

ZONING BY-LAW  
OF THE  
TOWN OF LEXINGTON, MASS.

Adopted June 4, 1968, under Article 10 of the Warrant for the June 3, 1968 Special Town Meeting and approved by the Attorney General on July 16, 1968, and posted in the six precincts on September 16, 1968. This was a reenactment and continuance of the Zoning By-Law, originally adopted at the Adjourned Town Meeting on March 17, 1924, approved by the Attorney General on April 8, 1924, and published on April 18, 25, and May 2, 1924, and included all amendments in the period 1924 to 1968 including a major revision in 1950. Subsequent amendments in 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984 and 1985 as adopted, approved and published have been incorporated.

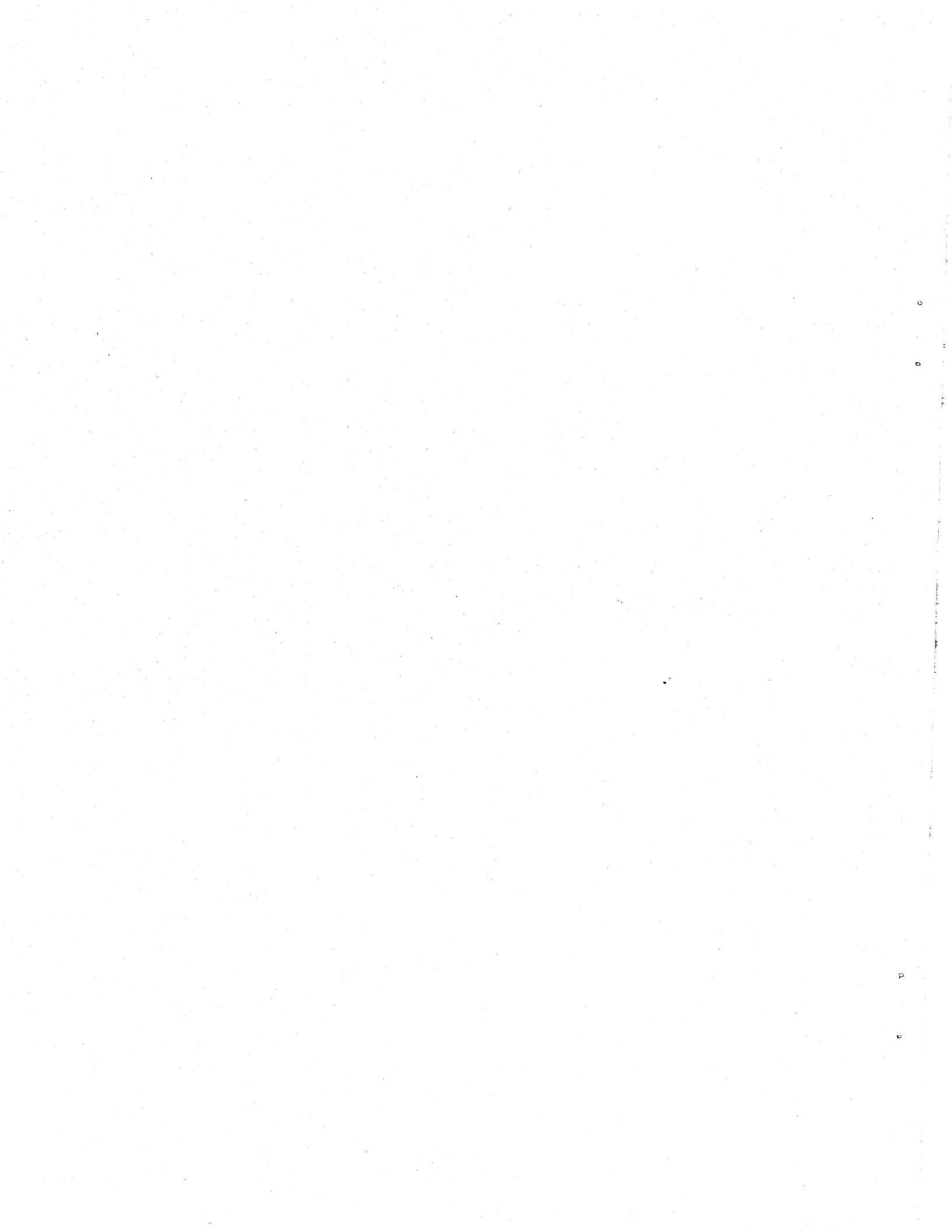


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## **SECTION 1. AUTHORITY**

### 1.1 PURPOSE

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

### 1.2 ZONING MAPS

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

### 1.3 AMENDMENTS

All amendments to these By-Laws shall be made in a manner conforming with Section 5 of Chapter 40 A of the General Laws. Petitions for rezoning to the RM, RD or CD district and a development proposal pursuant to Section 9.3 presented to the 1985 Annual Town Meeting may be voted by the Town Meeting and comply with the Zoning By-Law as it was in effect in January, 1985.

### 1.4 VALIDITY

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

### 1.5 OTHER BY-LAWS

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

### 1.6 FORBIDDEN IF NOT PERMITTED

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

1.7 CONTINUITY OF BY-LAW

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



## SECTION 2. DEFINITIONS

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

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

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

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

**APARTMENT BUILDING:** Same as "MULTI-FAMILY DWELLING"

**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 one-half of its floor-to-ceiling height above the average level of the adjoining ground.

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

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

**BOARDER:** Same as "ROOMER" although a distinction may be made that a boarder is a person who receives meals as part of the rent.

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

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

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

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

**CELLAR:** A space in a building which has less than one-half of its floor-to-ceiling height above the average level of the adjoining ground.

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

**CLUSTER DEVELOPMENT:** A planned residential development in which buildings are constructed in one or more groups separated from adjacent property and other groups of buildings by intervening open land. The density, dimensional standards or types of buildings permitted may vary from those otherwise permitted or required.

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

**CONVENTIONAL SUBDIVISION:** The division of a tract of land into two or more lots complying with the dimensional standards set forth in this By-Law, accompanied by the construction of certain public facilities, in accordance with Chapter 41, Section 81K - 81GG, MGL, "The Subdivision Control Law," and the Planning Board's "Rules and Regulations."

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

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

**DRIVEWAY:** An area on a lot which: is for the passage of motor vehicles (and not for storing or standing of such vehicles except where serving four or fewer parking spaces), has an all-weather

surface, provides access and egress to and from a street and leads to or from a parking space or loading bay (or their related maneuvering aisle).

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

#### Structural Characteristics of Dwellings:

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.

SEMI-ATTACHED DWELLING: A building containing two dwelling units which are attached to each other by a common vertical wall, each dwelling unit having open space or yards on three sides and each dwelling unit having direct access to the ground.

TWO-FAMILY DWELLING: A building containing two dwelling units, with one of the dwelling units all, or partially, on a story above the other (as contrasted with a semi-attached dwelling).

TOWN HOUSE: 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.

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.

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.

MULTI-FAMILY: A building containing five or more dwelling units.

#### Occupancy Characteristics of Dwellings:

ONE-FAMILY DWELLING: A building containing one dwelling unit occupied by not more than one family.

TWO-FAMILY, THREE-FAMILY, FOUR-FAMILY DWELLING: A building containing the number of dwelling units, indicated by the first word of the phrase, each occupied by not more than one family.

MULTI-FAMILY DWELLING: A building containing five or more dwelling units, each occupied by one family.

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.

ELDERLY: For the purposes of this By-Law, persons who are 60 years or age or older.

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

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

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

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

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

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

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

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

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

**FRONTAGE STREET:** A street to which the owner of the lot has a legal right of access and which provides the required lot frontage. When a lot is bounded by more than one street, any one of them but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two streets forming an interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

**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.

**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.

**HALF STORY:** See "Story, Half"

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

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

**IMPERVIOUS SURFACE:** Any surface which reduces or prevents the absorption of storm water into previously undeveloped land. Examples are buildings, parking lots, driveways, streets, sidewalks, and any areas surfaced with concrete or asphalt.

**IMPERVIOUS SURFACE RATIO:** The ratio of the sum of all impervious surfaces on a lot to the developable site area of the lot.

**INTERIOR DRIVE:** A roadway which is privately owned and maintained and serves a planned 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.

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

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

**LODGER:** Same as "ROOMER".

**LONG-TERM CARE FACILITY:** An institution or distinct part of an institution which is licensed or approved to provide health care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. For the purposes of this By-Law, it includes: extended care facility, intermediate care facility, nursing home, convalescent home, rest home.

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

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

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

LOT FRONTAGE: See "Frontage, Lot".

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

MOTOR HOTEL OR MOTEL: Same as "hotel".

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

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

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

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

NURSING HOME: Same as "LONG-TERM CARE FACILITY".

OLDER PERSONS: Same as "ELDERLY".

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

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.

OPEN SPACE, USABLE: The part or part of a lot, structure, or building which are provided for the recreational and leisure time use and enjoyment of the occupants of a building. The space shall: 1) have minimum dimensions and characteristics prescribed herein; 2) be largely open and unobstructed to the sky; and 3) exclude principal and accessory buildings, parking spaces and loading bays, driveways and maneuvering aisles.

PARKING LOT: An area on a lot which includes 5 or more parking spaces and their related maneuvering aisle. Where there are 5 or

more parking spaces on a lot, regardless of their location on the lot, all such spaces shall be subject to the standards for parking lots.

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

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

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

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

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

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

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

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

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.

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.

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.



"RULES AND REGULATIONS": The short title of the Planning Board's "Rules and Regulations Governing the Subdivision of Land in Lexington, Mass."

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

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

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

- a. Flags and insignia of any government, except when displayed in connection with commercial promotion
- b. Legal notices, identification, informational or directional signs erected or required by governmental bodies
- c. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights
- d. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter

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

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

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

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

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

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

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

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

SPGA: Special Permit Granting Authority.

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

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

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

- a. A public way duly laid out by the Town of Lexington, the Middlesex County Commissioners, or the Commonwealth of Massachusetts, or a way which the Lexington Town Clerk certifies is maintained by public authority and used as a public way; or
- b. A way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or
- c. A way in existence on April 4, 1948, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

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

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

STRUCTURE: Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground, including buildings, mobile homes,

billboards, tanks, or the like, or the parts thereof, and swimming pools. However, this definition does not include a boundary wall or fence less than six feet in height above the mean finished grade of the adjoining ground.

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

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

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

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

**THROUGH STREET:** A continuous street which connects to the Town's street system in at least two places.

**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.

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

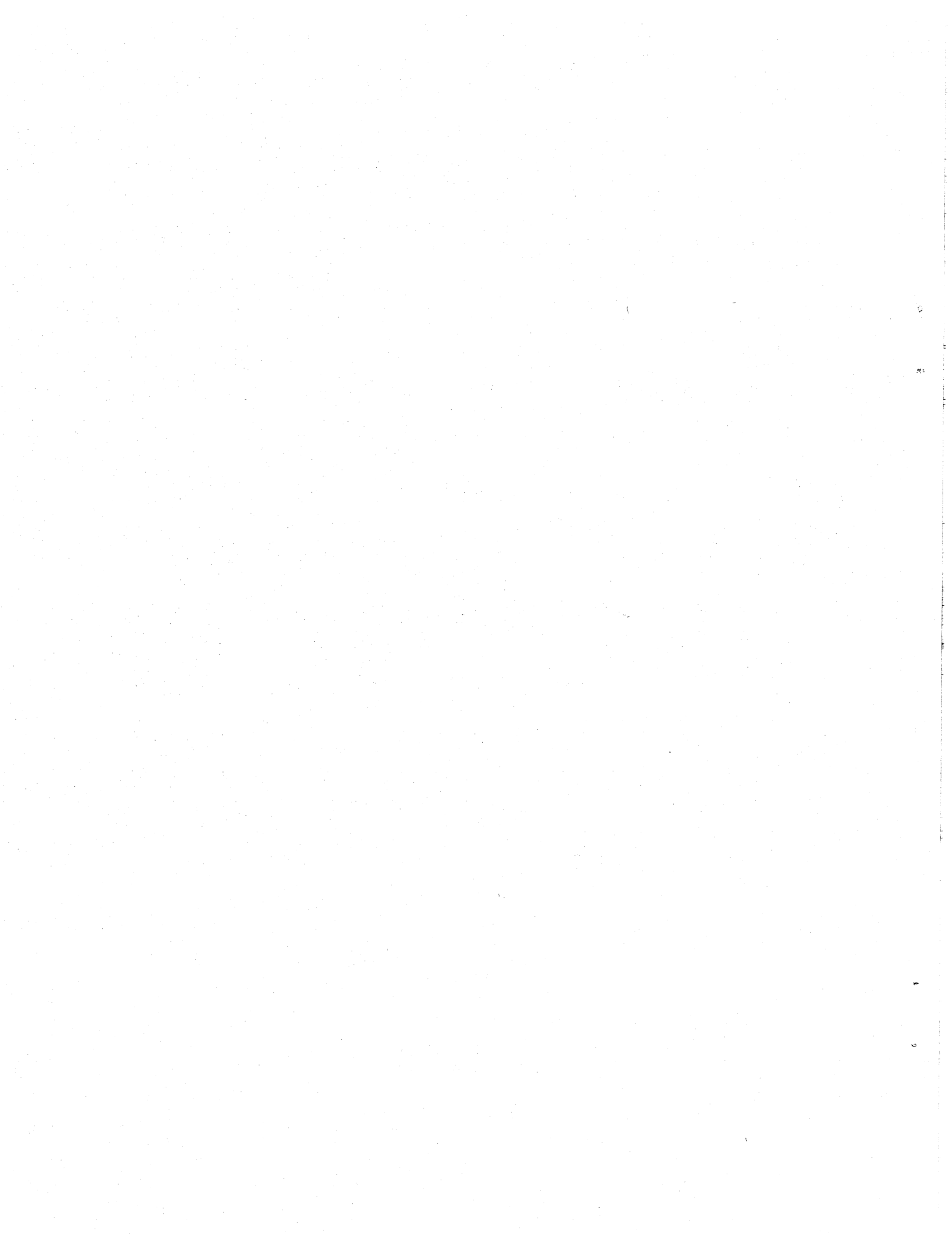
**WAY:** see "Street, Road or Way."

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

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

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

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



## **SECTION 3. ADMINISTRATION AND ENFORCEMENT**

### **3.1 BUILDING COMMISSIONER**

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

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

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

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

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

#### **3.1.1 PENALTY**

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

#### **3.1.2 BUILDING PERMITS**

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

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

### 3.1.3 CONFORMING TO SUBSEQUENT AMENDMENTS

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

## 3.2 BOARD OF APPEALS

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

### 3.2.1 APPEALS

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

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

### 3.2.2 VARIANCES

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

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

### 3.3 SPECIAL PERMITS (SP)

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

#### 3.3.1 APPLICATION PROCEDURE

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

#### 3.3.2 CONFORMING TO SUBSEQUENT AMENDMENTS

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

### 3.4 SPECIAL PERMITS WITH SITE PLAN REVIEW (SPS)

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

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

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

#### 3.4.1 FILING REQUIREMENTS

A person applying for a special permit under Section 3.4 shall file an application and a definitive site plan, one copy of each, with the Town Clerk and six copies of each with the SPGA. Such application and site plan shall include the elements on which the SPGA is to make a finding and determination, as provided in Subsection 3.4.1 and shall also include information as to the nature and extent of the proposed use of the buildings.

The application to the SPGA for a special permit under Section 3.4 shall be accompanied by the following materials:

- a. a definitive site development plan, as described in 3.6.2,
- b. a copy of a Notice of Intent filed with the Conservation Commission pursuant to Article XXXIII of the General By-Laws and Chapter 131, Section 40 MGL, and
- c. any other material as required by the written rules of the SPGA.

An application which does not contain the material described in a, b, and c, above, shall be considered incomplete and shall not be accepted for processing. The time periods set forth in this By-Law 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 is complete. Upon receipt of material purporting to be an application, the SPGA, or its designee, shall determine whether the application is complete and notify the applicant in writing if the application is considered incomplete. If no such notification is made within 14 days, the application shall be considered to be complete as of the date submitted.

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.

#### 3.4.2 SPGA PROCEDURES

Upon receipt of a completed application, the SPGA shall promptly notify the Board of Health, the Conservation Commission, the Engineering Department, the Planning Board (when it is not the SPGA), and the Fire Department and such other boards, commissions or departments as it may consider appropriate, given the substance of the application, of the receipt of the application. The SPGA shall not make a decision on such application until boards, commissions and departments have submitted reports or recommendations thereon or until 35 days have elapsed since the filing of a completed application without the receipt of reports.

#### 3.4.3 PUBLIC HEARING

The SPGA shall hold a public hearing within 65 days after filing and, except as hereinafter provided, shall take final action on an application within 90 days after the hearing. Such final action shall consist of either (1) a finding and determination that the proposed construction, reconstruction, substantial exterior alteration or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood or (2) a written denial of the application for such finding and determination, stating the reasons for such denial, which reasons shall include a statement of the respect in which any elements in and particular features of the proposal are deemed by the SPGA to be inadequate, unsuitable or detrimental to the neighborhood. A finding and determination may be made subject to such reasonable conditions, modifications and restrictions set forth therein as the SPGA may deem necessary to insure that the proposed construction, reconstruction, substantial exterior alteration, or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood. The SPGA shall file with its records a written report of its final action on each application, with the reasons therefor.

#### 3.4.4 CONFORMITY WITH SPGA CONDITIONS

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

#### 3.4.5 EXTENSION OF TIME FOR ACTION

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

#### 3.4.6 SPGA FAILURE TO TAKE ACTION

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

### 3.5 SECURITY FOR SPECIAL PERMITS

The Special Permit Granting Authority, as a condition of granting a special permit may require that the performance of the conditions and observance of the safeguards of such special permit be secured by one, or in part by one and in part by the other, of the methods described in the following clauses (1) and (2). The SPGA shall administer this securing of performance.

#### (1) Bond or Deposit

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

#### (2) Covenant

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

#### 3.5.1 REDUCTION OF SECURITY

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

#### 3.5.2 RELEASE OF SECURITY

Upon the completion of the development or upon performance of the conditions and safeguards imposed by such special permit, security for the performance of which was given, the applicant

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

### 3.5.3 SPGA FAILURE TO ACT

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

### 3.5.4 APPLICANT FAILURE TO COMPLETE WORK

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

## 3.6 TYPES OF PLANS; INFORMATION REQUIRED

### 3.6.1 PRELIMINARY SITE DEVELOPMENT (AND USE) PLAN

The objectives of a preliminary site development (and use) plan are: 1) 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, 2) to make a general determination of the feasibility of the development, and 3) to make an evaluation of the off-site impacts of the development and the ability of public services to accommodate it.

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 100-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 traffic analysis to 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). The analysis shall include: 1) traffic counts on arterial

streets that provide access to the development site showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into 15-minute segments); 2) intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours divided into 15-minute segments); 3) an inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their condition; 4) estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and typical one hour off-peak trip generation; 5) the estimated distribution of new trips by approach streets; 6) the effect of additional traffic generated by the development on traffic "levels of service" on each approach street; 7) estimated off-street parking and loading requirements and time of peak accumulation.

- c. 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.
- d. 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.
- e. 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.
- f. 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) gross floor area of all non-residential buildings; 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.

## 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:

a. for a CD, Planned Commercial District:

- 1) 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, Use Regulations Schedule, and the maximum floor area ratio;
- 2) Other zoning provisions; this may be a narrative describing special regulations unique to the development and/or a cross-reference to provisions of this By-law that will apply to the CD district;

b. for an RD, Planned Residential Development District:

- 1) Number of dwelling units, or their equivalent;
- 2) The types of buildings;
- 3) 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
- 4) Estimated sales or rental level of the dwelling units.

c. for either a CD, Planned Commercial District, or an RD, Planned Residential Development District:

- 1) a visual representation, such as sketches or photographs, of the general scale and massing of buildings;
- 2) 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.

## 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 vote of the Town Meeting on the petition. 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.

### 3.6.2 DEFINITIVE SITE DEVELOPMENT PLAN

The objectives of a definitive site development plan are: 1) presentation of specific plans, of the construction documents type, for the development of the site, 2) provision of a specific plan for reference in granting a special permit with site plan approval.

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 proposed changes in contours and identifying landscaping by materials and sizes, and specific plans for any common open space;
- e. a traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic "level of service";

all in accordance with Section 5, Definitive Plan Requirements; Section 6, Design Standards; and Section 7, Required Improvements, of the Planning Board's "Rules and Regulations", as applicable; and further,

- f. the off-street parking and loading plan described in section 11.2;
- g. elevations of proposed buildings;
- h. preliminary drafts of any deed, easement, offer or agreement to carry out any special condition.

## SECTION 4. ESTABLISHMENT OF DISTRICTS

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

### 4.1 RESIDENTIAL DISTRICTS

- RO - One family dwelling districts, (30,000 sq. ft.)
- RS - One family dwelling districts, (15,500 sq. ft.)
- RT - Two family dwelling districts
- RM - Multi-family dwelling districts
- RD - Planned Residential Development District

### 4.2 COMMERCIAL AND INDUSTRIAL DISTRICTS

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

### 4.3 WETLAND PROTECTION DISTRICTS

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

### 4.4 NATIONAL FLOOD INSURANCE DISTRICTS

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

### 4.5 LOCATION OF DISTRICTS

#### 4.5.1 RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DISTRICTS

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

#### 4.5.2 WETLAND PROTECTION DISTRICTS

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

4.5.3 NATIONAL FLOOD INSURANCE DISTRICT

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



## SECTION 5. USE REGULATIONS

### 5.1 APPLICABILITY

#### 5.1.1 PERMITTED USES

No land shall be used and no structure shall be erected or used except as set forth in the Use Regulations Schedule, Table 1, or as permitted by Section 6 or by the General Laws. Use of land in a Wetland Protection District shall be governed by the requirements of Section 8.5 as well as the requirements of the Use Regulations Schedule. Use of land in the National Flood Insurance District shall be governed by the requirements of Section 8.6, as well as the requirements of the Use Regulation Schedule.

#### 5.1.2 PRINCIPAL USES, ACCESSORY USES

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

#### 5.1.3 MORE THAN ONE CLASSIFICATION

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

#### 5.1.4 USES NOT LISTED

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

### 5.2 ACCESSORY RESIDENTIAL USES IN ONE FAMILY DWELLINGS:

#### ACCESSORY APARTMENTS

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

#### 5.2.1 GENERAL OBJECTIVES

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

### 5.2.2 CONDITIONS AND REQUIREMENTS

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

#### a. General

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

#### b. Exterior Appearance of a Dwelling with an Accessory Apartment

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

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

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

c. Off-street Parking

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

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

5.2.3 PROCEDURES

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

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

- d. The building commissioner shall act on the application within 30 days of receipt.
- e. No use as an accessory apartment shall be permitted prior to issuance of a certificate of occupancy by the building commissioner. A certificate of occupancy shall be issued after the building commissioner determines that the accessory apartment as constructed is in conformity with the approved plans and with the provisions of this by-law.
- f. A certificate of occupancy shall be issued for a period not greater than three years. Continued occupancy will require issuance of a new certificate of occupancy. Proof of owner occupancy shall be submitted with the application for a new certificate of occupancy.
- g. A certificate of occupancy shall be issued to the owner only, and is not transferable. A new owner shall apply to the building commissioner for a new certificate of occupancy.

#### 5.2.4 TEMPORARY ABSENCE OF OWNER

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

- a. Written notice thereof shall be made to the building commissioner on a form prescribed by him.
- b. The owner shall be resident in the house for at least two years prior to the temporary absence.
- c. The residence shall be owner occupied for at least two years between such temporary absences.
- d. The house shall remain the owner's primary legal residence for voting and tax purposes.

#### 5.2.5 REGISTRATION OF NON-CONFORMING UNITS CREATED BEFORE 1924

- a. For a second dwelling unit which existed as of January 1, 1983, in a one family dwelling, in an RO or RS district, to be a non-conforming (lawful) use, the second dwelling unit must have been constructed prior to March 17, 1924 in a dwelling and have been in continuous use since that time with the exception of temporary non-use for a period not greater than twenty-four consecutive months.
- b. To verify the nonconforming status of such a unit, an owner shall apply for a certificate of occupancy from the building commissioner prior to January 1, 1985 and shall present documentary evidence that: 1) the second dwelling unit was constructed prior to March 17, 1924; and 2) the unit was in use for any three years between 1978 and 1982 inclusive, which shall, for this purpose, be considered prima facia evidence of continuous use since 1924; and the building commissioner shall issue a certificate of occupancy, which shall remain effective so long as the second

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

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

#### 5.2.6 SPECIAL CONDITIONS, EXISTING SECOND DWELLING UNITS IN VIOLATION

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

- a. Owners of existing second dwelling units in violation must apply to the building commissioner for a determination of compliance with paragraph 5.2.2 before January 1, 1985. Applications shall be accompanied by a filing fee and by such plans and other documentation related to the conditions and requirements of paragraph 5.2.2, as may be required by the building commissioner.
- b. Within 90 days the building commissioner shall issue one of the following:
  - 1. A determination of compliance with paragraph 5.2.2, and a certificate of occupancy.
  - 2. A conditional determination of compliance with paragraph 5.2.2, describing corrective changes needed to bring the second dwelling unit into compliance, which changes shall be completed within 90 days of the date of the conditional determination. Upon successful completion of the required changes, the building commissioner shall issue a certificate of occupancy.
  - 3. A determination of non-compliance with one or more of the requirements of paragraph 5.2.2, together with a listing of those requirements and conditions with which compliance cannot be achieved through corrective changes.

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

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

1. Upon presentation of evidence of construction prior to January 1, 1983, the owner may apply to the SPGA for a special permit for maintenance of an existing non-complying apartment.
  2. The SPGA shall ordinarily grant a special permit for the existing non-complying second dwelling unit unless specific evidence is submitted supporting any claim that the unit has caused a deterioration of the single family neighborhood, a decrease in property values, or has caused any other substantial detrimental effect on the public welfare and convenience. In weighing such claims and evidence, the SPGA shall consider whether any changes required to bring the second dwelling unit into compliance are sufficient to counteract any prior negative impact.
  3. In granting a special permit, the SPGA may impose such additional conditions as it may deem necessary to protect the single family appearance of the dwelling, and to bring the dwelling as close to conformity with the conditions and requirements for new accessory apartments, paragraph 5.2.2, as is feasible.
  4. A special permit granted by the SPGA shall include a condition that a certificate of occupancy shall be obtained for periods not to exceed three years in the same manner as set forth in paragraph 5.2.3. No subsequent certificate of occupancy shall be issued unless there is compliance with the plans and conditions approved by the SPGA.
  5. If a special permit is granted and corrective changes are required, they must be completed within 90 days of the date of granting the permit. When required changes are completed, the building commissioner will issue a certificate of occupancy.
  6. If a special permit is denied, the second dwelling unit shall be terminated within one year of the date of the denial.
- d. If an owner fails to comply with paragraph 5.2.6 the second dwelling unit shall be terminated within six months of the date of notice from the building commissioner, and the owner shall be subject to penalties as provided in paragraph 3.1.1 for each day the second dwelling unit is in use after January 1, 1985.

### 5.3 CONVERSION OF ONE FAMILY DWELLINGS

#### 5.3.1 OBJECTIVES

The conversion of existing single-family detached dwellings into dwellings containing two dwelling units is intended to: 1) encourage an increase in the number of dwelling units which are larger than those permitted as accessory apartments (see 5.2) while smaller than most one-family dwellings in the town, 2) encourage high standards of maintenance for large one family dwellings which might fall into disrepair, and 3) encourage a

more economic, energy-efficient use of the town's housing supply while maintaining the appearance and character of the town's single family neighborhoods.

#### 5.3.2 CONDITIONS AND REQUIREMENTS

In accordance with Section 3.3, and where consistent with the objectives set forth in 5.3.1, the Board of Appeals may grant a special permit for a second dwelling unit in a detached one-family dwelling in an RO or RS district provided that each of the following conditions and requirements is met:

##### a. General

1. There shall be not more than two dwelling units in the dwelling.
2. There shall be no roomers or boarders within either of the dwelling units.
3. The lot area shall be at least 15,500 square feet in the RS district and 30,000 in the RO district.
4. The net floor area used for residential purposes shall have been at least 2,500 square feet as of January 1, 1983, which amount shall be verified in the records of the Building/Inspection Department or on a document, "Total Living Area of Dwellings as of January 1, 1983," prepared by the Board of Assessors.
5. The smaller of the dwelling units shall have at least 700 square feet of net floor area.
6. The dwelling shall be connected to public water and sanitary sewer system.

##### b. The dwelling to be converted shall be designed so that the appearance of the structure remains that of a detached one-family dwelling, subject further to the following conditions and requirements:

1. All stairways to second and third stories shall be enclosed within the exterior walls of the dwelling. There shall be no exterior fire escapes.
2. An enlargement or addition to the structure is permitted provided the architectural character of a detached one-family dwelling is maintained. The additional floor space created shall not be counted toward the requirement of minimum net floor area as of January 1, 1983, set forth in a.4., above.
3. Any new entrance shall be located on the side or the rear of the dwelling.

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

c. Off-Street Parking

In order to maintain the appearance of a single-family neighborhood, all parking spaces on the lot shall be subject further to the following conditions and requirements.

1. Parking spaces shall be located so that each dwelling unit 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.
2. The provisions of subsection 5.2.2 c 1, 2, 3 and 6.

5.3.3 PROCEDURES

Each application for a special permit shall be accompanied by:

1. Floor plans, drawn to scale, of the dwelling showing each of the dwelling units to be created;
2. 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; and
3. An off-street parking plan as described in 11.2.1.

5.4 APARTMENTS IN COMMERCIAL BUILDINGS

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

5.4.1 SECOND AND THIRD FLOOR APARTMENTS

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

5.4.2 This section deleted at the 1984 Town Meeting.

5.4.3 LANDSCAPING

There shall be provided and maintained on the same lot as the apartments an open, landscaped area, available and accessible to the apartment tenants, containing an aggregate area not less than the gross floor area allocated to apartments, or one-fourth acre per permanent structure, whichever is greater, provided, however, that these conditions shall be deemed to be satisfied by



the existence of public park, recreation or open space land located contiguous to such lot or separated therefrom only by a street designated for not more than two traffic lanes.

#### 5.5 NURSERIES

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

The foregoing list may be expanded, in the discretion of the Board of Appeals, to include other items related to plants, gardens or gardening, but shall not include power tools, other power equipment, furniture or items generally associated with the business of a hardware store rather than with the conduct of a nursery. 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:

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

#### 5.6 DRIVEWAYS SERVING NON-RESIDENTIAL DISTRICTS

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

#### 5.7 SWIMMING POOLS AND RACQUET COURTS

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

##### 5.7.1 PROTECTIVE CONDITIONS

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

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

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

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

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

#### 5.7.2 CONSERVATION COMMISSION ORDERS

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

## **SECTION 6. NON-CONFORMING USES AND STRUCTURES**

### **6.1 CONTINUED USES OR STRUCTURES**

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

### **6.2 REPAIRS AND STRUCTURAL CHANGES**

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

### **6.3 ENLARGING STRUCTURES**

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

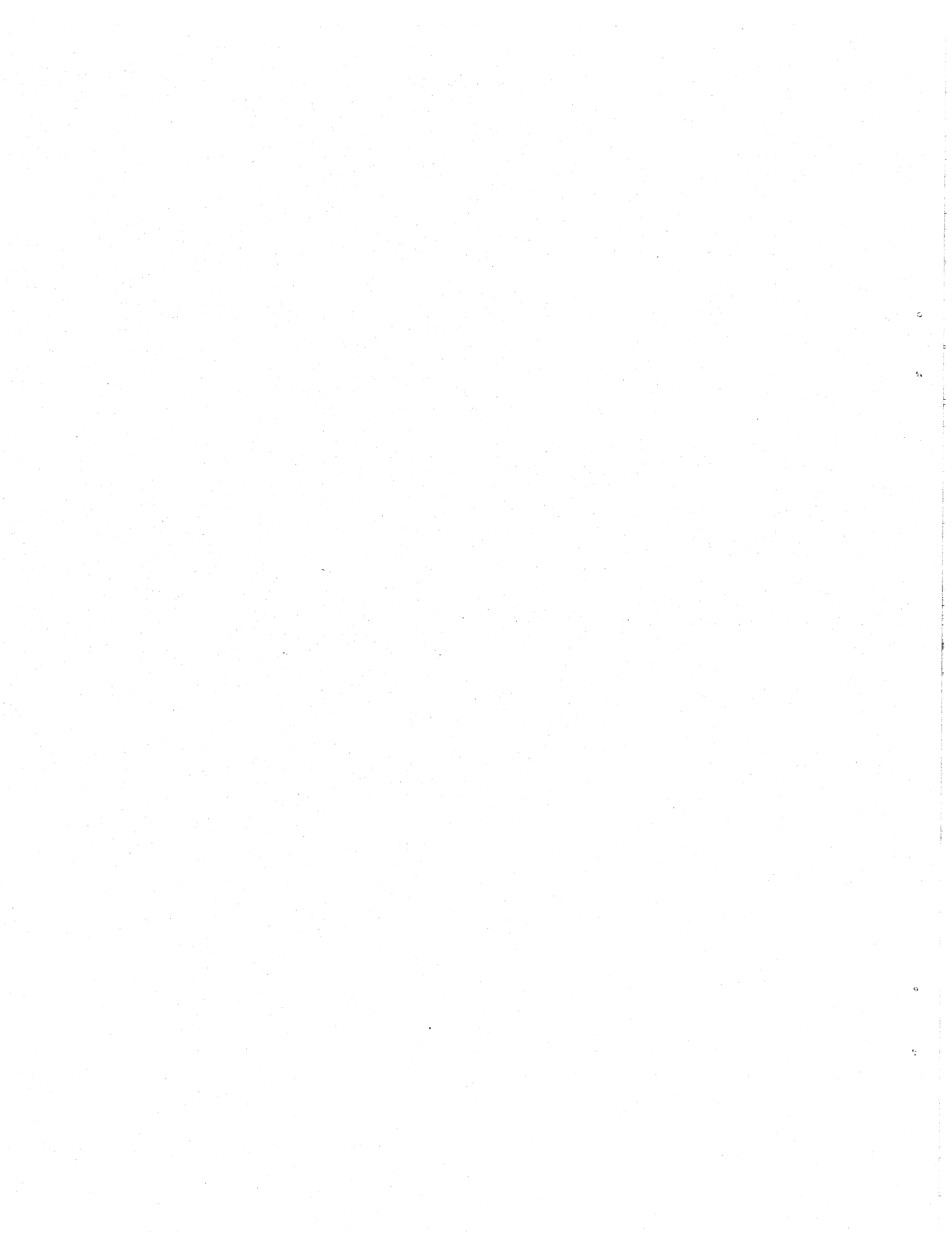
Extensions or enlargements which comply with current dimensional controls may be made to any other lawful existing non-conforming building by special permit granted by the Board of Appeals under the provisions of Section 3.3 of this By-Law, provided that the Board of Appeals finds that such extension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

### **6.4 CHANGED NON-CONFORMING USE**

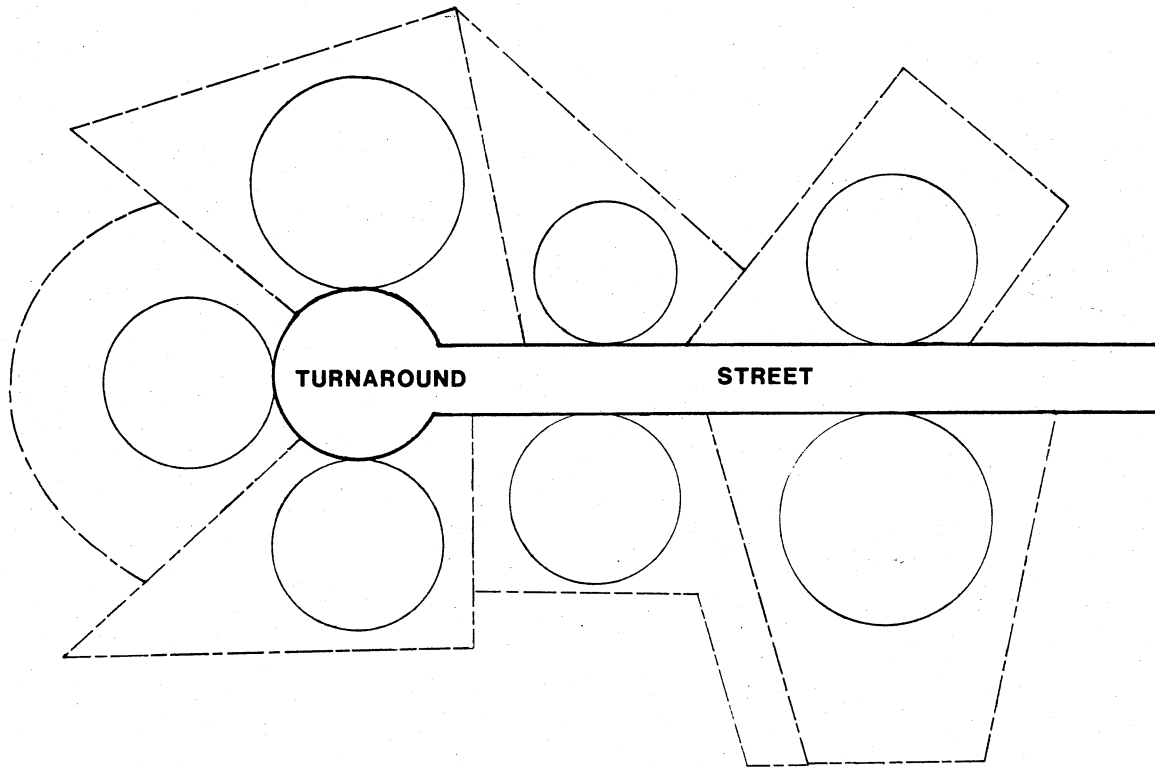
If land or buildings lawfully being put to a non-conforming use are changed to a use permitted in a district wherein such lands or buildings are situated, they shall not be changed back to any non-conforming use. The non-conforming use of land or buildings may be changed with a Special Permit from the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

### **6.5 ABANDONED NON-CONFORMING USE**

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



# LOT WIDTH 7.2



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



## SECTION 7. DIMENSIONAL CONTROLS

### 7.1 COMPLIANCE WITH DIMENSIONAL CONTROLS

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

### 7.2 LOT SIZE REDUCTION, MINIMUM LOT WIDTH

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

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

### 7.3 RESIDENTIAL USES IN OTHER DISTRICTS

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

### 7.4 EXEMPTIONS FROM DIMENSIONAL REQUIREMENTS

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

#### 7.4.1 PRE-EXISTING RESIDENTIAL LOTS

In RO, RS and RT districts the following lots, if used for a dwelling or other building permitted in such districts, are exempted from the area, frontage and side yard provisions of Table 2. Any such lot may be enlarged by combining it with an adjoining lot or lots, or fractions thereof, in the same owner-

ship. Such enlarged lot shall not be subject to greater requirements as to area, frontage, front or rear yards by reason of such enlargement, but the required side yards shall be based on the total frontage of the enlarged lot.

a. AREA AND FRONTAGE EXEMPTIONS

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

b. SIDE YARD EXEMPTIONS

The following shall apply to the above lots:

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

7.4.2 CLUSTER DEVELOPMENTS

Certain tracts may be subdivided using the provisions of Section 9.2.11 which permit reduction of certain requirements of Table 2.

7.4.3 PRE-EXISTING NEIGHBORHOOD BUSINESS LOTS

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

7.4.4 PRE-EXISTING CM DISTRICT LOTS

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



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

#### 7.4.5 FRONTAGE REDUCTION ON CURVES

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

#### 7.4.6 HEIGHT LIMITATION EXCEPTIONS

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

#### 7.4.7 FRONTAGE ON TURN-AROUND IN CR AND CH DISTRICTS

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

#### 7.4.8 LEGAL RIGHT OF WAY ON AN UNDEFINED STREET

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

#### 7.4.9 EXEMPTIONS FOR CERTAIN NON-COMPLYING BUILDINGS

If a building, or a part of a building, does not comply with the dimensional controls of this By-Law or those that were

in effect when it was constructed, it shall be considered to comply with this By-Law if the following conditions are met:

- 1) The non-compliance has existed for at least six consecutive years during which time no enforcement action under the provisions of sections 3.1 and 3.2 of this By-Law has been taken, and
- 2) The non-compliance was not created or increased by changes in lot lines after the construction of the building, and
- 3) There is evidence that the building was constructed except for said dimensional non-compliance in accordance with a building permit issued by the Town.

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

#### 7.5 LOTS PARTLY IN LEXINGTON

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

#### 7.6 BASEMENT FLOOR ELEVATIONS

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

#### 7.7 BROOK AND POND SETBACKS

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

7.7.1 Kiln Brook, starting between the Minute Man National Park and Wood Street, from ponds in the Pine Meadows Golf Course, and from Town-owned land near Hill St., continuing, and including a

tributary N.W. of Route 128, across Hartwell Avenue to the Bedford Town Line.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 7.8 CIVIL DEFENSE SHELTERS

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

#### 7.9 INTENSITY OF DEVELOPMENT

##### 7.9.1 DEVELOPABLE SITE AREA

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

- 1) a wetland, which shall mean a "vegetated wetland" as defined in Chapter 131, Section 40, M.G.L.
- 2) a Wetland Protection zoning district, and
- 3) another zoning district in which the principal use of the lot is not also permitted.

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

- 1) a map of existing site conditions clearly identifying:
- 2) and a calculation, expressed in square feet of land area, of:

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

##### 7.9.2 MAXIMUM FLOOR AREA, FLOOR AREA RATIO

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

## **SECTION 8. SPECIAL ZONING DISTRICTS**

### **A. PLANNED DEVELOPMENT DISTRICTS (TOWN MEETING REZONING REQUIRED)**

#### **8.1 OBJECTIVES**

A planned development district is intended: 1) to permit considerable flexibility in the development of tracts of land by requiring few pre-determined 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 By-Law, 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.

#### **8.2 PLANNED COMMERCIAL DISTRICT - CD**

##### **8.2.1 STANDARDS FOR DEVELOPMENT**

The Planned Commercial District - CD, does not have pre-determined 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.

##### **8.2.2 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 subsection 3.6, and shall be filed in accordance with the provisions of that section.

##### **8.2.3 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.

##### **8.2.4 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 Section 3.4.

#### **8.3 PLANNED RESIDENTIAL DEVELOPMENT DISTRICTS - RD**

##### **8.3.1 STANDARDS FOR DEVELOPMENT**

A number of standards for development in the planned residential development district, RD, are included in Section 9. Additional standards may be proposed by the developer and included in the preliminary site development and use plan and approved by the Town Meeting.

### 8.3.2 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 subsection 3.6, and shall be filed in accordance with the provisions of that section.

### 8.3.3 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 section and of Section 9, and a special permit with site plan review (SPS) approved by the SPGA.

### 8.3.4 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 Section 3.4 and Section 9.4.

## 8.4 SPECIAL PERMIT PROVISIONS APPLICABLE TO BOTH CD AND RD DISTRICTS

### 8.4.1 SPECIAL PERMIT APPLICATION

The application for an SPS under this section shall comply with subsection 3.4 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. a definitive site development and use plan as described in subsection 3.6.

### 8.4.2 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 subsection 3.4;
- 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 minor deviations from the plan approved by Town Meeting provided they do not conflict with the intent of the plan and they do not allow the building floor area to

exceed that shown on the approved plan by more than 10% in the RD district, or to exceed the maximum floor area approved for the CD district;

- 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.

#### 8.4.3 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.

#### 8.4.4 REVISION OF SPECIAL PERMIT

Subsequent to an SPS granted by the SPGA, minor revisions may be made from time to time in accordance with applicable laws, by-laws, and regulations, but the commercial or residential development approved under such SPS shall otherwise be in accordance with the application for the special permit, except as modified by 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 SPS be filed, and a public hearing held in the same manner as set forth in Section 3.4.

#### 8.4.5 CHANGES IN USES OR SITE DEVELOPMENT PLAN

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

### B. 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.

### 8.5 WETLAND PROTECTION DISTRICT

#### 8.5.1 PURPOSES OF DISTRICT

The purposes of the Wetland Protection District are to preserve and maintain the ground water table; to protect the

public health and safety by protecting persons and property against the hazards of flood water inundation; and to protect the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods.

#### 8.5.2 DISTRICT SUPERIMPOSED OVER OTHER DISTRICTS

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

#### 8.5.3 PERMITTED USES

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

#### 8.5.4 SPECIAL PERMITS FOR STRUCTURES ACCESSORY TO PERMITTED USES

The Board of Appeals may issue a special permit for buildings and structures accessory to any of the uses permitted in Section 8.5.3, or for filling and excavation of the land for such uses, if the Board finds that such building, structure or filling or excavation is in harmony with the general purpose and intent of Section 8.5. A copy of every application for such a special permit shall be given by the applicant at the time of submission of the application to the Board of Selectmen, to the Board of Health, to the Planning Board, and to the Conservation Commission as well as all other parties required.

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

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



#### 8.5.6 USES PROHIBITED WITHIN WETLAND DISTRICT

Except as provided in Sections 8.5.4 or 8.5.5 there shall be in the Wetland Protection District:

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

#### 8.5.7 PRE-EXISTING USES

No land, building, or structure in a Wetland Protection District shall be used for sustained human occupancy except buildings or structures existing on the effective date of this section, or land, buildings or structures which comply with the provisions of this by-law. Where no filling of such land takes place, any addition, alteration, repair or reconstruction of such building or structure or the construction of any structure accessory thereto shall be exempt from the provisions of Sections 8.5.4 and 8.5.5.

#### 8.5.8 NO EFFECT ON DIMENSIONAL REQUIREMENTS

Notwithstanding any other provision of Section 9.2, 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 for lots in the underlying district.

### 8.6 NATIONAL FLOOD INSURANCE DISTRICT

#### 8.6.1 PURPOSE OF DISTRICT

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

#### 8.6.2 SUPERIMPOSED OVER OTHER DISTRICTS

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

#### 8.6.3 AREAS INCLUDED

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

#### 8.6.4 BOARD OF APPEALS REQUIREMENTS

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

##### a. CONSTRUCTION ABOVE FLOOD LEVEL

Within those areas designated as Zones A-1 through A-30, all new residential construction or substantial improvements (the cost of which equals or exceeds fifty percent of the market value

of the structure) shall have the lowest floor, including basement, elevated to or above the base flood level (the 100-year flood elevation) designated on the F.I.R.M. Nonresidential structures must be elevated to or above the base flood level or must be floodproofed and watertight to the base flood level. All other development must meet at least the minimum standards as set forth in the National Flood Insurance Program rules and regulations effective April 1, 1978, or as duly amended from time to time thereafter.

b. DEFINITION OF FLOOD LEVEL FOR ZONE A

Within those areas designated as Zone A, where the base flood level is not identified on the F.I.R.M., the applicant for a special permit shall provide the SPGA with data defining the base flood level. This data will be used to comply with the requirements of Section 8.6.4a.

c. LIMIT CONSTRUCTION IN FLOODWAY

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

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

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

d. WATERTIGHT FLOODPROOFING

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

## SECTION 9. PLANNED RESIDENTIAL DEVELOPMENT

### 9.1 OBJECTIVES AND APPLICABILITY

#### 9.1.1 The provisions of this section are intended to:

- a. insure that the development of additional housing does not detract from the livability, scale, character or economic value of existing residential neighborhoods;
- b. 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, and income;
- c. provide greater choice in the type of housing available to correspond to the varying needs of town residents in different stages of their life cycle;
- d. encourage the development of housing affordable to low-, moderate- and middle-income households;
- e. provide greater flexibility and design freedom in the development of those tracts of land which lend themselves to planned development;
- f. promote a high standard in the design of development sites and of individual buildings;
- g. encourage the preservation of open space for conservation, outdoor recreation or park purposes, in conjunction with residential development;
- h. encourage the preservation, and minimum disruption, of the existing natural features of land and to minimize impacts on environmentally sensitive areas;
- i. preserve, where applicable, historically or architecturally significant buildings or places;
- j. permit ostensibly different types of structures and residential uses to be combined in a planned interrelationship;
- k. facilitate a detailed review, by town officials and by the public, of those developments which either: 1) have an impact on public facilities and services and on adjoining land, or 2) are large enough to constitute a self-contained environment;
- l. promote the efficient and economical provision of public facilities such as utilities and streets;
- m. assure that the number of dwelling units allowed will be compatible with surrounding land uses, and that traffic and public services will not be adversely impacted;

9.1.2 No building permit shall be issued for a dwelling which is part of a development on a tract of three or more dwelling units, or their equivalent in housing accommodations not classified as dwelling units, except in accordance with the provisions of this section.

**9.2 SCHEDULE OF PERMITTED BUILDINGS, DENSITY AND DIMENSIONAL STANDARDS**  
 (Applicable to the planned residential development as a whole.)

**Z O N I N G   D I S T R I C T S**

	<u>RO</u>	<u>RS</u>	<u>RD</u>
9.2.1 Minimum Area of Tract to be Developed *no requirement for a conventional subdivision	100,000 sf	100,000 sf*	125,000 sf
9.2.2 Maximum Base Density in Dwelling Units, or Equivalent Calculation: multiply developable site area (see 7.9) by 0.85 and divide the product by:	@ 1.2/acre  30,000 sf	@ 2.4/acre  15,500 sf	No requirement  No requirement
9.2.3 Types of Buildings Permitted			
a. One-Family Detached	Yes*	Yes*	Yes*
b. One-Family Attached	SP*	SP*	Yes*
c. Two-Family	SP*	SP*	Yes*
d. Townhouse	SP*	SP*	Yes*
e. Three, Four-Family	No	No	Yes*
f. Multi-family	No	No	Yes*
g. Rooming House	No	No	Yes*
h. Group Quarters **Yes where accessory to a religious or educational use	No**	No**	Yes*
i. Group Care Facility	No	No	Yes*
j. Congregate Living Facility	No	No	Yes*
k. Long-Term Care Facility	No	No	Yes*
l. Conversion of Municipal Building	SP*	SP*	Yes*
* SPS required for the planned residential development			
9.2.4 Minimum Frontage of the Tract on Existing Street	50 ft.	50 ft.	100 ft.
9.2.5 Minimum Yard Setback on Perimeter of Tract			
a. Front Yard	40 ft	40 ft	50 ft
b. Side yard, rear yard	30 ft	20 ft	40 ft
9.2.6 Maximum Impervious Surface Ratio Calculation: Divide area of impervious surface by developable site area (see 7.9)	0.15	0.20	0.40
9.2.7 Minimum Usable Open Space per Dwelling Unit, or Equivalent	5,000 sf	3,500 sf	1,500 sf
9.2.8 Maximum Height of Dwellings	40 ft	40 ft	40 ft

NOTE: In an RO or RS district, a planned residential development may be: 1) a conventional subdivision, 2) a cluster subdivision with the tract divided into

separate lots for dwellings, or 3) a cluster development in which the land, except for such common open space as may be deeded to the town, is in one ownership.

9.2.9 DENSITY: The maximum number of dwelling units in a conventional subdivision, a cluster subdivision, or a cluster development shall be the lesser of: 1) the maximum base density set forth in 9.2.2 or 2) the number of lots complying with the minimum lot area, lot frontage and lot width requirements permitted in a conventional subdivision. To determine the number of lots, the applicant shall submit: 1) a certified calculation of the developable site area (see 7.9) and 2) a plan of the tract showing a lot layout and street layout only, complying with the Planning Board's "Rules and Regulations."

The maximum density of a facility permitted by 9.2.3 h, i, j, or k shall be determined by 9.2.2 and, where applicable, 9.2.10.

#### 9.2.10 EQUIVALENT DENSITY, RESIDENTIAL ACCOMMODATIONS NOT IN DWELLING UNITS

Where residential accommodations do not have kitchen and dining facilities and are not arranged in dwelling units, for the purpose of calculating density and other dimensional standards, the following shall be considered equivalent to one dwelling unit:

- 1,000 square feet of gross floor area in a long-term care facility
- 1,200 square feet of gross floor area in group quarters, a group care facility or congregate living facility

#### 9.2.11 DIMENSIONAL STANDARDS, WAIVERS

A conventional subdivision shall comply with both the dimensional standards set forth in Table 2 and subsection 9.2.

In an RO or RS district, where the proposed development is a cluster subdivision, a cluster development or includes types of buildings identified in 9.2.3 as allowed by special permit, and where the number of dwelling units does not exceed the maximum density as set forth in 9.2.9, the SPCA, as part of the grant of a special permit with site plan review, may also grant a special permit modifying the standards in Table 2 for minimum lot area, minimum lot frontage, minimum front yard, minimum side yard, minimum rear yard, minimum yard adjacent to other districts, minimum percentage of open area and maximum height in stories and the minimum lot width in subsection 7.2.2, as they may apply to individual dwellings within a planned residential development, provided it makes a finding that the development complies with the standards and criteria in 9.4.8.

### 9.3 GENERAL PROVISIONS

#### 9.3.1 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 "Rules and Regulations Governing the Subdivision of Land." Nothing contained herein shall in any way exempt a conventional subdivision from compliance with the right of the Board of Health and of the Planning Board to approve, with or without modifications, or disapprove a subdivision plan in accordance with the provision of the "Rules and Regulations" and of the Subdivision Control Law.

### 9.3.2 STREETS, DRIVES

The objective of this section is to provide two means of access to dwelling units for emergency vehicles. Each street and interior drive, or system of streets or interior drives, within a planned residential development shall connect to a public street. A dead-end street or dead-end interior drive shall not be more than 650 feet from a through public street or from a street or interior drive which intersects with a through public street in at least two places which are not less than 100 feet apart. Where there are more than 10 dwelling units served by a dead-end street or dead-end interior drive, two means of access, suitable for fire-fighting and other emergency operations, such as by paved or all-weather routes, shall be provided to each dwelling unit.

If a street or interior drive in a development tract is located in a minimum yard required by 9.2.5, in order to provide protection for abutting residential lots, there shall be a screen of densely planted vegetation and/or an opaque fence adjacent to the lot line, for such distance as the Planning Board may determine.

### 9.3.3 NON-RESIDENTIAL USES

In the RD district, the residential development may also include commercial uses provided: 1) such uses serve primarily the residents of the development, 2) are conducted within and may be entered only from within a principal building, 3) there is no external evidence of such uses visible beyond the development tract, and 4) the appearance and character of the commercial uses are compatible with a residential development.

### 9.3.4 PARTS OF DWELLING UNITS BELOW GROUND

No part of a dwelling unit or rooming unit used for sleeping, cooking, dining or bathroom purposes may be located in a cellar. A part of a dwelling unit or rooming unit used for such purposes may be located in a basement provided the vertical height between the horizontal plane of the ceiling and the finished grade of the ground adjoining the dwelling unit is at least six feet for at least two-thirds of the length of the exterior walls of all rooms used for such purposes.

### 9.3.5 (Removed at the 1985 Town Meeting)

### 9.3.6 COMMON OPEN SPACE

At least 25% of the area of the development tract shall remain as common open space. This requirement shall not apply to a conventional subdivision. Such open land may be in one or more parcels of a size and shape appropriate for the intended use and may be conveyed: 1) to and accepted by the Town or its Conservation Commission, 2) to a legal association comprised of the owners of the development, which may include homeowners, or 3) to a non-profit organization the principal purpose of which is the conservation of open space. 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 insure its perpetual use as open space, conservation, recreation or park land. A maximum of 20% of such open space may be devoted to parking or structures used for, or accessory to, active outdoor recreation and consistent with the open space uses of such land.

### 9.3.7 USABLE OPEN SPACE

Usable open space shall be provided for the recreational and leisure time use of the occupants of dwellings. Such open space shall be equal to or greater than the amount shown in subsection 9.2.7. To qualify as usable open space, an area shall conform to the following standards:

- a. USABILITY: A space must have a surface which is adequately drained, and permits recreational or leisure time use. Such surface may include any combination of grass, plant materials, wood, or paving materials of a type

designed for pedestrian or recreational use. No open space shall be considered usable if the slope of the finished grade is more than 10 percent or if the area is wet or swampy.

b. LOCATION: The nearest part of the space shall be not more than 300 feet walking distance from the dwelling unit it serves. Usable open space may be located in an area which: 1) is on a privately owned lot occupied by one dwelling or a space designated for the exclusive use of one dwelling unit, or 2) qualifies as common open space.

c. SIZE AND SHAPE: No open space shall be considered usable unless it has a minimum horizontal area of 600 square feet and no dimension less than 20 feet.

d. STRUCTURES AND FACILITIES: All usable open space shall be open to the sky, and may include unroofed facilities such as a tennis court, swimming pool and related structures, or similar recreational facilities.

#### 9.4 SPECIAL PERMITS: PROCEDURES, CRITERIA

##### 9.4.1 SPS REQUIRED

No planned 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 individual detailed review of planned residential developments which have a substantial impact upon the character of the town and impacts on adjoining residential areas and the provision of public facilities and services.

##### 9.4.2 SPGA

The Planning Board shall be the special permit granting authority, except that the Board of Selectmen shall be the SPGA for the conversion of municipal buildings. In acting upon applications for special permits, the SPGA shall be governed by the provisions of Section 3.4.

##### 9.4.3 SPECIAL PERMIT APPLICATION REQUIREMENTS

The application to the SPGA for a special permit with site plan review (SPS) under this section shall be accompanied by a definitive site development plan, as described in subsection 3.6.

Where the applicant submits a definitive subdivision plan complying with the Subdivision Control Law and the Planning Board's "Rules and Regulations," insofar as practical, the public hearing on the application for the special permit and the definitive subdivision plan shall be held concurrently.

##### 9.4.4 SPECIAL PERMIT PROVISIONS

The SPGA may grant a special permit with site plan review for the development of any tract of land in a residential district provided it makes a determination that the proposed development is consistent with the standards and criteria set forth in subsection 9.4.8, subject to the following provisions:

- a. The special permit shall incorporate by reference the building design and definitive site development plans filed with the application for a special permit.



- b. The SPGA may require that the dwelling unit density be less than that shown on the definitive site development plan if it determines that the criteria contained in subsection 9.4.8 so require.

#### 9.4.5 DENIAL OF SPECIAL PERMIT

The SPGA may deny an application for a special permit with site plan review hereunder and base its denial upon:

- a. a failure to comply with the provisions set forth in Section 9,
- b. a finding that the proposed development would not be consistent with the general objectives for planned residential development set forth in subsection 9.1.1, or the criteria set forth in subsection 9.4.8,

#### 9.4.6 REVISION OF SPECIAL PERMIT

Subsequent to a special permit with site plan review granted by the SPGA under the provisions of this section and where applicable, the approval of a definitive subdivision plan, minor revisions may be made from time to time in accordance with applicable law, by-laws, and regulations, but the planned residential development approved under such SPS shall otherwise be in accordance with the application for the SPS, except as modified by 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 SPS be filed, and a public hearing be held in the same manner as set forth in Section 3.4.

#### 9.4.7 SPS VS. REZONING

Where the density of dwelling units exceeds that authorized by subsection 9.2 or where the type of building proposed is indicated by the designation "No" in subsection 9.2.3, a petition for a rezoning to a district permitting such density or type of building, shall be submitted to the Town Meeting. ←

#### 9.4.8 STANDARDS, CRITERIA

In addition to the purposes set forth in Section 1.1, the considerations in Section 3.4 and the objectives set forth in subsection 9.1.1, a planned residential development shall also demonstrate that it complies with the following design standards and criteria:

- a. **LAND FORM, PRESERVATION OF LANDSCAPE:** The existing land form shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and man-made features, such as stone walls, shall be maintained with minimal alteration or disruption.
- b. **NATURAL TOWNSCAPE:** A natural character and appearance of the town shall be maintained or enhanced. Awareness of the existence of a development, particularly a higher density development, shall 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.
- c. **OPEN SPACE:** Both common open space and usable open space shall be located and designed so as to increase the visual amenities of the neighborhood as well as for the occupants of the development.

- d. ARCHITECTURAL CHARACTER: Without specifying any particular architectural style, the scale, massing and detailing of buildings should be compatible with those prevalent in the neighborhood. Where a planned residential development, such as a long-term care facility, a congregate living facility, or group quarters, is located adjacent to a neighborhood of single family dwellings, the massing scheme and the selection of exterior materials for buildings shall be complimentary to a single family neighborhood.
- e. HISTORIC, ARCHITECTURAL PRESERVATION: The removal or substantial alteration of buildings of historic or architectural significance, the new use of places of historical significance, or the location of dwellings or uses adjacent to, and incompatible with, buildings or places of historic or architectural significance shall be minimized.
- f. SITING OF BUILDINGS: Buildings shall be 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 intrusion on views from other buildings.
- g. SAFETY: Buildings, and the grounds adjoining them, shall permit easy access and operations by fire, police and other emergency personnel and equipment.
- h. TOWN SYSTEMS: Where applicable, improved access to, or the development of additional links or connectors, shall be made to a Town system of public facilities such as conservation areas, recreation facilities, footpaths or bicycle paths, streets or utility systems.
- i. PEDESTRIAN, BICYCLE ROUTES: A system of routes for pedestrians, including bicycles, with minimal conflicts with vehicles, should be developed.
- j. TRAFFIC: The number of access points to the Town's system of arterial and collector streets should be minimized and the location of intersections with arterial or collector streets should be such as to minimize traffic congestion.
- k. UTILITY, SUPPORT SERVICES: Electric, telephone, cable TV and other such lines and equipment shall either be underground or as inconspicuous as possible. Support facilities such as storage, refuse disposal, utility buildings and structures for recreational activities shall be located, and screened, to make them less visible."

## 9.5 SPECIAL PERMIT FOR CONVERTED MUNICIPAL BUILDINGS AND PUBLIC SCHOOL BUILDINGS

### 9.5.1 GENERAL OBJECTIVES

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

#### 9.5.2 PERMITTED TYPES OF HOUSING

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

#### 9.5.3 PUBLIC HEARING BY THE PLANNING BOARD

The Planning Board shall hold a public hearing on the development proposal prior to the first deliberative session of Town Meeting. The procedure for such public hearing shall be the same as the procedure for proposed amendments to the Zoning By-Law.

#### 9.5.4 PLANNING BOARD REPORT TO TOWN MEETING

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

#### 9.5.5 PLANS SUBMITTED TO TOWN MEETING

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

#### 9.5.6 SPGA

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

#### 9.5.7 SPGA PUBLIC HEARING

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

#### 9.5.8 SPECIAL PERMIT WITH SITE PLAN REVIEW

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



## SECTION 10. SIGN REGULATIONS

### 10.1 ADMINISTRATION

#### 10.1.1 APPLICABILITY

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

#### 10.1.2 APPLICATION

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

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

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

#### 10.1.3 BUILDING COMMISSIONER ACTION

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

#### 10.1.4 SPECIAL PERMITS

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

## 10.2 GENERAL REGULATIONS

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

### 10.2.1 PERMITTED GOVERNMENT OR SPECIAL SIGNS

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

### 10.2.2 RESIDENCES

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

### 10.2.3 RELIGIOUS INSTITUTIONS

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

### 10.2.4 REAL ESTATE SIGNS

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

### 10.2.5 ILLUMINATION

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

### 10.2.6 SIGNS CANNOT INTERFERE WITH TRAFFIC

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

#### 10.2.7 CONSTRUCTION

No sign shall be painted or posted directly on the exterior surface of any wall. All exterior, attached signs, except awning signs, shall be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth of projection of one fourth (1/4) of an inch. The construction of the sign shall comply with the State Building Code.

#### 10.2.8 MAINTENANCE

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

#### 10.2.9 PROHIBITED SIGNS

The following types of signs are prohibited.

- a. Signs which incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature.
- b. Wind signs, including banners, pennants, spinners, streamers, and other wind actuated components.
- c. String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration.
- d. Signs erected so as to obstruct any door, openable window or fire escape on a building.
- e. Billboards or non-accessory signs.

### 10.3 RESIDENTIAL DISTRICTS

#### 10.3.1. MULTI-FAMILY DWELLING DEVELOPMENTS

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

### 10.4 BUSINESS DISTRICTS

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

#### 10.4.1 WALL SIGNS

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

- b. A secondary wall sign may be installed marking a direct entrance on a parking lot or another street in addition to the front wall sign. There shall be not more than two such secondary wall signs. Said sign shall have a width no greater than 50% of the maximum permissible width for the principal wall sign.
- c. No wall sign shall be more than three feet in overall height.
- d. In buildings where the first story is substantially above grade and the basement is only partially below street grade, one sign for each level is allowed if each sign has only one half of the area that would be permitted for a single sign.
- e. In addition to the above signs each building may have one directory sign affixed to the exterior wall, window or door of the building. Such directory sign shall provide not more than one square foot for each occupant of the building.
- f. Wall signs shall either be affixed to a wall and parallel to it or affixed to the roof above a wall and be parallel to the wall. They shall not project more than twelve (12) inches from the face of such wall.
- g. No wall sign shall project above the highest line of the main roof or parapet on the wall to which it is attached, whichever is higher.

#### 10.4.2 WINDOW SIGNS

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

#### 10.4.3 PROJECTING SIGNS

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

#### 10.4.4 STANDING SIGNS

The following standing signs are permitted:

- a. Standing signs permitted under Sections 10.2.2, 10.2.3, and 10.2.4.
- b. During the construction of a building a standing sign may be erected on the premises identifying the building, the owner, the contractors, the architects and the engineers. Such a sign shall not exceed 20



square feet in area or 10 feet in any direction. Such sign shall be removed promptly after the completion of the building.

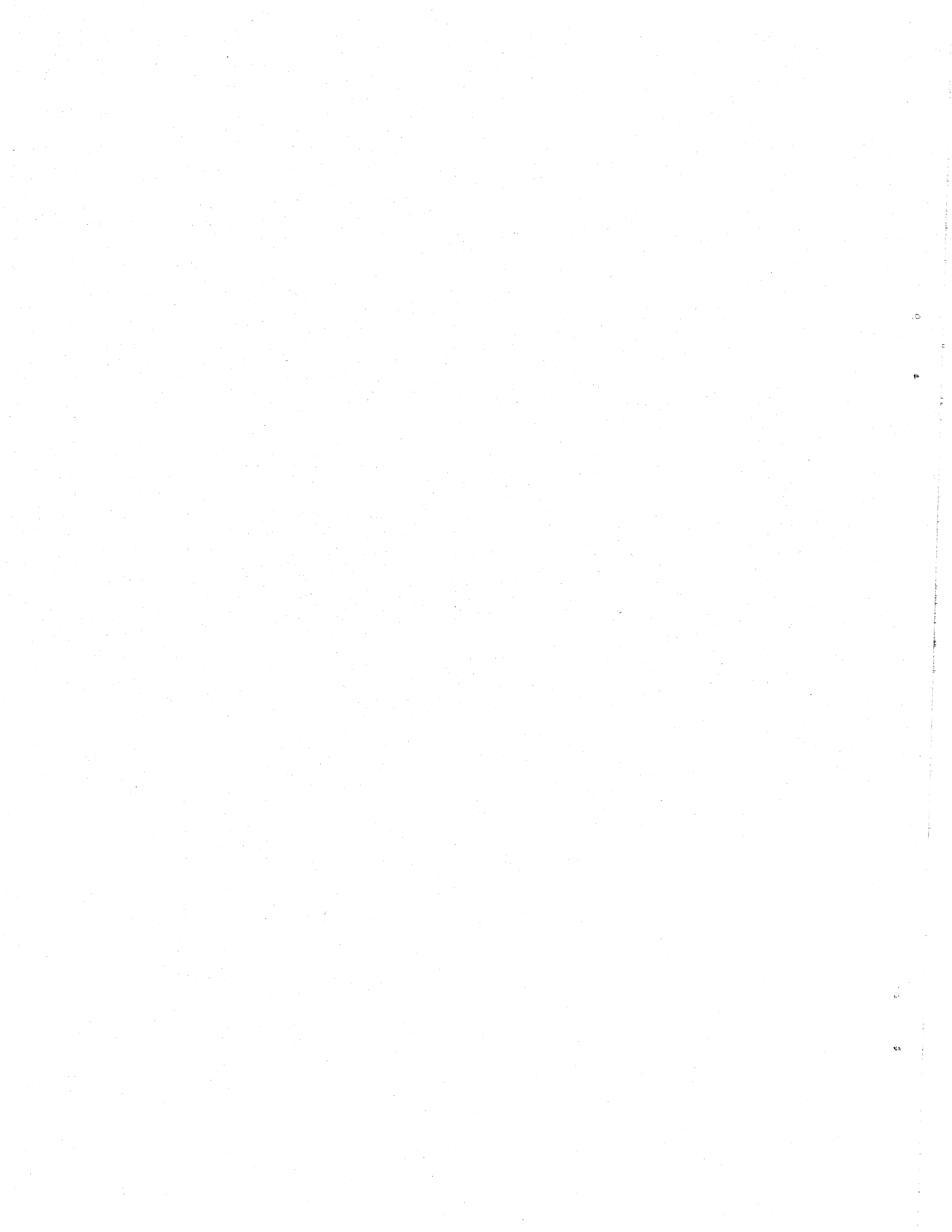
- c. In particular instances the SPGA may issue Special Permits for standing signs in accordance with Section 10.1.4, if it is determined that the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be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

#### 10.4.5 SIGNS AT GASOLINE FILLING STATIONS AND GARAGES

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

#### 10.5 NONCONFORMANCE OF SIGNS

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



## SECTION 11. OFF-STREET PARKING AND LOADING

### 11.1 OBJECTIVES, APPLICABILITY

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

- a. promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
- b. increase the traffic-carrying capacity of streets and highways in the town and obtain a more efficient utilization of on-street curbside parking;
- c. reduce hazards to pedestrians upon public sidewalks;
- d. protect adjoining lots and the general public from nuisances and hazards such as: 1) noise, glare of headlights, dust and fumes, resulting from the operation of motor vehicles, 2) glare and heat from parking lots, 3) a lack of visual relief from expanses of paving, 4) accelerated run-off of surface water from land covered by impervious materials.

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

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

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

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

#### 11.1.4 BUILDING DESTROYED, DAMAGED OR DEMOLISHED

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

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

#### 11.2 PARKING, LOADING PLAN REQUIRED

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

- a. the number, location, elevation and dimensions of all driveways, maneuvering spaces or aisles, parking spaces, and loading bays,
- b. the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening and lighting,
- c. the location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back,
- d. a summary schedule showing the amount of floor space, or other parking or loading factor to be met, the number of standard, compact and handicapped parking spaces and the number of loading bays.

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

### 11.3 NUMBER OF PARKING SPACES, LOADING BAYS

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

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

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

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

- 11.3.2 RULES FOR INTERPRETATION OF SECTIONS 11.3.1 and 11.3.3
- a. Where the number of spaces is expressed as a ratio to dwelling units, floor area, beds, employees, etc., any fraction thereof shall require one parking space but after the first such parking space or loading bay, only a fraction of one half or greater shall require an additional space or bay.
  - b. Where the requirement is stated "as needed," the applicant for a permit shall estimate the number of parking spaces or loading bays required to serve the use and shall provide such number; the building commissioner shall verify that the number is adequate and shall, if necessary, order that additional spaces or bays be provided.
  - c. To simplify the determination of net floor area, 80 per cent of the gross floor area may be used.
  - d. Where off-street parking or loading serves two or more activities that are different types of uses, including two or more activities that are part of the same principal use, the number of spaces or bays provided shall be the sum of the requirements for the various individual uses computed separately. Parking spaces or loading

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

- e. Where the requirement is based on the number of employees, the number of spaces shall be based on the number of employees in the peak period, which shall be at least 3 hours per day for at least 3 days per week.
- f. Where fixed seats are not used in a place of assembly, each 40 square feet of floor area in the largest assembly area shall equal one seat.
- g. Where uses are of the open air type and are not enclosed in a structure, each square foot of lot devoted to such use shall be considered to be equivalent to one fifth of a square foot of net floor area.

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

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

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

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

### 11.3.5 PARKING SPACES FOR HANDICAPPED PERSONS

Specially designated parking spaces for the physically handicapped shall be provided, as follows:

<u>Total Number of Spaces</u>	<u>Spaces for Handicapped</u>
10-25	1 space
26-40	5% of the total spaces but not less than 2
41-100	4% of the total spaces but not less than 3
101-200	3% of the total spaces but not less than 4
201-500	2% of the total spaces but not less than 6
501-1,000	1.5% of the total spaces but not less than 10
1,000-2,000	0.75% of the total spaces but not less than 20

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

### 11.4 PARKING, LOADING TERMINOLOGY

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

### 11.5 LOCATION OF OFF-STREET PARKING, LOADING BAYS

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

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

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

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

### 11.6 MINIMUM YARDS FOR PARKING LOTS; SCREENING; DRIVEWAYS

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



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

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

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

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

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

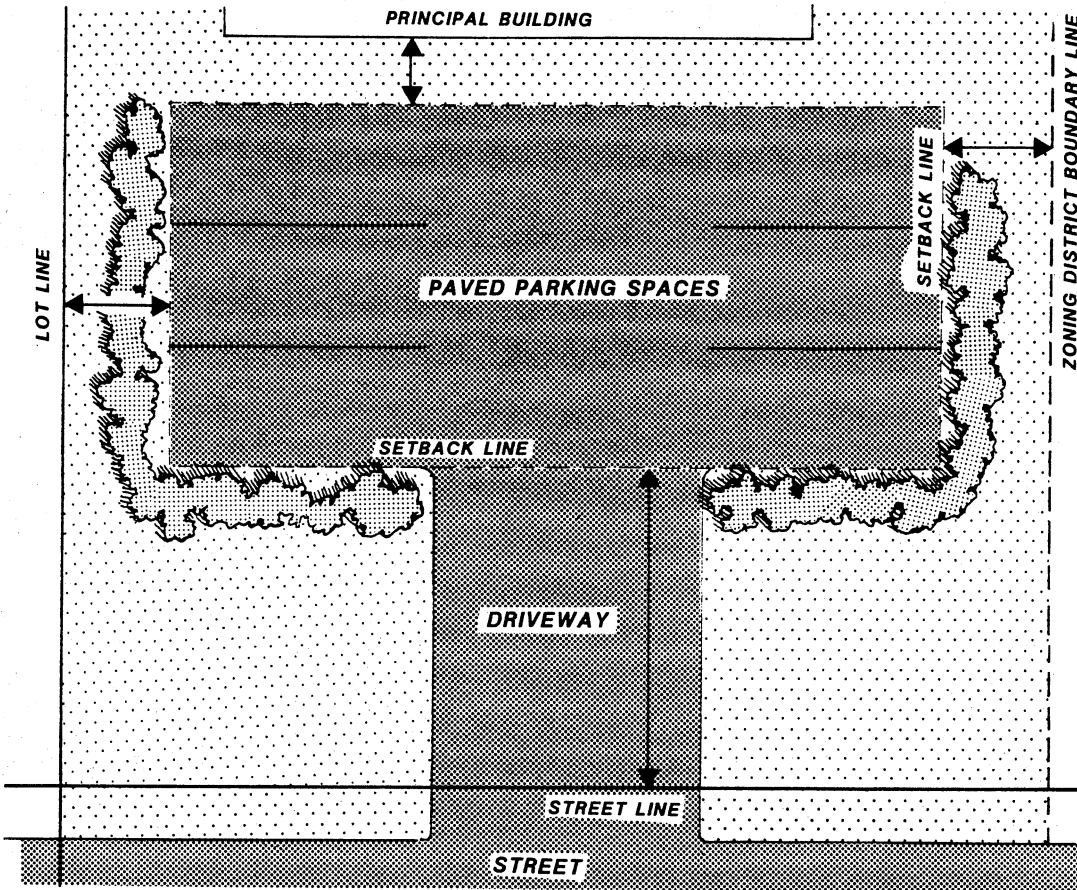
NOTE: Screening (section 11.6.6) is required adjacent to the paved area but not in the required snow storage area and not between a paved area and a building.

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

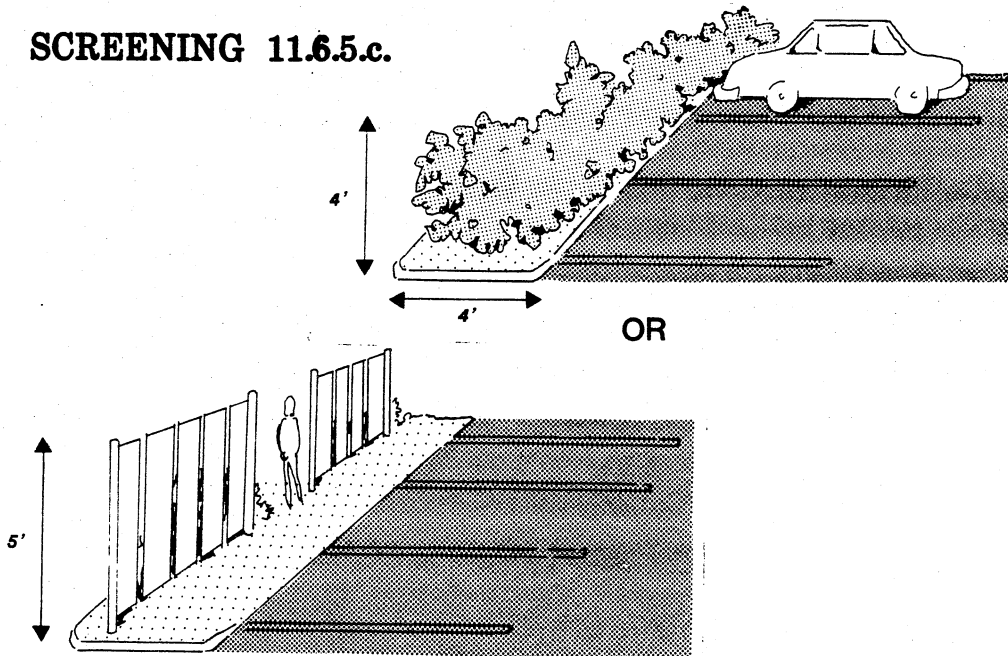
11.6.4 No parking space or loading bay, whether required or otherwise provided, shall be located, wholly or partly, within the right-of-way of a public street.

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

# DISTANCES 11.6

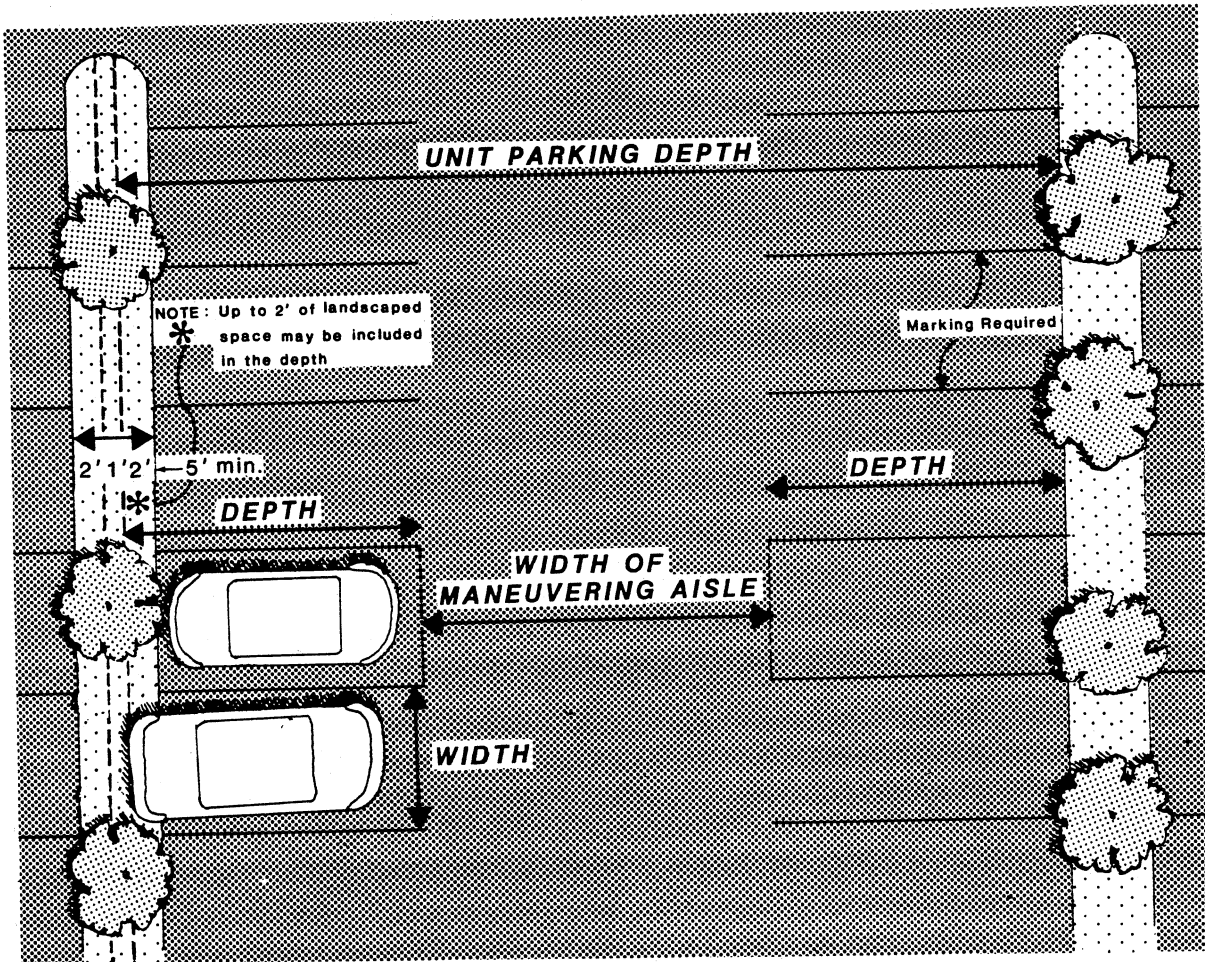


## SCREENING 11.6.5.c.

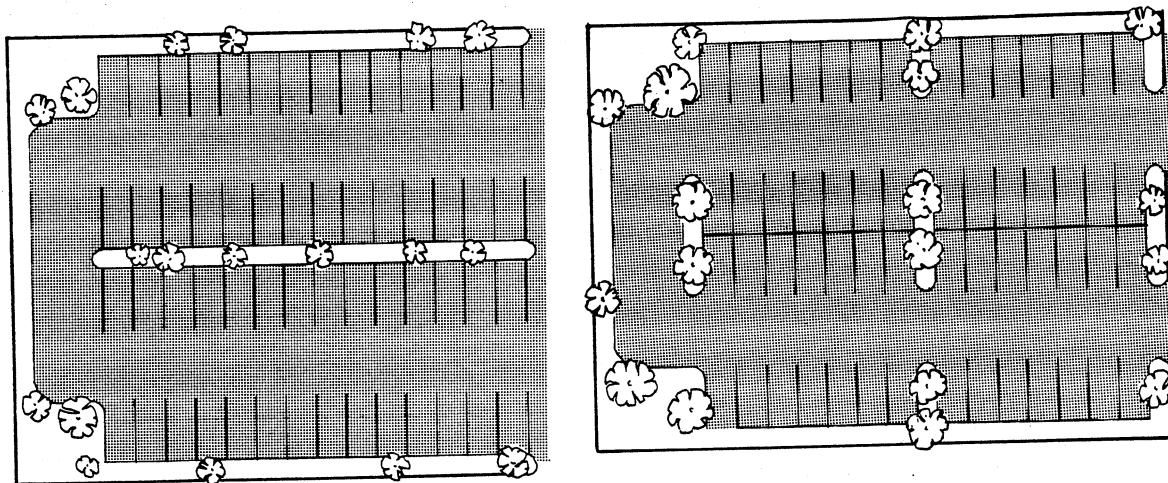


These drawings are for illustrative purposes only. They are not legally-adopted parts of the Zoning By-Law as voted by the Town Meeting.

## DIMENSIONS 11.7



## INTERIOR LOT LANDSCAPING: TWO ALTERNATIVES 11.7.9.



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

#### 11.6.6 TRANSITION AND SCREENING

- a. In all residential districts, or on a lot in any other district which abuts or faces a lot in a residential district, any outdoor parking lot containing five or more parking spaces and all loading bays shall be screened in accordance with sub-paragraph c, in a manner to protect abutting lots from the glare of headlights, noise and other nuisance factors.
- b. Any parking lot which is: 1) a principal use or 2) within any residential district, shall have setbacks computed in accordance with paragraph 11.6.2 and shall be screened around the entire perimeter of the parking lot. The entrance to driveways, to the extent practicable, shall be located on the side near non-residential districts or on streets or highways leading to non-residential areas.
- c. Where screening is required, it shall consist of:
  - (1) A strip of land at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or
  - (2) A wall, barrier, or fence of uniform appearance at least five feet high, above finished grade. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50 per cent of the face is open.

Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by entrances or exits, and shall have no signs attached thereto other than those permitted in the district.
- d. All artificial lighting used to illuminate specifically any parking space, loading bay, maneuvering space or driveway shall be so arranged that all direct rays from such lighting fall entirely within the parking or loading area and shall be shielded so as not to shine upon abutting properties or streets. The level of illumination of lighting for parking and loading areas shall be low so as to reduce the glow of ambient lighting perceptible at nearby properties or streets.

#### 11.6.7 DRIVEWAYS

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

- b. The width of a driveway for one-way use shall be a minimum of 8 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.
- c. Where access or egress is provided for a parking lot (5 or more spaces), or 1 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.

11.7 DESIGN STANDARDS

11.7.1 EXCEPTION FOR ONE-FAMILY, TWO-FAMILY DWELLING  
 The provisions of paragraph 11.6.7c (backing into a public street), 11.7.5 (marking of pavement), 11.7.6c (moving of vehicles) and 11.7.7 (surfacing, drainage) shall not apply where parking is provided for any one-family or two-family dwelling.

11.7.2 DIMENSIONS

- a. 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:

Minimum Parking Space and Aisle Dimensions for Parking Lots (in feet)  
 S = standard                      C = compact                      H = handicapped

Angle of Parking	Width of Parking Space			Depth** of Parking Space			Width of Maneuvering Aisle			Unit Parking Depth		
	S*	C	H*	S	C	H	S	C	H	S	C	H
61-90°	9	8.5	12	19	15	19	22	20	22	60	50	60
46-60°	9	8.5	12	19	15	19	16	15	16	56	48	56
45°	9	8.5	12	19	15	19	14	13	14	53	47	54
Parallel	8	8	12	22	18	22	12	12	12	n/a		

\*Where one or both of the long sides of a parking space abuts a wall or similar obstruction, the width shall be 12 feet.

\*\*Up to 2 feet of unpaved landscaped space may be included in the depth provided there are no obstructions to the vehicle's overhang.

- b. 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.
- c. 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 3 feet of a

maneuvering aisle. No parking space in a bay between such columns, or between a column and a wall shall be counted as a required parking space unless the minimum turning radius of the inside rear wheel of the vehicle is at least 15 feet and the minimum turning radius of the extreme outside point (generally the front bumper) is 25 feet.

#### 11.7.3 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, 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.

#### 11.7.4 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 requests, evidence shall be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles, and trailers.

#### 11.7.5 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. Where 50 per cent 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 ten per cent of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building which it serves.

#### 11.7.6 AVAILABILITY, SNOW STORAGE

To insure the availability and utilization of required parking spaces and loading bays on a year round basis:

- a. 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.
- b. 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.

- c. Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other space or bay.
- d. Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.

#### 11.7.7 SURFACING, DRAINAGE

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

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

#### 11.7.8 GRADE

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

#### 11.7.9 LANDSCAPING

- a. On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there shall be planted at least one tree for every eight parking spaces abutting the perimeter; such trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.
- b. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 10 or more parking spaces face each other, a landscaped open space not less than 5 feet in width shall be provided. The landscaped strip may be provided either: 1) between the rows of parking spaces parallel to the aisle or, 2) in two or more strips parallel to the spaces and extending

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

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

#### 11.8 EXCEPTIONS, SPECIAL PERMITS

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

- a. Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by subsection 11.3, the number of such spaces or bays required may be reduced by not more than 50 per cent. An applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays. A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least one half of the difference between the spaces or bays required and the lesser number provided. The off-street parking and loading plan shall show how the reserve area would be laid out in compliance with this section. The term of a special permit for such reduction initially may not exceed two years, but may be granted subsequently for a longer period upon verification that the parking or loading is adequate. A special permit granted under this authority shall lapse upon change to a different type of use and shall not be considered to constitute any non-conformity.
- b. Where the design of a parking lot or loading area differs from the design provisions of sub-section 11.6 or 11.7 provided such design complies with the intent of 11.6 or 11.7, is prepared by a professional engineer or landscape architect and provided such design is approved in writing by the Town Engineer.
- c. To allow a driveway on one lot in a commercial district to lead to parking spaces or loading bays on another lot, or to allow a driveway to straddle the lot line and serve spaces or bays on two or more lots, both in a commercial district, provided a binding agreement, satis-



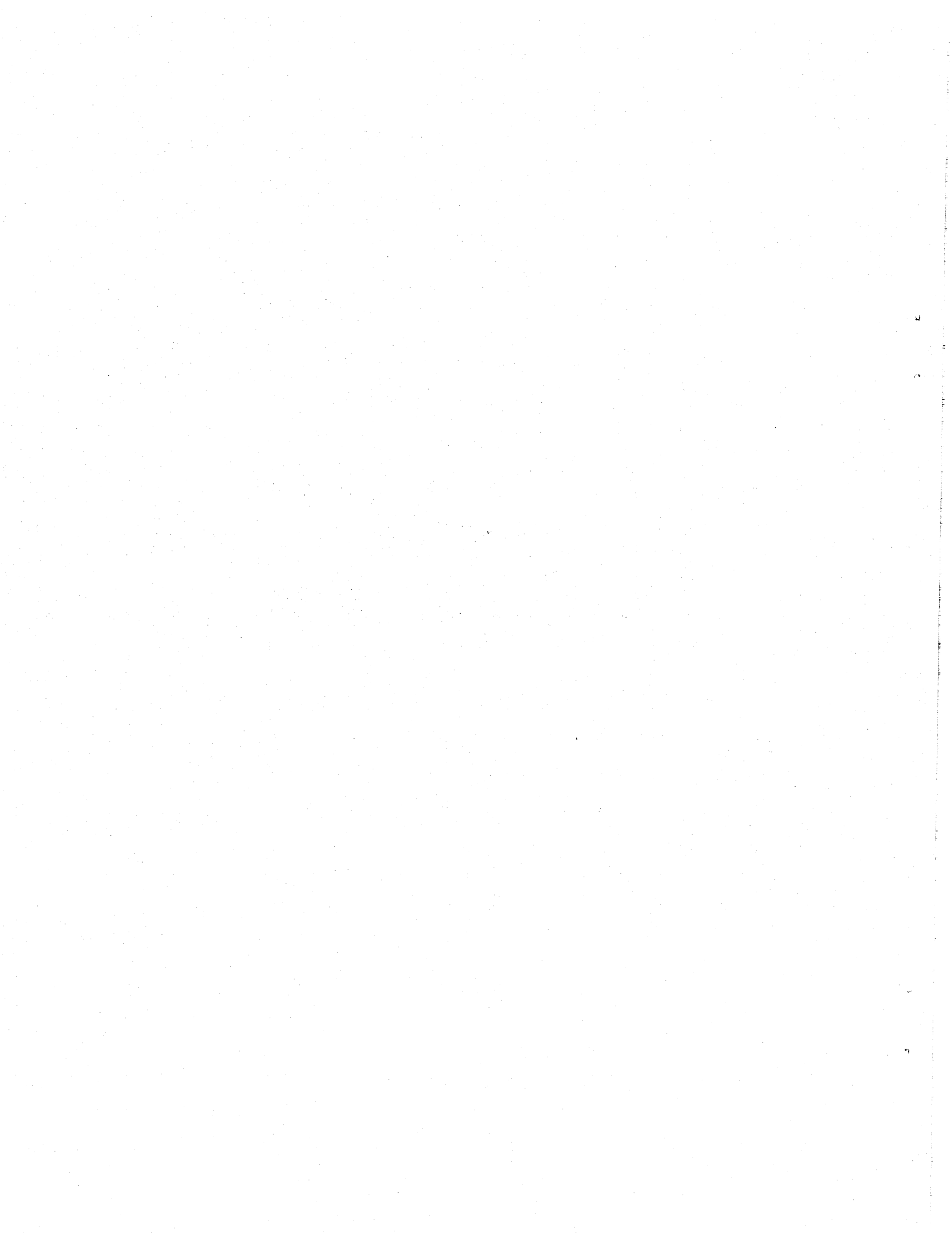
factory in form to the Town Counsel, is executed and is filed in the Registry of Deeds of Middlesex County.

- d. In any commercial or industrial district, allowing required parking spaces to be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted provided: (1) all such parking spaces are within 750 feet walking distance of an entrance to the building which they serve, (2) all such spaces are for employees only and not clientele, and (3) where such lot is not in the same ownership, a lease guaranteeing long term use of such lot, and satisfactory in form to the Town Counsel is executed and filed in the Registry of Deeds of Middlesex County. In a CB district all such parking spaces may be within 1,200 feet walking distance of the entrance of the such building if located on a lot within the CB district.
- e. Where two or more activities or uses provide for required parking or loading in a common parking lot or loading area, the number of parking spaces or loading bays required may be reduced below the sum of the spaces or bays required for the separate activities or uses or if it can be demonstrated that the hours, or days, of peak parking or loading need for the uses are so different that a lower total will provide adequately for all uses or activities served by the parking lot or loading bay.

#### 11.9 PARKING IN CB DISTRICT

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

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



## TABLE 1. USE REGULATION SCHEDULE, SYMBOLS

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

- "Yes" - permitted as of right
- "No" - prohibited
- "SP" - permitted only under a Special Permit for an exception granted by the Board of Appeals, as provided for in Subsection 3.3 of this By-Law;
- "SPS" - use permitted subject to a Special Permit ("SP") as above with the additional site plan review requirements of section 3.4 hereof, which shall address site development issues, change in the intensity or characteristic of the use and off-site impacts of the use.

### Residential Districts

- RO - One-family dwelling districts (30,000 sq. ft.)
- RS - One family dwelling districts (15,500 sq. ft.)
- RT - Two family dwelling districts
- RM - Multi-family dwelling districts
- RD - Planned residential development districts

### Commercial and Industrial Districts:

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

# TABLE 1 - USE REGULATIONS SCHEDULE

Use Designation		RO												
		RS	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB		
1.0	RESIDENTIAL USES													
1.1	One-family dwelling	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
1.2	Two-family dwelling, semi-attached dwelling	No	Yes	No	Yes	No	No	No	No	No	No	No	No	
1.3	Conversion of one-family dwelling to two-family dwelling (see Section 5.3)	SP	Yes	No	Yes	No	No	No	No	No	No	No	No	
1.4	Dwelling units on second or third floor of commercial structures (see subsection 5.4)	No	No	No	No	No	No	No	No	No	No	No	SP	
1.5	Conversion of one-family dwelling to a congregate living facility provided there is no addition to the dwelling except as needed to comply with code requirements for egress	No	No	No	No	No	No	No	No	No	No	No	No	
1.6	Planned residential development (three or more dwelling units or rooming units) includes one-family detached, one-family attached, two-family, townhouse, three-family, four-family, multi-family, rooming house, group quarters, group care facility, congregate living facility, long-term care facility, conversion of municipal buildings (See Section 9)	SPS	SPS	SPS	No	No	No	No	No	No	No	No	No	
2.0	INSTITUTIONAL, EDUCATIONAL AND RECREATIONAL USES													
2.1	Religious, sectarian or denominational schools, buildings and uses, including parish houses and rectories; public schools, parks, playgrounds; municipal buildings and uses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
2.2	Schools other than those in Line 2.1; hospitals; sanitarium; charitable institutions; cemeteries	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
2.3	Passenger stations, landing fields, telephone exchanges; radio and television transmitting sites; sites, buildings and uses for other public services; private water towers and reservoirs	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
2.4	Private parks, playgrounds, clubs and recreation buildings of a non-commercial and non-profit nature, standard or par-three golf course	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
2.5	Places and buildings for public assembly	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
2.6	Billiard rooms, bowling alleys, dance halls, skating rinks, theatres and similar commercial amusement places	No	No	No	No	No	No	No	No	No	No	No	SP	
2.7	Miniature, pitch and putt, driving and novelty golf installations	No	No	No	No	No	No	No	No	No	No	No	SP	
3.0	AGRICULTURAL USES													
3.1	Commercial raising, boarding, breeding or keeping of animals	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
3.2	Commercial greenhouses and retail nurseries	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
3.3	Other farms, including truck gardens; only tools, equipment and vehicles incidental to the actual use of the premises may be stored thereon	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	
3.4	Roadside stand (for two year terms)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	
3.5	Seasonal sale of Christmas trees and wreaths	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	

TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation	RO												
	RS	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB		
4.0 OFFICE USES													
4.1 Physicians, dentists, opticians.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes
4.2 Veterinarians and animal hospitals.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes
4.3 Offices of salesman, agents and representatives of manufacturing, dis-tributing, insurance and wholesale companies.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes
4.4 Administrative, executive, professional and similar offices.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes
5.0 AUTOMOTIVE SALES AND SERVICE USES													
5.1 Retail gasoline, oil and lubrication stations and places of business for the sale and installation of tires and other automobile accessories, maintenance and minor repairs of motor vehicles.....	No	No	No	No	No	No	No	No	No	No	No	SP	SP
5.2 Parking of motor vehicles (other than in connection with a use permitted by this section).....	No	No	No	No	No	No	No	No	No	No	No	SP	SP
5.3 Major mechanical repairs, auto body repairs.....	No	No	No	No	No	No	No	No	No	No	No	SP	SP
5.4 Storage, retail sales and rental of automobiles, aircraft, marine craft, farm and other heavy machinery and vehicles including the accessories thereof.....	No	No	No	No	No	No	No	No	No	No	No	SP	SP
5.5 Commercial car wash establishments.....	No	No	No	No	No	No	No	No	No	No	No	SP	SP
6.0 RETAIL, CONSUMER SERVICES AND TRADE USES													
6.1 Retail dealers in bottled gas, grain, animal feed, ice and milk.....	No	No	No	No	No	No	No	No	No	No	No	SP	Yes
6.2 Retail liquor stores.....	No	No	No	No	No	No	No	No	No	No	No	No*	Yes
6.3 Real estate agencies, travel bureaus.....	No	No	No	No	No	No	No	No	No	No	No	SP	Yes
6.4 Banks.....	No	No	No	No	No	No	No	No	No	No	No	SP	SP
6.5 Drugstores, retail stores for sale of beauty and health aids, medicines, medical supplies, groceries and food not for consumption on the premises, smoking supplies, periodicals, books, stationery, toys, hardware, arts and crafts supplies; service businesses primarily servicing neighborhood needs, such as but not limited to barbers, hairdressers, beauticians, manicurists; watch, shoe or clothing repair.....	No	No	No	No	No	No	No	No	No	No	No	SP	Yes
6.6 Retail stores other than above: caterer, confectioner, decorator, hand laundry, florist, photographer.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes
6.7 Self service automatic laundry and dry cleaning establishments, pick-up stations of cleansing, laundry and dyeing plants.....	No	No	No	No	No	No	No	No	No	No	No	SP	Yes
6.8 Radio, television and electrical appliance repairs.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes
6.9 Dressmaking or tailoring establishments, including those specializing in alterations, furriers, milliners, printing shops, bakeries and similar shops or trades provided that all work shall be of custom or job order type for sale on the premises and that there shall be no production for stock or for wholesale.....	No	No	No	No	No	No	No	No	No	No	No	Yes	Yes

\* Stores existing on April 4, 1984 in the Massachusetts Avenue district in East Lexington, or in the Worthen Road-Bedford Street district, may be reconstructed, expanded and/or relocated within the same district where located as of that date if in compliance with Table 2, but not in any other CG district.

TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation

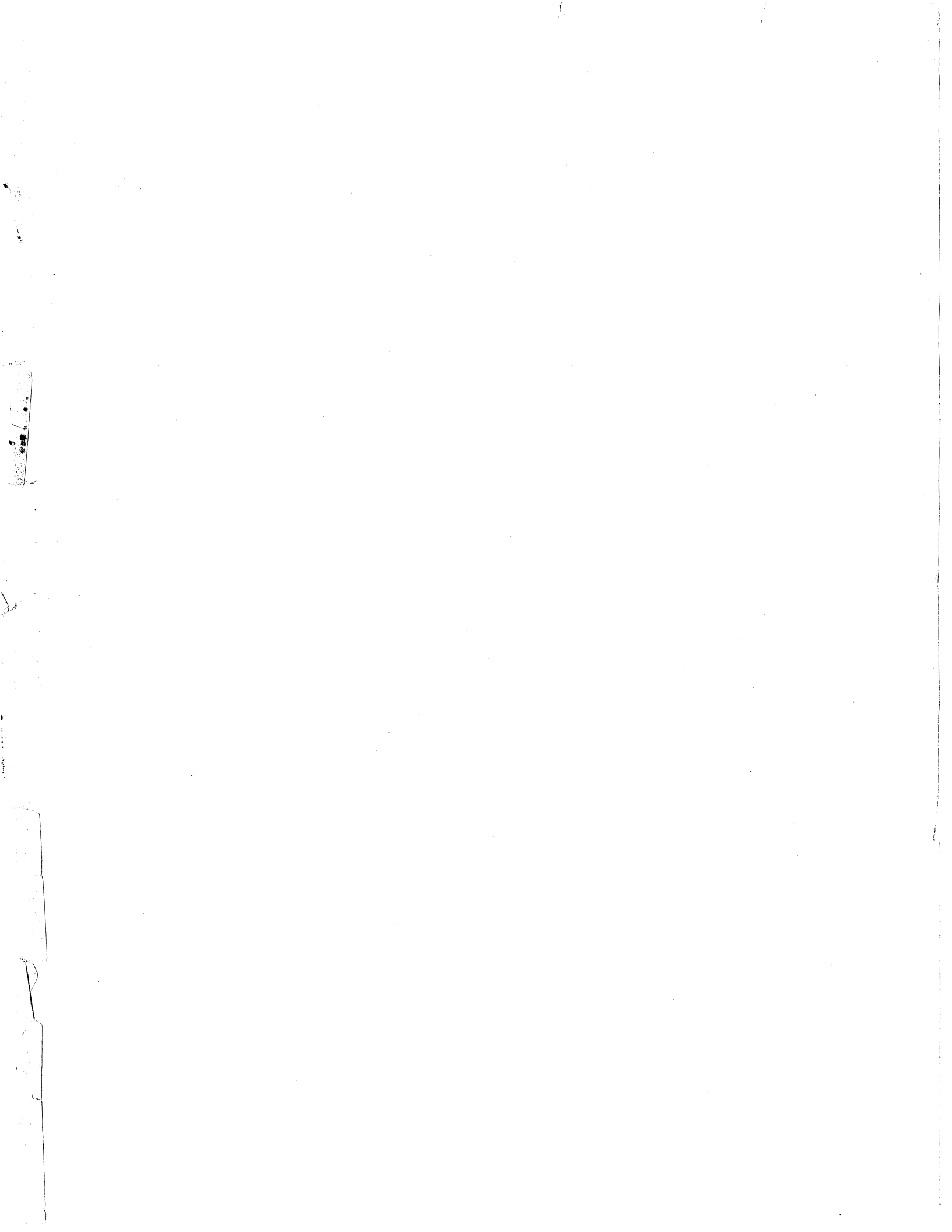
	RETAIL, CONSUMER SERVICES AND TRADE USES (Continued)											
	RO	RS	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
6.10 Sale of air conditioning, heating, refrigerating and plumbing equipment and supplies, lumber, fuel, structural and building materials and supplies; general building, building maintenance, landscaping,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

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





	ACCESSORY USES											
	RO	RS	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
8.0												
8.1 Rooming units, without kitchen facilities, for not more than three persons in an existing dwelling by a family resident therein*; home occupation (see definition) in an existing dwelling; accessory signs subject to Section 10 hereof; garage space for parking not more than three automobiles, one of which may be a commercial vehicle if owned or used by a person resident in the dwelling to which the garage is accessory; outdoor parking of non-commercial vehicles**; greenhouses not intended and not used for commercial purposes and subject to regulation as a structure. Accessory apartment subject to section 5.2.....	Yes	Yes	SP	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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

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



# EXPLANATION OF SYMBOLS:

-  MINIMUM REQUIRED FRONT YARD
-  MINIMUM REQUIRED REAR YARD
-  MINIMUM REQUIRED SIDE YARD
-  DEPTH OF FRONT, REAR OR SIDE YARD GREATER THAN THE REQUIRED MINIMUM

MAY BE DEFINED AS EITHER REAR OR SIDE YARD

DEFINED AS CORNER LOT IF ANGLE AT STREET 105° OR LESS

TANGENT FOR A CORNER LOT ONLY THIS MAY BE COUNTED AS A PART OF LOT AREA

FRONTAGE IF NOT A CORNER LOT

TANGENT OF CORNER LOT

STREET "A"

INCLUDED IN AREAS OF CORNER LOTS

CORNER LOT WITH STREET "A" AS FRONTAGE STREET

CORNER LOT WITH STREET "B" AS FRONTAGE STREET

STREET "B"

ANGLE INDICATED MUST BE 135° OR LESS TO MEET CORNER LOT REQUIREMENT

ILLUSTRATION OF YARD...

These drawings are for illustration not legally-adopted by the Town Meeting



# TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation

	ACCESSORY USES (Continued)												
	RS	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB	RO	
8.3	Use of a portion of a dwelling as an office by a physician, dentist or other professional person residing in the dwelling incidental to such residence.....												
8.4	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Yes
8.5	No	No	SP	Yes	No	No	No	No	No	No	No	No	No
8.6	No	No	No	No	No	No	Yes	No	No	Yes	No	Yes	Yes
8.7	No	No	No	No	SPS	SPS	SPS	SPS	No	SPS	No	Yes	Yes
8.8	No	No	No	No	No	SPS	No	No	No	SPS	No	SP	SP
8.9	No	No	No	No	No	No	No	No	No	No	No	SP	Yes
8.10	SP	SP	SPS	SPS	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8.11	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8.12	No	No	No	No	No	No	No	No	No	No	No	No	SP
8.13	No	No	No	No	SPS	SPS	No	SPS	No	SPS	No	SP	SP
8.14	No	No	No	No	SPS	SPS	SPS	No	No	SPS	No	Yes	Yes
8.15	No	No	No	No	SPS	SPS	SPS	No	No	SPS	No	No	No
<p>**Outdoor parking is subject to provisions of Section 11 and for uses permitted in RO, RS and RT districts need not be on the same lot as the principal use to which it is accessory.</p>													
TEMPORARY USES													
9.1	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

# TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

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

## **TABLE 2. SCHEDULE OF DIMENSIONAL CONTROLS, SYMBOLS**

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

**TABLE 2. SCHEDULE OF DIMENSIONAL CONTROLS**

District	RO	RS & RT	RM & RD(a)	CR	CH	CM	CO	CN	CG	CB
Minimum Lot Area	30,000	15,500	125,000	5 acres	5 acres	3 acres	60,000	15,500	NR	NR
	s.f.	s.f.	s.f.				s.f.	s.f.		
Minimum Lot Frontage	150 ft.	125 ft.	100 ft.	300 ft.	300 ft.	200 ft.	175 ft.	125 ft.	NR	NR
Minimum Front Yard (b) (j)	30 ft.	30 ft.	40 ft.	100 ft.	100 ft.	75 ft.	50 ft.	30 ft.	20 ft.	NR(d)
	(c)	(c)								
Minimum Side Yard	15 ft.	15 ft.	40 ft.	50 ft.	50 ft.	25 ft.	50 ft.	20 ft.	NR	NR
	(e)	(e)								
Minimum Rear Yard	15 ft.	15 ft.	40 ft.	50 ft.	50 ft.	25 ft.	50 ft.	20 ft.	20 ft.	10 ft.
	(e)	(e)								
Minimum Side and Rear Yard Adjacent to Residential District	15 ft.	15 ft.	40 ft.	100 ft.	100 ft.	100 ft.	100 ft.	20 ft.	20 ft.	20 ft.
Minimum Yard Adjacent to Other District	15 ft.	15 ft.	40 ft.	100 ft.	100 ft.	25 ft.	50 ft.	20 ft.	NR	NR
Minimum % Open Area	85% (g)	85% (g)	75%	75%	75%	66.7%	75%	note (h)	NR	NR
Maximum Floor Area Ratio (FAR)	NR	NR	0.25	0.25	0.25	0.20	NR	NR	NR	2.0
Maximum height Schools, Hospitals Public Buildings	Stories 3	3	3	3	3	3	3	3	3	2
Maximum height Other Buildings	Feet 45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	30 ft.
Minimum Between Buildings	Stories 2½	2½	NR	3	3	3	2	2½	2½	2
	Feet 40 ft.	40 ft.	40 ft.	45 ft.	45 ft.	45 ft.	40 ft.	40 ft.	40 ft.	30 ft.
	NR	NR	NR	30 ft.	30 ft.	30 ft.	30 ft.	20 ft.	NR	NR

- a. Development of new multi-family 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 sq.ft. per dwelling unit containing one room used for sleeping; 3,500 sq.ft. per unit with two such rooms; and 4,000 sq.ft. per unit with three or more such rooms. For RD districts see Section 8.3 and Section 9.
- b. Where lawfully adopted building lines require yards in excess of these requirements, the building line shall govern.
- c. Except 20 ft. yard on other than frontage street; for uses permitted on Special Permit, a yard of at least 30 ft. on each abutting street, and if lot exceeds 1 acre a yard of at least 40 feet on each abutting street, and if lot exceeds 5 acres a yard of at least 50 feet on each abutting street.
- d. Except 10 ft. yard on Muzzey St. or on Bedford St. for lots abutting these streets.
- e. For uses permitted on Special Permit, increase the required side yard to 20 ft. plus 1 ft. for every ¼ acre (or fraction thereof) over ¼ acre lot area.
- f. Only if lot abuts or is within 10 ft. of the district boundary. The 10 ft. nearest such boundary shall be unpaved and may contain only grass, plants, shrubs, trees and fences, and shall not be used for parking, driveways or outdoor storage.
- g. Applicable only to uses permitted on Special Permit.
- h. Combined floor area of all principal and accessory structures shall not exceed 3,000 sq. ft.
- i. Buildings shall be surrounded by fire lanes (see definition).
- j. Along the southwesterly side of Bedford Street between the Northern Circumferential Highway (Route 128) and Hartwell Avenue there shall be a front yard of 233 feet measured from the base line of Bedford Street as shown on the Commonwealth of Massachusetts layout 4689, dated June 3, 1958, and shown as auxiliary base line "F" on the State Highway Alteration layout 5016, dated August 30, 1960.

## APPENDIX I

### LEGISLATIVE PURPOSES AND PREAMBLE TO CHAPTER 808, ACTS OF 1975

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

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

1. uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
2. size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of sections twenty-nine through thirty-three, inclusive, of chapter ninety-three, and to chapter ninety-three D;
3. uses of bodies of water, including water courses;
4. noxious uses;
5. areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;
6. density of population and intensity of use;
7. accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and
8. the development of the natural, scenic and aesthetic qualities of the community.

## APPENDIX II

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

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

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

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

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

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

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

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

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

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



