special permit or variance for an additional period of time provided such special permit or variance is subject to conditions that:

(a) Are not more permissive than those in the most recently approved special permit or variance; and

(b) Bring the situation closer to compliance with the provisions of this bylaw.

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

E. Change in lot that results in noncompliance. No lot upon which there is a building or for which a building permit is in force shall be subdivided or otherwise changed in area or shape, except through public acquisition, so as to result in a violation, applicable to either the lot or the building, of the requirements of Table 2, Schedule of Dimensional Controls, and of other applicable requirements of this bylaw. A lot already nonconforming shall not be changed in area or shape so as to increase the degree of nonconformity with the requirements of this bylaw; a nonconforming lot may be changed in area or shape to move closer to conformity with the requirements of this bylaw. If land is subdivided, conveyed or otherwise transferred in violation hereof, no building permit, special permit, certificate of occupancy or approval of a subdivision plan under the Subdivision Control Law shall be issued with reference to said transferred land until both the lot retained and the newly created lot(s) meet the requirements of this bylaw. **[Amended 4-4-1990 ATM by Art. 36]**

F. Nonconformity resulting from public action. If, as a result of public acquisition, a use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity no longer complies with this bylaw, it shall be considered to be nonconforming and entitled to the treatment afforded by this article provided it was in compliance at the time of the public acquisition.

G. Discontinuance or abandonment.

(1) A nonconforming use or structure or other nonconforming situation is considered to be discontinued or abandoned whenever:

(a) It is not used for a period of 24 consecutive months; or

(b) There is evidence of discontinuance or abandonment and it is apparent that the owner does not intend to resume the use or other nonconforming situation, whichever occurs first.

(2) In the administration of Subsection G(1)(b) above, evidence of discontinuance or abandonment shall be:

(a) Bringing the use, structure or other nonconformity into compliance with this bylaw; or

(b) Ceasing to be open to the public for the conduct of business for a period of six continuous months, and one or more of the following:

[1] Removal of customary equipment or supplies for the operation of a use.

[2] Disconnecting electrical, gas or other utility services.

[3] Failure to provide for operation in colder weather such as ceasing to heat the building at normal levels required by health regulations or failing to provide snow removal.

[4] Issuance of a notice of an unsafe structure by the Building Commissioner or designee.

(3) In the event that the Building Commissioner or designee has evidence of discontinuance or abandonment, he/she shall communicate with the owner of record, by certified mail, inquiring as to the owner's intent and informing the owner of the potential loss in nonconforming status. Such owner shall be allowed a period of 30 days from the transmittal of such communication in which to respond and to take action.

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

H. The rights of a nonconforming use, structure, building, lot, parking space, loading bay, landscaping or other situation are not affected by a change in ownership, tenancy or management unless such ownership, tenancy or management is specifically a condition of the issuance of a permit.

§ 135-28. Nonconforming uses.

A. A nonconforming use may be continued to the same degree and for the same purpose but may not be altered, expanded or extended. A nonconforming use shall be considered to be altered, expanded or extended if there is an increase in the net floor area, or an increase in the number of employees, or a substantial increase in the number of automobile or truck traffic trips generated by the use, or an increase in the hours of

operation, or a change from seasonal to full-time operation, since the use first became nonconforming.

B. A nonconforming use is limited to the lot on which it is located and cannot be relocated to another lot within the same zoning district.

C. Substitution of nonconforming use. The Board of Appeals may issue a special permit to allow a new use, not otherwise permitted by right in the zoning district in which the nonconforming use is located, to be substituted for the existing nonconforming use subject to the following conditions:

(1) The new use is more compatible with the zoning district in which the nonconforming use is located than the existing nonconforming use it replaces. In this context, more compatible shall mean it complies with the criteria set forth in § 135-11B(1)(c) and (2)(a) and (b); and

(2) The new use is consistent with the purpose of the zoning district in which it is to be located as set forth in § 135-2C; and

(3) In the case that an existing nonconforming use is a commercial use (is listed in Table 1, Permitted Uses and Development Standards, Part B) and is located in a residential zoning district, the SPGA may permit:

(a) The substitution of another use permitted in any residential district; or

(b) If the SPGA first determines that a use permitted in a residential district is not feasible, it may permit a new commercial use that is permitted in the CN District in substitution instead.

D. If a new use, not otherwise permitted by right in the zoning district in which it is located, is allowed by a special permit granted under Subsection C, the new substituted use shall be considered to be the nonconforming use and the previous nonconforming use shall not be reestablished.

§ 135-29. Nonconforming buildings.

A. One-family or two-family dwelling. An existing nonconforming one-family or two-family dwelling which is nonconforming with respect to a minimum yard setback may be enlarged or extended in any other direction in compliance with this bylaw by the issuance of a building permit as provided in § 135-9C. That part of an existing nonconforming dwelling which is nonconforming with respect to a minimum yard setback may be enlarged or extended in that yard provided the SPGA grants a special permit and all of the following conditions are met:

(1) The degree of nonconformity is not greater than 50% of the required minimum yard setback;

(2) The site coverage of the dwelling within that minimum yard setback is not increased; and

(3) The SPGA determines that the extension or enlargement is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties.

B. An existing nonconforming building, other than a one-family or two-family dwelling, which is nonconforming with respect to a minimum yard setback may be enlarged or extended in any other direction in compliance with this bylaw by the issuance of a building permit as provided in § 135-9C provided all other uses, structures and activities on the lot comply fully with the requirements of this bylaw.

C. An existing nonconforming building, other than a one-family or two-family dwelling, which is nonconforming with respect to another requirement of Article VII, Dimensional Controls, or of Table 2, Schedule of Dimensional Controls, other than a minimum yard setback, may not be enlarged or extended.

D. Noncomplying building.

(1) If a building, or a part of a building, does not comply with the standards in Table 2, Schedule of Dimensional Controls, except for minimum lot area or minimum lot frontage, or those that were in effect when it was constructed, and the building was constructed in accordance with a building permit issued by the Town except for such dimensional noncompliance, it shall be considered to be a nonconforming building, and entitled to treatment as such, if the following conditions are met:

(a) The noncompliance has existed for at least six years during which time no enforcement action under the provisions of § 135-9 has been taken; and

(b) The noncompliance was not created or increased by changes in lot lines after the construction of the building.

(2) If a building, or a part of a building, does not comply with the standards in Table 2, Schedule of Dimensional Controls, except for minimum lot area or minimum lot frontage, or those that were in effect when it was constructed, and conditions in Subsection D(1)(a) and (b) above are met but the building was not constructed in accordance with a building permit duly issued or there is no evidence a building permit was issued, the Board of Appeals may grant a special permit for the continued use of the building under the provisions of § 135-11 provided it determines the building is compatible with its neighborhood and complies with the criteria set forth in § 135-11B(1)(b) and (c) and (2)(a) and (b).

§ 135-30. Nonconforming lots.

No lot which does not comply with the provisions of this bylaw with respect to minimum lot area, minimum lot frontage, or minimum lot width or with the requirements then in effect at the time of recording or endorsement, whichever occurs sooner, shall be subdivided or otherwise changed in area or shape, except through public action, so as to be in violation of the provisions of this bylaw. A lot already nonconforming with respect to those provisions shall not be changed in area or shape so as to increase the degree of noncompliance. A lot which is nonconforming with respect to those provisions may be changed to be made closer in compliance, but once brought closer into compliance, i.e. the amount or degree of

nonconformity is reduced, it shall not be permitted to revert to noncompliance which is greater than the closest amount or degree of compliance which it has achieved.

§ 135-31. Nonconforming off-street parking and loading.

A. Existing nonconforming parking spaces or loading bays. Any off-street parking spaces or loading bays in existence on the effective date of this bylaw or thereafter established, which serve a building or use, may not be reduced in number, or changed in location or design contrary to the requirements of Article XI so as to increase the degree of nonconformity with the requirements of Article XI.

(1) If the use of an existing structure or lot which does not have sufficient parking or loading, including a use which has no off-street parking or loading, is changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in § 135-64 and there is no increase in the net floor, the following rules shall apply:

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

(b) If there is a net decrease in the number of required parking spaces or loading bays, the number of parking spaces and loading bays available for future changes of use(s) shall be the number of parking spaces or loading bays available based on the use(s) of the building immediately prior to the change of use(s) resulting in said net decrease as certified to and approved by the Town Building Commissioner or designee in accordance with § 135-70C(2). **[Amended 4-4-2001 ATM by Art. 20]**

(2) If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading, full compliance with Article XI for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.

(3) Parking spaces or loading bays in existence on April 4, 1984, which serve existing uses, and comply with the design standards of § 135-68, Subsection B (dimensions), Subsection D (loading bays), Subsection G (surfacing) and Subsection H (grade), may be counted toward the number needed for the enlargement or increase in the net floor area of an existing building or the change from one type of use to another, but not for a new building, even though they do not conform to the requirements of §§ 135-67B (setbacks) and 135-68F(2) (snow storage) and (3) (access for a parking lot) and I (landscaping), provided they comply to the maximum extent practicable.

(4) An applicant seeking credit for existing parking spaces or loading bays shall first submit an off-street parking and loading plan, as provided in § 135-63, certified by a registered land surveyor or professional engineer. If the existing paved area is not marked off into parking spaces or loading bays, such spaces or bays, complying

with § 135-68B (dimensions) shall be delineated on the plan. To qualify, an existing parking space or loading bay shall be entirely on the lot.

B. Parking and loading requirements for a building destroyed, damaged or demolished.

(1) If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this bylaw, without providing additional parking spaces or loading bays provided the new use is the same type of use (See § 135-64A or C.) as the use before the destruction, damage or demolition, or is a type of use that requires the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, at least the same number of spaces or bays shall be provided.

(2) 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 Article XI for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.

§ 135-32. Repair and reconstruction.

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

B. Reconstruction after involuntary destruction (by right). Any nonconforming use, structure, building, sign, parking space or loading bay or other nonconforming situation which is destroyed or damaged by explosion, collapse, fire, storm, natural disaster or other catastrophic event any of which is beyond the control of the owner, to the extent of not more than 50% of its replacement cost, as determined by the Building Commissioner or designee, may be reconstructed provided there is no increase in the site coverage or gross floor area or the degree of nonconformity and the reconstruction conforms to the current requirements of this bylaw to the maximum extent practicable in the opinion of the Building Commissioner or designee. In this context, maximum extent practicable shall consider extreme site conditions, such as steep grades, the presence of ledge or other unsuitable soil conditions, or the shape and configuration of the lot. **[Amended 4-4-1990 ATM by Art. 36]**

C. Reconstruction after destruction (by special permit). The Board of Appeals may grant a special permit for the reconstruction of a nonconforming use, structure, building, sign, parking space or loading bay or other nonconforming situation which is destroyed or damaged by explosion, collapse, fire, storm, natural disaster or other catastrophic event any of which is beyond the control of the owner, to the extent of more than 50% of its replacement cost, as determined by the Building Commissioner or designee, or by the proposed voluntary action of the owner to demolish, in whole or in part, provided the SPGA determines that: **[Amended 4-4-1990 ATM by Art. 36]**

(1) There is no increase in the site coverage or gross floor area or the degree of nonconformity.

(2) The reconstruction conforms to the current requirements of this bylaw to the maximum extent practicable as described in Subsection B.

(3) In the case of the reconstruction of a nonconforming use, that it complies with the standards for the substitution of a nonconforming use described in § 135-28C.

§ 135-33. Vesting of rights during adoption of amendments.

A.

(1) A use, building, structure, sign, parking space or loading bay or other situation which would comply with the provisions of this bylaw at the time at which a building permit is issued or a special permit is granted but would not comply with a proposed amendment to this bylaw shall be considered to be nonconforming and may be completed, continued or maintained provided:

(a) The building permit was issued or special permit was granted before the first publication of notice of public hearing on the proposed amendment; and

(b) Substantial physical construction or start of operations is begun within six months of the issuance of a building permit or the grant of a special permit and is carried through to completion as continuously and expeditiously as is reasonable in the opinion of the Building Commissioner or designee. If the construction is not completed within 18 months of the issuance of the building permit or the grant of the special permit, the rights to nonconforming status shall cease and the construction shall comply with this bylaw, as amended. **[Amended 4-4-1990 ATM by Art. 36]**

(2) The filing of an application for either a building permit or a special permit is not sufficient to vest rights but the building permit must be issued or the special permit must be granted prior to such first publication of notice.

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

C. In the event of the filing and subsequent endorsement of an "approval not required" plan, referred to in Section 81P of Chapter 41, Sections 81K-81GG, the Subdivision Control Law, an exemption from an amendment to this bylaw affecting the use of land only and a right to be treated under the previously existing provisions of this bylaw may be vested as set forth in Section 6 of the Zoning Act, Chapter 40A, MGL. Such exemption shall apply only in the case of the endorsement of a plan showing a subdivision, as defined in Section 81L of the Subdivision Control Law, in which there is a change in lot lines and shall not apply in the case of the endorsement of a plan which confirms existing lot lines without change.

D. In the event that rights have been vested under a previous version of the Zoning Bylaw, an owner may proceed as if that version of the Zoning Bylaw applied to his/her property or he/she may use the most current version of the Zoning Bylaw but must use either version of the Zoning Bylaw fully and cannot select provisions of both versions.

§ 135-34. Certificate of occupancy or registration. [Amended 4-4-1990 ATM by Art. 36]

The Building Commissioner or designee may issue a certificate of occupancy or certificate of registration of nonconformity which acknowledges the existence of a use, structure, building, sign, parking space, loading bay or other situation which is believed to be nonconforming. The issuance of either certificate shall not be a final determination by the Building Commissioner or designee, unless so stated, that the apparent nonconformity was lawfully created but is a means of recording the size, characteristics and degree of nonconformity at the time of issuance of the certificate.

ARTICLE VII
Dimensional Controls

§ 135-35. Compliance required.

A. Each use, building or structure shall comply with the standards set forth in Table 2, Schedule of Dimensional Controls,[22] except where specifically provided otherwise by this bylaw. **[Amended 4-14-1986 ATM by Art. 40; 4-6-1988 ATM by Art. 38]**

B. Residential uses in other districts. Uses and buildings permitted in the RO, RS or RT Districts shall, when located in a CRS, CS, CLO, CRO 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. **[Added 4-14-1986 ATM by Art. 40; amended 5-6-1987 ATM by Art. 43]**

C. Lots in more than one district or more than one Town or city. 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 bylaw 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. In the case of one lot which is divided by a district line or the municipal boundary line between the Town of Lexington and an abutting Town or city, which is proposed to be used for a building or use which is not permitted as a matter of right in both districts or municipalities, such building or use shall comply with the dimensional standards of this article and Table 2, Schedule of Dimensional Controls, as if that portion of the lot in the district in which such building or use is permitted were the lot and the district boundary line were a lot line. **[Added 4-14-1986 ATM by Art. 40; amended 3-25-1998 ATM by Art. 35]**

D. One dwelling per lot. In an RO, RS or RT District, not more than one dwelling shall be erected on a lot unless specifically authorized by other provisions of this bylaw. Each

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22. Editor's Note: Table 2 is included at the end of this chapter.

such lot shall comply with the minimum lot area, the minimum lot frontage, and the minimum lot width, and each dwelling or building containing another type of permitted principal use shall comply with the requirements of Table 2. **[Added 4-6-1988 ATM by Art. 38; amended 4-1-1991 ATM by Art. 29]**

§ 135-36. Minimum lot width. [23] [Amended 5-7-1984 ATM by Art. 20; 4-27-1988 ATM by Art. 40]

A. Change in lot that results in noncompliance. See § 135-27E dealing with the subdivision or other change in a lot which is now nonconforming or would be made noncomplying.

B. 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% of the minimum lot frontage, tangent to the lot frontage and within all other lot lines, may be located. This provision may be modified by the SPGA in the case of a lot that qualifies under § 135-45B through D. **[Amended 4-9-2008 ATM by Art. 49]**

C. No new dwelling shall be erected on any lot created after April 13, 1988, which does not contain a contiguous developable site area (See § 135-41.) which is at least 90% of the minimum lot area for the district in which the lot is located. This requirement may be waived by the SPGA in the case of any lot created in a site sensitive development, a balanced housing development, a public benefit development, or a planned residential district. **[Added 4-13-1988 ATM by Art. 42; amended 4-4-1990 ATM by Art. 36; 4-9-2008 ATM by Art. 49]**

§ 135-37. Minimum lot frontage. [Added 5-4-1987 ATM by Art. 42]

A. Minimum lot frontage required. Every lot shall have a minimum frontage on a street, as defined in this bylaw, equal to or greater than that set forth in Table 2, Schedule of Dimensional Controls, for the district in which it is located except as § 135-38 may provide. In the case of a lot with continuous frontage in both a commercial and a residential district which is proposed to be used for a commercial use, the lot shall have a minimum frontage within the commercial district equal to or greater than that required for that commercial district in Table 2.

B. Access. An owner shall provide a means of access for vehicles from the frontage street to a principal building for emergency services, such as fire protection, for deliveries, such as mail, and for off-street parking. Alternatively the owner may provide the actual means of access for vehicles from another street or over another lot provided a special permit for a common driveway under § 135-69C is granted, provided it can be demonstrated that it is both physically and legally possible to provide access from the designated frontage street.

C. Designation of frontage street. When a lot is bounded by more than one street, any one of them, but only one, may be designated as the frontage street provided that the street meets the requirements for minimum lot frontage set forth in this bylaw. However, in the

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23. **Editor's Note: See the Lot Width Diagram included at the end of this chapter.**

case of a lot bounded by two streets forming an interior angle of more than 135°, their combined frontage may be used to satisfy the lot frontage requirement. **[Amended 4-10-1989 ATM by Art. 41]**

D. Measurement of lot frontage. Frontage shall be measured in a continuous line along the side line of the street right-of-way between the points of intersection of the side lot lines with the street right-of-way line. The measurement of lot frontage shall not include jogs in the street width, backup 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.[24]

§ 135-38. Exemptions. [Amended 4-9-1980 ATM by Art. 66; 6-8-1981 ATM by Art. 18; 5-7-1984 ATM by Art. 21; 4-8-1985 ATM by Art. 11; 4-14-1986 ATM by Art. 40; 4-16-1986 ATM by Art. 45; 5-6-1987 ATM by Art. 43; 4-27-1988 ATM by Art. 40]

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

A. Lot in separate ownership. In any district a lot, if used for a one-family or two-family dwelling, which at the time of recording or endorsement, as shown by the most recent instrument of record prior to the effective date of the zoning change from which the exemption is sought, was not held in common ownership with any adjoining land, had at least 5,000 square feet of lot area and 50 feet of lot frontage, and conformed to the then existing requirements for minimum lot area, minimum lot frontage, minimum lot width, minimum front yard, minimum side yard and minimum rear yard, is not required to comply with the requirements of Table 2 for minimum lot area, minimum lot frontage, minimum lot width, minimum front yard, minimum side yard and minimum rear yard, and may be subject to the provisions of Subsection A(1) and (2) below. **[Amended 3-25-1998 ATM by Art. 33]**

(1) Area and frontage exemptions.

Lots Laid Out and Recorded by Plan or Deed	Area at Least	Frontage at Least
Prior to March 18, 1929	5,000 sq. 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.

(2) Side yard exemptions. The following shall apply to the above lots:

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24. **Editor's Note: See the Frontage Reduction on Curves Diagram at the end of this chapter.**

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.

B. Special permit residential developments. Certain tracts may be subdivided using the provisions of § 135-47 which permit reduction of certain requirements of Table 2. **[Amended 4-4-1990 ATM by Art. 36; 4-9-2008 ATM by Art. 49]**

C. Frontage reduction on curves. Where more than 1/2 of the lot frontage is on a circular turnaround, or on a curve of less than one-hundred-foot radius, frontage may be reduced to not less than 60% of the distance required in Table 2, Schedule of Dimensional Controls, provided that the distance between the side lot lines, measured along the arc parallel to the street line at the same distance from the street line as the front yard setback required by Table 2, shall be not less than the minimum lot frontage required by Table 2. All dimensions referred to in the previous sentence shall be shown on a plan approved or endorsed by the Planning Board. **[Amended 4-4-1990 ATM by Art. 36]**

D. Frontage on turnaround in CRO Districts. In CRO Districts where a lot abuts on a dead-end turnaround part of a street and abuts also on such street before the turnaround, the three-hundred-foot frontage may be measured in part along the side line of the street before the turnaround and in part along a projection of the course of such side line through and beyond the turnaround, provided however that the lot shall have a frontage of not less than 60 feet on the street, including such turnaround.[25]

§ 135-39. Height of buildings and structures. [Added 4-16-1986 ATM by Art. 45; amended 5-4-1987 ATM by Art. 42]

A. The maximum height of a building shall not exceed either the distance in feet or the number of stories, whichever is less, set forth in Table 2 for the district in which the building is located. The maximum height of a building in feet shall be the vertical distance between the lower elevation and the upper elevation, as described below. For purposes of determining the number of stories in a building or structure, measurement at the lower elevation shall be as described in Subsection A(1) below. **[Amended 4-4-1990 ATM by Art. 36; 4-22-2002 ATM by Art. 20; 4-9-2008 ATM by Art. 50]**

(1) The lower elevation shall be the natural grade of the land at the point of measurement prior to disturbance for construction. The elevation of the natural grade prior to disturbance for construction shall be certified by a registered land surveyor, or may be such elevation as the Building Commissioner or designee may determine from Town maps or records. The average natural grade shall be determined by computing the average of the elevations of the natural grade of the

25. **Editor's Note: Former Subsection E, Frontage reduction for lots in a small subdivision, added 4-3-1995 ATM by Art. 25, as amended, which immediately followed, was repealed 4-9-2008 ATM by Art. 49.**

four extreme corners of the building or, in the case of a nonrectangular building, of such equivalent locations as the Building Commissioner or designee may determine. In a case where the finished grade is lower than the natural grade, the finished grade shall be the lower elevation.

(2) The upper elevation shall be the highest point of any ridge, gable, orther roof surface, or parapet.

B. Structures other than buildings.

(1) When located on the ground, the maximum height of structures, other than buildings, shall be the highest point on the structure and shall not exceed the maximum height for buildings in feet as set forth in Table 2. Structures other than buildings, such as antennas, wireless communication facilities that are permitted as provided in Article XV, recreational apparatus, fences and the like may be located in a required front, rear or side yard provided the height of the structure is not greater than its horizontal distance from the lot line. Notwithstanding this provision: **[Amended 4-1-1998 ATM by Art. 32; 3-25-1998 ATM by Art. 35; 4-7-2003 ATM by Art. 20]**

(a) A fence or wall not greater than six feet in height (except that a supporting post may be not more than six feet, six inches in height) may be located on, or closer to a lot line than six feet; and

(b) A sign permitted under § 135-76 may be located in a front yard without regard to the lot line.

(2) Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, solar or photovoltaic panels, elevator housings, antennas, wireless communication facilities that are permitted as provided in Article XV, skylights, cupolas, spires and the like may exceed the maximum height of a building in feet provided no part of the structure is more than 20 feet higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed 25%. **[Amended 4-1-1998 ATM by Art. 32]**

(3) The Board of Appeals may grant a special permit for structures, but not buildings, to exceed the maximum height in feet allowed by Table 2 for the district in which the structure is located, or the percentage of horizontal coverage of structures erected on a building, specified above, provided it makes a determination that the structure is compatible with the scale of the neighborhood and does not intrude on the solar access of any adjoining lot. **[Amended 4-10-1989 ATM by Art. 41]**

C. Average height of building. Where a building is on a sloping site or has some stories that do not extend for the full building coverage, the height in feet of the several elements of the building may be calculated separately provided that neither the maximum height in feet nor the number of stories in any one element exceeds that permitted by Table 2.

D. Structures below ground. Where the upper elevation of a structure or building is below the elevation of the natural grade, and such structure is covered by earth to a depth

sufficient to support vegetation, such structure may be located within a required front, side or rear yard, but no closer than five feet to a lot line. Open grates or small ventilation shafts servicing the part of the structure below ground may be located in the required yard.

E. Parking within building. Where a building contains parking spaces, a parking level shall be counted as a story unless more than 1/2 of such level vertically is below the lower elevation as described in Subsection A(1).[26]

§ 135-40. 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 2,000 square feet nor within 20 feet of the bank of any of the following brooks:

A. Kiln Brook, starting between the Minute Man National Park and Wood Street, from ponds in 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.

B. 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.

C. A brook sometimes known as Turning Mill Brook from its origin N.E. of North Emerson Road near Route 128 to Simonds Brook. **[Amended 4-14-1986 ATM by Art. 40]**

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

E. 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.

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

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

H. The north branch of the Upper Vine Brook from the Lexington Reservoir until it goes underground.

I. The south branch of the Upper Vine Brook from its source between Sherburne Road and Sherburne Road South until it goes underground near Vine Brook Road. **[Amended 4-14-1986 ATM by Art. 40]**

J. Lower Vine Brook from where it surfaces near Hayes Lane to the Burlington Town line.

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26. Editor's Note: Original Sec. 7.6, Basement floor elevations, which immediately followed this subsection, was deleted 3-22-1999 ATM by Art. 6.

K. 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.

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

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

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

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

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

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

R. Two branches of Shaker Glen Brook from their sources near Rolfe Road and Peachtree Road to the Woburn city line.[27]

§ 135-41. Intensity of development. [Added 4-9-1984 ATM by Art. 16]

A. Developable site area.

(1) The developable site area shall be calculated by subtracting from the lot area all land which is located in:

(a) A wetland, which shall mean a "freshwater wetland" as defined in Chapter 131, Section 40, MGL, or land located under a brook, creek, stream or river or pond or lake; **[Amended 4-6-1988 ATM by Art. 38]**

(b) A Wetland Protection Zoning District; and

(c) Another zoning district in which the principal use of the lot is not also permitted.

(2) 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 a map of existing site conditions clearly identifying, 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.

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27. **Editor's Note: Original Sec. 7.8, Civil defense shelters, which immediately followed this subsection, was deleted 4-16-1986 ATM by Art. 45.**

B. 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% of the gross floor area may be used.

C. Determination of maximum floor area for a structure with a child care facility. The floor area of any structure shall be measured exclusive of any portion of such structure in which a day-care center or school age child care program (See definitions.) is to be operated as an accessory or incidental use, and the otherwise allowable floor area of such structure shall be increased by an amount equal to the floor area of such child care facility up to a maximum increase of 10%. In any case where the otherwise allowable floor area of a structure has been increased pursuant to the provisions of this section, the portion of such structure in which a child care facility is to be operated as an accessory or incidental use shall not be used for any other purpose unless, following the completion of such structure, the Board of Appeals shall have granted a variance, with the written concurrence of the State Office for Children, that the public interest and convenience do not require the operation of such facility. (See also Chapter 40A, § 9C, the Zoning Act, MGL, as amended for other provisions dealing with child care facilities operated as an accessory or incidental use.) **[Added 3-27-1991 ATM by Art. 33]**

ARTICLE VIII
Special Zoning Districts

[Amended 4-4-1983 ATM by Art. 12; 4-4-1984 ATM by Art. 14; 4-8-1985 ATM by Art. 11; 4-14-1986 ATM by Art. 40; 5-4-1987 ATM by Art. 42; 5-6-1987 ATM by Art. 43; 5-3-1993 ATM by Art. 26; 3-30-1998 ATM by Art. 39; 3-22-1999 ATM by Art. 39; 4-9-2008 ATM by Art. 49]

§ 135-42. Planned development districts.

A. Objective. A planned development district is intended:

(1) To permit considerable flexibility in the development of tracts of land by requiring few predetermined standards;

(2) To permit a developer to propose, and for the Town to vote on, a site development and use plan unique to a particular location;

(3) To permit the use of development standards more detailed than the more general standards elsewhere in this bylaw;

(4) To provide information for the Town to evaluate the potential impacts of a proposed development and to enable the SPGA to require adherence to such site development plans in the granting of a special permit.

B. Planned Commercial District CD.

(1) Standards for development. The Planned Commercial District CD does not have predetermined standards for development. Such standards are to be proposed by

the developer, included in the preliminary site development and use plan and approved by the Town Meeting.

(2) Town Meeting presentation. Each petition presented to the Town Meeting for rezoning land to a CD District shall include a preliminary site development and use plan as described in § 135-14 and shall be filed in accordance with the provisions of that section.

(3) Uses permitted. No use is permitted and no development may occur in a CD District except in conformity with a preliminary site development and use plan approved by the Town Meeting, the provisions of this section and a special permit with site plan review granted by the SPGA. Uses other than commercial may be in a CD District if clearly identified in the preliminary site development and use plan approved by the Town Meeting.

(4) SPGA. The Board of Appeals shall be the special permit granting authority. In action upon applications for special permits with site plan review, the SPGA shall be governed by the provisions of § 135-12.

C. Planned Residential Development Districts RD.

(1) Standards for development.

(a) A number of standards for development in the Planned Residential Development District RD are included here. Additional standards may be proposed by the developer and included in the preliminary site development and use plan and approved by the Town Meeting.

[1] Minimum area of tract to be developed: 125,000 square feet.

[2] Minimum frontage of the tract on an existing street: 100 feet.

[3] Minimum yard setback on perimeter of tract:

[a] Front yard: 40 feet.

[b] Side yard, rear yard: 30 feet.

[4] Maximum impervious surface ratio: .40.

[5] Minimum common open space as percentage of developable site area: 10%.

[6] Maximum height of building: 40 feet.

(b) In an RD District in which the area of the tract to be developed is not less than 20 acres and the planned residential development involves the redevelopment of existing structures, wherein not less than 25% of such existing structures shall be retained or rehabilitated, the following standards shall be modified as follows:

[1] Minimum yard setback on the perimeter of the tract:

[a] Front yard: eight feet.

[b] Side yard, rear yard: 30 feet.

[2] Maximum impervious surface ratio: 0.55.

[3] Maximum height of dwellings: 60 feet.

(c) If a street or interior drive in an RD Planned Residential District is located in a minimum yard, there shall be a screen of densely planted vegetation and/or an opaque fence adjacent to the lot line, as provided in Article X of this bylaw, for such distance as the Planning Board may determine in order to provide protection for abutting residential lots.

(d) Where there are more than 20 dwelling units in an RD District served by a dead-end street or dead-end interior drive, two means of access connected to the public street system, suitable for fire-fighting, medical and other emergency vehicles, shall be provided to each dwelling or dwelling unit. One means of access shall be a street or interior drive that complies with the standards for streets and rights-of-way set forth in the Subdivision Regulations. If not another street, the second means of access may be a paved way, subject to the approval of the Fire Chief, that:

[1] Is at least 10 feet wide, and constructed in a manner suitable for fire-fighting equipment;

[2] Has provision for snow removal and other maintenance to assure year-round access; and

[3] May have a gate or other barrier to restrict general motor vehicle traffic, provided there is an easy means of opening such gate or barrier for emergency vehicles.

(2) Nonresidential uses. In an RD District, the planned residential development may also include commercial uses, provided:

(a) Such uses serve primarily the residents of the development;

(b) Such uses are conducted within and may be entered only from within a principal building;

(c) There is no external evidence of such uses visible beyond the development tract; and

(d) The appearance and character of the commercial uses are compatible with a residential development.

(3) Town Meeting presentation. Each petition presented to the Town Meeting for rezoning land to an RD District shall include a preliminary site development and

use plan as described in§ 135-14 and shall be filed in accordance with the provisions of that section.

(4) Development permitted. No types of residential buildings may be constructed and no development may occur in an RD District except in conformity with a preliminary site development and use plan approved by the Town Meeting, the provisions of this article and a special permit with site plan review (SPS) approved by the SPGA.

(5) Types of buildings permitted in an RD District are: one-family detached, accessory apartment, two-family, townhouse, three-family, four-family, multi-family, rooming house, group quarters, independent living residence, assisted living residence, congregate living facility, long-term facility, and conversion of municipal building.

(6) SPGA. The Board of Appeals shall be the special permit granting authority. In acting upon applications for special permits with site plan review, the SPGA shall be governed by the provisions of §§ 135-12 and 135-13.

D. Conversion of municipal buildings and surplus municipal land.

(1) General objectives. This section is intended to allow the conversion of municipal buildings and the development of land on which they are situated and of surplus municipal land in a manner which:

(a) Encourages practical residential development in the reuse of existing structures;

(b) Is compatible with the adjacent neighborhood;

(c) Encourages development of economically priced housing and a variety of types of housing; and

(d) Fosters flexibility and creativity in the disposition of surplus municipal property.

(2) Modified RD procedure. The conversion of a municipal building or the development of surplus municipal land shall follow the same procedures for the rezoning of land for the RD Planned Residential Development District with the following exceptions:

(a) The minimum size of the RD Planned Residential Development District and minimum area of the tract to be developed specified above and in Table 2[28] may be less than 125,000 square feet; and

(b) The minimum frontage of the tract on an existing street specified above and in Table 2 may be less than 100 feet.

(3) SPGA. The Board of Selectmen shall be the special permit granting authority.

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28. Editor's Note: Table 2 is included at the end of this chapter.

E. Rezoning provisions applicable to both CD and RD Districts.

(1) Filing of preliminary site development and use plan. Two copies of the preliminary site development and use plan which accompanies a petition for a rezoning shall be filed with the Town Clerk and one copy with the Planning Board at least three weeks prior to the Planning Board public hearing required to be held under Chapter 40A. Subsequent to that public hearing, revisions to the preliminary site development and use plan may be filed with the Town Clerk and the Planning Board and must be filed at least seven days prior to the first session of the Town Meeting. The vote of the Town Meeting shall refer to the preliminary site development and use plan and shall be considered part of the rezoning action.

(2) Amendments to the preliminary site development and use plan. After the filing of the preliminary site development and use plan which accompanies a petition for a rezoning, the Town Meeting shall not take favorable action on a proposed amendment to the preliminary site development and use plan unless:

(a) At least seven days prior to the vote of the Town Meeting on the petition the Town Meeting member proposing such amendment:

[1] Has filed a copy of the proposed amendment with the Town Clerk and the Planning Board; and

[2] Has sent a copy of the proposed amendment by registered mail to the petitioner.

(b) The Moderator shall determine that the proposed amendment is within the scope of the petition and the preliminary site development and use plan most recently filed as provided in Subsection E(1); and

(c) At least 2/3 of the Town Meeting vote favorably on the proposed amendment.

(3) Amendments to the preliminary site development and use plan approved by an earlier Town Meeting. The preliminary site development and use plan for an existing planned development district that was approved by an earlier Town Meeting may be amended. The proposed amendments shall be presented and acted upon in the same manner set forth in this section for an original petition.

F. Special permit provisions applicable to both CD and RD Districts.

(1) Special permit application. The application for an SPS under this section shall comply with § 135-12 and shall be accompanied by:

(a) A copy, certified by the Town Clerk, of the preliminary site development and use plan approved by the Town Meeting.

(b) Definitive site development and use plan as described in § 135-14.

(2) Special permit provisions. The SPGA may grant a special permit with site plan review (SPS) for the development of a tract of land in the CD or RD District subject to the following provisions:

(a) The SPGA makes a determination that the development conforms substantially to the preliminary site development and use plan approved by the Town Meeting and is consistent with the considerations set forth in § 135-12;

(b) The SPS incorporates, by reference, the definitive site development and use plan filed with the application for the SPS;

(c) The SPS may allow any or all of the uses specified in the plan approved by Town Meeting but no others;

(d) The SPGA may, in its discretion, permit revisions from the preliminary site development and use plan approved by Town Meeting provided they do not conflict with the provisions of the text of such plan. Such revisions shall generally be limited to the location of the buildings and changes in the site plan;

(e) The SPS shall require that any land designated as common open space on the approved plan shall be either conveyed to the Town or protected by an easement granted to the Town; and

(f) The SPS may contain such additional conditions as the SPGA finds will serve the public interest.

(3) Denial of special permit. The SPGA may deny an application for an SPS and base its denial upon a finding that the proposed development does not conform substantially to the plans for the commercial or residential development of the tract as approved by the Town Meeting.

(4) Revision of special permit.

(a) Subsequent to an SPS granted by the SPGA, minor revisions may be made from time to time in accordance with applicable laws, bylaws, and regulations, but the commercial or residential development approved under such SPS shall otherwise be in accordance with the preliminary site development and use plan approved by the Town Meeting.

(b) If the SPGA determines such revisions not to be minor, it shall order that an application for a revised SPS be filed and a public hearing held in the same manner as set forth in § 135-12.

(5) Changes in uses or site development plans. 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 site development and use plan according to the procedures used for a zoning amendment, followed by the issuance of an SPS based on the new approved plan.

§ 135-43. Overlay districts.

An overlay district is a special purpose zoning district which is superimposed over another zoning district so that the land contained within the overlay district is subject to the requirements of both the overlay district and the zoning district in which it is located. An overlay district does not supersede the requirements of the other zoning district, which remain in effect, but are additional requirements applicable to all land within the overlay district.

A. Wetland Protection District.

(1) Purpose of district. The purposes of the Wetland Protection District are to preserve and maintain the groundwater table; to protect the public health and safety by protecting persons and property against the hazards of floodwater inundation; and to protect the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along watercourses, or in areas subject to floods.

(2) Districts superimposed over other districts. A Wetland Protection District shall not supersede other zoning districts established by this bylaw for land within the District but shall be deemed to be superimposed over such zoning districts.

(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.

(4) Special permit 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 Subsection A(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 this Subsection A. 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.

(5) Special permits for uses in harmony with general purposes of the district.

(a) 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.

(b) 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.

(6) Uses prohibited within Wetland District. Except as provided in Subsection A(4) or (5) there shall be in the Wetland Protection District:

(a) No landfill or dumping or excavation of any kind.

(b) No drainage work other than by an authorized public agency.

(c) No damming or relocation of any watercourse except as part of an overall drainage plan.

(d) No building or structure.

(e) No permanent storage of materials or equipment.

(7) Preexisting 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 bylaw. 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 Subsection A(4) and(5).

(8) No effect on dimensional requirements. If any part of a lot is within the Wetland Protection District, that part of the lot may be used to meet the lot area and minimum yard requirements specified in Table 2[29] for lots in the underlying district.

B. Nation Flood Insurance District.

(1) Purpose of the district. The purpose of this district is to insure proper floodplain management consistent with criteria established by the National Flood Insurance Program.

(2) Superimposed over other districts. The National Flood Insurance District shall not supersede other zoning districts but shall be deemed to be superimposed over these other zoning districts.

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29. Editor's Note: Table 2 is included at the end of this chapter.

(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 (FIRM).

(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 50% of the market value of the structure) shall have the lowest floor, including basement, elevated to or above the base flood level (the one-hundred-year flood elevation) designated on the FIRM. 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 October 1, 1986, 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 FIRM, 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 Subsection B(4)(a).

(c) Limit construction in floodway.

[1] 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 one-hundred-year flood discharge:

[a] Landfill or dumping of any kind.

[b] Construction or substantial improvements.

[c] Permanent storage of materials or equipment.

[2] Construction permitted within a floodway must comply with the requirement of Subsection B(4)(a).

(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 one-hundred-year flood.

ARTICLE IX

Special Permit Residential Developments [30]

[Added 5-8-1996 ATM by Art. 29;amended 3-25-1998 ATM by Art. 35; 5-12-2004 ATM by Art. 12; 4-4-2005 ATM by Art. 10; 3-29-2006 ATM by Art. 5; 4-9-2008 ATM by Art. 49]

§ 135-44. Purpose; intent.

A. A special permit residential development is a project in which one or more lots, tracts, or parcels of land are to be improved for use as a coordinated site for housing. No special permit residential development shall be initiated without first obtaining a special permit with site plan review in accordance with the provisions of this section. The purpose of the special permit with site plan review is to provide detailed review of residential developments that have a substantial impact upon the character of the Town, adjacent residential areas and the provision of public facilities and services. All residential developments require a special permit except for a single dwelling on a single lot, dwellings in two-lot conventional subdivisions and dwellings on lots created by the ANR process on an existing street. (For planned residential developments see Article VIII.)

B. The provisions of this article are intended to:

(1) Ensure that the development of multiple dwellings does not detract from the livability, scale, character or economic value of existing residential neighborhoods;

(2) Encourage greater diversity of housing opportunities in Lexington to meet the needs of a population which is diversified with respect to number of persons in a household, stage of life, and income;

(3) Encourage the development of affordable housing;

(4) Promote development proposals designed with sensitivity to the characteristics of the site that otherwise might be limited by application of uniform, largely geometric standards;

(5) Permit different types of structures and residential uses to be combined in a planned interrelationship that promotes an improved design relationship between new buildings and public facilities and common open space;

(6) Preserve historically or architecturally significant buildings or places;

(7) Encourage the preservation and minimum disruption of outstanding natural features of open land and to minimize impacts on environmentally sensitive areas;

(8) Encourage sustainable development through the use of green building practices and low-impact development techniques;

(9) Promote the efficient and economical provision of public facilities such as utilities and streets and facilitate a detailed assessment, by Town officials and the public,

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30. **Editor's Note: Original Sec. 9, Special Regulations, was deleted 4-8-1985 ATM by Art. 11 and replaced by a new Sec. 9, Planned Residential Development, which was deleted 5-8-1996 ATM by Art. 29.**

of the adequacy of such facilities and services for the proposed level of development.

§ 135-45. Types of special permit residential development.

A. A special permit conventional development (SPCD) is the development of a conventional subdivision of three or more lots.

B. A site sensitive development (SSD) is the development of a parcel with configurations of lots allowing flexibility and creativity in residential development through reductions in minimum lot size and frontage requirements in order to minimize site disturbance, preserve historic and sensitive natural resources, and allow for efficient patterns of construction to lower development cost. The number of dwellings in a site sensitive development may not exceed the number of dwellings that could be constructed in the development of a conventional subdivision.

C. A balanced housing development (BHD) is a development allowing deviation from the dimensional standards that apply to developments in conventional subdivisions in order to achieve a balance of housing choices for a diversity of household types and sizes. Instead of determining density by minimum lot size and frontage requirements, the amount of residential development for the tract as a whole is based on calculations of gross floor area and impervious surface area derived from a conventional development plan for the tract of land.

D. A public benefit development (PBD) is a type of balanced housing development that allows increases in gross floor area and impervious surface area in return for the creation of 10% of the units as affordable housing.

§ 135-46. Development standards.

An applicant is not entitled to the maximum development, nor is the applicant entitled to approval of a special permit residential development. The amount of development permitted will be based on a fully complying proof plan and the Planning Board's evaluation of the extent to which the proposed development complies with the criteria set forth below. A "proof plan" is a plan showing the layout of lots and roadways for the development tract that fully complies with the requirements of the Zoning Bylaw and the Planning Board's Development Regulations for a conventional subdivision. [See § 175-11A(8).]

A. Special permit conventional developments. Each lot within a special permit conventional residential development must comply with the dimensional standards set forth in Table 2[31] and elsewhere in this bylaw. In addition, the following standards must be met:

(1) The impervious surface ratio of each improved lot may not exceed 0.20 in an RS or RT District, or 0.12 in an RO District.

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31. **Editor's Note: Table 2 is included at the end of this chapter.**

(2) A dwelling erected on a single lot, including any addition thereto, having a gross floor area of 2,500 square feet or more shall have minimum rear and side yards of 25 feet.

(3) At least 90% of the required minimum lot area must be contained in a contiguous developable site area.

B. Site sensitive, balanced housing and public benefit developments. In site sensitive developments, balanced housing developments and public benefit developments the following standards must be met:

(1) The requirements of Table 2 are modified as follows:

(a) Lot area. There is no minimum lot area required. Individual lot area shall be sufficient to meet off-street parking requirements of this bylaw and the installation of any on-site water supply and sewage disposal facilities.

(b) Frontage. There is no minimum frontage required. Frontage for each lot shall be sufficient to provide for adequate access to the building site. Where shared driveways or other circumstances render frontage on a street to be of no importance, none is required.

(c) Yard requirements. Yards required by Table 2 shall apply to the perimeter of the site, but are not applicable between dwellings within the site.

(d) Site coverage. There is no maximum site coverage permitted for individual lots. Site coverage for the development tract as a whole is limited as described below.

(2) Gross floor area.

(a) Site sensitive developments. There are no limits to the gross floor area of the dwellings [but see the impervious surface limit in Subsection B(4) and the site coverage limit in Subsection B(5)].

(b) Balanced housing developments. The total gross floor area (GFA) of all structures in the development shall be less than the number of lots shown on the proof plan multiplied by 7,200 square feet.

(c) Public benefit developments. The total gross floor area (GFA) of all structures in the development shall be less than the number of lots shown on the proof plan multiplied by 8,640 square feet.

(3) Dwelling unit count and limitations on unit size.

(a) Site sensitive developments. The number of dwellings shall not exceed the number of dwellings shown on the proof plan.

(b) Balanced housing developments. The number of dwelling units permitted is not prescribed. Fifty percent of the total units are restricted in size. At least 25% of the dwelling units must have a GFA not larger than 2,700 square

feet, and at least 50% of the dwelling units must have a GFA not larger than 3,500 square feet.

(c) Public benefit developments. The number of dwelling units permitted is not prescribed. Fifty of the total units are restricted in size. At least 25% of the dwelling units must have a GFA not larger than 2,700 square feet, and at least 50% of the dwelling units must have a GFA not larger than 3,500 square feet. In addition, 10% of the total number of dwelling units in the development must be affordable to households earning no more than 80% of the area median income. [See § 135-48C(9)(b).]

(4) Maximum impervious surface.

(a) Site sensitive developments. The impervious surface limit in an SSD is based on the proof plan. The limit for the development as a whole is calculated as follows:

[1] Step 1: Determine the area in square feet of each lot shown on the proof plan. For each lot in an RS or RT District, multiply its lot area by .20; for each lot in the RO District, multiply its lot area by .12.

[2] Step 2: Determine the total area of the impervious surfaces contained on the proof plan that are not contained within lots, such as roads, sidewalks, and similar surfaces.

[3] Step 3: The impervious surface limit for the SSD is the sum of the impervious surface calculations from Steps 1 and 2.

(b) Balanced housing developments. The impervious surface limit in a BHD is calculated in the same manner as that of a SSD.

(c) Public benefit developments. The impervious surface limit in a PBD is calculated in the same manner as that of a SSD and increased by 20%, i.e. multiplied by 1.20.

(5) Maximum site coverage.

(a) For site sensitive developments, the site coverage limit is based on the proof plan. The limit for the development as a whole is calculated as follows:

[1] Step 1: For each lot on the proof plan, multiply its lot area in square feet by .15 for lots in RS and RT Districts, and by .09 for lots in RO Districts.

[2] Step 2: The site coverage limit for the SSD as a whole is equal to the sum of the individual lot site coverage calculations determined in Step 1.

(b) For balanced housing developments, there is no site coverage limit.

(c) For public benefit developments, there is no site coverage limit.

(6) Common open space.

(a) Minimum common open space. At least 33% of the developable site area (See § 135-41A.) in a BHD or PBD shall be set aside as common open space. A maximum of 20% of common open space may be devoted to parking or structures used for, or accessory to, active outdoor recreation, provided such parking or structures are consistent with the open space uses of such land.

(b) Location; condition. Where required or provided, common open space shall be land that may be in one or more parcels of a size and shape appropriate for the intended use and available for use by all occupants of a development.

(c) Ownership.

[1] Common open space may be conveyed to:

[a] And accepted by the Town to ensure its perpetual use as open space, conservation, recreation or park land; or

[b] A legal association comprised of the owners of the development, which may include homeowners or owners of condominium or cooperative units; or

[c] A nonprofit organization, the principal purpose of which is the conservation of open space.

[2] Easement. When such open space is conveyed to persons or entities other than the Town, an easement over such land shall be granted to the Town to ensure its perpetual use as open space, conservation, recreation or park land.

(7) Streets and drives. The objective of this section is that adequate access for fire-fighting, medical and other emergency operations be provided from the public street system to each site sensitive, balanced housing, or public benefit development.

(a) Connection to public street system. Each street and interior drive, or system of streets or interior drives, shall connect to a public street.

(b) A dead-end interior drive will be treated in the same manner as a dead-end street, and is subject to the provisions governing a dead-end street that are found in the Development Regulations, § 175-45E.

(c) In a development served by a dead-end street or dead-end interior drive, a secondary means of access may be required in order to provide adequate access for fire-fighting, medical and other emergency vehicles. The Fire Chief will be consulted as to the adequacy of the access.

(8) Compliance with other rules and regulations. The construction of community services, such as utilities, and of streets and interior drives shall comply with the requirements of the Planning Board's Development Regulations.[32]

§ 135-47. Special permit provisions.

A. The Planning Board, acting as SPGA, may, as part of the grant of a special permit with site plan review:

(1) Modify the provisions of the following sections of this bylaw, as they may apply to individual dwellings or lots within a special permit residential development:

	Type of Development			
By-Law Provisions	**SPCD**	**SSD**	**BHD**	**PBD**
§ 135-35D relative to the number of dwellings on a lot	No	No	Yes	Yes
§ 135-36B relative to lot width	No	Yes	Yes	Yes
§ 135-36C relative to contiguous developable site area	No	Yes	Yes	Yes
§ 135-65A relative to the location of off-street parking spaces	No	Yes	Yes	Yes
§ 135-67 relative to setbacks required for parking spaces and driveways	No	Yes	Yes	Yes
§ 135-27E relative to the subdivision of land in relation to lots or buildings that are nonconforming or would not comply with this bylaw as a result of the proposed development	No	Yes	Yes	Yes

(2) Permit the following types of buildings:

	Type of Development			
Type of Building	**SPCD**	**SSD**	**BHD**	**PBD**
One-family detached	Yes	Yes	Yes	Yes
Accessory apartment	Yes	Yes	Yes	Yes
Two-family	No*	No*	Yes	Yes
Townhouse	No	No	Yes	Yes

32. **Editor's Note: See Ch. 175, Planning Board Development Regulations.**

NOTE:
* Yes in RT District

(3) Permit an accessory apartment, as described in § 135-19 of this bylaw, to be created in a detached, one-family dwelling in a special permit residential development. The provisions of § 135-19A, B, D and F of this bylaw shall apply with the following exceptions:

(a) Section 135-19B(1), which permits no more than two dwelling units on a lot, shall not apply to balanced housing developments.

(b) Section 135-19D(1), which requires that the lot area shall contain at least the minimum area required in the district in which it is located, shall not apply.

(4) Allow an existing structure, that was constructed at least 10 years prior to the date of application for approval of the special permit, to be converted to a multifamily dwelling, a rooming house, a group quarters, an independent living residence, an assisted living residence, or a congregate living facility, provided the Planning Board determines that:

(a) The structure can be modified for a residential use that does not have adverse impacts on any adjacent single-family neighborhood;

(b) The exterior character of the structure is maintained and is compatible with any adjacent neighborhood of single-family dwellings;

(c) Modification of the existing structure maintains more of the site as open space than the alternative of removal of the structure and further subdivision of the lot into house lots.

B. The special permit shall incorporate by reference:

(1) The building design and definitive site development plans filed with the application for a special permit; and

(2) Where applicable, any legally binding document that has been submitted to ensure the completion and continued availability of any proposed improvement or compliance with special conditions.

§ 135-48. Special permit procedures.

A. SPGA. The Planning Board shall be the special permit granting authority for all special permit residential developments. In acting upon applications for special permits with site plan review, the SPGA shall be governed by the provisions of §§ 135-12 and 135-13. The Planning Board may grant special permits that are required for the special permit residential development, notwithstanding provisions of this bylaw designating a different special permit granting authority.

B. Special permit application requirements.

(1) The application for a special permit with site plan review (SPS) under this section shall be accompanied by a definitive site development plan, as described in § 135-14, and as the Planning Board may describe in its development regulations.

(2) Where the applicant also submits a definitive subdivision plan complying with the Subdivision Control Law and the Planning Board's development regulations, insofar as practical, the public hearing on the application for the special permit with site plan review and the definitive subdivision plan shall be held concurrently.

C. Special permit criteria for approval. The SPGA may only grant a special permit with site plan review if it makes a determination that the proposed development is consistent with the standards and criteria set forth in § 135-12 and the following additional criteria:

(1) Where there is common open space, it shall include, as applicable:

(a) Some, or all, of the outstanding natural features of the site and of the man-made features, including but not limited to stone walls, that enhance the land form;

(b) Land that increases visual amenities for residents of the development and of the adjacent neighborhood;

(c) One or more paths or entry points specifically designed for access purposes;

(2) The dwellings are sited and oriented in a complementary relationship to: each other, the common open space, and the adjacent properties with respect to scale, mass, setback, proportions and materials;

(3) Negative visual impacts of the development, if any, are screened from adjacent properties and nearby streets by landscaping or other site planning techniques;

(4) Where opportunities exist, improved access is provided to, or additional links and connections are developed to, a Town system of public facilities, such as open space, recreation facilities, footpaths or bicycle paths;

(5) Any building which contains more than one dwelling unit is designed so that either:

(a) The building has the exterior appearance of a one-family dwelling; or

(b) If two-family dwellings and/or townhouses are constructed, each individual dwelling unit has access to ground level and an opportunity for a private yard, patio, or other private outdoor space;

(6) There are provisions for common facilities, such as recreation or parking, or for services such as the maintenance of streets, walkways or paths, utilities, landscaping or recreation facilities;

(7) Where there are sufficient dwelling units, the layout of the street(s) and interior drive(s) will accommodate vehicles, other than automobiles, that are used in local transportation services.

(8) To the extent practicable, sustainable development techniques, including green buildings, have been utilized.

(9) In addition to the findings and determinations required by § 135-12B of this bylaw, and the criteria contained in Subsection C(1) through (8) herein, a public benefit development shall meet the following criteria:

(a) There are sufficient benefits to the adjacent neighborhood and the Town generally to warrant an increase in the maximum development otherwise permitted; and

(b) Legally binding documents have been submitted that insure that affordable units will continue to be available to eligible households in perpetuity. An affordable unit shall be subject to maximum household income established for that unit, based on the area median income (AMI) as annually determined by the U.S. Department of Housing and Urban Development, assuming one more person in the household than the number of bedrooms in the unit. Eligible households shall have incomes no greater than 80% of the AMI.

D. Denial of special permit. The SPGA may deny an application for a special permit with site plan review hereunder and base its denial upon:

(1) A failure to comply with the provisions set forth in this Article IX; or

(2) A finding that the proposed development would not be consistent with the general objectives set forth in § 135-44 or the criteria set forth in Subsection C above.

E. Revision of special permit. Subsequent to a special permit with site plan review granted by the SPGA under the provisions of this section, minor revisions may be made from time to time in accordance with applicable law, bylaws, and regulations, but the special permit residential development approved under such special permit with site plan review shall otherwise be constructed in accordance with the approved definitive site development plan. The developer shall notify the SPGA in advance of any such revision, which shall not be effective until approved by vote of the SPGA. If the SPGA determines that such revisions are not minor, it shall order that an application for a revised SPS be filed and a public hearing be held in the same manner as set forth in § 135-13.

§ 135-49. through 135-51. (Reserved)

ARTICLE X
Landscaping, Transition and Screening
[Added 5-6-1987 ATM by Art. 43]

§ 135-52. Objectives and applicability.

A. The provisions of this article are intended to achieve the following purposes:

(1) To provide a suitable transition between different zoning districts;

(2) To separate different and otherwise incompatible adjacent land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, the intrusion from artificial light including the ambient glow therefrom, signs, or the view of unsightly buildings and parking lots;

(3) To preserve or improve the visual and environmental character of a neighborhood and of Lexington generally;

(4) To offer property owners protection against possible diminution of property values due to adjacent commercial construction or a change in existing ostensibly incompatible land uses.

B. No building permit or certificate of occupancy for a use, special permit or special permit with site plan review shall be issued or granted where this bylaw indicates that a landscaping, transition or screening area, in accordance with this article shall be required or where this article indicates such shall be provided, unless compliance with the provisions of this article is demonstrated. **[Amended 4-10-1989 ATM by Art. 41]**

C. Applicability to special permits. Any application for a special permit or special permit with site plan review under § 135-11 or 135-12 of this bylaw for a use, structure or activity that does not conform to the provisions of this article shall not be granted until compliance with this article, to the maximum extent practicable, is demonstrated.

§ 135-53. Landscaping plan required.

A. A landscaping plan, demonstrating compliance with the standards contained in this article for landscaping, transition areas and screening, shall accompany each application for a building permit, certificate of occupancy, special permit or special permit with site plan review, as required by § 135-52B or C. The plan shall be drawn to scale and include dimensions and distances.

B. The landscaping plan shall be certified by a landscape architect registered in the Commonwealth of Massachusetts.

C. The landscaping plan shall show: **[Amended 4-4-2007 ATM by Art. 5]**

(1) Existing and proposed grades, the existing vegetative cover to be retained, and including the location, size and type of such vegetation, existing trees with a six-inch DBH or greater, identification of specimen trees, trees to be removed, and trees to be transplanted;

(2) The proposed site development plan showing existing and proposed building footprints, walls, fences, parking spaces, loading bays, driveways, walks, storage areas, public rights-of-way, easements and the location of structures on, and the uses of, abutting properties;

(3) A plan and plant schedule giving botanical and common names of plants to be used, size at time of planting, mature size, rate of growth, quantity of each, location and method of any excavation and soil preparation, and the spacing and location of all proposed trees, shrubs and ground covers;

(4) The methods for protecting plant materials during and after construction, including a tree maintenance plan, outlining the owners' obligation to maintain and protect trees on the property on an ongoing basis.

D. Where an application for an SPS is required, the landscaping plan shall be consistent with the definitive site development plan required by § 135-14C.

§ 135-54. Transition areas.

A. Where a lot abuts a different zoning district or is across a street from a different zoning district, a landscaped transition and screening area shall be provided and shall be located adjacent to the lot line as set forth in the table in Subsection C. In the case of a nonresidential use in a residential district, or a nonconforming commercial use in a residential district that abuts a residential use, a landscaped transition and screening area shall be provided, except that while the transition area shall be the width specified in the table in Subsection C, it shall be installed only along those segments of lot lines necessary to screen the nonresidential use from buildings located on abutting lots. The transition area may be provided within the minimum yard required for a building. **[Amended 4-10-1989 ATM by Art. 43; 3-25-1998 ATM by Art. 35]**

(1) Where a lot is divided into two zoning districts for which a transition area would be required by Subsection C, the transition area shall be along the zoning district line, except that the SPGA may grant a special permit for the transition area to be in a different location if it meets the objectives of this article. Where a lot has a nonconforming use for which a special permit is requested (See § 135-52C.), a transition area shall be provided on all lot lines where necessary to meet the objectives of this article.

(2) Landscaping and screening of other use areas and parking lots shall be provided in accordance with §§ 135-60 and 135-61.

B. A lot shall be considered to be across the street from a different zoning district if, at any point along its street line, a line drawn perpendicular to the street line intersects at any point with the street line of the lot across the street. Where any part of the street line of a lot in a nonresidential district and having a nonresidential principal use is determined to be across the street from a residential district, a screening and transition area shall be provided along the entire length of the street line. If a corner lot is across the street from a residential use or district on only one side of the lot, then screening is required only on the side that faces the residential use or district. **[Amended 3-25-1998 ATM by Art. 35]**

C. Required depth or width (in feet) of transition area.

District in Which Lot is Located	Adjacent Zoning District												
	RO	RS	RT	RD	RM	CN	CRS	CS	CB	CLO	CRO	CM	Street Line
RO	25*	25*	25*	10*	10*	15	15	20	—	20	20	20	—
RS	25*	25*	25*	10*	10*	15	15	20	15	20	—	—	—
RT	25*	25*	25*	10*	10*	10	10	—	—	10	—	—	—
RD	20*	20*	20*	20*	20*	20	20	20	20	20	20	20	25
RM	20*	20*	20*	20*	20*	20	20	20	—	20	—	—	25
CN	20	20	20	20	20	—	10	15	—	10	—	—	10
CRS	20	20	20	20	20	10	—	15	—	10	—	—	10
CS	20	20	20	20	20	15	15	—	—	15	—	—	10
CB	—	20	—	20	—	—	—	—	—	—	—	—	—
CLO	50	50	50	50	50	10	10	10	—	—	—	—	10
CRO	50	—	—	50	—	—	—	—	—	—	—	—	50
CM	50	—	—	50	—	—	—	—	—	—	—	—	50

-- Not applicable.

* No requirement for an individual dwelling. (See § 135-52C.)

§ 135-55. Transition area standards and requirements.

The following standards shall apply to the installation and maintenance of all landscaping, transition and screening areas required by this article.

A. Composition of landscaping, transition and screening areas. A landscaped transition and screening area shall consist of a landscaped strip and may include fences, walls (See Subsection H.) or berms (See Subsection I.) which shall serve to provide an effective year-round visual screen at the time of installation.

B. Height of screening. Visual screening comprised of a mixed planting of deciduous and coniferous trees and shrubs and walls or fences shall have a minimum overall height of six feet at the time of installation, except in a required front yard where the maximum height shall comply with Subsection C so as not to interfere with sight distance.

C. Sight distance. In order to provide an unobstructed sight distance for motorists, there shall be a triangle which is at least 30 feet on two sides of the intersection of a street with a driveway or an interior drive that shall be clear of visual obstructions. The triangle shall be measured from the point of intersection of the street with the driveway or interior drive for a distance of at least 30 feet along the street line (See definition.); along the side line of the driveway or interior drive for a distance of at least 30 feet; and by a third line connecting these two points. Within this triangle so described, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision for motorists between a height of 2 1/2 feet and 10 feet above the grade of the center lines of the street and the driveway or interior drive.

D. Type of plant materials.

(1) A variety of plant materials shall be selected to provide an effective visual screen, to be maintained at a minimum height of six feet. Plantings shall be a mixture of deciduous and coniferous trees and shrubs for the screening to maintain its effectiveness throughout the winter months.

(2) Ground cover, grass, mulch or other equivalent landscape treatment shall be provided in all landscaped transition and screening areas. Where the width of a transition area exceeds 20 feet, and where existing vegetation is used as the required planting, no ground cover, grass, mulch or equivalent treatment shall be required, provided all man-made debris has been removed from within the transition area.

(3) The substitution of artificial plant materials is not permitted.

(4) Existing vegetation in a healthy condition which provides an effective year-round visual screen may be used as the required planting provided it is approved by the SPGA or its designee, who may require supplemental planting.

E. Size of plant materials. All trees required by this section shall have a minimum caliper of three inches at the time of planting.

F. Spacing of plant materials. The arrangement of plant materials shall consider the relationship of plants in size, form, texture and color. The configuration and combinations of plant materials shall be in accordance with sound horticultural and landscape architectural practices.

G. Protection of landscaping and screening areas. Wherever required landscaping, transition or screening areas are adjacent to parking areas or driveways such areas shall be protected by curbing or wheel stops to avoid damage to the plant materials and other structures by vehicles.

H. Structures within landscaping, transition and screening areas.

(1) Walls or fences may be erected within a transition area to supplement the required planting to provide an effective visual screen as determined by the SPGA or its designee.

(2) When walls or fences are required by the SPGA or its designee, they shall be of the following type:

(a) A solid masonry wall faced with visually attractive materials on the side which faces the residential or less intensive use.

(b) A wood stockade or other opaque wooden fence installed so that the attractive side faces the residential or less intensive use. Between such fence and the lot line there shall be planted a minimum of one shrub or vine per 10 linear feet, and a minimum of one small deciduous tree per 40 linear feet.

(c) A fence or wall of an alternate material which may be appropriate to the site which may be proposed by the applicant's landscape architect.

(3) Walls or fences may not be substituted for plant materials to reduce the required width of a transition and screening area. A wall or fence may be added only where a mass of plant materials would not provide an adequate screen or where required by the SPGA or its designee.

I. Earthen berms.

(1) The SPGA or its designee may require that earthen berms be constructed within a transition area as part of a residential development adjacent to an arterial street or limited access highway. The berms shall be planted. Whenever a wall or fence is required in addition to a berm, the wall or fence shall be located between the berm and the higher intensity use in order to improve sound absorption.

(2) The use of earthen berms and similar grading techniques in combination with the standard landscaping requirement is encouraged.

(3) Berms shall be constructed of earth and shall be between three and six feet in height.

§ 135-56. Use of transition areas.

A. Only necessary driveways or interior drives shall be located across a required transition area. No structure, parking area, play area, interior street or driveway may be located in a required transition area.

B. A transition area may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided they do not reduce the effectiveness of the transition area as a year-round visual screen. No other uses are permitted in transition areas.

§ 135-57. Exceptions, special permits.

A. Where, due to the size, shape or topography of a lot, the strict provisions of this article would reduce the usable area of a lot so as to preclude a reasonable use of the lot, the SPGA may grant a special permit to modify the transition area requirements where the side of a building, a barrier and/or the land between the building and the lot line has been specifically designed, through a combination of architectural and landscaping techniques, to minimize potential adverse impacts on abutting lots.

B. The application for a special permit must demonstrate, in detail, the problems imposed by these requirements and provide an effective alternative.

C. Any modification of the required transition areas may be made subject to such conditions as are determined by the SPGA to assure adequate screening and buffering between particular uses. In determining what if any such conditions are necessary, the SPGA shall consider:

(1) The proximity to a residential development;

(2) The topography of the site and of adjacent property;

(3) The nature of the use and/or activity on the site;

(4) The land use of adjacent property;

(5) The width and use of all abutting public rights-of-way;

(6) The potential for impact of any nuisance activities such as noise, light or glare.

§ 135-58. Maintenance.

A. The owner of the lot shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with the approved landscaping plan.

B. All plant material shall be maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. After the initial planting, all plant materials not surviving after the first winter and through the following growing season shall be replaced in kind.

C. Fences and walls shall be maintained in good repair. Gates or openings may be provided where necessary for access to an area for maintenance.

§ 135-59. Landscaping to be completed prior to issuance of certificate of occupancy.

The landscaping plan, as approved, shall be completed according to specifications prior to the issuance of a certificate of occupancy for any residential or nonresidential use or building. If the completion of the structure occurs after the planting season has passed, only a temporary certificate of occupancy may be issued until the landscaping is completed.

§ 135-60. Screening of other use areas within the lots.

A. Outdoor storage areas. All outdoor storage areas for nonresidential uses in residential districts and all facilities for refuse disposal for all commercial, institutional or multifamily uses in all districts shall be enclosed by a fence or wall at least six feet in height. In the event that a wall six feet in height is insufficient to adequately screen such areas, the SPGA or its designee may require additional screening in such manner and of such materials as may be reasonably necessary to adequately screen such area from public view.

B. Screening of mechanical equipment. In all districts, on nonresidential properties, all air-conditioning equipment, transformers, elevator equipment or similar mechanical equipment on any roof or building or on the ground shall be screened from public view. The SPGA or its designee may require additional screening in such manner and of such materials as may be reasonably necessary to adequately screen such area from public view.

C. Transformers, equipment lockers and underground installation of utility lines. In all districts, when electric, telephone and all other utility lines, cables or transformers are proposed to be extended or relocated, in connection with the development or

redevelopment of land or a building for nonresidential purposes, they shall be installed underground.

§ 135-61. Landscaping of front yards in commercial districts.

For a lot in a commercial district which abuts a street and is across the street from another commercial district, there shall be a transition area (See § 135-54C.) at least 10 feet in width along such street line of which at least six feet shall be landscaped with a minimum of one deciduous tree for each 40 linear feet plus additional underplanting of shrubs which shall be maintained to a height of not less than three feet. The trees and shrubs may be arranged in groupings of planting beds and shall be a mixture of evergreen and deciduous plant materials. The underplanting may be eliminated within 10 feet of the trunk of a living tree with a caliper of 18 inches or greater. Street trees as required by the Planning Board's Development Regulations may satisfy this requirement.

ARTICLE XI
Off-Street Parking and Loading
[Added 4-4-1984 ATM by Art. 14]

Note: The following terms relative to off-street parking and loading are defined in Article II, Definitions: driveway, interior drive, maneuvering aisle, motor vehicle trip, parking lot and unit parking depth. **[Added 4-14-1986 ATM by Art. 42]**

§ 135-62. Objectives and applicability.

A. 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:

(1) 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;

(2) Increase the traffic-carrying capacity of streets and highways in the Town and obtain a more efficient utilization of on-street curbside parking;

(3) Reduce hazards to pedestrians upon public sidewalks;

(4) Protect adjoining lots and the general public from nuisances and hazards such as:

(a) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles;

(b) Glare and heat from parking lots;

(c) A lack of visual relief from expanses of paving;

(d) Accelerated runoff of surface water from land covered by impervious materials.

B. No building permit or certificate of occupancy shall be issued for the erection of a new building, the enlargement or increase in the net floor area 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 § 135-64A or C.), unless off-street parking spaces or loading bays are provided in accordance with this article. **[Amended 5-4-1987 ATM by Art. 42]**

C. Existing nonconforming parking spaces and loading bays. See § 135-31A. **[Amended 5-4-1987 ATM by Art. 42; 4-27-1988 ATM by Art. 40]**

D. Parking and loading requirements for a building destroyed, damaged or demolished. See § 135-31B. **[Amended 4-27-1988 ATM by Art. 40]**

§ 135-63. Parking and loading plan required.

A. Each application for a special permit with site plan review or, where needed, for a building permit, special permit, certificate of occupancy, or petition for a variance shall be accompanied by an off-street parking and loading plan showing: **[Amended 4-14-1986 ATM by Art. 42]**

(1) The number, location, elevation and dimensions of all driveways, maneuvering spaces or aisles, parking spaces and loading bays, which shall comply with this bylaw and accepted engineering practice;

(2) The construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening and lighting (See Article XIV, Outdoor Lighting.); **[Amended 4-1-1998 ATM by Art. 40]**

(3) The location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back;

(4) Where landscaping is to be provided, the species and size of plant materials;

(5) 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 number of loading bays.

B. Such plan shall be a drawing at a scale of one inch equals 20 feet or one inch equals 40 feet or at such other scale as the Building Commissioner or designee may approve. Where necessary, the Building Commissioner or designee 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.

§ 135-64. Number of parking spaces and loading bays.

A. 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. **[Amended 4-9-1984 ATM by Art. 16; 4-8-1985 ATM by Art. 11; 5-6-1987 ATM by Art. 43;**

4-10-1989 ATM by Art. 41; 4-10-1989 ATM by Art. 43; 4-1-1991 ATM by Art. 31; 3-27-1991 ATM by Art. 33; 3-25-1992 ATM by Art. 21; 4-10-1996 ATM by Art. 28; 3-25-1998 ATM by Art. 35; 4-9-2008 ATM by Art. 49; 5-5-2008 ATM by Art. 59]

Type of Use	Parking Factor (minimum number of parking spaces to be provided)
Residential uses	
Dwelling unit in one-family detached structure	2/dwelling unit
Dwelling unit in: two-family dwelling, townhouse, three-family dwelling, four-family dwelling, multifamily dwelling	1.5/dwelling unit for units with 2 or fewer bedrooms, 2/dwelling unit for units with more than 2 bedrooms
Accessory apartment, rooming unit	1/apartment or unit
Publicly assisted housing for the elderly	0.5/dwelling unit
Congregate living facility, independent living residence	.75/bedroom
Assisted living residence, group care facility, long-term care facility	.4 per living unit
Rooming house, group quarters	0.5 per bed
Institutional, educational and recreational uses	
Elementary, secondary schools	2/classroom
College, technical school	As needed
Day-care center, school age child care program, nurseryschool, kindergarten	1/500 s.f.
Church, temple, auditorium, club, lodge, community service center	1 per each 6 seats in the largest assembly area
Gymnasium, stadium, field house	1 per each 6 seats
Library, art gallery, museum and other non-recreational public facilities	1/600 s.f.
Parks, athletic fields, tennis and pool facilities, golf courses, recreation centers, other institutional uses	As needed
Agricultural uses	
Greenhouses, nursery, roadside stand	1 per 1,000 s.f. of display area whether indoors or outdoors

Type of Use	Parking Factor (minimum number of parking spaces to be provided)
Office uses	
Office uses (except as otherwise classified)	1/333 s.f., in CB 1/250 s.f.
Medical office, out-patient clinic	1 per 200 s.f., in CB 1/250 s.f.
Retail business	
Personal services, business services, retail sales, and rental uses (See Table 1)	1/250 s.f., in CB 1/325 s.f., on street level floors 1/500 s.f., in CB 1/600 s.f., in
Section 7.0 and 8.0 except as otherwise classified)	a cellar 1/300 s.f., in CB 1/400 s.f., on all other floors
Private postal services	1/200 s.f or 1/50 mailboxes, whichever is greater,
Other commercial uses	
Funeral parlor	1 per 4 seats in the largest assembly area
Motor vehicle related sales and service uses	2 per bay, work station or pump island
Eating establishments	
Restaurant, fast-food, and other eating establishments not otherwise classified	1 per 3 seats, or 1/150 s.f., whichever is greater; in CB 1 per 5 seats, or 1/200 s.f., whichever is greater
Takeout 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
Amusements, recreation	
Theater	1 per 6 seats
Commercial amusements	1 per employee plus 1 per alley, machine; in CB 1 per employee plus 1 per 2 alleys, machines
Transient accommodations	
Hotel, motel	1 per guest room
Convention center	1 per 4 seats in the largest assembly area
Manufacturing, research uses	
Manufacturing, research laboratory	1 per 500 s.f.
Construction, storage, distribution and industrial service uses	1 per 1,000 s.f.
All other permitted use	As needed, usually 1 per employee

B. Rules for interpretation of Subsections A and C of § 135-64.

(1) 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 1/2 or greater shall require an additional space or bay.

(2) 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 or designee shall verify that the number is adequate and shall, if necessary, order that additional spaces or bays be provided.

(3) To simplify the determination of net floor area, 80% of the gross floor area may be used.

(4) 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, which shall be determined by computing the number of parking spaces and loading bays required for the various individual uses and by then adding those numbers including any fractional number. The method of calculating the number of required parking spaces and loading bays set forth in the previous sentence shall not apply to a municipal elementary or secondary school. 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 § 135-69E. **[Amended 4-14-1986 ATM by Art. 42; 3-30-1998 ATM by Art. 37]**

(5) 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 three hours per day for at least three days per week.

(6) Where places of assembly are provided with benches rather than individual seats, each two linear feet of bench shall equal one seat, and where no fixed seats or benches are used, each 20 square feet of floor area in the largest assembly area shall equal one seat. **[Amended 4-11-1990 ATM by Art. 38]**

(7) 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 1/5 of a square foot of net floor area.

(8) In the case where the Board of Selectmen authorizes the placement of temporary seats on the sidewalk within the public right-of-way of streets within the CB District in Lexington Center, and such seats could be interpreted to be an increase in the number of seats serving a restaurant or eating establishment, such seats shall not be counted toward the off-street parking or loading requirements as long as they are seasonal and temporary. **[Added 4-1-1991 ATM by Art. 31]**

C. 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. **[Amended 4-8-1985 ATM by Art. 11; 5-6-1987 ATM by Art. 43; 4-10-1989 ATM by Art. 41]**

Type of Use	Loading Factor (minimum number of loading bays to be provided)
Residential uses	
Long-term care facility, group care facility	1 per 100 beds
Institutional uses	
School, college, church, club, library, gallery	1 per first 25,000 s.f., 1 per each additional 75,000 s.f.
Office uses	0 for first 10,000 s.f., 1 for next additional 50,000 s.f., 1 for each additional 100,000 s.f. thereafter
Personal, business service uses, retail sales or rental uses	1 per first 5,000 s.f., 1 per each additional 15,000 s.f.
Restaurants and other eating or food service uses	1 per first 99 seats, 1 per all additional seats
Manufacturing, research, construction, storage, distribution and industrial service uses	1 per first 10,000 s.f., 1 per each additional 40,000 s.f.
All other permitted uses	As needed

D. 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.

E. Parking spaces for handicapped persons. **[Amended 3-27-1985 ATM by Art. 10]**

(1) Specially designated parking spaces for the physically handicapped shall be provided as required by state law. **[Amended 4-8-2002 by Art. 17]**

(2) 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.[33]

F. Preferential parking. **[Added 5-5-2008 ATM by Art. 59]**

(1) Vanpool/carpool parking. In an office, manufacturing, research or laboratory use (as defined in § 135-64A) with gross floor area greater than 50,000 square feet on

33. **Editor's Note: Original Sec. 11.4, Parking, loading terminology, which immediately followed this subsection, was deleted 4-14-1986 ATM by Art. 42.**

the lot, preferential parking spaces shall be provided to encourage the use of multiple-occupant vehicles. One carpool or vanpool parking space shall be provided for every 150 motor vehicle parking spaces. Carpool and vanpool spaces shall be signed and striped and be located near the primary entrance(s) of the building without displacing parking for handicapped.

(2) Bicycle parking facilities.

(a) Required spaces. In an office, manufacturing, research or laboratory use (as defined in § 135-64A), a minimum of two bicycle parking spaces shall be provided, and one additional bicycle parking space shall be provided for each increment of 20 motor vehicle parking spaces over 40 vehicle spaces.

(b) Placement and access. Bicycle parking shall be located near the primary entrance(s) of the building. Half of the bicycle parking spaces shall be provided as long-term parking, safe and secure from vandalism and theft and protected from the elements. The other half shall be provided as short-term (customer or visitor) parking, and short-term parking spaces shall be visible and convenient to the building entrance. Bicycle parking apparatus shall not be installed in a manner which will cause obstruction of pedestrian or motor vehicle traffic. Bicycle parking shall be situated in such a way that normal snow removal activities and snow storage do not impact the bicycle parking facility.

(c) Security. Bicycle parking apparatus shall be of a high-security design to which the frame and wheel of a parked bicycle may be attached; installed in a visible location so as to deter vandalism and theft; and permanently mounted to the ground or to a building or other immovable structure.

(d) Dimensional regulation. Each bicycle parking space shall be sufficient to accommodate a bicycle six feet in length and two feet in width. Inverted-U-frame or other racks that support the bicycle at two or more points above the center of gravity are required.

§ 135-65. Location of off-street parking spaces and loading bays.

A. Required off-street parking spaces shall be provided on the same lot as, and loading bays shall be provided next to, 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 § 135-69. **[Amended 4-10-1989 ATM by Art. 41]**

B. 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.

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

D. 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 § 135-69.

§ 135-66. Driveways. [Added 4-14-1986 ATM by Art. 42]

A. Each parking space and loading bay shall be connected by a driveway to a street or to an interior drive that leads to a street. Parts of a driveway may be partly on another lot or may straddle a lot line provided the Board of Appeals grants a special permit under § 135-69C.

B. 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.

C. Driveways serving nonresidential districts. No private way or driveway which serves a nonresidential use in a nonresidential district shall be built through a residential district.

§ 135-67. Minimum yards for parking lots; screening. [34]

A. Parking for one-family or 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 a two-family dwelling and not more than four outdoor parking spaces serving a one-family dwelling, each parking space or driveway shall be set back five feet from any side lot line or rear lot line and shall be designated on a plan. If located in the front yard, a parking space and driveway shall be in the designated parking space, or driveway, and shall not be located on a lawn or other natural area. **[Amended 4-14-1986 ATM by Art. 42; 5-6-1987 ATM by Art. 43; 4-4-1990 ATM by Art. 36; 3-25-1998 ATM by Art. 35]**

B. On any lot in any district, for all uses other than a one-family or a two-family dwelling, all paved parts of all parking spaces, driveways 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 setback shall be maintained as a landscaped open area except for: **[Amended 4-14-1986 ATM by Art. 42; 5-6-1987 ATM by Art. 43; 3-25-1998 ATM by Art. 35]**

(1) Not more than two driveways between the street line and its corresponding setback line; or

(2) A parking space located within a structure otherwise permitted in such area.

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34. **Editor's Note: See the Distances Diagram at the end of this chapter.**

Distance in feet parking space, driveway 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	5	5
RD, RM	N.R.	25	8	5
CRO, CLO, CM	50*	50	10	5
CRS, CS, 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.

Article X may require greater setback requirements than as set forth in the above table.

Note: Screening (Subsection F) is required adjacent to the paved area but not in the required snow storage area and not between a paved area and a building.

C. 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 Subsection B or by the preceding clause. Note: Article X may require greater setback requirements than as set forth above. **[Amended 5-6-1987 ATM by Art. 43]**

D. 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.

E. 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 article; curbs, wheel stops, screening or similar barriers shall be installed along the setback line for parking and loading, as required by Subsection B, to prevent vehicles from being parked or driven within required setback areas or into landscaped open space areas.

F. Transition and screening. Note: Article X may require more extensive setback, transition and screening requirements in addition to those set forth below. **[Amended 4-14-1986 ATM by Art. 42; 5-6-1987 ATM by Art. 43; 4-1-1998 ATM by Art. 40]**

(1) 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, all loading bays, maneuvering aisles and driveways shall be screened in accordance with Subsection F(3), in a manner to protect abutting lots from the glare of headlights, noise and other nuisance factors.

(2) Any parking lot which is a principal use or within any residential district shall have setbacks computed in accordance with Subsection B and shall be screened along driveways and around the entire perimeter of the parking lot. The entrance to driveways, to the extent practicable, shall be located on the side near nonresidential districts or on streets or highways leading to nonresidential areas.

(3) Screening.[35] **[Amended 4-22-2002 ATM by Art. 21]**

(a) 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% of the face is open.

(b) 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.

§ 135-68. Design standards. [36]

A. Exception for one-family or two-family dwelling. The provisions of Subsection B(5) (backing into a public street), Subsection E (marking of pavement), Subsection F(3) (moving of vehicles) and Subsection G (surfacing and drainage) shall not apply where parking is provided for any one-family or two-family dwelling. **[Amended 4-8-2002 ATM by Art. 17]**

B. Dimensions.

(1) On any lot in any district, parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table and elsewhere in this subsection: **[Amended 4-8-2002 ATM by Arts. 17 and 21]**

35. **Editor's Note: See the Screening Diagram at the end of this chapter.**

36. **Editor's Note: See the Dimensions Diagram at the end of this chapter.**

Minimum Parking Space and Aisle Dimension for Parking Lots (in feet)

S = Compact
C = Standard

Angle of Parking	Width of Parking Space		Depth** of Parking Space		Width of Maneuvering Aisle		Unit Parking Depth	
	S	C	S	C	S	C	S	C
61° – 90°	9*	8.5*	19	15	22	20	60	50
46° – 60°	9	8.5	19	15	16	15	56	48
45°	9	8.5	19	15	14	13	53	47
Parallel	8	8	22	18	12	12	n/a	n/a

*Where one or both of the long sides of a parking space abut a wall or similar obstruction, the width shall be 12 feet.

**Up to two feet of unpaved landscaped space may be included in the depth provided there are no obstructions to the vehicle's overhang.

(2) To be counted as a required parking space, a parallel parking space shall have maneuvering space at least 20 feet deep in front of it in an aisle parallel to and abutting such parking space.

(3) Where columns of a building or structure are located in a parking lot (such as a parking garage under a building) no part of a column may be within three feet of a maneuvering aisle or within the minimum dimensions of a parking space as set forth in Subsection B(1). **[Amended 4-14-1986 ATM by Art. 42]**

(4) The width of a driveway for a one-way use shall be a minimum of eight feet and for two-way use shall be a minimum of 18 feet and a maximum of 30 feet, as measured at the setback line. Note: Design standards for interior drives are different from those for driveways; see Development Regulations. **[Added 4-14-1986 ATM by Art. 42]**

(5) Where access or egress is provided for a parking lot (five or more spaces), or one or more loading bays, such access or egress shall be so arranged to provide a circulation system or maneuvering space on the lot so that all vehicles may exit from and enter onto a public street by being driven in a forward direction and no vehicle shall be required to enter or leave by backing and no vehicle shall have to stand within a street right-of-way waiting to enter the lot. **[Added 4-14-1986 ATM by Art. 42]**

C. Number of compact car spaces. In parking lots containing more than 20 spaces, not more than 33% of such spaces may be designed for use by compact cars. Such compact car spaces shall be located in one or more continuous areas and shall not be intermixed with spaces designed for standard cars and shall be clearly designated by signs or pavement

marking. In parking lots with 20 or fewer parking spaces, spaces meeting the minimum dimensions for compact cars are not permitted.

D. Loading bays. All required loading bays shall have minimum dimensions as follows: 30 feet long, 12 feet wide and 14 feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Building Commissioner or designee requests, evidence shall be provided that the loading bay and its maneuvering space are adequate to accommodate large motor vehicles and trailers.

E. Marking. In a parking lot or loading area, the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent, and signs shall be erected indicating that loading bays, and, if necessary, compact or other reserved parking spaces are reserved for such use. Where 50% or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in an apartment building, parking spaces for guests or visitors to the use or establishment, not to exceed 10% of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building which they serve. **[Amended 4-6-1988 ATM by Art. 38]**

F. Availability; snow storage. To ensure the availability and utilization of required parking spaces and loading bays on a year-round basis:

(1) No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building, or establishment.

(2) A strip of land not less than five feet in width shall be provided on at least two sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area; such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building.

(3) 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.

(4) 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.

G. Surfacing and drainage.

(1) 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.

(2) 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 article. The off-street parking and loading plan required by this article shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the Building Commissioner or designee may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this section.

H. Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be 10%. The maximum grade of any outdoor driveway shall be 12%.

I. Landscaping.[37] Note: Article X may require more extensive landscaping requirements in addition to those set forth below. **[Amended 5-6-1987 ATM by Art. 43]**

(1) 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.

(2) 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 five feet in width shall be provided. The landscaped strip may be provided either:

(a) Between the rows of parking spaces parallel to the aisle; or

(b) 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 fewer 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.

(3) Trees required by this section shall be at least two inches in 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.

§ 135-69. Exceptions, special permits.

In accordance with § 135-11, and where consistent with the objectives set forth in § 135-62A, the Board of Appeals may grant a special permit modifying the requirements of this article in the following cases:

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37. **Editor's Note: See the Interior Lot Landscaping Diagram at the end of this chapter.**

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 § 135-64, the number of such spaces or bays required may be reduced by not more than 50%. An applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays.

(1) A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least 1/2 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.

(2) 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 nonconformity.

B. Where the design of a parking lot or loading area differs from the design provisions of § 135-67 or 135-68, provided such design complies with the intent of § 135-67 or 135-68 and 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 to lead to a parking space or loading bay on another lot, or to allow a driveway to straddle the lot line and serve a parking space or a loading bay on two or more lots, when both lots are in a residential district(s), or when both lots are in a commercial district(s), provided a binding agreement, satisfactory in form to the Town Counsel, is executed and is filed in the Registry of Deeds of Middlesex County. Where the driveway is located in a subdivision for which a special permit with site plan review (SPS) is required and the Planning Board is the SPGA, the Planning Board may grant the special permit for the driveway location. **[Amended 4-14-1986 ATM by Art. 42; 4-10-1989 ATM by Art. 41; 4-10-1996 ATM by Art. 30; 4-9-2008 ATM by Art. 49]**

D. Parking spaces. **[Amended 4-9-1984 ATM by Art. 16; 4-22-2002 ATM by Art. 21]**

(1) 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:

(a) All such parking spaces are within 750 feet walking distance of an entrance to the building which they serve;

(b) All such spaces are for employees only and not clientele; and

(c) Where such lot is not in the same ownership, a lease or paid permit guaranteeing long-term use of such lot, and satisfactory in form to the Town Counsel, is executed. **[Amended 3-27-2006 ATM by Art. 6]**

(2) In a CB District all such parking spaces may be within 1,200 feet walking distance of the entrance of such building. **[Amended 3-27-2006 ATM by Art. 6]**

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.

§ 135-70. Parking in CB District. [Added 4-9-1984 ATM by Art. 16]

A. 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.

B. Required parking spaces may be provided on the same lot or, if a special permit under § 135-69D is granted by the Board of Appeals, on another lot provided such facility is within 1,200 feet walking distance of the entrance of the building which such parking spaces are required to serve. **[Amended 3-27-2006 ATM by Art. 6]**

C. When there is a proposed change of use(s) within all or a part of a building within a CB district and: **[Added 4-4-2001 ATM by Art. 20]**

(1) The change of use(s) results in a reduction in the number of required parking spaces under this Article XI as compared to the number of required parking spaces required under this Article XI calculated on the basis of the use(s) within the building immediately prior to the change, then

(2) The number of required parking spaces calculated on the basis of the use(s) within the building immediately prior to the change shall be calculated and certified in writing by the building owner or a representative of the owner to the Building Commissioner or designee and approved by the Building Commissioner or designee; in which case

(3) Said higher number of certified parking spaces shall be attributed to said building available for use in connection with said building for purposes of meeting the parking requirements under this Article XI resulting from future changes in use(s) within said building.

ARTICLE XII
Traffic
[Added 5-6-1987 ATM by Art. 43]

§ 135-71. Objectives and applicability.

A. The provisions of this article are intended to achieve the following purposes:

(1) To permit vehicular traffic on Lexington streets to move in an efficient manner without excessive delay or congestion;

(2) To permit emergency vehicles to reach homes and businesses with a minimum of delay;

(3) To reduce motor vehicle and pedestrian accidents on the town's streets;

(4) To consider and allow for safe and convenient routes for pedestrians and bicyclists;

(5) To promote cleaner air and to reduce automotive exhaust emissions caused by vehicles standing and idling for an excessive time;

(6) To promote the efficient use of the town's arterial and collector streets so that use of local and neighborhood streets as shortcuts can be discouraged;

(7) To avoid excessive traffic demand on Town streets that necessitates extraordinary Town expenditures to maintain adequate and safe traffic flow;

(8) To maintain a balance between the traffic-generating capacity of dwellings and businesses in the Town and the traffic-carrying capacity of streets and intersections;

(9) To encourage alternative methods of transporting people, through public transportation, car pools and van pools, bicycling and walking, rather than near exclusive reliance on single-occupant automobiles;

(10) To encourage the use of good traffic engineering principles and design standards consistent with a predominantly residential suburban town;

(11) To encourage the positive management of traffic flow consistent with the town's other stated objectives;

(12) To encourage private sector participation in dealing with the town's traffic problems;

(13) To expand the town's inventory of data about traffic conditions on Town streets.

B. No building permit shall be granted for the erection of a new building or the enlargement or renovation of an existing building with the result that there are 10,000 square feet or more of gross floor area on the lot, including any existing floor area, but not including any floor area devoted to residential use or to off-street parking, or there are 50 or more dwelling units, or their equivalent, in a development, including any existing dwelling units, the number of parking spaces is increased by 25 or more and there are 50 or more parking spaces, including any existing parking spaces, on the lot, unless a special permit with site plan review has been granted and the SPGA has made a determination that the streets and intersections affected by the proposed development have, or will have as a result of traffic improvements, adequate capacity, as set forth in § 135-73, to accommodate the increased traffic from the development. The requirement for a special permit with site plan review (SPS) does not apply to a religious or nonprofit educational use, as described in § 135-9E(1). **[Amended 4-6-1988 ATM by Art. 38; 3-27-1991 ATM by Art. 30; 3-30-1998 ATM by Art. 38]**

§ 135-72. Traffic study required.

A. A traffic study shall be submitted with each application for a building permit, special permit or special permit with site plan review to which § 135-71B is applicable, or where required by any other provision of this bylaw.

B. The traffic study shall be conducted by a traffic engineer who will certify that he/she qualifies for the position of member of the Institute of Transportation Engineers (ITE).

C. For the purposes of this analysis, the terms below shall have the meaning indicated. The morning and evening "peak period" shall usually be the two hours between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. respectively. The morning and evening "peak hour" shall be that consecutive sixty-minute segment within the peak period in which the highest traffic count occurs as determined by traffic counts of the peak period divided into fifteen-minute segments. For uses which have an exceptional hourly, daily or seasonal peak period, the SPGA may require that the analysis be conducted for that extraordinary peak period. A street or intersection "likely to be affected by the development" is one which has an average daily traffic (ADT) of 2,000 vehicles or more and either:

(1) Carries 10% or more of the estimated trips generated by the development; or

(2) In the case of an intersection only, traffic from the proposed development will add 5% or more to the approach volumes. **[Amended 4-6-1988 ATM by Art. 38]**

D. The traffic study shall include:

(1) An estimate of trip generation for the proposed development showing the projected inbound and outbound vehicular trips for the morning and evening peak periods and a typical one hour not in the peak period. Where there is existing development of the same type of use on the site, actual counts of trip generation shall be submitted. Trip generation rates may be based on:

(a) [The most recent edition of "The Trip Generation Manual" prepared by the Institute of Transportation Engineers that is on file in Lexington Town Engineer's office; and, if applicable, Amended 5-8-1996 ATM by Art. 29; 4-2-2003 ATM by Art. 17]

(b) Data about similar developments in Massachusetts; or

(c) Data from professional planning or transportation publications, provided the methodology and relevance of the data from Subsection D(1)(b) or (c) is documented.

(2) An estimate of the directional distribution of new trips by approach streets and an explanation of the basis of that estimate. Where there is existing development of the same type of use on the site, actual counts of trip directional distribution shall be submitted.

(3) An assignment of the new trips to be generated by the proposed development to the segments of the Town street network, which shall include state highways in

Lexington, which are likely to be affected by the proposed development. (See Subsection C.)

(4) Average daily traffic (ADT) on the streets likely to be affected by the development (See Subsection C.), counted for a twenty-four-hour period.

(5) Intersection turning movement counts of the morning and evening peak periods at the intersections likely to be affected by the proposed development. (See Subsection C.) In special circumstances where the peak traffic impacts are likely to occur at times other than the usual morning and evening peak periods, the SPGA may require counts for those other peak periods.

(6) An inventory of roadway characteristics of the principal approach streets adjacent to the development site and of the streets in the intersections at which turning movement counts are taken showing the width of the right-of-way and of the traveled way, traffic control devices, obstructions to adequate sight distance, the location of driveways or access drives within 500 feet of the entrance to the site for uses that are substantial trip generators, and the presence or absence of sidewalks and their condition.

(7) In the case of a development in an abutting city or Town which will have a traffic impact on a street or intersection in Lexington which is one that is likely to be affected by the proposed development for which the traffic study is being prepared, the traffic impact of the development in the abutting city or Town shall be included in the traffic study provided:

(a) That traffic impact is equal to or greater than that set forth in the test in Subsection C;

(b) The development has been approved by official action of that abutting city or Town but has not opened for use prior to the date that the traffic counts required by this section were taken; and

(c) Data on the traffic impact of that development, comparable to that required by this section, is available.

(8) An analysis of the effect on the capacity of those intersections in the Lexington street system likely to be affected by the development (See Subsection C.) during peak periods of:

(a) The additional traffic generated by the development; and

(b) Additional traffic from other developments previously approved by the Town of Lexington for which a traffic study was required, or by an abutting city or Town as provided in Subsection D(7) above, which have not yet been opened for use prior to the date that the traffic counts required by this section were taken. Analysis of the capacity of intersections shall be based on traffic levels of service as described in the "Highway Capacity Manual, 1985 Edition" published by the Transportation Research Board. This analysis may include an intersection of an access drive serving a development and a segment of the Lexington street system.

(9) Where mitigating measures or trip reduction programs are proposed, they shall be proposed by the applicant and shall accompany the traffic study at the time of filing of the application. Where the proposed mitigating measure is the construction of a traffic engineering improvement, evidence, such as letters of support, or commitment, or approval, or the award of a contract, may be submitted to show that construction of the traffic improvement is likely to occur. **[Amended 4-6-1988 ATM by Art. 38]**

(10) An estimate of the time and amount of peak accumulation of off-street parking. The counts referred to above shall have been taken within the 12 months prior to the filing of the application. Upon request, the traffic engineer shall furnish an explanation of the methodology of the traffic study and additional data, as needed.

§ 135-73. Adequate traffic capacity.

A. Prior to granting a special permit or special permit with site plan review in those cases covered by § 135-71B or as may be required elsewhere in this bylaw, the SPGA shall determine that the streets and intersections likely to be affected by the proposed development currently have, or will have as a result of traffic improvements, adequate capacity, as defined in Subsection B. In making its determination of adequate capacity, the SPGA shall consider at least the cumulative effect on a street or intersection likely to be affected by the development, as provided in § 135-72C, of:

(1) Existing traffic conditions;

(2) Estimates of traffic from other proposed developments which have already been approved in part or in whole by the Town of Lexington for which a traffic study was required, or by official action of an abutting city or town, which have not yet been opened for use prior to the date that the traffic counts required by this article were taken; and

(3) Estimates of traffic from the proposed development.

B. Adequate capacity defined by level of service. Adequate capacity shall mean level of service "D" or better as described in the "Highway Capacity Manual, 1985 Edition" published by the Transportation Research Board. If the level of service that would result from the cumulative effect, referred to in Subsection A, is "E" or below, the SPGA shall determine there is not adequate capacity and shall deny the application.

C. Mitigating measures to improve capacity. **[Amended 4-11-1988 ATM by Art. 38]**

(1) The SPGA shall consider that various traffic engineering improvements, or other method of positive traffic control, such as a traffic control officer, can improve the traffic-carrying capacity of an intersection or street and improve the level of service rating to a higher and acceptable value. The SPGA shall consider such improvements, or other method of traffic control, in its determination and may make a conditional determination that adequate capacity is dependent upon the construction of the traffic engineering improvement, or other method of traffic control.

(2) The SPGA may make a condition of its approval of the special permit or special permit with site plan review that the start, or any stage, of the construction of the development, or the occupancy thereof, is dependent upon the start or completion of the traffic engineering improvement or of the start of another method of positive traffic control, such as a traffic control officer, on a permanent basis. A conditional approval shall be dependent upon at least a start of the physical construction of the traffic engineering improvement or the execution of an agreement with the Town of Lexington for another method of traffic control. Letters of support, or commitment, or approval, or the award of a contract are not considered as a start of construction. However, as the basis for making a conditional determination of adequacy, the SPGA may consider as evidence that the traffic-carrying capacity will be improved to a higher level of service, such letters of support, or commitment, or approval, or the award of a contract for construction of the traffic engineering improvement, or a proposed agreement with the Town of Lexington for another method of traffic control.

D. Trip reduction requirements. **[Amended 4-4-1990 ATM by Art. 36]**

(1) As a condition of its approval of a special permit or a special permit with site plan review, the SPGA may require actions and programs by the owner and/or manager of a development to reduce the number of single-occupant automobile trips made to a development, particularly during peak traffic hours. Such actions and programs may include:

(a) Providing a pass to employees for use on a public transportation system that serves the development site;

(b) Use of car pools and van pools;

(c) Scheduling of hours of operation such as flex-time, staggered work hours, and spread scheduling that reduces trips during peak traffic hours;

(d) Preferential parking locations and arrangements for vehicles other than single-occupant automobiles;

(e) Restrictions on access to, or egress from, off-street parking areas during peak traffic hours; or

(f) Bicycle parking facilities and other measures such as locker and shower facilities to encourage bicycle commuting.

(2) Where such conditions are included, they shall include a reporting system which monitors the effectiveness of the trip reduction program. The SPGA may make a condition of the granting of the special permit or special permit with site plan review that:

(a) Such monitor be directly responsible to and report to the Building Commissioner or designee; and

(b) The applicant be responsible for the cost of providing such monitoring system.

(3) If the Building Commissioner or designee determines that the conditions of the special permit or special permit with site plan review are not being met, he/she shall order the applicant to bring the development into compliance or shall take such other corrective enforcement action as may be needed to ensure compliance.

ARTICLE XIII
Signs

[Added 4-9-1980 ATM by Art. 65; amended 4-8-1985 ATM by Art. 11; 5-6-1987 ATM by Art. 43; 4-11-1990 ATM by Art. 39; 4-1-1998 by Art. 40; 4-7-2003 ATM by Art. 20]

§ 135-74. Objectives and applicability.

A. Intent. This bylaw is intended to preserve and enhance the historical ambience and aesthetic character of the Town, and to maintain public safety, consistent with constitutional requirements protecting freedom of speech.

B. Scope. All outdoor signs and window signs are subject to the regulations of this bylaw unless specifically excluded in § 135-74C.

C. Exemptions. The following signs are not subject to this bylaw:

(1) Any sign owned and installed by a governmental agency or required by any law, governmental order or regulation.

(2) Government flags and insignia, except when displayed in connection with commercial promotion.

(3) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

(4) Signs mounted on registered motor vehicles or carried by hand.

D. Nonconforming signs. Signs legally existing on the effective date of this article, or of any amendment hereto, may continue to be maintained; provided however that any such sign that fails to conform to the current requirements of this bylaw shall not be enlarged, altered, relocated or replaced except in accordance with the provisions of Article VI.

§ 135-75. General regulations.

The provisions of this section shall apply to signs in all zoning districts. Additional specific regulations for residential and business districts are set forth in §§ 135-76 and 135-77, respectively.

A. Illumination. No sign shall be illuminated between the hours of 11:00 p.m. 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.

B. Signs cannot interfere with traffic. No sign, including window displays, or its illuminators shall by reason of its location, shape, size or color interfere with pedestrian or vehicular 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 or designee with the advice of the Chief of Police, such lights would create a driving hazard.

C. 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 1/4 of an inch. The construction of the sign shall comply with the State Building Code.

D. 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.

E. Removal of temporary signs. Signs that advertise or otherwise relate to a particular event (for example, a real estate sign, an election campaign sign or a yard sale sign) shall be removed promptly, and in no event more than 7 days, after the conclusion of the event.

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

G. Prohibited signs. The following types of signs are prohibited.

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

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

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

(4) Billboards and other non-accessory signs.

§ 135-76. Residential districts.

The provisions of this section shall apply to signs in residential districts.

A. The following accessory signs are permitted.

(1) Resident identification signs. Two signs, up to one square foot in area each, per residential building indicating the name and address of the residents therein

(2) Multifamily dwelling development sign. One sign, not exceeding 12 square feet in area, identifying a development in an RM or RD district.

(3) Real estate sign. One sign advertising the sale or rental of the premises on which it is located, and containing no other advertising matter.

(4) Subdivision signs. Real estate signs, not more than 20 square feet in area and not more than 10 feet in any dimension, 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, provided that not more than one such sign shall face the same street.

(5) Yard or garage sale sign. One sign advertising a yard or garage sale on the premises on which it is located, provided that a yard sale permit has been duly obtained.

(6) Construction, painting or remodeling sign. One sign indicating the name, address and telephone number of a contractor currently providing construction, painting or remodeling services on the premises, and containing no other advertising matter, provided that permission to display such sign has first been obtained from the homeowner.

(7) Noncommercial message signs. Accessory signs containing a noncommercial message and no other advertising matter.

B. Size, number and location of accessory signs. Unless otherwise provided in § 135-76A;

(1) No sign in a residential district shall exceed four square feet in area. No standing sign shall exceed four feet in height.

(2) No more than two standing signs shall be located on a residential property at one time.

(3) No part of any standing sign shall be located within 10 feet of the edge of the pavement of any street, obstruct a sidewalk, or otherwise create a safety hazard to pedestrian or vehicular traffic.

(4) No sign shall be located on the roof of any building.

C. Commercial signs. Except to the extent permitted in § 135-76A, commercial signs, whether or not accessory to a permitted activity engaged in on the premises, are prohibited in residential districts.

§ 135-77. Business districts.

The provisions of this section shall apply to signs in business districts.

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

(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 1/2 of the area that would be permitted for a single sign.

(e) In addition to the above signs each building with multiple occupants 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 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.

(2) Projecting signs. In particular instances the SPGA may issue special permits for projecting signs in accordance with § 135-78, 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.

(3) Standing signs. In particular instances the SPGA may issue special permits for standing signs in accordance with § 135-78, 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.

(4) 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 bylaw 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 bylaw.

§ 135-78. Building permits and special permits.

A. All persons desiring to erect an outdoor sign in a commercial district shall apply to the Building Commissioner or designee for a building permit.

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

(1) The proposed sign.

(2) All existing signs maintained on the premises.

(3) A plot plan and a sketch of the building facade indicating the location of the proposed and any existing signs.

(4) Specifications for construction, lighting, and wiring in accordance with the State Building Code.

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

D. 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 be deemed to be in the public interest. Any applicant under this provision shall provide the information required in § 135-78B 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. In considering applications for special permits for signs located on land owned or leased by a religious sect or denomination or by a nonprofit educational corporation, and used for religious or educational purposes, the SPGA shall not treat the applicant on terms less favorable than those applied to a non-religious institution, nor in a manner that unreasonably restricts the religious or educational activities of the applicant. See Mass. Gen. Laws c. 40A, § 3 (Zoning Act); 42 U.S.C. §§ 2000cc et seq. (Religious Land Use and Institutionalized Persons Act of 2000).

ARTICLE XIV
Outdoor Lighting
[Added 4-1-1998 ATM by Art. 40]

§ 135-79. Objectives.

The regulation of outdoor lighting is intended to:

A. Enhance public safety and welfare by providing for adequate and appropriate outdoor lighting;

B. Provide for lighting that will complement the character of the town;

C. Reduce glare;

D. Minimize light trespass; and

E. Reduce the cost and waste of unnecessary energy consumption.

§ 135-80. Applicability; terminology.

A. Applicability.

(1) The requirements of this article shall apply to outdoor lighting on lots and parcels in all districts but shall not apply to:

(a) One- and two-family dwellings on lots on which they are the principal use; or

(b) Street lighting, lights that control traffic or other lighting for public safety on streets and ways.

(2) When an existing outdoor lighting installation is being modified, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this article.

B. Terminology. In addition to the terms defined in Article II, Definitions, of this bylaw, the following words, which are technical terms applying to lighting, which are set forth below, shall have the meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Article II, Definitions.

COLOR RENDERING INDEX (CRI) — A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from zero to 100, where 100 represents incandescent light.

CUTOFF ANGLE — The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

DIRECT LIGHT — Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

FIXTURE — The assembly that houses a lamp or lamps and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

FULLY SHIELDED LUMINAIRE — A lamp and fixture assembly designed with a cutoff angle of 90° so that no direct light is emitted above a horizontal plane.

GLARE — Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

HEIGHT OF LUMINAIRE — The vertical distance from the finished grade of the ground directly below to the lowest direct-light-emitting part of the luminaire.

INDIRECT LIGHT — Direct light that has been reflected off other surfaces not part of the luminaire.

LAMP — The component of a luminaire that produces the actual light.

LIGHT TRESPASS — The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located.

LUMEN — A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

LUMINAIRE — A complete lighting system, including a lamp or lamps and a fixture.

§ 135-81. Lighting plan.

Wherever outside lighting is proposed, every application for a building permit, a special permit, a special permit with site plan review, a variance, or an electrical permit shall be accompanied by a lighting plan which shall show:

A. The location and type of any outdoor lighting luminaires, including the height of the luminaire;

B. The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;

C. The type of lamp such as: metal halide, compact fluorescent, high-pressure sodium;

D. A photometric plan showing the intensity of illumination at ground level, expressed in footcandles; and

E. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross-section drawings, or other means.

§ 135-82. Control of glare and light trespass.

A. Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light-emitting luminaire.

B. All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.

C. Subsection A above shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of any building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.

§ 135-83. Lamps.

Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 50 are not permitted. This section shall not apply to temporary decorative lighting which may include colored lamps, such as holiday lighting.

§ 135-84. Hours of operation.

Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m. with the following exceptions:

A. If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than 1/2 hour after the activity ceases;

B. Low-level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 footcandle.

§ 135-85. Special permits.

In accordance with Article III, the Board of Appeals, acting as the special permit granting authority, may grant a special permit modifying the requirements of this article, provided it determines that such modification is consistent with the objectives set forth in § 135-79, in the following cases:

A. Where an applicant can demonstrate, by means of a history of vandalism or other objective means, that an extraordinary need for security exists;

B. Where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;

C. Where a minor change is proposed to an existing nonconforming lighting installation, such that it would be unreasonable to require replacement of the entire installation;

D. Where it can be demonstrated that for reasons of the geometry of a lot, building, or structure complete shielding of direct light is technically infeasible.

ARTICLE XV
Wireless Communication Facilities
[Added 4-1-1998 ATM by Art. 32]

§ 135-86. Objectives.

This article permits the use of wireless communication facilities within the town, regulates their impacts and accommodates their location and use in a manner intended to:

A. Protect the scenic, historic, environmental and natural or man-made resources of the town;

B. Protect property values;

C. Minimize any adverse impacts on the residents of the Town (such as, but not limited to, attractive nuisance, noise and falling objects) with regard to the general safety, welfare and quality of life in the community;

D. Provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of wireless communication facilities;

E. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify wireless communication facilities;

F. Encourage the use of certain existing structures and towers;

G. Minimize the total number and height of towers located within the community;

H. Require tower sharing and clustering of wireless communication facilities where they reinforce the other objectives in this section; and

I. Be in compliance with the Federal Telecommunications Act of 1996.

§ 135-87. Applicability; terminology.

A. Applicability.

(1) The requirements of this article shall apply to all wireless communication facilities, except where federal or state law or regulations exempt certain users or uses from all or portions of the provisions of this article.

(2) No wireless communication facility shall be considered exempt from this article by sharing a tower or other structure with such exempt uses.

B. Terminology. In addition to the terms defined in Article II, Definitions, of this bylaw, the following words, which are technical terms applying to wireless communication facilities, shall have the meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in Article II, Definitions.

ACT — The Federal Telecommunications Act of 1996.

ADEQUATE COVERAGE — The geographic area in which the carrier provides a level of service expected by the Federal Communications Commission under its license or authority.

ANTENNA — A device by which electromagnetic waves are sent or received (whether a dish, rod, mast, pole, set of wires, plate, panel, line, cable or other arrangement serving such purpose).

AVAILABLE SPACE — The space on a tower or other structure to which antennas of a wireless communication service provider are able to fit structurally and be able to provide adequate coverage.

CAMOUFLAGED — A wireless service facility that is placed within an existing or proposed structure disguised, painted, colored, or hidden by a compatible part of an existing or proposed structure, or made to resemble an architectural feature of the building or structure on which it is placed.

CARRIER — A company, authorized by the FCC, that provides wireless communication services.

CHANNEL — One of the assigned bands of radio frequencies as defined in the Act, licensed to the service provider for wireless service use.

CO-LOCATION — The use of a single mount by more than one carrier and/or several mounts on a building or structure by more than one carrier. Each service on a co-location is a separate wireless service facility.

COMMUNICATION EQUIPMENT SHELTER — A structure designed principally to enclose equipment used in connection with wireless communication transmission and/or reception.

CONCEALED — A wireless service facility within a building or other structure, which is not visible from outside the structure.

DBM — A unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to one milliwatt.

FACILITY SITE — A lot or parcel, or any part thereof, which is owned or leased by one or more personal communication wireless service providers and upon which one or more wireless communication facilities and required landscaping are located.

MODIFICATION OF AN EXISTING FACILITY — Any material change or proposed change to a facility including but not limited to power input or output, number of antennas, change in antenna type or model, repositioning of antenna(s), or change in

number of channels per antenna above the maximum number approved under an existing permit or special permit.

MONITORING — The measurement, by the use of instruments away from the antenna, of the electromagnetic radiation from a site as a whole, or from individual wireless communication facilities, towers, antennas, repeaters or associated power supplies and generators.

MONOPOLE — A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below-grade foundations.

RADIO-FREQUENCY RADIATION (RFR) — The electromagnetic emissions from wireless service facilities.

REPEATER — A small receiver/relay transmitter of not more than 20 watts' output designed to provide service to areas which are not able to receive adequate coverage from the primary sending and receiving site in a wireless communication network.

TOWER — A structure or framework, or monopole, that is designed to support wireless communication transmitting, receiving, and/or relaying antennas and/or equipment. Components of the wireless communication facility used only to attach or support other elements of that facility are excluded provided such components are relatively less substantial than those other elements and do not materially affect a dimension of that facility. **[Amended 3-22-1999 ATM by Art. 6]**

WIRELESS COMMUNICATION FACILITY — All equipment, buildings, and structures with which a wireless communication service carrier broadcasts and receives the radio-frequency waves which carry its services and all locations of said equipment or any part thereof.

WIRELESS COMMUNICATION SERVICE PROVIDER — An entity licensed by the Federal Communications Commission (FCC) to provide wireless communication services to individuals, businesses or institutions.

WIRELESS COMMUNICATION SERVICES — Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Act.

§ 135-88. Location of facilities.

A. Criteria and priority for location of facilities.

(1) Wireless communication facilities shall be located according to the following priorities:

(a) Within an existing structure concealed;

(b) Within an existing structure and camouflaged;

(c) Camouflaged on an existing structure, such as but not limited to an existing electric transmission tower or an existing radio antenna, a water tower, or building, and of a compatible design;

(d) Co-located with existing wireless communication service facilities;

(e) On Town of Lexington owned land which complies with other requirements of this article and where visual impact can be minimized and mitigated;

(f) If adequately demonstrated to the SPGA in the special permit process that each of the five types of locations is not feasible, erection of a new facility which complies with the other requirements of this article and where visual impact can be minimized and mitigated.

(2) Applicants shall demonstrate that they have investigated locations higher in priority ranking than the one for which they are applying and whether sites are available and, if applicable, under what conditions.

B. Locations where facilities are permitted by right. A concealed wireless communication facility may be installed in a structure on a lot in a commercial district provided all the requirements for a wireless communication facility building permit are met.

C. Locations where facilities are permitted by special permit. A wireless communication facility may be installed in the locations indicated in Subsection C(1) through (3) provided all prescribed conditions are met and the SPGA grants a special permit.

(1) Multifamily dwelling. A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which a multifamily dwelling or group care facility (or other residential use listed in line 1.186 of Table 1, Permitted Uses and Development Standards) is the principal use provided all residents of such multifamily dwelling or group care facility (or other residential use listed in line 1.186 of Table 1, Permitted Uses and Development Standards) receive 30 days' notice before the application for a special permit is submitted.

(2) Institutional, agricultural, natural resource or commercial uses in residential districts.

(a) A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which an institutional, agricultural, natural resource or commercial use in a residential district (as provided in Subsections 2, 3, and 4 respectively of Table 1, Permitted Uses and Development Standards) is the principal use.

(b) A wireless communication facility may be installed if it is co-located with an existing electrical power transmission line tower, an existing nonconforming transmitting or receiving tower, or a water tower, provided that the wireless communication facility is camouflaged and does not exceed the height of the tower as of January 1, 1998.

(c) For the purposes of this section, an electrical power transmission tower, an existing transmitting or receiving tower or antenna for commercial activities other than a wireless communication facility (as provided in line 14.13 of Table 1, Permitted Uses and Development Standards) shall be considered to be a commercial use in a residential district.

(3) Uses in commercial districts. A wireless communication facility may be installed on a lot in a commercial district provided the wireless communication facility is camouflaged and does not exceed the height controls under § 135-39B.

D. Locations with nonconforming situations. The SPGA may grant a special permit to:

(1) Modify a pre-existing nonconforming wireless communication facility, subject to the provisions of Article VI of this bylaw; or

(2) Allow an existing wireless communication facility to be reconstructed with a replacement wireless communication facility if it decreases the degree of nonconformity.

§ 135-89. Dimensional, screening and other site development requirements.

A. Shelters and accessory buildings. Any communication equipment shelter or accessory building shall be designed to be architecturally similar and compatible with the surrounding area. Whenever feasible, a building shall be constructed underground.

B. Setbacks. Any new tower shall be set back at least one time the height of the tower plus 10 feet from each lot line of the site on which the tower is located. Any non-concealed antenna shall be set back at least one time the height of the antenna, as measured from the ground level, from each lot line of the site on which the antenna is located. However, if the antenna is being attached to an existing tower whose setback is already approved, either by right, by special permit or by variance, and if the SPGA determines that the addition of the antenna does not materially alter the basis of that prior approval, then no new, independent setback requirement shall be created by the addition of the antenna. In nonresidential districts or on Town of Lexington owned land, the SPGA may grant a special permit to allow a lesser setback if it makes a finding that such lesser setback provides adequate safety, promotes co-location or improves design, and will not negatively impact the appearance and character of the neighborhood. **[Amended 3-22-1999 ATM by Art. 6]**

C. Security and signs. The area around the wireless communication facility shall be completely secure from trespass or vandalism. A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number. Advertising on any antenna, tower, fencing, accessory building or communication equipment shelter is prohibited.

D. Lighting. Unless required by the Federal Aviation Administration, no exterior night lighting of towers or the wireless communication facility is permitted except for manually operated emergency lights for use when operating personnel are on site.

E. New towers. Any new freestanding tower shall be of a monopole construction. New towers shall not exceed the minimum height necessary to provide adequate coverage within the Town of Lexington. Erection of a new tower that exceeds the height restrictions listed in § 135-88 is not permitted unless the applicant demonstrates in the special permit process that adequate coverage within the Town of Lexington cannot be met for the locations permitted under § 135-88.

§ 135-90. Justification of need.

A. Coverage area. The applicant shall provide a map of the geographic area in which the proposed facility will provide adequate coverage.

B. Adequacy of other facility sites controlled by the applicant. The applicant shall provide written documentation of any facility sites in the Town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide, or do not have the potential to provide by site adjustment, adequate coverage.

C. Capacity of existing facility sites. The applicant shall provide written documentation that it has examined all facility sites located in the Town and in abutting towns in which the applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage.

D. Adequate coverage through the least disruptive means. The applicant shall provide written documentation that the proposed facility uses the least disruptive technology (through the use of repeaters or other similar technology as it may be developed subsequent to adoption of this bylaw) in which it can provide adequate coverage in conjunction with all facility sites listed above.

§ 135-91. Application procedure.

A. Applicant. The applicant or co-applicant for any permit for a wireless communication facility must be a licensed carrier who has authority from the FCC to provide wireless communication services for the facility being proposed. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of the filing of the application for the permit.

B. Review by the Design Advisory Committee. The Town of Lexington's Design Advisory Committee shall review an applicant's site plans and make recommendations to the Director of Inspectional Services for by right permit applications and to the SPGA for special permits. The Design Advisory Committee will make comment on whether the site plans show that a proposed wireless communication facility will be concealed for a by right permit if built according to the plans, or whether the site plans show that a proposed wireless communication facility will be concealed or sufficiently camouflaged for a special permit if built according to the plans.

C. Review by the Cable Television and Communications Advisory Committee. The Board of Selectmen's Cable Television and Communications Advisory Committee shall review

an applicant's application and make recommendations to the Director of Inspectional Services for by right permit applications and to the SPGA for special permits. The Cable Television and Communications Advisory Committee will make comment as to the application's adherence to the provisions of this Article XV. The Committee may recommend that a consultant be hired by the SPGA (at the applicant's expense) if technical expertise is needed.

D. Permits. Each application for a permit must contain site plans with sufficient detail that would enable the Town to determine whether the proposed facility meets the requirements of this Article XV.

E. Special permit granting authority (SPGA). The Board of Appeals shall be the SPGA for permits under this section.

F. Wireless communication facility regulations. The SPGA shall maintain a set of regulations that contains the necessary policies, procedures, and standards to implement the provisions of this section.

G. Approval criteria.

(1) A special permit shall be granted under this section only if the SPGA shall find that the project is in harmony with the general purpose and intent of this bylaw and the SPGA's regulations. In addition, the SPGA shall make all the applicable findings before granting the special permit, as follows:

(a) That the applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the special permit;

(b) That the applicant is not able to use existing facility sites either with or without the use of repeaters to provide adequate coverage;

(c) That the proposed wireless service facility minimizes any adverse impact on historic resources, scenic views, residential property values, and natural or man-made resources;

(d) That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;

(e) That the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the applicant; and

(f) That the applicant has agreed to rent or lease available space on any tower it controls within Lexington or its contiguous towns, under the terms of a fair market lease, without discrimination to other wireless service providers.

(2) If a special permit is granted, in addition to such terms and conditions as may be authorized by § 135-11C of this bylaw, the SPGA may impose such additional conditions and safeguards as public safety, welfare and convenience may require.

(3) Any decision by the SPGA to deny a special permit under this section shall be in conformance with the Act, in that it shall be in writing and supported by substantial evidence contained in a written record.

H. Term of permit.

(1) Each special permit shall be valid for a fixed or conditional period of time as determined by the special permit granting authority. A special permit for any wireless communication service facility that exceeds height provisions of § 135-39B shall be valid for a maximum of 15 years. At the end of the approved time period, the facility shall be removed by the carrier or a new special permit shall be required.

(2) All permitted and special permitted wireless communication facility carriers shall periodically file with the Town, every five years (or sooner if specified in a special permit), on operational aspects of the facility including: power consumption; power radiation; frequency transmission; the number, location, and orientation of antennas; and types of services provided.

§ 135-92. Removal requirements.

Any wireless service facility that ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the wireless service facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be remediated such that all wireless communication facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be revegetated by the owner. Existing trees shall only be removed if necessary to complete the required removal. The applicant shall, as a condition of the special permit, provide a financial surety or other form of financial guaranty acceptable to the SPGA, to cover the cost of removal of the facility and the remediation of the landscape, should the facility cease to operate.

ARTICLE XVI
Dead-End Streets and Drives
[Added 4-9-2008 ATM by Art. 49]

§ 135-93. Streets and drives.

A. Connection to public street system. Each street and interior drive, or system of streets or interior drives, within a residential development shall connect to a public street.

B. Meaning of "dead-end street." A "dead-end street" or "dead-end interior drive" is one which has only one means of entrance and exit to a through public street.

C. Length and measurement of dead-end street.

(1) A dead-end street or dead-end interior drive shall not extend more than 650 feet from:

(a) A through public street; or

(b) A street or interior drive that intersects with a through public street in at least two places that are not less than 125 feet apart, provided such street or interior drive is constructed in accordance with the standards for streets and rights-of-way set forth in the Development Regulations.

(2) The length of a dead-end street or dead-end interior drive and the distance between the intersection of streets shall be measured as described further in the Planning Board's Development Regulations.

(3) In the case where an existing through street connects to another public street in two places but that public street is itself a dead-end street, the through street shall be considered to be a dead-end street.

135 Attachment 1

Town of Lexington

Table 2
Schedule of Dimensional Controls
[As last amended 4-9-2008 ATM by Art. 49]

Districts	RO	RS & RT	RM & RD (a)	CN	CRS	CS	CB	CLO	CRO	CM
Uses permitted in RS & RT Districts shall conform to provisions of § 135-35B										
Minimum lot area in square feet	30,000	15,500	125,000	15,500	15,500	20,000	NR	30,000	5 acres	3 acres
Minimum lot frontage in feet	150	125	100	125	125	125	20	175	300	200
Minimum front yard in feet (b), (c), (j), (k)	30	30	50	30	30	30	NR (d)	50	100	75
Minimum side yard in feet (k)	15 (e)	15 (e)	40	20	20	15	NR	30	50	30
Minimum rear yard in feet (k)	15 (e)	15 (e)	40	20	20	20	10	30	50	50
Minimum side and rear yard adjacent to, or front yard facing a residential district in feet (f)	15	15	40	30	30	30	30	50	100	100
Maximum floor area ratio (FAR)	NR (i)	NR (i)	NR (i)	0.20	0.20	0.20	2.0	0.25	0.15	0.15
Maximum percentage site coverage	15% (g)	15% (g)	25%	20%	25%	25%	NR	20%	25%	25%
Public and institutional buildings, maximum height:										
In stories:	2.5	2.5	2.5	3	3	3	2	3	3	3
In feet:	40	40	40	45	45	45	30	45	45	45
Other buildings, maximum height:										
In stories:	2.5	2.5	NR	1	2	2	2	2	3	3
In feet:	40	40	40	15	25	25	25	30	45	45

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

a. Development of new multifamily dwellings is not permitted in the RM District; these standards apply to RM Districts in existence in January 1985. Minimum lot areas in RM Districts shall be 3,000 square feet per dwelling unit containing one room used for sleeping; 3,500 square feet per unit with two such rooms; and 4,000 square feet per unit with three or more such rooms. For RD Districts see § 135-42C.
b. Where lawfully adopted building lines require yards in excess of these requirements, the building line shall govern.
c. The minimum front yard for any other street, which is not the frontage street (see definition), shall be 2/3 of that required for the frontage street provided the street was in existence on January 1, 1987. In the case of a street laid out after January 1, 1987, or in the case of nonresidential uses (see Table 1, lines 2.11 through 4.14) located in the RO, RS or RT Districts, the minimum front yard facing all streets shall be the same as that for the frontage street.
d. Except ten-foot yard on Muzzey Street, Raymond Street, Vine Brook Road and Wallis Court for lots abutting these streets.
e. For institutional uses (see Table 1, lines 2.11 through 2.19) the minimum setback for a building shall be the greater of 25 feet or a distance equal to the height of the building as defined in § 135-39. For other nonresidential uses (see Table 1, lines 3.11 through 3.15 and 4.11 through 4.14), increase the required side yard to 20 ft. plus one ft. for every ½ acre (or fraction thereof) over ½ acre lot area.
f. See Article X, Landscaping, Transition and Screening.
g. Applicable only to uses permitted by special permit.
h. Reserved.
i. For institutional uses (see Table 1, lines 2.11 through 2.19), the maximum floor area ratio shall be 0.25.
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, date June 3, 1958, and shown as auxiliary base line "F" on the State Highway Alteration layout 5016, dated August 30, 1960.
k. A structure in an RD Planned Residential Development must comply with minimum yard setback on perimeter of tract as required by § 135-42C(1). In a special permit conventional subdivision, a dwelling which has a gross floor area of 2,500 square feet or more is required to have a greater minimum side and rear yard; see § 135-46A..

135 Attachment 2

Town of Lexington

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 the 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. use 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 section 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.

135 Attachment 3

Town of Lexington

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 to 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, have each held a public hearing thereon, together or separately, 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 or by-law 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 said 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 the 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 board of abutting cities and towns. The department of community affairs, the regional planning agency, the planning boards of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the city or Town clerk prior to Town meeting or city council action on a proposed zoning ordinance, by-law or change thereto. 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 such 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 established by such ordinance or by-law. In cases involving boundary, density 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 ordinances or by-laws unless such defect is found to be misleading.

No vote to adopt any such proposed ordinance or by-law or amendment thereto 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. 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 and adopt any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council 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 or amendment thereto 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, however, 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 20% 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 also 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 ordinances or by-laws shall be sent by the city or Town clerk to the department of community affairs. A true copy of the zoning ordinance or by-law with any amendments thereto shall be kept on file available for inspection in the office of the clerk of such city or town.

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 legal action is commenced within the time period specified in Sections 32 and 32A of Chapter 40 and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition with the Town or city clerk within seven days after commencement of the action.[1]

[1] **Editor's Note: Original Table 1, Use Regulation Schedule, which appeared at the end of the Zoning By-Law, was deleted 5-6-1987 ATM by Art. 43. See now Table 1, Permitted Uses and Development Standards.**

135 Attachment 4

Town of Lexington

LOT WIDTH § 135-36

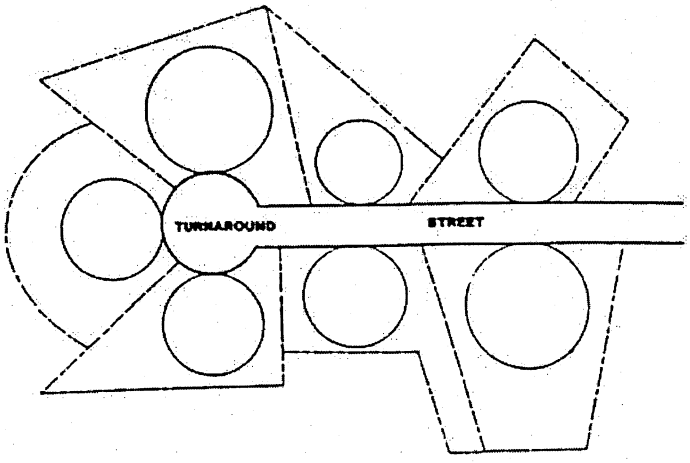
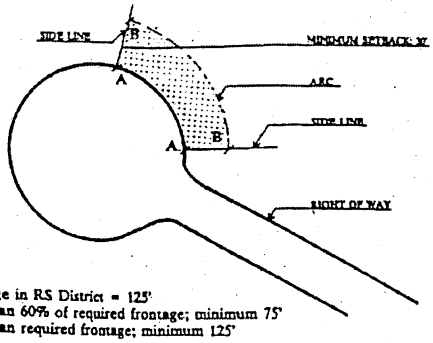
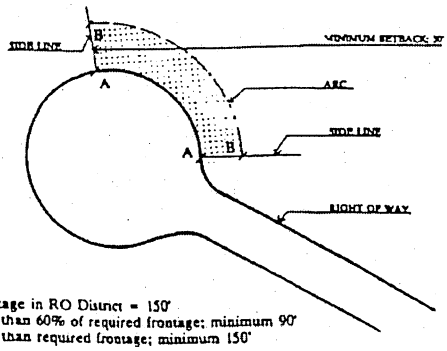


ILLUSTRATION § 135-37D

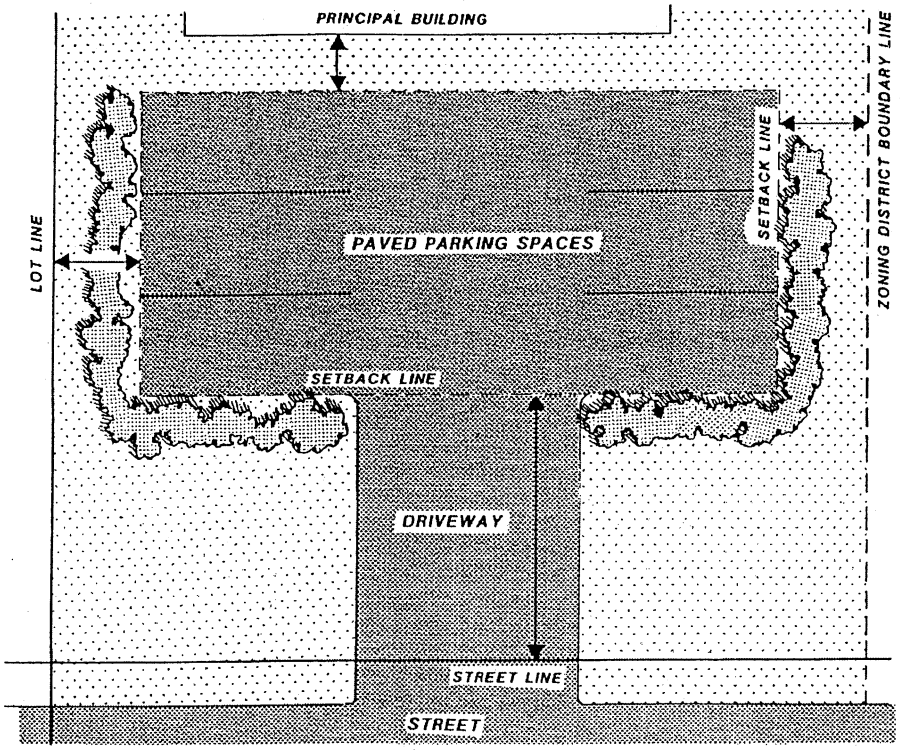


Minimum Frontage in RS District = 125'
A - A Not less than 60% of required frontage; minimum 75'
B - B Not less than required frontage; minimum 125'

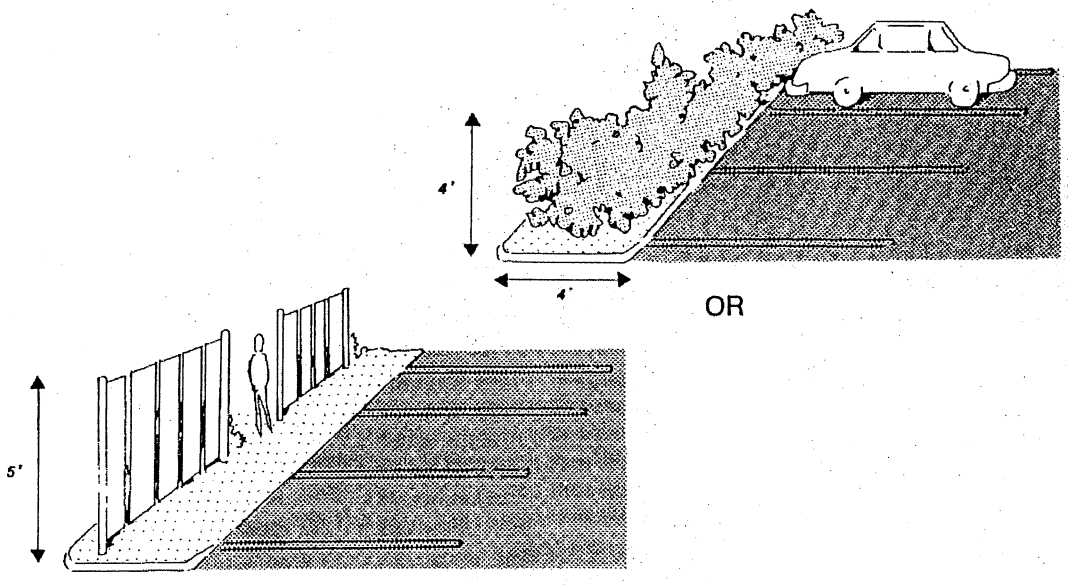


Minimum Frontage in RO District = 150'
A - A Not less than 60% of required frontage; minimum 90'
B - B Not less than required frontage; minimum 150'

DISTANCES §135-67

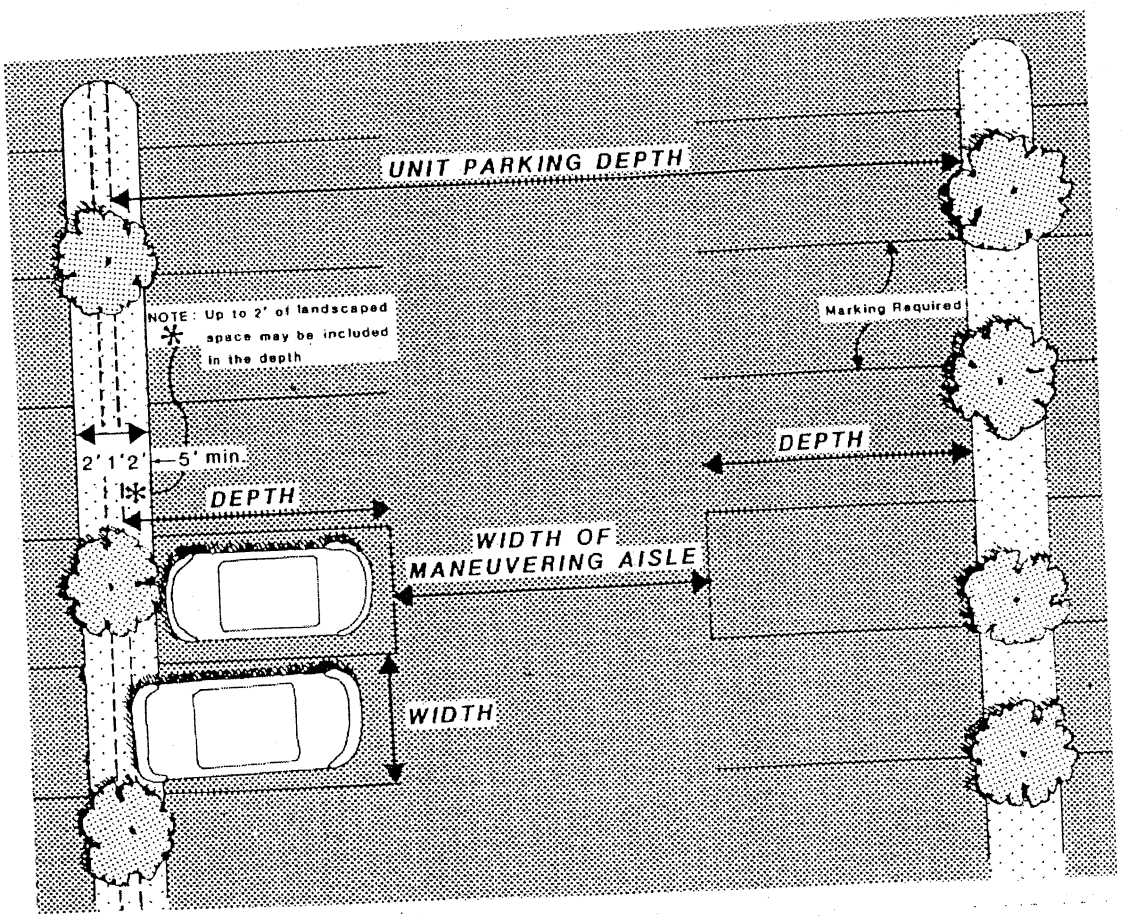


SCREENING §135-67F(3)

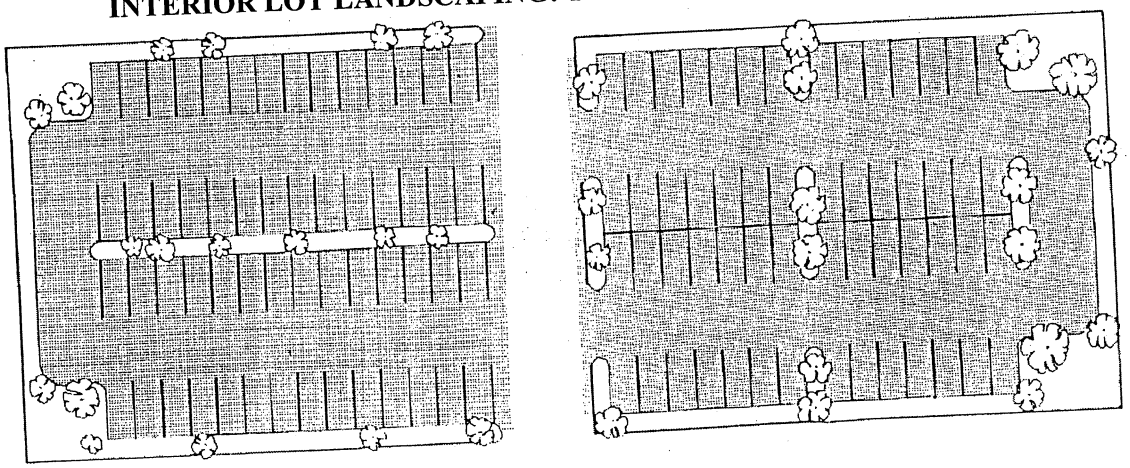


These drawings are for illustrative purposes only. They are not legally adopted parts of the Zoning By-Law as voted by the Town Meeting.

DIMENSIONS § 135-68



INTERIOR LOT LANDSCAPING: TWO ALTERNATIVES § 135-68I



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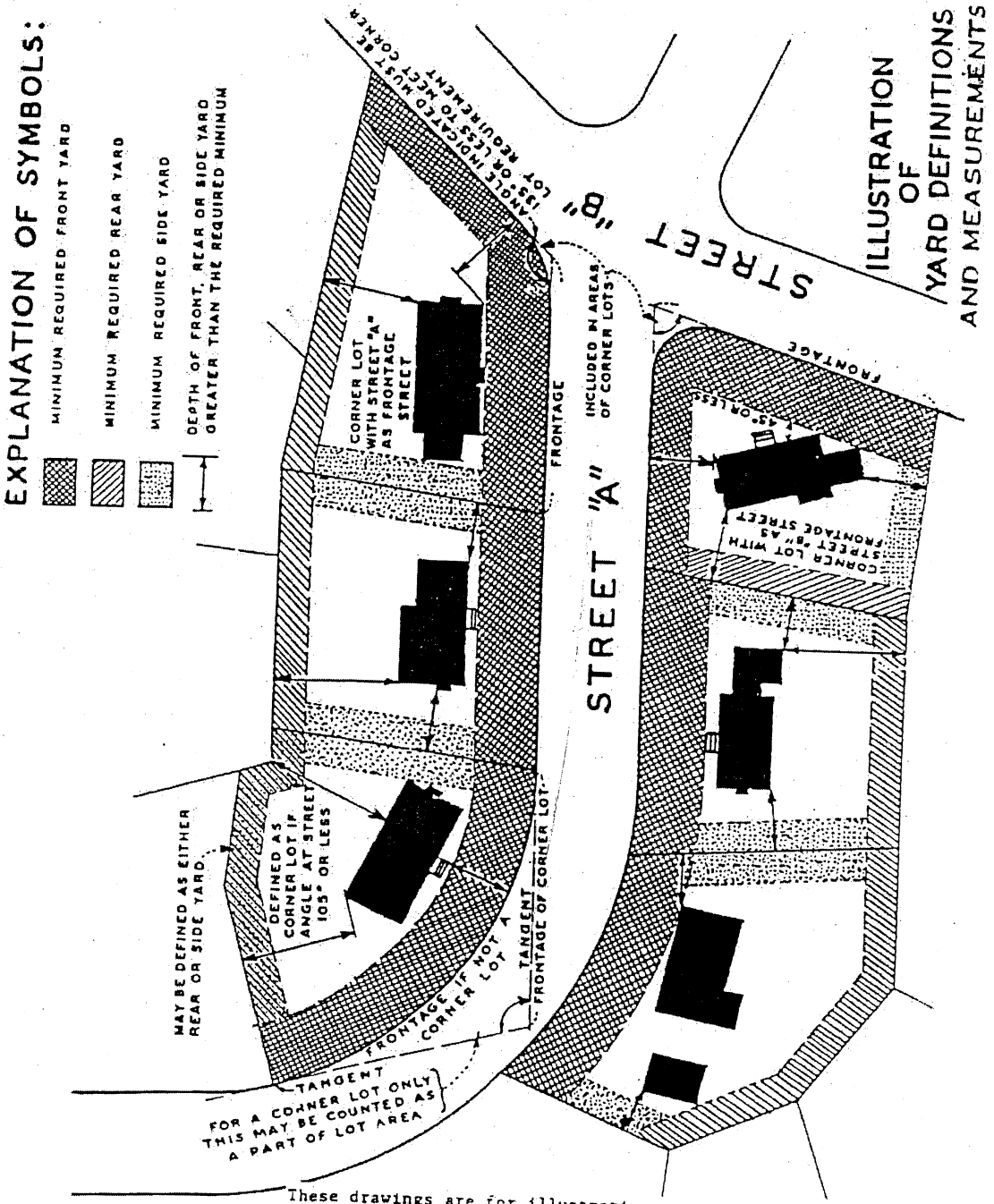

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