

## Chapter 135

### ZONING

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10.1. DEFINITIONS.

Table 1, Permitted Uses and Development Standards (Attachment at the end of this chapter)

Table 2, Schedule of Dimensional Controls (Attachment at the end of this chapter)

[HISTORY: Adopted by the Special Town Meeting of the Town of Lexington 6-4-1968 by Art. 10; amended in its entirety by the Annual Town Meeting 3-20-2013 by Art. 34. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

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

Planning Board development regulations — See Ch. 175.

SECTION 135-1.0  
PURPOSE AND AUTHORITY

1.1. TITLE.

This bylaw is entitled the "Zoning Bylaw of the Town of Lexington, Massachusetts."

- 1.1.1 Continuity of Bylaw. This bylaw is a reenactment and continuance of the provisions of the bylaw in effect when it was adopted, except as it contains changes in wording or arrangement which constitute changes in meaning.
- 1.1.2 Headings. Headings, subheadings, and captions are for reference only and are not substantive provisions of this bylaw. They are not legally adopted parts of this bylaw as voted by Town Meeting.

**1.2. PURPOSE.**

This bylaw has been adopted to govern uses of land; the size, height, bulk, location and use of structures, buildings and signs; and for all of the other purposes set forth in, but not limited by, Section 2A of Chapter 808 of the Acts of 1975.

**1.3. AUTHORITY.**

This bylaw is enacted under the authority of MGL c. 40A, as amended, and by the Home Rule Amendment, Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**1.4. APPLICABILITY.**

The use, construction, repair, alteration, height, location, percentage of site coverage of buildings and structures, and land in the Town of Lexington are regulated as described in this bylaw. No building, structure, or land may be used or occupied and no building, structure, or part thereof, may be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with the regulations of this bylaw.

**1.5. AMENDMENTS.**

Amendments to this bylaw must be made in conformance with MGL c. 40A, § 5.

**1.6. SEVERABILITY.**

The invalidity of any section or provision of this bylaw does not invalidate any other section or provision of it.





## SECTION 135-2.0

**DISTRICTS****2.1. ESTABLISHMENT.**

In order to carry out the purposes of this bylaw, the Town of Lexington is divided into zoning districts. Each zoning district is subject to both specific regulations for that district and general regulations applicable to all districts.

**2.2. CLASSES OF DISTRICTS. [Amended 3-23-2016 ATM by Art. 38; 4-25-2016 ATM by Art. 44]**

## 2.2.1 Governmental-Civic Use Districts

GC	Governmental-Civic Use
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## 2.2.2 Residential Districts.

RO	One-Family Dwelling
RS	One-Family Dwelling
RT	Two-Family Dwelling

## 2.2.3 Commercial Districts. [Amended 3-28-2018 ATM by Art. 38]

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

## 2.2.4 Planned Development Districts

RD	Planned Residential Development
CD	Planned Commercial Development
PD	Planned Development

## 2.2.5 Overlay Districts

NFI	National Flood Insurance
TMO	Transportation Management Overlay

2.2.6 Use of Symbols. Each zoning district may be designated in this bylaw or on the Zoning Map by its symbol.

### 2.3. ZONING MAP.

2.3.1 General. Zoning districts are shown on a map entitled "Zoning Map of the Town of Lexington" (the Zoning Map) prepared by the Planning Board and on file in the offices of the Town Clerk and the Planning Board. The district boundaries shown on the Zoning Map are part of this bylaw. Changes to the Zoning District boundaries are made the same way as amendments to the text of the Zoning Bylaw are made. The Zoning Map may include geographical features, streets, notations, and such other information to keep the map current and to facilitate orientation.

2.3.2 Rules for Interpretation of District Boundaries. The boundaries between zoning districts are shown on the Zoning Map. If there is any difference between the boundary of a zoning district as shown on the Zoning Map and the perimeter description in the vote of the Town Meeting establishing or amending said boundary, the vote of the Town Meeting governs. In the case of uncertainty regarding a district boundary voted by Town Meeting, the following rules apply:

1. Where the district boundary is indicated as a street, highway, railroad right-of-way, or utility easement, the boundary is the center line of the street, highway, railroad right-of-way, or utility easement.
2. Where the district boundary is parallel to a street, highway, railroad right-of-way, or utility easement, the boundary is parallel to it and, unless otherwise shown, 100 feet from its center line.
3. Where the district boundary is shown as following a watercourse, the boundary coincides with its center line.
4. Where the district boundary is shown as following the shoreline of a body of water, or of a contour line, the boundary is the elevation above the datum mean sea level of such body of water, or contour.
5. Where the district boundary is shown as the extension of another district boundary line, the boundary is its straight-line extension.
6. If not resolved by the subsections above, the locations of the district boundaries are to be determined by the distances, if given, from other lines or features on the Zoning Map, or, if distances are not given, then by the scale of the Zoning Map.
7. If, after the application of the rules in the subsections above, uncertainty still exists with respect to the boundaries of a district, the Building Commissioner shall make a determination after seeking the advice of the Planning Board.

SECTION 135-3.0  
USE REGULATIONS

**3.1. PRINCIPAL USES.**

- 3.1.1 General. No land may be used, and no structure erected or used except in compliance with the provisions of this bylaw as set forth in Table 1, Permitted Uses and Development Standards, or as permitted elsewhere in this bylaw. Uses not listed in Table 1 are prohibited. More than one principal use is allowed on a lot if each principal use is permitted by Table 1 and the sum of the principal uses complies with the other requirements of this bylaw.
- 3.1.2 Overlay Districts. The use of land in overlay zoning districts is subject to the regulations of the base zoning district and the additional requirements of the overlay district, as described in § 135-7.0.
- 3.1.3 Planned Commercial and Planned Residential Districts. Planned Development Districts are subject to the preliminary site development and use plan approved by Town Meeting, as provided in § 7.3.
- 3.1.4 More Than One Classification. Where a use, structure, development, or activity may be classified under more than one of the uses in Table 1, the more specific classification applies. If equally specific, the more restrictive classification is used.
- 3.1.5 Compliance with Development and Operating Standards. In several sections of Table 1, there are also development and operating standards for the permitted uses. A use, building, activity, or development must comply with all applicable standards. Failure to comply with any one of the standards will be the basis for denial of a building permit or certificate of occupancy. Failure to continue to comply with any of the standards will be the basis for revocation of the certificate of occupancy.
- 3.1.6 Banks and Credit Unions and Real Estate Sales or Rentals in CB District Storefronts. [Added 3-25-2015 ATM by Art. 53; amended 4-11-2016 ATM by Art. 43]
1. Purpose. Lexington Center is a place in which shops, workplaces, schools, historic attractions, housing, open space, and civic facilities intimately co-exist to create an active retail and cultural destination with an identifiable sense of place. It is in the public interest that the Town protect and enhance the vibrancy of the Central Business District by creating a supportive environment for a diverse group of uses throughout the Center, and regulating the use of the limited first floor storefront area and frontage of the Central Business District is necessary to achieve this goal.
  2. Special Permit Review Criteria. In addition to the criteria detailed in § 135-9.4.2, as a precondition to allowing the establishment, relocation, or expansion of a banking or credit union or real estate service use (Line H.1.05 and Line H.1.04 respectively in the Table of Uses) in the Central Business District, the SPGA must also find that the applicant has satisfied the specific criteria listed below:
    - a. The granting of the special permit will advance the goals expressed in § 3.1.6.1 above;

- b. The proposed use in the proposed location is in the public interest;
  - c. The proposed use will not create an undue concentration of these uses in the immediate area;
  - d. The proposed use will maintain hours and days of operation and an active storefront consistent with other retail uses in the Central Business District;
  - e. The proposed length of the storefront will not exceed the average length of other storefronts in the Central Business District;
  - f. The proposed first floor square footage will not exceed the average size of other storefronts in the Central Business District; and
  - g. As part of providing a visually engaging storefront, the interior area of the property adjacent to the storefront must be a space dedicated for patrons and shall not be used for office, cubicle, conference, or storage areas.
3. The SPGA may waive strict compliance with criteria 2e and 2f above, where such action is in the public interest and consistent with the intent and purpose of this bylaw.

#### 3.1.7 [Added 10-18-2017 STM by Art. 4]

1. Definition. "Marijuana establishment" shall mean "a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."
2. Purpose. By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law entitled the "Regulation and Taxation of Marijuana Act" (the "Act"), regulating the control and production and distribution of marijuana under a system of licenses and regulations. Currently under the Zoning Bylaw, a marijuana retailer or establishment is not a permitted use in the Town. Regulations promulgated by the Cannabis Control Commission are expected to provide guidance to the Town in regulating marijuana sales and distribution. The regulation of marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of marijuana retail or distribution centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of marijuana retail sales and distribution and other uses related to the regulation of marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for marijuana retail and distribution so as to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives.
3. Temporary moratorium. For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for marijuana establishments. The moratorium shall be in effect through December 31, 2018.

During the moratorium period, the Town shall undertake a planning process to address the potential impacts of marijuana in the Town, consider the Cannabis Control Commission regulations regarding marijuana establishments and related uses, and shall consider adopting new Zoning Bylaws to address the impact and operation of marijuana establishments and related uses.

### **3.2. ACCESSORY USES.**

3.2.1 General. Any use or structure not listed as an accessory use in Table 1 is permitted as an accessory use provided it is a use or structure that is customary and incidental to a principal use or structure permitted by Table 1, conforms to all other provisions of this bylaw, and complies with all other Town bylaws or General Laws.

3.2.2 Limit on Size of Accessory Uses. An accessory use may not occupy more than 25% of the area of a lot or more than 25% of the gross floor area on a lot. This limitation does not apply to off-street parking, or to accessory apartments, which are governed by other provisions of this bylaw.

### **3.3. TEMPORARY USES.**

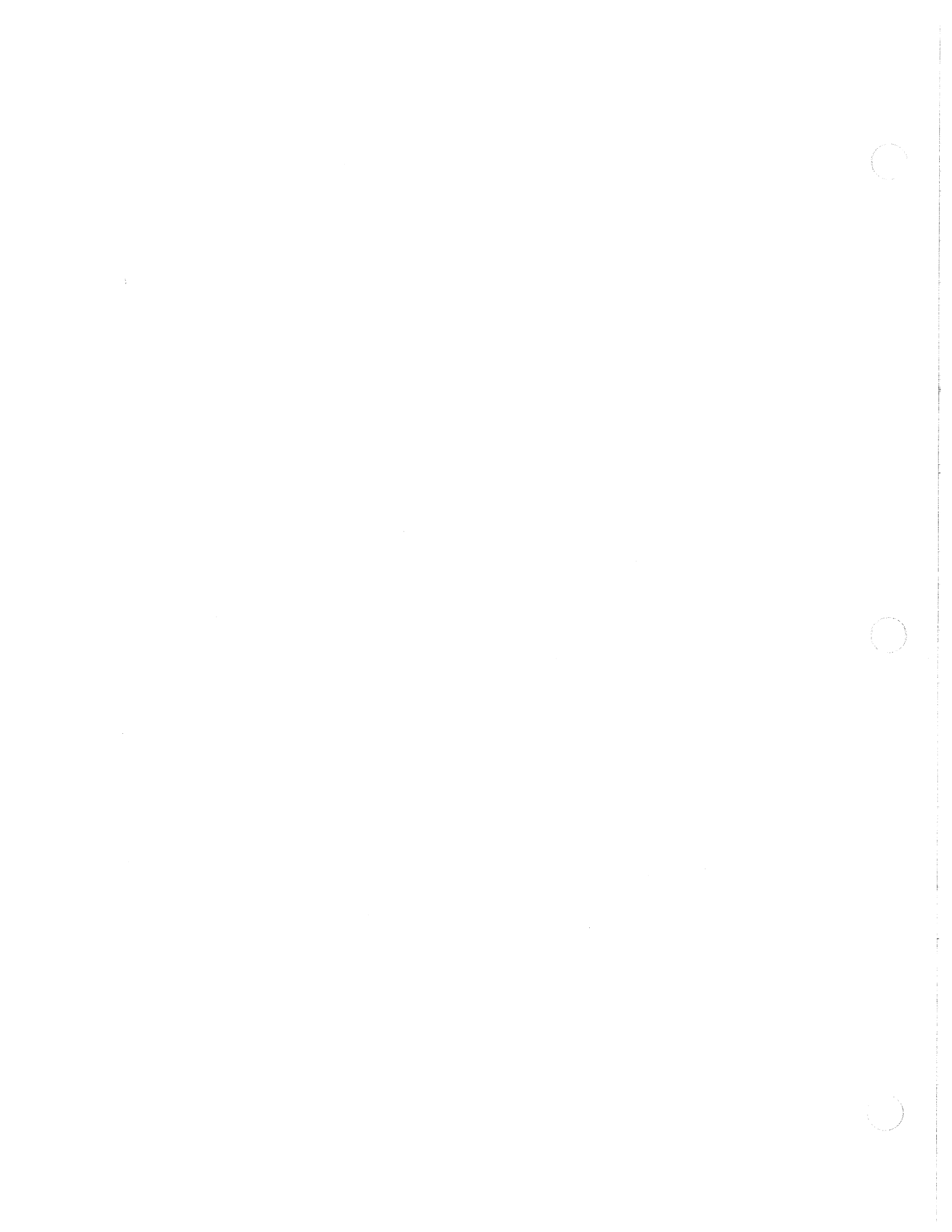
3.3.1 General. A building permit, certificate of occupancy, or a special permit may be granted for a temporary use or structure, for a specific period, where authorized by this bylaw.

3.3.2 Time Periods for Temporary Uses. The maximum time for temporary uses or structures permitted by right is two years. The maximum time for temporary uses or structures permitted by a finding of the Building Commissioner is three months. The maximum time for temporary uses or structures for which a special permit is required is two years. Temporary uses or structures may be, by finding of the SPGA, extended one additional year. A temporary use may be recurrent provided it is for a time of not more than one month and the time between the issuance of permit for a recurrent temporary uses is at least two months.

3.3.3 Relaxation of Dimensional and Other Standards. Permits for temporary uses or structures may authorize the temporary relaxation of the dimensional standards of Table 2 where it can be demonstrated it is not feasible or practical to comply with those standards.

### **3.4. TABLE 1, PERMITTED USES AND DEVELOPMENT STANDARDS.**

Editor's Note: Table 1 is included as an attachment to this chapter.



SECTION 135-4.0  
**DIMENSIONAL CONTROLS**

**4.1. GENERAL STANDARDS.**

- 4.1.1 **Applicability.** Each use, building, or structure must comply with the standards described in Table 2, Schedule of Dimensional Controls,<sup>1</sup> except where provided otherwise by this bylaw.
- 4.1.2 **Lots in More Than One District.** When a lot is divided by a district line and proposed to be used for a building or use that is not permitted by right in both districts (in Lexington or not), such building or use must comply with the dimensional standards of § 135-4.0, as if the district boundary line were a lot line.
- 4.1.3 **Lots Located in More than One Municipality.** When a lot is partially in the Town of Lexington and partially in an adjacent municipality, the provisions of this bylaw are applied to the part of the lot in Lexington as if the entire lot were in Lexington.
- 4.1.4 **One Dwelling Per Lot.** More than one dwelling on a lot is prohibited, unless specifically authorized by other provisions of this bylaw.

**4.2. DIMENSIONAL REGULATIONS.**

- 4.2.1 **Change in Lot That Results in Noncompliance.** No conforming lot may be changed to make it nonconforming.
- 4.2.2 **Lot Regularity.** No structure may be erected on any lot that does not have an area in which a circle, the diameter of which is 80% of the minimum lot frontage, tangent to the lot frontage and within all other lot lines, may be located.
- 4.2.3 **Developable Site Area.** No dwelling may be erected on any lot that does not contain a contiguous developable site area that is at least 90% of the minimum lot area for the district in which the lot is located.
- 4.2.4 **Lot Frontage.**
1. **Minimum Lot Frontage Required.** Every lot must have at least the minimum frontage set forth in Table 2<sup>2</sup> for the district in which the lot is located on a street, as defined in the Zoning Bylaw. Frontage on unaccepted ways in existence prior to the adoption of the subdivision control law must receive a favorable determination from the Planning Board. Ways laid out, but not constructed, may not be used as frontage.
  2. **Designation of Frontage Street.** When a lot is bounded by more than one street, any one of them, but only one, must be designated as the frontage street, provided the street meets the requirements for minimum lot frontage described in this bylaw. In the case of a lot bounded by two streets forming an interior angle of

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1. **Editor's Note: Table 2 is included as an attachment to this chapter.**

2. **Editor's Note: Table 2 is included as an attachment to this chapter.**

more than 135°, their combined frontage may be used to satisfy the lot frontage requirement.

3. Measurement of Lot Frontage. Frontage is measured in a continuous line along the sideline of the street right-of-way between the points of intersection of the side lot lines with the street right-of-way line. The measurement of lot frontage excludes jogs in the street width, backup strips and other irregularities in the street line. In the case of a corner lot, the owner may extend to the midpoint of the curve connecting street lines, instead of to their intersection.
4. Access. An owner must provide a means of access for vehicles from the frontage street to a principal building for emergency services, for deliveries, and for off-street parking. Alternatively, the owner may provide the access from another street provided it can be demonstrated that it is both physically and legally possible to provide access from the designated frontage street.
5. Frontage Reduction on Curves. Where more than half of the lot frontage is on a circular turnaround, or on a curve of less than one-hundred-foot radius, frontage may be reduced to not less than 60% of the distance required in Table 2 if the distance between the side lot lines, measured along the arc parallel to the street line at the same distance from the street line as the front yard setback required by Table 2, is not less than the minimum lot frontage required by Table 2.
6. Frontage on Turnaround in CRO Districts. In CRO Districts where a lot abuts on a dead-end turnaround part of a street and also abuts on such street before the turnaround, the frontage may be measured in part along the street line before the turnaround and in part along a projection of the course of such street line through and beyond the turnaround, provided that the lot has frontage of not less than 60 feet on the street, including such turnaround.

4.2.5 Structures Below Ground. Where the upper elevation of a structure or building is below the elevation of the natural grade, and such structure is covered by earth to a depth sufficient to support vegetation, such structure may be located in a required front, side or rear yard, but no closer than five feet to a lot line. Open grates or small ventilation shafts servicing the part of the structure below ground may be located in the required yard.

### 4.3. HEIGHT REGULATIONS.

4.3.1 Structures Other than Buildings. The maximum height, in feet, for structures other than buildings may not exceed the maximum height for buildings as set forth in Table 2.<sup>3</sup> Structures other than buildings may be located in a required front, rear or side yard provided the height of the structure is not greater than its horizontal distance from the lot line, except that:

1. A fence or wall not greater than six feet in height (except that a supporting post may be not more than six feet, six inches in height) may be located on or closer to a lot line than six feet; and

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3. Editor's Note: Table 2 is included as an attachment to this chapter.



2. A sign, permitted under § 5.2, may be located in a front yard.

4.3.2 Structures on a Building. Structures erected on a building and not used for human occupancy may exceed the maximum height of a building in feet provided no part of the structure is more than 20 feet higher than the upper elevation of the building and the total horizontal coverage of such structures on the building does not exceed 25%.

4.3.3 Calculating Height for Segmented Buildings. Where a building is on a sloping site or has some stories that do not extend for the full building coverage, the height in feet and number of stories of the several elements of the building may be computed separately provided that neither the maximum height in feet nor the number of stories in any one element exceeds that permitted by Table 2.

4.3.4 Special Permit. The SPGA may grant a special permit for structures, but not buildings, to exceed the maximum height in feet otherwise allowed by § 4.3, or the percentage of horizontal coverage of structures erected on a building specified above, provided it makes a determination that the structure is compatible with the scale of the neighborhood and does not intrude on the solar access of any adjoining lot.

4.3.5 Height of Dwellings Near Lot Lines. The height of a one-family or two-family dwelling may not exceed the maximum height from Table 2 or 20 feet plus 4/3 times the smallest distance from the dwelling to a lot line, whichever is less. [Added 3-30-2016 ATM by Art. 39]

#### 4.4. Residential Gross Floor Area. [Added 3-30-2016 ATM by Art. 41]

4.4.1 Purpose. Lexington seeks to have a socially and economically diverse community, both over the whole of the community and within its neighborhoods. In support of that fundamental social goal, a basic housing goal is to provide housing opportunities supportive of the population diversity we seek. The Town encourages small- and medium-sized housing stock, in the interest of providing diverse housing sizes throughout the Town, § 4.4 limits the massing of buildings, which may impact owners of abutting properties, the streetscape, landscape, and the character of the neighborhood and Town.

4.4.2 Maximum Allowable Residential Gross Floor Area Table. The total gross floor area of all buildings on a lot containing a one-family or two-family dwelling may not exceed the amount listed in the table below based on lot area.

Lot Area (in square feet)	Maximum Gross Floor Area (in square feet)
0 to 5,000	0.8 * Lot Area
5,000 to 7,500	4,000 + 0.55 * (Lot Area - 5,000)
7,500 to 10,000	5,375 + 0.23 * (Lot Area - 7,500)
10,000 to 15,000	5,950 + 0.2 * (Lot Area - 10,000)
15,000 to 30,000	6,950 + 0.16 * (Lot Area - 15,000)
More than 30,000	9,350 + 0.16 * (Lot Area - 30,000)

4.4.3 Special Permit. Pursuant to § 9.4, the SPGA may grant a special permit for a building to exceed the maximum gross floor area otherwise allowed by § 4.4 provided that the SPGA finds that the desired relief may be granted without substantial detriment to the neighborhood and without derogating from the intent and purpose of this bylaw including Town policy documents that define housing goals. In addition to the criteria in § 9.4.2, the SPGA shall find that:

- a. The project is compatible with the scale of the neighborhood;
- b. The massing of the project does not adversely impact the solar access of adjoining lots;
- c. Noise generated by fixed plant equipment, such as, but not limited to, air conditioners, pumps, fans, and furnaces, does not adversely impact adjoining lots; and
- d. The project design addresses specific neighborhood and Town concerns.

SECTION 135-5.0  
GENERAL REGULATIONS

**5.1. OFF-STREET PARKING AND LOADING.**

5.1.1 Purpose. The purpose of this section is to ensure that 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, be designed and operated to:

1. Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
2. Increase the traffic-carrying capacity of streets and highways in the Town and obtain a more efficient utilization of on-street curbside parking;
3. Reduce hazards to pedestrians upon public sidewalks;
4. Protect adjoining lots and the general public from nuisances and hazards such as: (i) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles; (ii) Glare and heat from parking lots; (iii) A lack of visual relief from expanses of paving; and (iv) Accelerated runoff of surface water from land covered by impervious materials.

5.1.2 Applicability. No building permit or certificate of occupancy may be issued for the erection of a new building, the enlargement or increase in the net floor area of an existing building, the development of a use not located in a building, or the change from one type of use to another which has a different parking or loading requirement as set forth in the parking and loading tables, unless off-street parking spaces and loading bays are provided in accordance with this section.

5.1.3 Parking and Loading Plan Required. Each application for a building permit, special permit, certificate of occupancy, or petition for a variance must be accompanied by an off-street parking and loading plan. Such plan must contain the information required in the permitting authority's rules and regulations. Where necessary, the permit authority 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.

5.1.4 Table of Parking Requirements. The minimum number of parking spaces indicated for the corresponding types of uses must be provided in all zoning districts, except as otherwise indicated. The symbols under the column "Parking Factor" mean: SF: square feet of net floor area. **[Amended 3-27-2017 ATM by Art. 41]**

Type of Use	Parking Factor
<b>Residential Uses</b>	
Dwelling unit in a one-family dwelling	2 per dwelling unit
Dwelling unit, not in a one-family dwelling	1.5 per dwelling unit for units with 2 or fewer bedrooms, 2 per dwelling unit for units with more than 2 bedrooms

Type of Use	Parking Factor
Accessory apartment, rooming unit, bed-and-breakfast unit	1 per apartment or unit
Publicly assisted housing for the elderly	0.5 per dwelling unit
Congregate living facility, independent living residence	0.75 per bedroom
Assisted living residence, group care facility, long-term care facility	0.4 per living unit
Rooming house, group quarters	0.5 per bed
<b>Institutional, Educational and Recreational Uses</b>	
Elementary, secondary schools	2 per classroom
College, technical school	As needed
Day-care center, school age child care program, nursery school, kindergarten	1 per 500 SF
Church, temple, auditorium, club, lodge, community service center	1 per each 6 seats in the largest assembly area
Gymnasium, stadium, field house	1 per each 6 seats
Library, art gallery, museum and other nonrecreational public facilities	1 per 600 SF
Parks, athletic fields, tennis and pool facilities, golf courses, recreation centers, other institutional uses	As needed
Indoor athletic and exercise facilities, weight reduction salon	6 per 1,000 SF
<b>Agricultural Uses</b>	
Greenhouses, nursery, roadside stand	1 per 1,000 SF of display area whether indoors or outdoors
<b>Office Uses</b>	
Office uses	1 per 250 SF; 1 per 333 SF in CB
Medical office, medical clinic	1 per 250 SF; 1 per 200 SF in CB
<b>Retail Business</b>	
Personal services, business services, retail sales and rental sales	1 per 250 SF; 1 per 325 SF in CB On street level floors: 1 per 500 SF; 1 per 600 SF in CB In a basement: 1 per 300 SF; 1 per 400 SF in CB
Private postal services	1 per 200 SF or 1 per 50 mailboxes, whichever is greater

Type of Use	Parking Factor
<b>Other Commercial Uses</b>	
Funeral parlor	1 per 4 seats in the largest assembly area
Motor vehicle related sales and service uses	2 per bay, work station or pump island
<b>Eating Establishments</b>	
Restaurant, fast-food, and other eating establishments not otherwise classified	1 per 3 seats, or 1 per 150 SF, whichever is greater; 1 per 5 seats, or 1 per 200 SF, whichever is greater in CB
Takeout food service	1 per employee plus 1 per 5 linear feet of counter space; 1 per 2 employees plus 1 per 7 linear feet of counter space in CB
<b>Amusement and Recreational Uses</b>	
Theater	1 per 6 seats
Commercial amusements	1 per employee plus 1 per alley, machine; 1 per employee plus 1 per 2 alleys, machines in CB
<b>Transient Accommodations</b>	
Hotel, motel	1 per guest room
Convention center	1 per 4 seats in the largest assembly area
<b>Manufacturing and Research Laboratory Uses</b>	1 per 500 SF
<b>Construction, Storage, Distribution, and Industrial Service Uses</b>	1 per 1,000 SF
<b>All Other Permitted Uses</b>	As needed, usually 1 per employee

5.1.5 Table of Loading Requirements. The minimum number of off-street loading bays indicated for the corresponding types of uses must be provided in all zoning districts, except as otherwise indicated. The symbols under the column "Loading Factor" shall mean: SF: square feet of net floor area.

Type of Use	Loading Factor
Long-term care facility, group care facility	1 per 100 beds
School, college, church, club, library, gallery	1 per first 25,000 SF, 1 per each additional 72,000 SF
Office uses	0 per first 10,000 SF, 1 for next additional 50,000 SF, 1 for each additional 100,000 SF thereafter
Personal, business service uses, retail sales or rental uses	1 per first 5,000 SF, 1 per each additional 15,000 SF
Restaurants and other eating or food service uses	1 per first 99 seats, 1 per all additional seats

Type of Use	Loading Factor
Manufacturing research, construction, storage, distribution and industrial service uses	1 per first 10,000 SF, 1 per each additional 40,000 SF
All other permitted uses	As needed

#### 5.1.6 Rules for Interpretation of the Parking and Loading Tables.

1. Where the number of spaces is expressed as a ratio to dwelling units, floor area, beds, employees, etc., any fraction thereof shall require one parking space, but after the first such parking space or loading bay, only a fraction of 1/2 or greater shall require an additional space or bay.
2. Where the requirement is stated "as needed," the applicant for a permit shall estimate the number of parking spaces or loading bays required to serve the use and shall provide such number; the permitting authority shall verify that the number is adequate and shall, if necessary, order that additional spaces or bays be provided.
3. To simplify the determination of net floor area, 80% of the gross floor area may be used.
4. Where off-street parking or loading serves two or more activities that are different types of uses, including two or more activities that are part of the same principal use, the number of spaces or bays provided shall be the sum of the requirements for the various individual uses including any fractional number.
5. Where the requirement is based on the number of employees, the number of spaces shall be based on the number of employees in the peak period, which shall be at least three hours per day for at least three days per week.
6. Where places of assembly are provided with benches rather than individual seats, each two linear feet of bench shall equal one seat, and where no fixed seats or benches are used, each 20 square feet of floor area in the largest assembly area shall equal one seat.
7. Where uses are not enclosed in a structure, each square foot of lot devoted to such use shall be considered equivalent to 1/5 of a square foot of net floor area.
8. In the case where the Board of Selectmen authorizes the placement of temporary seats within the right-of-way of public streets, such seats may not be counted toward the off-street parking or loading requirements, as long as they are seasonal and temporary.
9. 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.

5.1.7 Preferential Rideshare Parking. To encourage the use of high-occupancy vehicles, office, manufacturing, research, or laboratory uses of more than 50,000 square feet of gross floor area, as defined in the parking and loading tables above, must provide preferential rideshare parking spaces in compliance with the following standards:

1. One carpool or vanpool parking space must be provided for every 150 motor vehicle parking spaces.
2. Rideshare parking spaces may be provided by converting a parking space required by the parking table.
3. Carpool and vanpool spaces must be signed and striped, and be located near the primary entrance(s) of the building without displacing any handicapped parking.

#### 5.1.8 Bicycle Parking Facilities.

1. Required spaces. In an office, manufacturing, research or laboratory use as defined in the parking and loading tables, a minimum of two bicycle parking spaces shall be provided, and one additional bicycle parking space shall be provided for each increment of 20 motor vehicle parking spaces over 40 vehicle spaces.
2. Placement and access. Bicycle parking shall be located near the primary entrance(s) of the building. Half of the bicycle parking spaces shall be provided as long-term parking, safe and secure from vandalism and theft and protected from the elements. The other half shall be provided as short-term (customer or visitor) parking, and short-term parking spaces shall be visible and convenient to the building entrance. Bicycle parking apparatus shall not be installed in a manner that will cause obstruction of pedestrian or motor vehicle traffic. Bicycle parking shall be situated in such a way that normal snow removal activities and snow storage do not impact the bicycle parking facility.
3. Dimensional Regulation. Each bicycle parking space shall be sufficient to accommodate a bicycle six feet in length and two feet in width.
4. Design. Bicycle parking apparatus shall be of a high-security design to which the frame and wheel of a parked bicycle may be attached; installed in a visible location to deter vandalism and theft; and permanently mounted to the ground or to a building or other immovable structure. Inverted-U-frame or other racks that support the bicycle at two or more points above the center of gravity are required.

#### 5.1.9 Location of Off-Street Parking Spaces and Loading Bays.

1. Required off-street parking spaces shall be provided on the same lot as, and loading bays shall be provided next to, the principal or accessory use they are required to serve.
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.
3. Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.
4. Off-street parking spaces required for two or more buildings, uses, or establishments on a single lot may be provided in a common lot.

## 5.1.10 Driveways.

1. Each parking space and loading bay shall be connected by a driveway to a street or to an interior drive that leads to a street.
2. The number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
3. No private way or driveway shall be built through a district in which the use served by the private way or driveway is not permitted except that access through a GC district to any other district is permitted. **[Amended 3-23-2016 ATM by Art. 38]**
4. The maximum grade of any outdoor driveway is 12%.

## 5.1.11 Minimum Yards for Parking.

1. Each parking space or driveway serving a one-family or two-family dwelling shall be set back five feet from any side lot line and rear lot line and shall be designated on a plan.
2. No parking is permitted in the front yard other than in a designated parking space or driveway.
3. For all uses other than a one-family or a two-family dwelling, all paved parts of all parking spaces, driveways and maneuvering aisles shall be set back from any wall of a principal building and from any lot line or zoning boundary line as indicated in the following table except for: **[Amended 3-23-2016 ATM by Art. 38; 3-28-2018 ATM by Art. 38]**
  - a. Not more than two driveways between the street line and its corresponding setback line; or
  - b. A parking space located within a structure otherwise permitted in such area

District	Residential District Line (feet)	Street Line (feet)	All Other Lot Lines (feet)	Wall of a Principal Building (feet)
RS, RO, RT	N/A	25	5	5
RD	N/A	25	8	5
CRO, CLO	50*	50	10	5
CM	50*	25	N/A	5
CRS, CS, CB, CN	20*	10	N/A	5
GC	0	25	5	5
CSX	20*	10	N/A	5



## NOTES:

- \* 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 128.

Note: Screening is required adjacent to the paved area but not in the required snow storage area and not between a paved area and a building.

4. 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 § 135-4.0; maneuvering space for such bay may be as close to a street line or lot line as may be permitted by § 5.1.11.3.
5. No parking space or loading bay, whether required or otherwise provided, shall be located, wholly or partly, within the right-of-way of a street.
6. All access to parking shall be by driveways meeting the requirements of this section; curbs, wheel stops, screening or similar barriers must be installed to prevent vehicles from being parked or driven within required setback areas.

## 5.1.12 Screening for Parking.

1. In all residential districts, or on a lot in any other district which abuts or is across the street from a lot in a residential district, any outdoor parking lot, all loading bays, maneuvering aisles and driveways shall be screened in a manner to protect abutting lots from the glare of headlights, noise and other nuisance factors.
2. Any parking lot, which is a principal use, must be screened along driveways and around the entire perimeter of the parking lot. The entrance to driveways, to the extent practicable, shall be located on the side near nonresidential districts or on streets or highways leading to nonresidential areas.
3. Screening shall consist of:
  - a. 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
  - b. A wall, barrier, or fence of uniform appearance at least five feet high above finished grade. Such wall, barrier or fence may be opaque or perforated, provided that not more than 50% of the face is open.
4. 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.

## 5.1.13 Design Standards. The following standards apply:

1. Dimensions.
  - a. Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table and elsewhere in this subsection:

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

## NOTES:

- \* Where one or both of the long sides of a parking space abut a wall or similar obstruction, the width shall be 12 feet.
- \*\* Up to 2 feet of unpaved landscaped space may be included in the depth provided there are no obstructions to the vehicle's overhang.
- b. To count 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 three feet of a maneuvering aisle or within the minimum dimensions of a parking space.
  - d. The width of a driveway for one-way use shall be a minimum of eight feet and for two-way use shall be a minimum of 18 feet and a maximum of 30 feet, as measured at the setback line.
  - e. Where access or egress is provided for a parking lot, or one or more loading bays, such access or egress shall be so arranged to provide a circulation system or maneuvering space on the lot so that all vehicles may exit from and enter onto a public street by being driven in a forward direction and no vehicle shall be required to enter or leave by backing and no vehicle shall have to stand within a street right-of-way waiting to enter the lot.
2. Number of compact car spaces. In parking lots containing more than 20 spaces, not more than 33% of such spaces may be designed for use by compact cars. Such compact car spaces shall be located in one or more continuous areas and shall not be intermixed with spaces designed for standard cars and shall be clearly designated by signs or pavement marking. In parking lots with 20 or fewer parking spaces, spaces designed for use by compact cars are not permitted.
  3. Loading bays. All required loading bays must 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 permitting authority requests, evidence shall be provided that the loading bay and its

maneuvering space are adequate to accommodate large motor vehicles and trailers.

4. **Marking.** In a parking lot or loading area, the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent, and signs shall be erected indicating that loading bays, and, if necessary, compact or other reserved parking spaces, are reserved for such use. Where 50% or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in a dwelling, parking spaces for guests or visitors to the use or establishment, not to exceed 10% of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building which they serve.
5. **Availability.** To ensure the availability and utilization of required parking spaces and loading bays on a year-round basis:
  - a. Unless authorized by special permit or site plan approval, 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. 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.
  - c. 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.
6. **Snow storage.** 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 area of required setback from a lot line or building.
7. **Surfacing and drainage.**
  - a. 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.
  - b. 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 permitting authority may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this section.

8. Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be 10%.
9. Landscaping.
  - a. On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there must be at least one tree for every eight parking spaces abutting the perimeter; such trees must 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 five feet in width must be provided. The landscaped strip may be provided either:
    - i. Between the rows of parking spaces parallel to the aisle; or
    - ii. 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 must be, in each such strip, at least three trees and in all such strips not fewer than one tree for every eight parking spaces in the interior part of the parking lot. Trees must be spaced so that some part of each parking space is not more than 30 feet from a tree.
  - c. Trees required by this section shall be at least two inches in diameter at a height four feet above the ground at time of planting and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this section.
10. Exception for one-family or two-family dwelling. The provisions of § 5.1.13 with regard to backing into a public street, marking of pavement, moving of vehicles and surfacing and drainage shall not apply where parking is provided for any one-family or two-family dwelling.

5.1.14 Special Permit. Where consistent with the objectives set forth in § 5.1.1, the SPGA may grant a special permit modifying the requirements of § 5.1.

## 5.2. SIGNS.

5.2.1 Purpose. This section is intended to:

1. Preserve and enhance the historical ambience and aesthetic character of the Town; and
2. Maintain public safety, consistent with constitutional requirements protecting freedom of speech.

5.2.2 Applicability. All outdoor signs and window signs are subject to the regulations of this section unless specifically excluded herein.

5.2.3 Exemptions. The following signs are not subject to this section:

1. Any sign owned and installed by a governmental agency or required by any law, governmental order or regulation.
2. Government flags and insignia, except when displayed in connection with commercial promotion.
3. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
4. Signs mounted on registered motor vehicles or carried by hand.

5.2.4 General Regulations.

1. Illumination. No sign shall be illuminated between the hours of 11:00 p.m. and 6:00 a.m., except signs on premises open for business, and then only upon issuance of a special permit by the SPGA. Exterior illumination of signs shall be shielded, directed solely at the sign, and be steady and stationary. No internal illumination of a sign is permitted except upon issuance of a special permit by the SPGA. The illumination of any sign shall not exceed 150 foot-lamberts.
2. Signs cannot interfere with traffic. No sign, including window displays, or its illuminators shall by reason of its location, shape, size or color interfere with pedestrian or vehicular traffic or be confused with or obstruct the view or the effectiveness of any official traffic sign, traffic signal or traffic marking. No red or green lights shall be used on any sign if, in the opinion of the Building Commissioner with the advice of the Chief of Police, such lights would create a driving hazard.
3. Construction. No sign shall be painted or posted directly on the exterior surface of any wall. All exterior, attached signs, except awning signs, shall be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth of projection of 1/4 of an inch. The construction of the sign shall comply with the State Building Code.
4. 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.
5. Removal of temporary signs. Signs that advertise or otherwise relate to a particular event (for example, a real estate sign or a yard sale sign) shall be removed promptly, and in no event more than seven days, after the conclusion of the event.

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

5.2.5 Prohibited Signs. The following types of signs are prohibited:

1. Signs that incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature.
2. String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration.
3. Signs erected so as to obstruct any path of egress in or on a building.
4. Billboards and other non-accessory signs.

5.2.6 Signs in Residential Districts. The provisions of this section shall apply to signs in residential districts. The following accessory signs are permitted:

1. Resident identification signs. Two signs, up to one square foot in area each, per residential building indicating the name and address of the residents therein.
2. Multifamily dwelling development sign. One sign, not exceeding 12 square feet in area, identifying a multifamily development.
3. Real estate sign. One sign advertising the sale or rental of the premises on which it is located, and containing no other advertising matter.
4. Subdivision signs. Real estate signs, not more than 20 square feet in area and not more than 10 feet in any dimension, on subdivisions of land as defined in MGL c. 41, § 81L, solely to advertise the selling of land or buildings in said subdivision, provided that not more than one such sign shall face the same street.
5. Yard or garage sale sign. One sign advertising a yard or garage sale on the premises on which it is located, provided that a yard sale permit has been duly obtained.
6. Construction, painting or remodeling sign. One sign indicating the name, address and telephone number of a contractor currently providing construction, painting or remodeling services on the premises, and containing no other advertising matter, provided that permission to display such sign has first been obtained from the homeowner.
7. Noncommercial message signs. Accessory signs containing a noncommercial message and no other advertising matter.
8. Commercial signs. Except to the extent permitted in § 5.2.6, commercial signs, whether or not accessory to a permitted activity engaged in on the premises, are prohibited in Residence Districts.

5.2.7 Residence Districts; Size, Number and Location of Accessory Signs. Unless otherwise provided herein:

1. No sign in a residential district shall exceed four square feet in area. No standing sign shall exceed four feet in height.

2. No more than two standing signs shall be located on a residential property at one time.
3. No part of any standing sign shall be located within 10 feet of the edge of the pavement of any street, obstruct a sidewalk, or otherwise create a safety hazard to pedestrian or vehicular traffic.
4. No sign shall be located on the roof of any building.

5.2.8 Commercial Districts. The provisions of this section shall apply to signs in commercial districts. Accessory signs on business establishments or institutions in commercial districts that comply with the following provisions are permitted:

1. Wall signs.
  - a. One principal wall sign is permitted on the front of the establishment to which it relates. The width of such a sign above the first floor of a building shall not exceed three feet.
  - b. A secondary wall sign may be installed marking a direct entrance on a parking lot or another street in addition to the front wall sign. There shall be not more than two such secondary wall signs. Said sign shall have a width no greater than 50% of the maximum permissible width for the principal wall sign.
  - c. No wall sign shall be more than three feet in overall height.
  - d. In buildings where the first story is substantially above grade and the basement is only partially below street grade, one sign for each level is allowed if each sign has only 1/2 of the area that would be permitted for a single sign.
  - e. In addition to the above signs, each building with multiple occupants may have one directory sign affixed to the exterior wall, window or door of the building. Such directory sign shall provide not more than one square foot for each occupant of the building.
  - f. Wall signs shall either be affixed to a wall and parallel to it or affixed to the roof above a wall and be parallel to the wall. They shall not project more than 12 inches from the face of such wall.
  - g. No wall sign shall project above the highest line of the main roof or parapet on the wall to which it is attached, whichever is higher.
2. Projecting signs.
  - a. In particular instances the SPGA may issue special permits for projecting signs in accordance with § 5.2.10, 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. **[Amended 3-23-2016 ATM by Art. 37]**

- b. Notwithstanding § 5.2.8.2.a, in the CB District, one projecting sign per establishment shall be permitted by right, provided it meets the standards set out below. Projecting signs exceeding these dimensions shall be subject to the special permit provisions of § 5.2.10.
  - i. The sign may not exceed six square feet in area (not including the area of the supporting bracket or hanger);
  - ii. For single-story structures, the sign shall not project above the roofline or 18 feet, whichever is lower; for multistory structures projecting signs may not extend vertically above the window sill of the second story;
  - iii. The sign must clear sidewalks by at least eight feet from the bottom of the sign and may project no more than four feet from a building or one-third the width of the sidewalk, whichever is less;
  - iv. The sign must clear the wall by at least six inches and must project from the wall at an angle of 90°. Angular projection from the corner of a building is prohibited.
3. Standing signs. In particular instances the SPGA may issue special permits for standing signs in accordance with § 5.2.10, 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. In the CM and CRO Districts one standing sign, not to exceed 50 square feet in area and five feet in height, shall be permitted by right on each lot. **[Amended 3-23-2016 ATM by Art. 37; 4-24-2017 ATM by Art. 43]**
4. Signs at gasoline filling stations and garages. Gasoline filling stations and garages may divide the one wall sign affixed to the front wall of the building to which they are entitled as hereinabove provided into separate wall signs indicating the separate operations or departments of the business, provided however that the total of the widths of the separate signs shall not exceed the maximum width permitted under this bylaw for a single wall sign on such wall. In addition, one sign indicating the brand of gasoline being sold may be erected of such type, in such location, and in such manner as the SPGA may allow by special permit. The standard type of gasoline pump bearing thereon, in usual size and form, the name or type of gasoline and the price thereof shall not be deemed to be a sign within the meaning of this bylaw.

5.2.9 Building Permit. All persons desiring to erect an outdoor sign in a commercial district shall apply to the Building Commissioner for a building permit. The Building Commissioner shall issue a building permit provided the proposed sign complies with this bylaw, the State Building Code, requirements of the Historic Districts Commission (where applicable) and any other applicable laws, bylaws or regulations. All applications for permits shall comply with the permitting authority's rules and regulations.



5.2.10 Special Permit. In particular instances the SPGA may issue special permits for more or larger signs than are provided herein or for signs of types or for purposes not provided herein and not specifically prohibited herein, including temporary signs, if it is determined that the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest. In granting such permission, the SPGA shall specify the size and location of the sign or signs and impose such other terms and restrictions as it may be deemed to be in the public interest. In considering applications for special permits for signs located on land owned or leased by a religious sect or denomination or by a nonprofit educational corporation, and used for religious or educational purposes, the SPGA shall not treat the applicant on terms less favorable than those applied to a non-religious institution, nor in a manner that unreasonably restricts the religious or educational activities of the applicant.

### **5.3. LANDSCAPING, TRANSITION AND SCREENING.**

5.3.1 Purpose. The provisions of this section are intended to achieve the following purposes:

1. To provide a suitable transition between different zoning districts;
2. To separate different and otherwise incompatible adjacent land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, the intrusion from artificial light including the ambient glow from signs, or the view of unsightly buildings and parking lots;
3. To preserve or improve the visual and environmental character of a neighborhood and of Lexington generally;
4. To offer property owners protection against possible diminution of property values due to adjacent construction or a change in existing land uses.

5.3.2 Applicability. No building permit, special permit or certificate of occupancy for a use shall be issued or granted where this bylaw indicates that a landscaping, transition or screening area, in accordance with this section, shall be required or where this section indicates such shall be provided, unless compliance with the provisions of this section is demonstrated.

5.3.3 Landscaping Plan Required. A landscaping plan, demonstrating compliance with the standards contained in this section for landscaping, transition areas and screening, shall accompany each application for a building permit, certificate of occupancy, or special permit. The plan shall be drawn to scale and include dimensions and distances. The landscaping plan shall be certified by a landscape architect registered in the Commonwealth of Massachusetts. The landscaping plan shall comply with the permitting authority's rules and regulations.

5.3.4 Transition Areas. Where a lot abuts a different zoning district or is across a street from a different zoning district, a landscaped transition and screening area shall be provided and shall be located adjacent to the lot line as set forth in the table in § 5.3.5, consistent with the following:

1. In the case of a nonresidential use in a residential district, a landscaped transition and screening area shall be provided, except that while the transition area shall be the width specified in the table in § 5.3.5, it shall be installed only along those segments of lot lines necessary to screen the nonresidential use from buildings located on abutting lots. The transition area may be provided within the minimum yard required for a building.
2. Where a lot is divided into two zoning districts for which a transition area would be required by § 5.3.5, the transition area shall be along the zoning district line, except that the SPGA may grant a special permit for the transition area to be in a different location if it meets the objectives of this section.
3. Across the Street. A lot shall be considered to be across the street from a different zoning district if, at any point along its street line, a line drawn perpendicular to the street line intersects at any point with the street line of the lot across the street. Where any part of the street line of a lot in a nonresidential district and having a nonresidential principal use is determined to be across the street from a residential district, a screening and transition area shall be provided along the entire length of the street line. If a corner lot is across the street from a residential use or district on only one side of the lot, then screening is required only on the side that faces the residential use or district.

**5.3.5 Required Depth or Width (in feet) of Transition Area. [Amended 3-23-2016 ATM by Art. 38; 3-28-2018ATM by Art. 38]**

District In Which Lot is Located	Adjacent District													Street Line
	GC	RO	RS	RT	RD	CN	CRS	CS	CSX	CB	CLO	CRO	CM	
GC	—	20	20	20	20	—	—	—	—	—	—	—	—	—
RO	—	25*	25*	25*	10*	15	15	20	—	—	20	20	20	—
RS	—	25*	25*	25*	10*	15	15	20	—	15	20	—	—	—
RT	—	25*	25*	25*	10*	10	10	—	—	—	10	—	—	—
RD	—	20*	20*	20*	20*	20	20	20	—	20	20	20	20	25
CN	—	20	20	20	20	—	10	15	—	—	20	—	—	10
CRS	—	20	20	20	20	10	—	15	—	—	10	—	—	10
CS	—	20	20	20	20	15	15	—	—	—	15	—	—	20
CSX	—	20	20	20	20	15	15	—	—	—	—	—	—	20
CB	—	—	20	—	20	—	—	—	—	—	—	—	—	—
CLO	—	50	50	50	50	10	10	10	—	—	—	—	—	10
CRO	—	50	—	—	50	—	—	—	—	—	—	—	—	50
CM	—	50	—	—	50	—	—	—	—	—	—	—	—	25

\* No requirement for an individual dwelling

**5.3.6 Transition Area; Standards and Requirements.** The following standards shall apply to the installation and maintenance of all landscaping, transition and screening areas required by this section:

1. Composition of landscaping, transition and screening areas. A landscaped transition and screening area shall consist of a landscaped strip and may include

fences, walls or berms which shall serve to provide an effective year-round visual screen at the time of installation.

2. Height of screening. Visual screening comprised of a mixed planting of deciduous and coniferous trees and shrubs and walls or fences shall have a minimum overall height of six feet at the time of installation, except in a required front yard where the maximum height shall comply with § 5.3.5 so as not to interfere with sight distance.
3. Sight distance. In order to provide an unobstructed sight distance for motorists, there shall be a triangle, which is at least 30 feet on two sides of the intersection of a street with a driveway or an interior drive that shall be clear of visual obstructions. The triangle shall be measured from the point of intersection of the street with the driveway or interior drive for a distance of at least 30 feet along the street line; along the side line of the driveway or interior drive for a distance of at least 30 feet; and by a third line connecting these two points. Within this triangle so described, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision for motorists between a height of 2 1/2 feet and 10 feet above the grade of the center lines of the street and the driveway or interior drive.

5.3.7 Transition Areas; Type of Plant Materials. The following standards shall apply:

1. A variety of plant materials shall be selected to provide an effective visual screen, to be maintained at a minimum height of six feet. Plantings shall be a mixture of deciduous and coniferous trees and shrubs for the screening to maintain its effectiveness throughout the winter months.
2. Ground cover, grass, mulch or other equivalent landscape treatment shall be provided in all landscaped transition and screening areas. Where the width of a transition area exceeds 20 feet, and where existing vegetation is used as the required planting, no ground cover, grass, mulch or equivalent treatment shall be required, provided all man-made debris has been removed from within the transition area.
3. The substitution of artificial plant materials is not permitted.
4. Existing vegetation in a healthy condition, which provides an effective year-round visual screen, may be used provided it is approved by the permitting authority, which may require supplemental planting.
5. Size of plant materials. All trees required by this section shall have a minimum caliper of three inches at the time of planting.
6. Spacing of plant materials. The arrangement of plant materials shall consider the relationship of plants in size, form, texture and color. The configuration and combinations of plant materials shall be in accordance with sound horticultural and landscape architectural practices.
7. Protection of landscaping and screening areas. Wherever required landscaping, transition or screening areas are adjacent to parking areas or driveways such areas

shall be protected by curbing or wheel stops to avoid damage to the plant materials and other structures by vehicles.

#### 5.3.8 Structures within Landscaping, Transition and Screening Areas.

1. Walls or fences may be required within a transition area to supplement the required planting to provide an effective visual screen as determined by the permitting authority.
2. When walls or fences are required by the permitting authority, they shall be of the following type:
  - a. A solid masonry wall faced with visually attractive materials on the side that faces the residential or less intensive use.
  - b. A wood stockade or other opaque wooden fence installed so that the attractive side faces the residential or less intensive use. Between such fence and the lot line there shall be planted a minimum of one shrub or vine per 10 linear feet, and a minimum of one small deciduous tree per 40 linear feet.
  - c. A fence or wall of an alternate material that may be appropriate to the site may be proposed by the applicant's landscape architect.
  - d. Walls or fences may not be substituted for plant materials to reduce the required width of a transition and screening area. A wall or fence may be added only where a mass of plant materials would not provide an adequate screen or where required by the permitting authority.

#### 5.3.9 Earthen Berms. The permitting authority may require that earthen berms be constructed within a transition area as part of a residential development adjacent to an arterial street or limited access highway, subject to the following:

1. The berms shall be planted.
2. Whenever a wall or fence is required in addition to a berm, the wall or fence shall be located between the berm and the higher intensity use in order to improve sound absorption.
3. The use of earthen berms and similar grading techniques in combination with the standard landscaping requirement is encouraged.
4. Berms shall be constructed of earth and shall be between three and six feet in height.

#### 5.3.10 Use of Transition Areas. The following standards shall apply:

1. Only necessary driveways or interior drives shall be located across a required transition area. No structure, parking area, or play area may be located in a required transition area.
2. A transition area may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided they do not reduce the effectiveness of the

transition area as a year-round visual screen. No other uses are permitted in transition areas.

#### 5.3.11 Maintenance.

1. The owner of the lot shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with the approved landscaping plan.
2. All plant material shall be maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. After the initial planting, all plant materials not surviving after the first winter and through the following growing season shall be replaced in kind.
3. Fences and walls shall be maintained in good repair. Gates or openings may be provided where necessary for access to an area for maintenance.

5.3.12 Certificate of Occupancy. The landscaping plan, as approved, shall be completed according to specifications prior to the issuance of a certificate of occupancy for any residential or nonresidential use or building. If the completion of the structure occurs after the planting season has passed, only a temporary certificate of occupancy may be issued until the landscaping is completed.

5.3.13 Screening of Other Use Areas within Lots. The following standards shall apply:

1. Outdoor storage areas. All outdoor storage areas for nonresidential uses in residential districts and all facilities for refuse disposal for all commercial, institutional or multifamily uses in all districts shall be enclosed by a fence or wall at least six feet in height. In the event that a wall six feet in height is insufficient to adequately screen such areas, the permitting authority may require additional screening in such manner and of such materials as may be reasonably necessary to adequately screen such area from public view.
2. Screening of mechanical equipment. In all districts, on nonresidential properties, all air-conditioning equipment, transformers, elevator equipment or similar mechanical equipment on any roof or building or on the ground shall be screened from public view. The permitting authority may require additional screening in such manner and of such materials as may be reasonably necessary to adequately screen such area from public view.
3. Transformers, equipment lockers and underground installation of utility lines. In all districts, when electric, telephone and all other utility lines, cables or transformers are proposed to be extended or relocated, in connection with the development or redevelopment of land or a building for nonresidential purposes, they shall be installed underground.

5.3.14 Landscaping of Front Yards in Commercial Districts. For a lot in a commercial district which abuts a street and is across the street from another commercial district, there shall be a transition area at least 10 feet in width along such street line of which at least six feet shall be landscaped with a minimum of one deciduous tree for each 40 linear feet plus additional underplanting of shrubs which shall be maintained to a height of not less than three feet. The trees and shrubs may be arranged in groupings of planting

beds and shall be a mixture of evergreen and deciduous plant materials. The underplanting may be eliminated within 10 feet of the trunk of a living tree with a caliper of 18 inches or greater. Street trees as required by the Planning Board's Subdivision Regulations may satisfy this requirement. [Amended 3-23-2016 ATM by Art. 37]

5.3.15 Special Permit. The SPGA may, by special permit, waive any provision of § 5.3, where it determines that lesser transition area screening is consistent with the objectives set forth in § 5.3.1 and will not result in substantial detriment.

#### 5.4. OUTDOOR LIGHTING.

5.4.1 Purpose. This section regulating outdoor lighting is intended to:

1. Enhance public safety and welfare by providing for adequate and appropriate outdoor lighting;
2. Provide for lighting that will complement the character of the Town;
3. Reduce glare;
4. Minimize light trespass; and
5. Reduce the cost and waste of unnecessary energy consumption.

5.4.2 Applicability. The requirements of this section apply to outdoor lighting on lots and parcels in all districts, including existing outdoor lighting installation being modified, extended, expanded, or added to. The entire outdoor lighting installation on the lot is subject to the requirements of this section, except:

1. One-family and two-family dwellings on lots on which they are the principal use; and
2. Streetlighting, lights that control traffic or other lighting for public safety on streets and ways.

5.4.3 Lighting Plan. Wherever outside lighting is proposed, every application for a building permit, a special permit, a variance, or an electrical permit shall be accompanied by a lighting plan that shall comply with the permitting authority's rules and regulations.

5.4.4 Control of Glare and Light Trespass.

1. Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light-emitting luminaire.
2. All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.

3. Subsection 1 above shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of any building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.
- 5.4.5 Lamps. Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 50 are not permitted. This section shall not apply to temporary decorative lighting, which may include colored lamps, such as holiday lighting. **[Amended 4-9-2014 ATM by Art. 32]**
- 5.4.6 Hours of Operation. Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m. with the following exceptions:
1. If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than 1/2 hour after the activity ceases;
  2. Low-level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 footcandle.
- 5.4.7 Special Permit. The SPGA may, by special permit, waive any provision of § 5.4, where it determines that the proposed lighting is consistent with the objectives set forth in § 5.4.1 and will not result in substantial detriment.

## **5.5. TRAFFIC STANDARDS.**

5.5.1 Purpose. The purpose of this section is to:

1. Permit vehicular traffic on Lexington streets to move in an efficient manner without excessive delay or congestion;
2. Permit emergency vehicles to reach homes and businesses with a minimum of delay;
3. Reduce motor vehicle and pedestrian accidents on the Town's streets;
4. Consider and allow for safe and convenient routes for pedestrians and bicyclists;
5. Promote cleaner air and to reduce automotive exhaust emissions caused by vehicles standing and idling for an excessive time;
6. Promote the efficient use of the Town's arterial and collector streets so that use of local and neighborhood streets as shortcuts can be discouraged;
7. Avoid excessive traffic demand on Town streets that necessitates extraordinary Town expenditures to maintain adequate and safe traffic flow;
8. Maintain a balance between the traffic-generating capacity of dwellings and businesses in the Town and the traffic-carrying capacity of streets and intersections;

9. Encourage alternative methods of transporting people, through public transportation, car pools and van pools, bicycling and walking, rather than near exclusive reliance on single-occupant automobiles;
10. Encourage the use of good traffic engineering principles and design standards consistent with a predominantly residential suburban town;
11. Encourage the positive management of traffic flow consistent with the Town's other stated objectives;
12. Encourage private sector participation in dealing with the Town's traffic problems;
13. Expand the Town's inventory of data about traffic conditions on Town streets.

5.5.2 Applicability. No building permit shall be granted for the erection of a new building or the enlargement or renovation of an existing building other than in the CB District with the result that:

1. There are 10,000 square feet or more of gross floor area on the lot, including any existing floor area, but not including any floor area devoted to residential use or to off-street parking; or
2. There are 50 or more dwelling units, or their equivalent, in a development, including any existing dwelling units; or
3. The number of parking spaces is increased by 25 or more and there are 50 or more parking spaces, including any existing parking spaces, on the lot.

Unless a special permit has been granted and the SPGA has made a determination that the streets and intersections affected by the proposed development have, or will have as a result of traffic improvements, adequate capacity, as set forth in § 5.5.4, to accommodate the increased traffic from the development.

5.5.3 Traffic Study Required. A traffic study must be submitted with each application for a building permit, special permit, or as may be required by any other provision of this bylaw. The traffic study shall include the information set forth in the SPGA's rules and regulations, provided that:

1. The traffic study must 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).
2. Streets "likely to be affected by the development" are those that have an average daily traffic (ADT) of 2,000 vehicles or more and will carry 10% or more of the estimated trips generated by the development.
3. Intersections "likely to be affected by the development" are those that have an average daily traffic (ADT) of 2,000 vehicles or more and for which the development will add 5% or more to the approach volumes.

5.5.4 Adequate Traffic Capacity. Prior to granting a special permit, the SPGA shall determine that the streets and intersections likely to be affected by the proposed development



currently have, or will have as a result of traffic improvements, adequate capacity, as defined in § 5.5.5. In making its determination of adequate capacity, the SPGA shall consider at least the cumulative effect on a street or intersection likely to be affected by the development, as provided in § 5.5.3, of:

1. Existing traffic conditions;
2. Estimates of traffic from other proposed developments which have already been approved in part or in whole by the Town of Lexington for which a traffic study was required, or by official action of an abutting city or town, which have not yet been opened for use prior to the date that the traffic counts required by this section were taken; and
3. Estimates of traffic from the proposed development.

5.5.5 Adequate Capacity Defined by Level of Service. Adequate capacity shall mean level of service "D" or better as described in the "Highway Capacity Manual, 2010 Edition" published by the Transportation Research Board. If the level of service that would result from the cumulative effect, referred to in § 5.5.4, is "E" or below, the SPGA shall determine there is not adequate capacity and shall deny the application.

5.5.6 Mitigating Measures to Improve Capacity. The SPGA shall consider that various traffic engineering improvements, or other method of positive traffic control, such as a traffic control officer, can improve the traffic-carrying capacity of an intersection or street and improve the level of service rating to a higher and acceptable value. The SPGA shall consider such improvements, or other method of traffic control, in its determination and may make a conditional determination that adequate capacity is dependent upon the construction of the traffic engineering improvement, or other method of traffic control.

5.5.7 Conditions. The SPGA may make a condition of its approval of the special permit that the start, or any stage, of the construction of the development, or the occupancy thereof, is dependent upon the start or completion of the traffic engineering improvement or of the start of another method of positive traffic control, such as a traffic control officer, on a permanent basis. A conditional approval shall be dependent upon at least a start of the physical construction of the traffic engineering improvement or the execution of an agreement with the Town of Lexington for another method of traffic control. Letters of support, or commitment, or approval, or the award of a contract are not considered as a start of construction. However, as the basis for making a conditional determination of adequacy, the SPGA may consider as evidence that the traffic-carrying capacity will be improved to a higher level of service, such letters of support, or commitment, or approval, or the award of a contract for construction of the traffic engineering improvement, or a proposed agreement with the Town of Lexington for another method of traffic control.

5.5.8 Trip Reduction Requirements. As a condition of its approval of a special permit or a special permit with site plan review, the SPGA may require actions and programs by the owner and/or manager of a development to reduce the number of single-occupant automobile trips made to a development, particularly during peak traffic hours. Such actions and programs may include:

1. Providing a pass to employees for use on a public transportation system that serves the development site;

2. Use of car pools and van pools;
3. Scheduling of hours of operation such as flex-time, staggered work hours, and spread scheduling that reduces trips during peak traffic hours;
4. Preferential parking locations and arrangements for vehicles other than single-occupant automobiles;
5. Restrictions on access to, or egress from, off-street parking areas during peak traffic hours; or
6. Bicycle parking facilities and other measures such as locker and shower facilities to encourage bicycle commuting.

5.5.9 Monitoring. Where such conditions are included, they shall include a reporting system that monitors the effectiveness of the trip reduction program. The SPGA may make a condition of the granting of the special permit or special permit with site plan review that:

1. Such monitor be directly responsible to and report to the Building Commissioner; and
2. The applicant is responsible for the cost of providing such monitoring system.

SECTION 135-6.0  
SPECIAL REGULATIONS

**6.1. ACCESSORY STRUCTURES.**

6.1.1 Swimming Pools and Racquet Courts. The Building Commissioner may grant a building permit for a swimming pool and the SPGA may grant a special permit for the construction of a racquet court, accessory to a residential use. Such accessory structures are subject to the following minimum conditions:

1. No racquet court shall be constructed within 15 feet, and no swimming pool shall be constructed within 20 feet, of a lot line or within the required minimum yard setback for a principal building, whichever is greater. The setback of the swimming pool shall be measured to the edge of the water in the pool; the setback of the racquet court shall be measured to the fence enclosing the court.
2. Screening at least five feet high shall be provided around the pool or court.
3. A fence or wall, at least eight feet high for the racquet court, shall be provided so that the court is completely enclosed. A principal or accessory building may form part of the enclosure.
4. No swimming pool or racquet court shall be constructed without the issuance of a building permit.

6.1.2 Satellite Receiving Antenna. A satellite receiving antenna with a receiving dish with a diameter equal to or less than three feet may be installed in any district. A satellite receiving antenna with a receiving dish with a diameter greater than three feet may be erected in any district after issuance of a building permit when it is accessory to another use and meets the following additional conditions:

1. The antenna is located in a rear yard but not within the required minimum setback set forth in § 135-4.0.
2. The antenna shall be permanently secured to the ground. No antenna shall be installed on a building or on a portable or movable structure, such as a trailer.
3. Size. No antenna shall exceed an overall diameter of 12 feet or a height of 15 feet above the natural grade when measured to its uppermost point when in an upright position.
4. Screening. The base of the antenna shall be screened from view from any abutting lot or from the street by an opaque fence, at least six feet high, or by planting providing comparable screening and opacity.
5. Appearance. The antenna shall be of a nonreflecting and inconspicuous color and compatible with the appearance and character of its surroundings. No advertising material shall be permitted.
6. The antenna shall not be used for commercial purposes except where accessory to a commercial use.

7. Where the SPGA determines any of the conditions set forth in any subsection above operates to prevent reception of satellite transmitted signals by the receiving antenna, the SPGA may issue a special permit to locate the antenna elsewhere on the lot, or on a building, where it may receive such signals.

## **6.2. HISTORIC PRESERVATION INCENTIVES.**

6.2.1 Purpose. The general objectives of this section are to:

1. Encourage preservation of buildings, structures, sites and settings, and elements of historical or architectural significance.
2. Establish eligibility criteria for buildings, structures, sites and settings, and elements attaining protected status under § 6.2.2.
3. Expand economic options for the owner/investor, by broadening the permitted uses in various zoning districts and removing barriers presented by development standards governing those permitted uses.
4. Permit the flexibility of development options by modifying dimensional requirements that might be an impediment to historic preservation.
5. Provide incentives to preserve contributory elements of historic or architectural significance, such as settings and sites, objects, monuments, trees or other elements.

6.2.2 Historic Eligibility Defined. Any historic element, as defined below, may qualify for eligibility under this section, if it is included on any of the following lists or surveys:

1. National Register of Historic Places.
2. State (Commonwealth of Massachusetts) Register of Historic Places.
3. Inclusion by the Lexington Historical Commission in its Comprehensive Cultural Resources Survey, or identification by that Commission of historic and/or architectural significance and thereby potential inclusion in the Comprehensive Cultural Resources Survey.
4. Pending nominations in good standing to the National or State Register.

6.2.3 Primary Qualifying Element. Primary qualifying elements shall include buildings, and other structures and outbuildings located on the property.

6.2.4 Secondary Qualifying Element. Secondary qualifying elements shall include sites and settings, objects, monuments, trees or any element of historical, architectural and/or cultural significance that indicates their contributory value in establishing historical context.

6.2.5 Special Permit Priority. Priority in granting special permits under these historic preservation incentives shall, in all cases, be placed upon keeping buildings and structures in place, rather than moving them to other locations, provided that the existing siting can be shown to represent valid historical setting and context. Moving of buildings, structures and elements to other locations shall be considered only if no other

preservation measures are practical or reasonable on the existing site, or if the proposed removal is to return a building, structure or element to an original or more historically accurate location. The SPGA shall determine the validity of any such requests.

6.2.6 Special Permit. The SPGA, after making the findings required by § 6.2.7 below, may grant a special permit to authorize certain uses and activities, outlined below, that would allow the renovation, repair, adaptive reuse or, in limited instances, removal of historic or architecturally significant buildings:

1. The following uses may be allowed in the districts listed:

USE OR ACTIVITY	DISTRICT(S)
Conversion of single-family to two-family residences	RD, CB, CLO
Conversion of single-family residences to congregate living facilities	CB, CLO
Conversion of municipal buildings to residential use	CB, CLO
Creation of rooming units	CB, CLO, CN
Creation of accessory apartments in single-family residences	CB, CLO
Creation of bed-and-breakfast homes	RT, RD, CN, CB, CLO
General home occupation uses with a maximum of one employee other than an owner occupant and with a maximum of four customers per hour, as an average during the course of the business day	ALL
Professional office home occupation uses with a maximum of one employee other than an owner occupant	ALL
Home occupation, instruction	ALL
Home occupation, minor and major	ALL
Office uses, professional services	CN
Advertising/editing	CN, CB
Employment agency and similar uses	CN
Manufacturer's representative and similar uses	CN
Other business and administrative and similar uses	CN
Professional and business services, tailor, dressmaker and shoe repair	CLO
Real estate sales or rental office	CS
Repair of household appliances	CLO
Private postal service	CB

2. In order to further the purpose of this section, the SPGA may also modify:

Any of the operating or development standards contained in Table 1,<sup>4</sup> provided that any negative impacts to the surrounding area can be feasibly mitigated.

4. Editor's Note: Table 1 is included as an attachment to this chapter.

The dimensional standards contained in Table 2<sup>5</sup> regarding to minimum lot area; lot frontage; front, side and rear setbacks; maximum percentage of site coverage; and maximum height (stories)

The standards for bed-and-breakfast homes (§ 6.5), conversion to a congregate living facility (§ 6.6), and accessory apartments (§ 6.7).

The dimensional controls of § 135-4.0

The off-street parking and loading requirements in § 5.1

The landscaping, transition and screening requirements in § 5.3

6.2.7 Findings Required. In order to grant a special permit, the SPGA shall determine:

1. That the uses authorized in § 6.2.6 or the modification of standards and requirements authorized in § 6.2.6 are necessary to maintain the historic or architecturally significant building, structure or element on the site on which it was originally constructed or to relocate it back to such a site;
2. That the proposed renovation, repair, adaptive reuse or removal preserves, to the maximum extent feasible, the historical and architectural features of the building, structure or element, said determination to be made by the SPGA;
3. Failure to grant the special permit is likely to result in inappropriate use or physical modification or pursuit of a demolition permit; and
4. That the proposed use will not generate negative impacts to the surrounding area or zoning district or that any negative impacts generated may be feasibly mitigated.

6.2.8 Contributory Lots. For one or more lots that do not otherwise qualify under § 6.2.2, above, and are shown on a definitive site development plan submitted by an applicant, the SPGA may grant a special permit to modify: the standards in Table 2, Schedule of Dimensional Controls,<sup>6</sup> the standards in §§ 3.3, 4.4, 6.3, 7.1, 7.2, and 7.3 in their entireties, the dimensional and intensity controls in § 135-4.0, the landscaping, transition and screening requirements in § 5.3, LANDSCAPING, TRANSITION AND SCREENING (entire section), or the off-street parking and loading requirements in § 5.1, OFF-STREET PARKING AND LOADING (entire section), provided the SPGA makes a finding that such modifications are necessary to make historic preservation feasible on another lot within the same development on which a historic element, as defined in § 6.2.2, is located. The use of one or more lots that do not otherwise qualify may apply to a conventional subdivision or special permit residential development.

### 6.3. NURSERIES NOT EXEMPT BY STATUTE.

6.3.1 General. Where the SPGA 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:

5. Editor's Note: Table 2 is included as an attachment to this chapter.

6. Editor's Note: Table 2 is included as an attachment to this chapter.

1. Plants grown elsewhere than on the premises;
2. 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;
3. Hand gardening tools and hand gardening equipment, garden hose, watering and spraying devices, containers for living plants;
4. Cut flowers, Christmas trees and wreaths, in season;
5. Indoors only, birdseed, birdbaths, bird feeders, birdhouses; and
6. Ornamental or decorative items intended for use with plants.

6.3.2 Other Nursery Uses. The foregoing list may be expanded, in the discretion of the SPGA, 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.

6.3.3 Dimensional Requirements. A nursery granted a special permit shall conform to the dimensional controls in § 135-4.0 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:

1. Minimum lot area: two acres;
2. Buildings (other than greenhouses) may cover no more than a maximum of 20% of the lot area;
3. Greenhouses shall not be used for retail sales of items other than plants;
4. Buildings (other than greenhouses) used for retail sales shall not exceed a maximum of 7,500 square feet;
5. Not less than 50% of the total land area of the nursery shall be used for the propagation or cultivation of plants in the open or in greenhouses;

#### **6.4. WIRELESS COMMUNICATION FACILITIES.**

6.4.1 Purpose. This section permits the use of wireless communication facilities within the Town, regulates their impacts and accommodates their location and use in a manner intended to:

1. Protect the scenic, historic, environmental and natural or man-made resources of the Town;
2. Protect property values;
3. Minimize any adverse impacts on the residents of the Town (such as, but not limited to, attractive nuisance, noise and falling objects) with regard to the general safety, welfare and quality of life in the community;

4. Provide standards and requirements for regulation, placement, construction, monitoring, design, modification and removal of wireless communication facilities;
5. Provide a procedural basis for action within a reasonable period of time for requests for authorization to place, construct, operate or modify wireless communication facilities;
6. Encourage the use of certain existing structures and towers;
7. Minimize the total number and height of towers located within the community;
8. Require tower sharing and clustering of wireless communication facilities where they reinforce the other objectives in this section; and
9. Be in compliance with the federal Telecommunications Act of 1996.<sup>7</sup>

6.4.2 Applicability. The requirements of this section shall apply to all wireless communication facilities, except where federal or state law or regulations exempt certain users or uses from all or portions of the provisions of this section. No wireless communication facility shall be considered exempt from this section by sharing a tower or other structure with such exempt uses.

6.4.3 Location of Facilities; Priorities. Wireless communication facilities shall be located according to the following priorities. Applicants shall demonstrate that they have investigated locations higher in priority ranking than the one for which they are applying and whether such sites are available and, if applicable, under what conditions. The priorities are:

1. Within an existing structure concealed;
2. Within an existing structure and camouflaged;
3. Camouflaged on an existing structure, such as but not limited to an existing electric transmission tower or an existing radio antenna, a water tower, or building, and of a compatible design;
4. Co-located with existing wireless communication service facilities;
5. On Town of Lexington owned land which complies with other requirements of this section and where visual impact can be minimized and mitigated;
6. If adequately demonstrated to the SPGA in the special permit process that each of the priorities set forth above is not feasible, erection of a new facility that complies with the other requirements of this section and where visual impact can be minimized and mitigated.

6.4.4 Facilities Permitted by Right. A concealed wireless communication facility may be installed in a structure on a lot in a commercial district provided all the requirements for a wireless communication facility building permit are met.

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7. Editor's Note: See 47 U.S.C. § 151 et seq.



6.4.5 Facilities Authorized by Special Permit. A wireless communication facility may be installed in the locations indicated in § 6.4.3, provided all prescribed conditions, listed below, are met and the SPGA grants a special permit:

1. Multifamily dwelling. A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which a dwelling other than a one-family or two-family dwelling is the principal use provided all residents of such dwelling or facility receive 30 days' notice before the application for a special permit is submitted.
2. Institutional, agricultural, natural resource or commercial uses in residential districts.
  - a. A concealed wireless communication facility may be installed in a building or in a structure on a building on a lot on which an institutional, agricultural, natural resource or commercial use in a residential district (as provided in Table 1<sup>8</sup>) is the principal use.
  - b. A wireless communication facility may be installed if it is co-located with an existing electrical power transmission line tower, an existing nonconforming transmitting or receiving tower, or a water tower, provided that the wireless communication facility is camouflaged and does not exceed the height of the tower.
  - c. For the purposes of this section, an electrical power transmission tower, an existing transmitting or receiving tower or antenna for commercial activities other than a wireless communication facility shall be considered to be a commercial use in a residential district.
3. Uses in commercial districts. A wireless communication facility may be installed on a lot in a commercial district provided the wireless communication facility is camouflaged and does not exceed the height requirements of § 4.4.

6.4.6 Site Development Requirements. The following standards shall apply:

1. Shelters and accessory buildings. Any communication equipment shelter or accessory building shall be designed to be architecturally similar and compatible with the surrounding area. Whenever feasible, a building shall be constructed underground.
2. Setbacks. Any new tower shall be set back at least one time the height of the tower plus 10 feet from each lot line of the site on which the tower is located. Any non-concealed antenna shall be set back at least one time the height of the antenna, as measured from the ground level, from each lot line of the site on which the antenna is located. However, if the antenna is being attached to an existing tower whose setback is already approved, either by right, by special permit or by variance, and if the SPGA determines that the addition of the antenna does not materially alter the basis of that prior approval, then no new, independent setback requirement shall be created by the addition of the antenna. In nonresidential districts or on Town of Lexington owned land, the SPGA may

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8. Editor's Note: Table 1 is included as an attachment to this chapter.

grant a special permit to allow a lesser setback if it makes a finding that such lesser setback provides adequate safety, promotes co-location or improves design, and will not negatively impact the appearance and character of the neighborhood.

3. Security and signs. The area around the wireless communication facility shall be completely secure from trespass or vandalism. A sign not larger than one square foot shall be posted adjacent to the entry gate indicating the name of the facility owner(s) and a twenty-four-hour emergency telephone number. Advertising on any antenna, tower, fencing, accessory building or communication equipment shelter is prohibited.
4. Lighting. Unless required by the Federal Aviation Administration, no exterior night lighting of towers or the wireless communication facility is permitted except for manually operated emergency lights for use when operating personnel are on site.
5. New towers. Any new freestanding tower shall be of a monopole construction. New towers shall not exceed the minimum height necessary to provide adequate coverage within the Town of Lexington. Erection of a new tower that exceeds the height restrictions listed in § 6.4 is not permitted unless the applicant demonstrates in the special permit process that adequate coverage within the Town of Lexington cannot be met for the locations permitted under § 6.4.

6.4.7 Justification of Need. The following standards shall apply:

1. Coverage area. The applicant shall provide a map of the geographic area in which the proposed facility will provide adequate coverage.
2. Adequacy of other facility sites controlled by the applicant. The applicant shall provide written documentation of any facility sites in the Town and in abutting towns or cities in which it has a legal or equitable interest, whether by ownership, leasehold or otherwise. Said documentation shall demonstrate that these facility sites do not already provide, or do not have the potential to provide by site adjustment, adequate coverage.
3. Capacity of existing facility sites. The applicant shall provide written documentation that it has examined all facility sites located in the Town and in abutting towns in which the applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage.
4. Adequate coverage through the least disruptive means. The applicant shall provide written documentation that the proposed facility uses the least disruptive technology (through the use of repeaters or other similar technology as it may be developed subsequent to adoption of this bylaw) in which it can provide adequate coverage in conjunction with all facility sites listed above.

6.4.8 Application; Procedures.

1. The applicant or co-applicant for any permit for a wireless communication facility must be a licensed carrier who has authority from the FCC to provide wireless communication services for the facility being proposed. The applicant shall

submit documentation of the legal right to install and use the proposed facility mount at the time of the filing of the application for the permit.

2. Review by the Design Advisory Committee. The Town of Lexington's Design Advisory Committee shall review an applicant's site plans and make recommendations to the Director of Inspectional Services for by right permit applications and to the SPGA for special permits. The Design Advisory Committee will make comment on whether the site plans show that a proposed wireless communication facility will be concealed for a by right permit if built according to the plans, or whether the site plans show that a proposed wireless communication facility will be concealed or sufficiently camouflaged for a special permit if built according to the plans.
3. Review by the Communications Advisory Committee. The Board of Selectmen's Communications Advisory Committee shall review an applicant's application and make recommendations to the Director of Inspectional Services for by right permit applications and to the SPGA for special permits. The Communications Advisory Committee will make comment as to the application's adherence to the provisions of this section. The Committee may recommend that a consultant be hired by the SPGA (at the applicant's expense) if technical expertise is needed.
4. Permits. Each application for a permit must contain site plans with sufficient detail that would enable the Town to determine whether the proposed facility meets the requirements of this section.

6.4.9 SPGA. The Board of Appeals shall be the SPGA for permits under § 6.4.

6.4.10 Regulations. The SPGA shall maintain a set of regulations that contains the necessary policies, procedures, and standards to implement the provisions of this section.

6.4.11 Special Permit Criteria. A special permit shall be granted under this section only if the SPGA shall find that the project is in harmony with the general purpose and intent of this section and the SPGA's regulations. In addition, the SPGA shall make the findings required by § 9.4 and the following additional findings:

1. That the applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the special permit;
2. That the applicant is not able to use existing facility sites either with or without the use of repeaters to provide adequate coverage;
3. That the proposed wireless service facility minimizes any adverse impact on historic resources, scenic views, residential property values, and natural or man-made resources;
4. That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
5. That the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the applicant; and

6. That the applicant has agreed to rent or lease available space on any tower it controls within Lexington or its contiguous towns, under the terms of a fair market lease, without discrimination to other wireless service providers.
- 6.4.12 Conditions. If a special permit is granted, in addition to such terms and conditions as may be authorized by § 9.4 of this bylaw, the SPGA may impose such additional conditions and safeguards as public safety, welfare and convenience may require.
- 6.4.13 Denial. Any decision by the SPGA to deny a special permit under this section shall be in conformance with the Telecommunications Act, in that it shall be in writing and supported by substantial evidence contained in a written record. **[Amended 3-23-2016 ATM by Art. 37]**
- 6.4.14 Term of Permit. Each special permit shall be valid for a fixed or conditional period of time as determined by the special permit granting authority. A special permit for any wireless communication service facility that exceeds height provisions of § 6.4 shall be valid for a maximum of 15 years. At the end of the approved time period, the facility shall be removed by the carrier or a new special permit shall be required.
- 6.4.15 Report. All permitted and special permitted wireless communication facility carriers shall periodically file with the Town, every five years (or sooner if specified in a special permit), on operational aspects of the facility including: power consumption; power radiation; frequency transmission; the number, location, and orientation of antennas; and types of services provided.
- 6.4.16 Removal Requirements. Any wireless service facility that ceases to operate for a period of one year shall be removed. Cease to operate is defined as not performing the normal functions associated with the wireless service facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the facility site shall be remediated such that all wireless communication facilities that have ceased to operate are removed. If all facilities on a tower have ceased to operate, the tower (including the foundation) shall also be removed and the site shall be revegetated by the owner. Existing trees shall only be removed if necessary to complete the required removal. The applicant shall, as a condition of the special permit, provide a financial surety or other form of financial guaranty acceptable to the SPGA, to cover the cost of removal of the facility and the remediation of the landscape, should the facility cease to operate.

## **6.5. BED-AND-BREAKFAST HOME.**

- 6.5.1 Purpose. This section is intended to ensure that the conversion of an existing one-family dwelling unit into a bed-and-breakfast home containing not more than three bed-and-breakfast units is maintained primarily as a residence and the bed-and-breakfast accommodations are subordinate and incidental to the principal use of the dwelling as a residence.
- 6.5.2 Conditions and Requirements; General. The Building Commissioner may issue a certificate of occupancy for a bed-and-breakfast home to be conducted in a one-family dwelling unit in a RO or RS District provided that each of the following conditions and requirements are met:

1. No bed-and-breakfast home, new or preexisting, shall be operated without first being granted a certificate of occupancy from the Building Commissioner.
2. A bed-and-breakfast home is an accessory use and the primary use of the dwelling unit shall remain as a residence and not as a lodging house or as a "bed-and-breakfast establishment," as that term is defined in MGL c. 64G. As an accessory use, the bed-and-breakfast operation shall not occupy more than 45% of the gross floor area of the dwelling unit.
3. Within one dwelling unit, there shall be a maximum of three bedrooms which are rented to roomers, or are bed-and-breakfast units.
4. Food for a fee may be served only to overnight guests.

6.5.3 Conditions and Requirements; Exterior Appearance. The dwelling unit containing the bed-and-breakfast home shall be designed so that the exterior appearance of the structure remains that of a one-family dwelling, subject further to the following conditions and requirements:

1. All stairways to upper 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 one-family dwelling is maintained.

6.5.4 Conditions and Requirements; Parking. In order to maintain the appearance of a one-family neighborhood, all parking spaces on the lot created for the bed-and-breakfast units must be located in a side or rear yard.

6.5.5 Certificate of Occupancy.

1. The certificate of occupancy for the bed-and-breakfast operation shall be limited to a maximum of three years. A certificate of occupancy shall be issued only to the owner of the property and shall not be transferable. Any changes in ownership of the property shall require a new certificate of occupancy.
2. Upon issuance of a certificate of occupancy, the Building Commissioner shall notify abutters of the lot that a certificate of occupancy has been issued and of the terms and conditions under which it has been issued.

## **6.6. CONGREGATE LIVING FACILITY.**

6.6.1 Purpose. This section is intended to:

1. Encourage alternative living arrangements for the Town's elderly residents;
2. Permit housing arrangements compatible in size and scale with one-family and two-family neighborhoods; and
3. Encourage an economic, energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's neighborhoods.

6.6.2 Conditions and Requirements; General. Congregate living facilities must meet each of the following conditions and requirements:

1. In the RO, RS and RT Districts, there shall be accommodations for not more than 15 residents in the dwelling.
2. The lot area shall be at least 10,000 square feet.
3. The dwelling shall be connected to the public water and sanitary sewer system.

6.6.3 Conditions and Requirements; Exterior Appearance. Congregate living facilities shall be designed so that the appearance of the structure is that of a dwelling characteristic of the zoning district in which it is located, i.e. a detached one-family dwelling if located in a RO, RS or RT District or a two-family dwelling if located in a RT District, subject further to the requirement that any stairway to a second or third story shall be enclosed within the exterior walls of the dwelling. There shall be no exterior fire escapes.

6.6.4 Conditions and Requirements; Off-Street Parking. In order to maintain the appearance of a one-family neighborhood, not more than two outdoor parking spaces shall be located in the front yard. All other parking spaces shall comply with the standards in § 5.1 for a parking lot. Additional screening may be required to minimize the visual impact of parking on adjacent properties.

6.6.5 Services and Facilities for Residents.

1. Supportive services, such as nutrition, housekeeping, or social activities and access to other services, such as health care, recreation or transportation, shall be provided. At least one meal per day shall be served to residents in a common dining room.
2. There shall be rooms and facilities that promote a shared living experience for residents including at least: a dining room, one living/common room suitable for social activities, space for outdoor activities and other rooms for other supportive services.
3. A service providing organization, with sufficient resources, responsible for the provision of the supportive services shall be identified. If the relationship between that organization and the facility is terminated, and if, within 90 days, another comparable service providing organization is not designated, the certificate of occupancy shall be suspended or revoked. The service providing organization shall employ a manager or coordinator to direct the supportive services, and the manager or coordinator, or a designee, who shall not be a client of the congregate living facility, shall be on the site at least eight hours per day, seven days per week.
4. A resident may occupy a separate bedroom or a suite of rooms which may have one or more of the following: a private full or half bath, a kitchenette of a size and type suitable for preparation of light meals for one or two persons, but not larger, or a living room.
5. There shall be provided at least 150 square feet of open space for each resident. **[Amended 4-9-2014 ATM by Art. 32]**

6. The dwelling may not contain any separate dwelling unit other than that provided for the manager or coordinator.

6.6.6 Recommendation. Prior to the granting of a special permit or the issuance of a building permit, the permitting authority shall submit a copy of the application to the Human Services Committee and the Board of Health which shall be given a reasonable time period in which to make a recommendation on the application.

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

**6.7. ACCESSORY APARTMENTS. [Amended 4-9-2014 ATM by Art. 32; 3-25-2015 ATM by Art. 52; 3-30-2016 ATM by Art. 40]**

6.7.1 Purpose. This section authorizing the provision of accessory dwelling units is intended to:

1. Increase the number of small dwelling units available 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 one-family neighborhoods.

6.7.2 General. An accessory apartment is a second dwelling unit subordinate in size to the principal dwelling unit on a lot, located in either the principal dwelling or an accessory structure.

6.7.3 Conditions and Requirements; General. The following standards shall apply:

1. There shall be no more than one accessory apartment on a lot.
2. The owner of the property on which the accessory apartment is to be created shall occupy one or the other of the dwelling units, except for temporary absences as provided herein. 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.
3. Temporary absence of owner. An owner of a property containing an accessory apartment who is to be absent for a period of less than two years may rent the owner's unit as well as the second unit during the temporary absence provided:
  - a. Written notice thereof shall be made to the Building Commissioner on a form prescribed by him.
  - b. The owner shall be resident on the property for at least two years prior to and between such temporary absences.

6.7.4 Conditions and Requirements; Exterior Appearance. The accessory apartment shall be designed to maintain the appearance and essential character of a one-family dwelling with accessory structures, 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. Where two or more entrances exist on the front facade of a dwelling, one entrance shall appear to be the principal entrance and other entrances appear to be secondary.

6.7.5 Basic Accessory Apartment. A basic accessory apartment shall be permitted if the following criteria are met:

1. The apartment shall be located in the principal dwelling.
2. The gross floor area of the apartment shall not exceed 1,000 square feet.
3. There shall not be more than two bedrooms in the apartment.

6.7.6 Expanded Accessory Apartment. The SPGA may grant a special permit for an expanded accessory apartment if the following criteria are met:

1. The gross floor area of the apartment shall not exceed 40% of the gross floor area of the dwelling, excluding areas of the structure used for parking.
2. The apartment shall be located in the principal dwelling.
3. The size of the dwelling is consistent with typical nearby one-family dwellings.

6.7.7 Accessory Structure Apartment. Notwithstanding the prohibition against having more than one dwelling on a lot, the SPGA may grant a special permit to allow the construction of an accessory apartment in an accessory structure on the same lot as a one-family dwelling if the following criteria are met:

1. The gross floor area of the apartment does not exceed 1,000 square feet.
2. The SPGA determines that the exterior appearance of the accessory structure is compatible with the principal dwelling on the same lot and with dwellings and accessory structures on adjoining lots.

## **6.8. HOME OCCUPATIONS.**

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

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

6.8.3 Accessory Use. Home occupations shall be considered accessory uses to the principal residential use of a dwelling, and shall be conducted by a resident of the dwelling. A



home occupation shall be incidental to the principal use as a residence, but need not be a use that is customarily associated with residential use.

6.8.4 Maintenance of Residential Character. There shall be no exterior indication of the home occupation, except as provided herein in the form of off-street parking:

1. The business shall not require alterations to the exterior of the building.
2. There shall be no exterior storage of materials, supplies, or equipment related to the business.
3. There shall be no sign indicating the business.

6.8.5 Number of Home Occupations. More than one home occupation may be established in a dwelling, subject to the use regulations of § 3.1, but all home occupations combined shall not exceed any of the standards of this section.

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

6.8.7 Employees.

1. A minor home occupation or instruction home occupation shall have no nonresident employee, contractor, or partner.
2. A major home occupation shall have no more than one full-time nonresident employee, contractor, or partner (or the equivalent thereof) on the premises at any one time.
3. The number of nonresident employees working at off-premises locations is not limited, provided that such employees do not regularly visit the premises.

6.8.8 Commercial Vehicles, Pickups and Deliveries.

1. Vehicles used to deliver goods to the home-based business shall be limited to passenger vehicles, mail carriers, and panel trucks or small vans such as used by express package carriers and office supply companies.
2. Pickups and deliveries shall not exceed those normally and reasonably occurring at a residence and shall not include more than an average of two pickups and deliveries of products or materials per day.

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

1. One parking space shall be provided for a nonresident employee, partner, or contractor regularly working on the premises;
2. When a home occupation requires a special permit, the SPGA may require, at its discretion, the provision of up to one parking space for each client or customer expected to visit the premises at one time, if site-specific conditions warrant it. Provision of such a space shall be in addition to parking required for the dwelling unit and nonresident employees.

6.8.10 Environmental Impacts. The operation of the home occupation may not use and/or store hazardous materials (as defined in MGL c. 21E, § 2) in excess of quantities permitted in residential structures.

## **6.9. SPECIAL PERMIT RESIDENTIAL DEVELOPMENTS.**

6.9.1 Purpose. This section is intended to:

1. Ensure that the development of multiple dwellings does not detract from the livability, scale, character or economic value of existing residential neighborhoods;
2. Encourage greater diversity of housing opportunities in Lexington to meet the needs of a population which is diversified with respect to number of persons in a household, stage of life, and income;
3. Encourage the development of affordable housing;
4. Promote development proposals designed with sensitivity to the characteristics of the site that otherwise might be limited by application of uniform, largely geometric standards;
5. Permit different types of structures and residential uses to be combined in a planned interrelationship that promotes an improved design relationship between new buildings and public facilities and common open space;
6. Preserve historically or architecturally significant buildings or places;
7. Encourage the preservation and minimum disruption of outstanding natural features of open land and to minimize impacts on environmentally sensitive areas;
8. Encourage sustainable development through the use of green building practices and low-impact development techniques;
9. Promote the efficient and economical provision of public facilities such as utilities and streets and facilitate a detailed assessment, by Town officials and the public, of the adequacy of such facilities and services for the proposed level of development.

6.9.2 Applicability. A special permit residential development is a project in which one or more lots, tracts, or parcels of land are to be improved for use as a coordinated site for housing. No special permit residential development shall be initiated without first obtaining a special permit in accordance with the provisions of this section. The purpose of the special permit is to provide detailed review of residential developments that have a substantial impact upon the character of the Town, adjacent residential areas and the provision of public facilities and services.

6.9.3 Types of Special Permit Residential Development.

1. A site sensitive development (SSD) is the development of a parcel with configurations of lots allowing flexibility and creativity in residential development through reductions in minimum lot area and frontage requirements

in order to minimize site disturbance, preserve historic and sensitive natural resources, and allow for efficient patterns of construction to lower development cost. The number of dwellings in a site sensitive development may not exceed the number of dwellings that could be constructed in the development of a conventional subdivision. **[Amended 4-9-2014 ATM by Art. 32]**

2. A balanced housing development (BHD) is a development allowing deviation from the dimensional standards that apply to developments in conventional subdivisions in order to achieve a balance of housing choices for a diversity of household types and sizes. Instead of determining density by minimum lot area and frontage requirements, the amount of residential development for the tract as a whole is based on calculations of gross floor area and impervious surface area derived from a conventional development plan for the tract of land. **[Amended 4-9-2014 ATM by Art. 32]**
3. A public benefit development (PBD) is a type of balanced housing development that allows increases in gross floor area and impervious surface area in return for the creation of 10% of the units as affordable housing.

6.9.4 Scale of Development. An applicant is not entitled to the maximum development, nor is the applicant entitled to approval of a special permit residential development. The amount of development permitted will be based on a fully complying proof plan and the SPGA's evaluation of the extent to which the proposed development complies with the criteria set forth-below.

6.9.5 Dimensional Standards. The requirements of § 135-4.0 are modified as follows:

1. Lot area. There is no minimum lot area required. Individual lot area shall be sufficient to meet off-street parking requirements of this bylaw and the installation of any on-site water supply and sewage disposal facilities.
2. Frontage. There is no minimum frontage required. Frontage for each lot shall be sufficient to provide for adequate access to the building site. Where shared driveways or other circumstances render frontage on a street to be of no importance, none is required.
3. Yard and Height Requirements. Yards required by § 135-4.0 and the height limit of § 135-4.3.5 apply to the perimeter of the site, but are not applicable within the site. **[Amended 3-30-2016 ATM by Art. 39]**
4. Site coverage. There is no maximum site coverage limit for individual lots. Site coverage for the development tract as a whole is limited as described below.

6.9.6 Gross Floor Area Standards.

1. Site sensitive developments (SSD). The total gross floor area (GFA) in an SSD may not exceed the sum of the gross floor area that would be permitted on each of the lots shown on the proof plan under § 135-4.4 of this bylaw. **[Amended 3-30-2016 ATM by Art. 41]**
2. Balanced housing developments. The total gross floor area (GFA) of all structures in a BHD shall be less than the number of lots shown on the proof plan multiplied by 7,200 square feet.

3. Public benefit developments. The total gross floor area (GFA) of all structures in a PBD shall be less than the number of lots shown on the proof plan multiplied by 8,640 square feet.

#### 6.9.7 Dwelling Unit Count and Limitations on Unit Size.

1. Site sensitive developments. The number of dwellings in a SSD shall not exceed the number of dwellings shown on the proof plan.
2. Balanced housing developments. The number of dwelling units permitted in a BHD is not limited. At least 25% of the dwelling units must have a GFA not larger than 2,700 square feet, and at least 50% of the dwelling units must have a GFA not larger than 3,500 square feet.
3. Public benefit developments. The number of dwelling units permitted in a PBD is not limited. At least 25% of the dwelling units must have a GFA not larger than 2,700 square feet, and at least 50% of the dwelling units must have a GFA not larger than 3,500 square feet. In addition, 10% of the total number of dwelling units in the development must be affordable to households earning no more than 80% of the area median income.

#### 6.9.8 Impervious Surface Standards.

1. Site sensitive developments. The impervious surface limit in a SSD is based on the proof plan. The limit for the development as a whole is calculated as follows:
  - Step 1: Determine the area in square feet of each lot shown on the proof plan. For each lot in a RS or RT District, multiply its lot area by 0.20; for each lot in the RO District, multiply its lot area by 0.12.
  - Step 2: Determine the total area of the impervious surfaces contained on the proof plan that are not contained within lots, such as roads, sidewalks, and similar surfaces.
  - Step 3: The impervious surface limit for the SSD is the sum of the impervious surface calculations from Steps 1 and 2.
2. Balanced housing developments. The impervious surface limit in a BHD is calculated in the same manner as that of a SSD.
3. Public benefit developments. The impervious surface limit in a PBD is calculated in the same manner as that of a SSD and increased by 20%, i.e. multiplied by 1.20.

#### 6.9.9 Site Coverage Standards.

1. For site sensitive developments, the site coverage limit is based on the proof plan. The limit for the development as a whole is calculated as follows:
  - Step 1: For each lot on the proof plan, multiply its lot area in square feet by 0.15 for lots in RS and RT Districts, and by 0.09 for lots in RO Districts.
  - Step 2: The site coverage limit for the SSD as a whole is equal to the sum of the individual lot site coverage calculations determined in Step 1.

2. For balanced housing developments, there is no site coverage limit.
3. For public benefit developments, there is no site coverage limit.

#### 6.9.10 Common Open Space Standards.

1. Minimum common open space. At least 33% of the developable site area in a BHD or PBD shall be set aside as common open space. A maximum of 20% of common open space may be devoted to parking or structures used for, or accessory to, active outdoor recreation, provided such parking or structures are consistent with the open space uses of such land.
2. Location; condition. Where required or provided, common open space shall be land that may be in one or more parcels of a size and shape appropriate for the intended use and available for use by all occupants of a development.
3. Easement. When such open space is conveyed to persons or entities other than the Town, an easement over such land shall be granted to the Town to ensure its perpetual use as open space, conservation, recreation or park land.

#### 6.9.11 Ownership of Open Space. Common open space may be conveyed to:

1. The Town, subject to acceptance, to ensure its perpetual use as open space, conservation, recreation or park land; or
2. A legal association comprised of the owners of the development, which may include homeowners or owners of condominium or cooperative units; or
3. A nonprofit organization, the principal purpose of which is the conservation of open space.

#### 6.9.12 Streets and Drives. The objective of this section is that adequate access for fire-fighting, medical and other emergency operations be provided from the public street system to each site sensitive, balanced housing, or public benefit development, as follows:

1. Connection to public street system. Each street and interior, drive, or system of streets or interior drives, shall connect to a public street.
2. A dead-end interior drive will be treated in the same manner as a dead-end street, and is subject to the provisions governing a dead-end street that are found in the Subdivision Regulations. **[Amended 3-23-2016 ATM by Art. 37]**
3. In a development served by a dead-end street or dead-end interior drive, a secondary means of access may be required in order to provide adequate access for fire-fighting, medical and other emergency vehicles. The Fire Chief will be consulted as to the adequacy of the access.

#### 6.9.13 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 Subdivision Regulations. **[Amended 3-23-2016 ATM by Art. 37]**

6.9.14 Modification by Special Permit. The SPGA may, as part of the grant of a special permit, modify the requirements of §§ 6.9.8 and 6.9.9, and the following provisions, as they may apply to individual dwellings or lots within a special permit residential development:

<b>Bylaw Provisions</b>	<b>SSD</b>	<b>BHD</b>	<b>PBD</b>
Number of dwellings on a lot	No	Yes	Yes
Lot width	Yes	Yes	Yes
Contiguous developable site area	Yes	Yes	Yes
Location of off-street parking spaces	Yes	Yes	Yes
Setbacks required for parking spaces and driveways	Yes	Yes	Yes
Subdivision of land in relation to lots or buildings that are nonconforming or would not comply with this bylaw as a result of the proposed development	Yes	Yes	Yes

6.9.15 Types of Dwellings. The SPGA may, as part of the grant of a special permit, allow the following types of dwellings:

<b>Type of Dwelling</b>	<b>SSD</b>	<b>BHD</b>	<b>PBD</b>
One-family detached	Yes	Yes	Yes
Two-family (*Yes in RT District)	No*	Yes	Yes
Townhouse	No	Yes	Yes

6.9.16 Accessory Apartments. The SPGA may authorize accessory apartments, as described in § 6.7 of this bylaw, to be created within a site sensitive development. **[Amended 4-9-2014 ATM by Art. 32; 3-30-2016 ATM by Art. 40]**

6.9.17 Conversion. The SPGA may authorize an existing structure, that was constructed at least 10 years prior to the date of application for approval of the special permit, to be converted to a residential use not otherwise permitted. The special permit shall incorporate by reference the building design and definitive site development plans filed with the application for a special permit, and, where applicable, any legally binding document that has been submitted to ensure the completion and continued availability of any proposed improvement or compliance with special conditions. In order to grant the permit the SPGA shall determine that:

1. The structure can be modified for a residential use that does not have adverse impacts on any adjacent one-family neighborhood;
2. The exterior character of the structure is maintained and is compatible with any adjacent neighborhood of one-family dwellings;
3. Modification of the existing structure maintains more of the site as open space than the alternative of removal of the structure and further subdivision of the lot into house lots.

6.9.18 SPGA. The Planning Board shall be the special permit granting authority for all special permit residential developments. The Planning Board may grant any special

permits that are required for the special permit residential development, notwithstanding provisions of this bylaw designating a different special permit granting authority.

6.9.19 Criteria. The SPGA may only grant a special permit if it makes a determination that the proposed development is consistent with the standards and criteria set forth in § 9.4.2 and the following additional criteria:

1. Where there is common open space, it shall include, as applicable:
  - a. Some, or all, of the outstanding natural features of the site and of the man-made features, including but not limited to stone walls, that enhance the land form;
  - b. Land that increases visual amenities for residents of the development and of the adjacent neighborhood;
  - c. One or more paths or entry points specifically designed for access purposes.
2. The dwellings are sited and oriented in a complementary relationship to: each other, the common open space, and the adjacent properties with respect to scale, mass, setback, proportions and materials;
3. Negative visual impacts of the development, if any, are screened from adjacent properties and nearby streets by landscaping or other site planning techniques;
4. Where opportunities exist, improved access is provided to, or additional links and connections are developed to, a Town system of public facilities, such as open space, recreation facilities, footpaths or bicycle paths;
5. Any building which contains more than one dwelling unit is designed so that either:
  - a. The building has the exterior appearance of a one-family dwelling; or
  - b. If two-family dwellings and/or townhouses are constructed, each individual dwelling unit has access to ground level and an opportunity for a private yard, patio, or other private outdoor space;
6. There are provisions for common facilities, such as recreation or parking, or for services such as the maintenance of streets, walkways or paths, utilities, landscaping or recreation facilities;
7. Where there are sufficient dwelling units, the layout of the street(s) and interior drive(s) will accommodate vehicles, other than automobiles, that are used in local transportation services.
8. To the extent practicable, sustainable development techniques, including green buildings, have been utilized.
9. A public benefit development shall meet the following criteria:
  - a. There are sufficient benefits to the adjacent neighborhood and the Town generally to warrant an increase in the maximum development otherwise permitted; and

- b. Legally binding documents have been submitted that insure that affordable units will continue to be available to eligible households in perpetuity. An affordable unit shall be subject to maximum household income established for that unit, based on the area median income (AMI) as annually determined by the U.S. Department of Housing and Urban Development, assuming one more person in the household than the number of bedrooms in the unit. Eligible households shall have incomes no greater than 80% of the AMI.<sup>9</sup>

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9. Editor's Note: Former Section 6.10, Medical marijuana treatment centers, added 6-17-2013 STM by Art. 4, was repealed 3-26-2014 ATM by Art. 30.



SECTION 135-7.0  
SPECIAL DISTRICT REGULATIONS

**7.1. NATIONAL FLOOD INSURANCE (NFI) DISTRICT.**

7.1.1 Purpose. The purpose of this district is to insure public safety through reducing the threats to life and personal injury; eliminate new hazards to emergency response officials; prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding; avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; eliminate costs associated with the response and cleanup of flooding conditions, and reduce damage to public and private property resulting from flooding waters.

7.1.2 Overlay District. The NFI District shall not supersede other zoning districts but shall be deemed to be superimposed over these other zoning districts.

7.1.3 Location. The NFI District includes all special flood hazard areas within the Town of Lexington designated as Zone A and AE on the Middlesex County, Massachusetts Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the Town of Lexington are panel numbers 0382F, 0384F, 0392E, 0401E, 0402E, 0403E, 0404E, 0408E, 0411E, 0412E, 0414E, and 0416E, in effect as of July 6, 2016. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report, in effect July 6, 2016. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and available on the Town website. **[Amended 3-23-2016 ATM by Art. 36]**

7.1.4 Base Flood Elevation and Floodway Data.

1. Floodway data. In Zones A and AE, along watercourses within the Town of Lexington that have not had a regulatory floodway designated, the best available federal, state, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. Base flood elevation data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones.

7.1.5 Notification of Watercourse Alteration. In a riverine situation, the Conservation Administrator shall notify the following of any alteration or relocation of a watercourse: adjacent communities, NFIP State Coordinator, and NFIP Program Specialist.

7.1.6 Use Regulations.

1. All man-made changes to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations in the NFI District, including structural and

nonstructural activities, whether permitted by right or by special permit must be in compliance with MGL c. 131, § 40 and with the following:

- a. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas; **[Amended 3-23-2016 ATM by Art. 36]**
  - b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
  - c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
  - d. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);
2. Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
  3. In Zones AE, along watercourses within the Town of Lexington that have a regulatory floodway designated on the Middlesex County FIRM Map, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  4. All subdivision proposals must be designed to assure that:
    - a. Such proposals minimize flood damage;
    - b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
    - c. Adequate drainage is provided to reduce exposure to flood hazards.
  5. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

## **7.2. TRANSPORTATION MANAGEMENT OVERLAY DISTRICT.**

7.2.1 Purpose. The Town may create Transportation Management Overlay (TMO) Districts that allow greater opportunity for facilitating effective multi-modal transportation networks that increase the quality of life in Lexington through improved traffic management and mitigation to that outlined in §§ 5.1 and 5.5, consistent with the following principles:

1. Multimodal consideration. To ensure that the safety and mobility of all users of the circulation and transportation systems, including vehicles, public transit, pedestrians and cyclist, are considered equally;
2. Context sensitive design. To incorporate, throughout project planning, design, and construction, the overarching principles of Context Sensitive Design, including attention to scenic, aesthetic, historic, and environmental resources; and

3. Clear process. To develop and implement plans adopted through a broad-based, clear and transparent process.

7.2.2 Overlay District. A TMO District shall not supersede other zoning districts, but shall be deemed to be superimposed over these other zoning districts, except that if an applicant elects to comply with the requirements in this section, this section shall supersede §§ 5.1 and 5.5.

7.2.3 Applicability. The provisions of this section shall apply to developments located within a TMO District that elect to comply with the requirements of this section, rather than complying with §§ 5.1 and 5.5. Notwithstanding anything set forth herein to the contrary, an applicant may not make such an election until a plan for the TMO District has been adopted by the Planning Board as described below. A final certificate of occupancy shall not be issued unless or until all provisions of this section have been satisfied, except for those conditions that by their terms are intended to be satisfied after occupancy of the structures for which the certificate of occupancy is sought.

7.2.4 Transportation Plan Required. The Planning Board, after consultation with the Board of Selectmen and an advertised public meeting, shall adopt a specific plan for each TMO District containing the following elements:

1. Assessment of the impacts of reasonably anticipated future development in the TMO District considering current zoning bylaws and other legal and physical constraints;
2. Analysis of existing capital improvement plans or the facilities element of a plan adopted under MGL c. 41, § 81D;
3. Cost projections for transportation infrastructure improvements required to address the impacts generated by the anticipated development in the TMO District, including the potential impact on nearby residential streets and neighborhoods;
4. Analysis of other reasonably anticipated sources of funding;
5. Required transportation mitigation fees in accordance with a methodology determined pursuant to this study;
6. Off-street parking and loading requirements for the TMO District;
7. Parking and Transportation Demand Management techniques reasonably calculated to reduce the number of vehicle trips generated by developments in the TMO District and to ensure the long term stability of the transportation system;
8. An implementation program that defines and schedules the specific municipal actions necessary to achieve the objectives of the plan; and
9. A plan to encourage voluntary participation in TDM programs by those not required to participate.

The plan shall be updated periodically to reflect actual development activity, actual costs of infrastructure improvements completed or underway, plan changes, or amendments to the zoning bylaws.

7.2.5 Transportation mitigation fee. The imposition of a transportation mitigation fee shall not prevent the Town from imposing fees it may otherwise impose under local bylaws. The payment of a transportation mitigation fee is required when an applicant elects to proceed under this section, subject to the following:

1. Timing of payment. Payment of the transportation mitigation fee shall be in cash, under terms and conditions specified in the TMO District plan.
2. Payment use. Any transportation mitigation fees paid to the Town are intended to be used to fund transportation infrastructure improvements that are necessitated by the proposed development of the applicant. Examples of appropriate uses include the costs related to the provision of equipment, infrastructure, facilities, services, or studies associated with the following: traffic mitigation; public transportation; bicycle and pedestrian accommodations or other transportation-related improvements. Except where deficiencies are exacerbated by the new development, in which case the fee may be assessed only in proportion to the deficiency so exacerbated, the fee shall not be expended for personnel costs, normal operation and maintenance costs, or to remedy deficiencies in existing facilities. The expenditure of the fees without Town Meeting appropriation is prohibited.
3. Rough proportionality and reasonable benefit to fee payer. The transportation mitigation fee shall be determined by the TMO District plan described in § 7.2.4. The fee shall be roughly proportionate to the impacts created by the development. The purposes for which the fee is expended shall reasonably benefit the proposed development.

7.2.6 Parking and Transportation Demand Management. Submission of a Parking and Transportation Demand Management (PTDM) plan, which is consistent with the TMO District plan described above, is required when an applicant elects to proceed under this section. Compliance with the submitted PTDM plan shall be a condition of any permit approvals.

7.2.7 Enforcement. Compliance with the PTDM plan submitted with an approved permit application may be enforced through § 9.1.

7.2.8 Special Permit. Where a development electing to proceed under this section also requires a special permit, the SPGA shall not grant the special permit unless it imposes conditions, including transportation mitigation fees and parking and transportation demand management requirements, to meet the goals of the TMO District plan.

### **7.3. PLANNED DEVELOPMENT DISTRICTS.<sup>10</sup> [Amended 4-9-2014 ATM by Art. 32; 3-23-2016 ATM by Art. 37; 4-25-2016 ATM by Art. 44]**

7.3.1 Purpose. A planned development (PD) district is intended to:

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10. Editor's Note: A complete list of Planned Development Districts, including PD Planned Development Districts, RD Planned Residential Development Districts, and CD Planned Commercial Development Districts, is on file with the Planning Office.

1. Permit considerable flexibility in the development of tracts of land by requiring few predetermined standards;
2. Permit a developer to propose, and for the Town to vote on, a site development and use plan unique to a particular location;
3. Permit the use of development standards more detailed than the more general standards elsewhere in this bylaw; and
4. Provide information for the Town to evaluate the potential impacts of a proposed development and to enable the Town to require adherence to such site development plans.

#### 7.3.2 Provisions Applicable to PD Districts.

1. Standards for development. A PD District does not have predetermined standards for development. Such standards are to be proposed by the developer, included in the preliminary site development and use plan, and approved by Town Meeting.
2. Uses permitted. Any uses may be permitted in a PD District if they are clearly identified in the preliminary site development and use plan approved by Town Meeting.
3. Compliance required. No use is permitted and no development may occur in a PD District except in substantial conformity with a preliminary site development and use plan approved by Town Meeting, the provisions of this section and site plan review under § 9.5. In no case may the use or development be inconsistent with the text of the preliminary site development and use plan.
4. Filings. Each petition presented to the Town Meeting for rezoning land to a PD District shall include a preliminary site development and use plan describing the proposed zoning provisions and development plan as described in the Planning Board's rules and regulations. 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 MGL c. 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. The vote of the Town Meeting shall refer to the preliminary site development and use plan and it shall be considered part of the rezoning action.
5. Previous amendments. The preliminary site development and use plan for an existing PD District that was approved by an earlier Town Meeting may be amended. The proposed amendments shall be presented and acted upon in the same manner set forth in this section for an original petition.
6. Application for site plan review. The application for site plan review under this section shall be accompanied by a copy, certified by the Town Clerk, of the preliminary site development and use plan approved by the Town Meeting.

### 7.3.3 Existing RD and CD Districts.

Existing CD and RD districts adopted under previous versions of this bylaw shall be governed by the version of this bylaw in effect on 1 January 2016 only until they are eliminated or amended. Any such elimination or amendment shall follow the procedures in this section.

## SECTION 135-8.0

**NONCONFORMING USES AND STRUCTURES****8.1. APPLICABILITY.**

Except as herein after provided, this bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building permit or special permit issued before the first publication of notice of the public hearing on this bylaw or any amendments thereto, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a one-family or two-family residential structure does not increase the nonconforming nature of said structure, as set forth below.

8.1.1 Commencement of Construction or Operation. Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this bylaw, unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**8.2. NONCONFORMING USES.**

8.2.1 Change or Substantial Extension. The SPGA may grant a special permit to change or substantially extend a nonconforming use only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

8.2.2 Substitution. The SPGA may grant a special permit to substitute one nonconforming use for another nonconforming use only if it determines that the new use shall be less detrimental than the existing use to the neighborhood.

**8.3. NONCONFORMING STRUCTURES OTHER THAN ONE-FAMILY AND TWO-FAMILY RESIDENTIAL STRUCTURES.**

The SPGA may grant a special permit to reconstruct, extend, alter or structurally change a nonconforming structure other than a one-family or two-family structure (which are governed by § 8.4, below), or to alter said structure to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. No part of a structure that does not conform to a minimum yard requirement shall be located closer to a lot line than the closest point of the existing structure to such lot line. No part of a structure that does not conform to a height requirement shall be higher than the existing structure.

#### 8.4. NONCONFORMING ONE-FAMILY AND TWO-FAMILY RESIDENTIAL STRUCTURES.

8.4.1 No Increase in Nonconforming Nature. Nonconforming one-family and two-family dwellings may be reconstructed, extended, altered, or structurally changed, or a new accessory structure may be constructed, upon a determination by the Building Commissioner that the nonconforming nature of the structure is not increased. Such determination will be deemed to be as of right and the applicant entitled to the issuance of a building permit where each structure is reconstructed, extended, altered, or changed so as to (a) contain the improvements within the site coverage and height of an existing structure; or (b) comply with the applicable yard and height requirements of § 135-4.0, except that the side yard may be reduced as noted below: **[Amended 3-30-2016 ATM by Art. 39]**

If Actual Lot Frontage Is	Side Yard Must Be At Least
More than 75 feet but not more than 100 feet	12 feet
More than 50 feet but not more than 75 feet	10 feet
More than 0 feet but not more than 50 feet	7.5 feet

8.4.2 Increase in Nonconforming Nature. In the event that the Building Commissioner determines the nonconforming nature of the structure is increased, the SPGA may grant a special permit to allow such construction, reconstruction, extension, alteration, or change where it determines that the proposed modification does not create a new nonconformity and will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

#### 8.5. NONCONFORMING LOTS.

8.5.1 Changes to Nonconforming Lots. A lot that does not currently comply with the dimensional requirements set forth in § 135-4.0 may be changed provided that such change reduces or does not increase the extent of the existing nonconformity and does not create a new nonconformity. Such change shall not cause the protected status of the lot to be forfeited and the lot shall be considered a nonconforming lot.

8.5.2 Government Acquisition. If government acquisition of land causes a lot to be rendered nonconforming, or more nonconforming, it shall not cause the protected status of the lot to be forfeited and the lot shall be considered a nonconforming lot. **[Amended 4-9-2014 ATM by Art. 32]**

#### 8.6. ABANDONMENT, DEMOLITION, OR NON-USE.

Any nonconforming use or structure which has been abandoned, demolished without reconstruction, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this bylaw; provided, however, that the SPGA may grant a special permit to authorize the reestablishment of a nonconforming use or structure where such reestablishment shall not result in substantial detriment to the neighborhood.



**8.7. NONCONFORMING OFF-STREET PARKING AND LOADING. [Amended 3-25-2015 ATM by Art. 52; 3-23-2016 ATM by Art. 37]**

8.7.1 Existing Nonconforming Parking Spaces or Loading Bays. Any off-street parking spaces or loading bays in existence on the effective date of this bylaw or thereafter established, which serve a building or use, may not be reduced in number, or changed in location or design contrary to the requirements of § 5.1 so as to increase the degree of nonconformity with the requirements of § 5.1.

1. Change of Use. A use of an existing structure or lot which does not have sufficient parking or loading, including a use which has no off-street parking or loading, may be expanded or changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in § 5.1.4 only if the net increase in the number of required parking spaces or loading bays is provided in conformity with § 5.1.
2. Increase in Floor Area. If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading bays, full compliance with § 5.1 for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.
3. Parking Spaces or Loading Bays in Existence. Parking spaces or loading bays lawfully in existence which serve existing uses, are no longer required for those uses under § 5.1, and comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.
4. Parking Spaces or Loading Bays in Existence. Existing parking spaces or loading bays that comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, that are no longer required for existing uses under § 5.1, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.
5. Credit. An applicant seeking credit for existing parking spaces or loading bays shall first submit an off-street parking and loading plan, as provided in § 5.1.3, certified by a registered land surveyor or professional engineer. If the existing paved area is not marked off into parking spaces or loading bays, such spaces or bays, complying with § 5.1.13 shall be delineated on the plan. To qualify, an existing parking space or loading bay shall be entirely on the lot.

8.7.2 Reconstruction or Replacement of a Building.

1. If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this bylaw, without providing additional parking spaces or loading bays provided the new building has the same or less net floor area and the new uses require the same or fewer parking spaces

or loading bays. If parking spaces or loading bays were provided before the destruction, damage, or demolition, at least the same number of spaces or bays shall be provided.

2. If the uses require a greater number of parking spaces or loading bays, or if more net floor area is to be constructed than previously existed, full compliance with § 5.1 for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.

## SECTION 135-9.0

**ADMINISTRATION AND PROCEDURES****9.1. ENFORCEMENT OFFICER; PENALTY; PERMITS; EXEMPTIONS.**

- 9.1.1 Building Commissioner. The Building Commissioner appointed under the provisions of MGL c. 143 and Chapter 753 of the Acts of 1968, as amended, is hereby designated and authorized as the officer charged with the interpretation and enforcement of this bylaw.
- 9.1.2 Violations. If the Building Commissioner is informed or has reason to believe that any provision of this bylaw is being violated, he/she shall make or cause to be made an investigation of the facts and inspect the property where such violation may exist.
- 9.1.3 Enforcement. If upon such investigation and inspection he/she finds evidence of such violation, he/she shall give notice thereof in writing to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Commissioner 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.
- 9.1.4 Further Action. 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 bylaw.
- 9.1.5 Penalty. Anyone who violates a provision of this bylaw, or any condition of a variance, site plan review decision or special permit, shall be punishable by a fine of not more than \$300 for each offense. Each day during which any portion of a violation continues under the provisions of this section shall constitute a separate offense.

**9.2. BOARD OF APPEALS.**

- 9.2.1 Establishment. 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 MGL c. 40A.
- 9.2.2 Powers. The Board of Appeals shall have and exercise all the powers granted to it by MGL Chapters 40A, 40B, and 41 and by this bylaw, including but not limited to the following:
1. To hear and decide applications for special permits when designated as the SPGA herein.
  2. To grant, upon appeal or petition, with respect to particular land or structures or to an existing building thereon, a variance from the terms of this bylaw where, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and owing to conditions especially affecting such parcel or such building but not affecting generally the zoning district in which it is located,

a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw. The Board of Appeals shall not grant use variances.

3. To 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 MGL c. 40A §§ 8 and 15 or by any person including an officer or board of the Town aggrieved by an order or decision of the Building Commissioner or other administrative official in violation of any provision of Chapter 40A or of this bylaw.
4. To hear and decide comprehensive permits for construction of low or moderate-income housing by a public agency or limited dividend or nonprofit corporation, as set forth in MGL c. 40B, §§ 20 to 23.

9.2.3 Rules and Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

9.2.4 Fees. The Board of Appeals may adopt reasonable technical review fees for petitions for special permits, variances, administrative appeals, and applications for comprehensive permits in accordance with its regulations.

### **9.3. PLANNING BOARD.**

9.3.1 Establishment. Pursuant to MGL c. 41 and Chapter 753 of the Acts of 1968, there shall be a Planning Board of five elected members.

9.3.2 Powers. The Planning Board shall have and exercise all the powers granted to it by MGL Chapters 40, 40A and 41 and by this bylaw, including but not limited to the following:

1. To hear and decide applications for special permits when designated as the SPGA herein.
2. To review site plans pursuant to § 9.5.

9.3.3 Associate Member. The Planning Board shall elect an associate member to serve for one year, or until replaced. In the case where the Planning Board is the SPGA, the Chairman of the Planning Board may have the associate member sit on the Board for the purpose of acting on a special permit application, in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

9.3.4 Rules and Regulations. The Planning Board shall adopt rules and regulations not inconsistent with the provisions of the Zoning Bylaw for conduct of its business and otherwise carrying out the purposes of said Chapter 40A and this bylaw, and shall file a copy of such rules in the office of the Town Clerk.

9.3.5 Fees. The Planning Board may adopt reasonable administrative fees and technical review fees for applications for special permits and site plan approval in accordance with its regulations.

#### 9.4. SPECIAL PERMITS.

9.4.1 Special Permit Granting Authority (SPGA). The special permit granting authority (SPGA), as designated herein, may, in its discretion, grant a special permit for a use, building, structure, sign, off-street parking or loading, modification of dimensional standards, screening or landscaping, or other activity where it would not otherwise be permitted but only in those cases where this bylaw specifically refers to a change from the provisions of this bylaw by the granting of a special permit and only in those cases where the SPGA makes the finding and determination set forth in that Section and this § 9.4, if applicable. An applicant is not entitled to a special permit and the SPGA, in its discretion, may decline to grant a special permit if it is unable to make a positive finding and determination as required in § 9.4.2. The Zoning Board of Appeals shall serve as the SPGA, except as set forth below:

1. The Planning Board shall serve as the SPGA for: **[Amended 3-23-2016 ATM by Art. 38]**
  - a. All special permits pursuant to § 6.9, Special Permit Residential Developments.
  - b. All special permits in the Governmental-Civic Use (GC) District; and
  - c. When an activity or use requires both site plan review and one or more special permits, except for a wireless communication facility.<sup>11</sup>

9.4.2 Criteria. Special permits shall be granted by the SPGA, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

1. Specific factors set forth elsewhere in this bylaw for the proposed use or activity;
2. Social, economic, or community needs which are served by the proposal;
3. Traffic flow and safety, including parking and loading;
4. Adequacy of utilities and other public services;
5. Neighborhood character and social structures;
6. Impacts on the natural environment; and
7. Potential fiscal impact, including impact on Town services, tax base, and employment.

11. Editor's Note: Former § 9.4.1.2, which stated that the Board of Selectmen shall serve as SPGA for the conversion of municipal buildings in RD Districts, was repealed 4-25-2016 ATM by Art. 44.

9.4.3 Conditions for Approval of a Special Permit. In addition to the conditions, standards and criteria as may be set forth in the section of this bylaw that refers to the granting of the special permit, the SPGA may impose additional conditions and limitations as it deems necessary to ensure that the finding and determination that it must make under § 9.4.2 are complied with, including but not limited to:

1. Dimensional standards more restrictive than those set forth in § 135-4.0;
2. Screening or landscaping of principal or accessory uses from view from adjoining lots or from a street, by planting, walls, fences or other devices; planting of larger planting strips, with more or larger plant materials or higher walls or fences than that required in § 5.3;
3. Modification of the exterior features or appearance of a building or structure;
4. Limitations on the size, number of occupants or employees, method or hours of operation, extent of facilities or other operating characteristics of a use;
5. Regulation of the number, design and location of access drives or other traffic features of the proposed use;
6. Provision of a greater number of off-street parking spaces or loading bays, and with greater yard setbacks, landscaping and screening than the minimum standards set forth in § 5.1;
7. Limitations on the number, location, type and size of signs or illumination, or modification of the design features thereof;
8. Limitations on construction activities, such as but not limited to, the hours during which construction activity may take place, the movement of trucks or heavy equipment on or off the site, and measures to control dirt, dust, and erosion and to protect existing vegetation on the site;
9. Requirements for independent monitoring, at the expense of the applicant, and reporting to the Building Commissioner, if necessary to ensure continuing compliance with the conditions of a special permit or of this bylaw;
10. Limitations on the period of time the special permit shall be in effect; and
11. Such other limitation as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the proposed use, structure or activity with, the surrounding area.

9.4.4 Procedures. An application for a special permit shall be filed in accordance with the rules and regulations of the SPGA.

9.4.5 Security for Special Permits.

1. General. The SPGA, 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 provisions. The SPGA shall administer this securing of performance by either:

- a. 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; or,
  - b. 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.
2. Reduction of security. Until completion of the development the penal sum of any deposit or security held under § 9.4 may from time to time be reduced by the SPGA to an amount not less than 15% of the value of work originally estimated.
  3. 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.
  4. Failure to act. If the SPGA fails to send such a notice within 60 days after it receives the applicant's affidavit, all obligations under the security shall cease and terminate, any deposit shall be returned and any such covenant become void.
  5. 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.

9.4.6 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, from the grant thereof) with the Town Clerk.

## **9.5. SITE PLAN REVIEW.**

9.5.1 Purpose. Site plan review is a means of managing the aesthetics and environmental impacts of land use by the regulation of permitted uses, not their prohibition. Its

purpose is to assure protection of the public interest consistent with a reasonable use of the site for the purposes permitted in the district.

9.5.2 Applicability. The following types of activities and uses require site plan review by the Planning Board or its designee:

1. Where required elsewhere in this bylaw, exterior construction or expansion of a structure resulting in an increase of 500 SF or greater of total building gross floor area or an increase in 500 SF or greater of site coverage. **[Amended 3-25-2015 ATM by Art. 51]**
2. Any changes to an approved site plan.

9.5.3 Coordination with Special Permit.

1. Where an activity or use requires both site plan review and one or more special permits the Planning Board shall be the SPGA.
2. When both a special permit and site plan review are required, they shall be considered together under the provisions of § 9.4.

9.5.4 Procedures for Site Plan Review.

1. Applicants shall submit an application for site plan review to the Planning Board.
2. The Planning Board shall promulgate, after public notice and hearing, Zoning Regulations to effectuate the purposes and intent of this provision of this bylaw, including definitions of major and minor site plans and delegating administrative review to the Board's designee that will allow site plan review without a public meeting for minor site plans. **[Amended 3-23-2016 ATM by Art. 37]**
3. A public meeting shall be required for all major site plans. The meeting will be advertised in the local newspaper once in each of two successive weeks prior to the meeting and a notice will be sent to landowners within 300 feet of the affected lot.
4. The Planning Board or its designee shall review and act upon the site plan, requiring such conditions as necessary to satisfy the Review Standards, and notify the applicant of its decision. The decision shall be in writing and shall be rendered within 60 days of the date of application.
5. The applicant may request, and the Planning Board may grant by majority vote as constituted, an extension of the time limits set forth herein.
6. The applicant shall satisfy or comply with all conditions of the site plan review decision prior to the issuance of a building permit except for those conditions that by their terms are intended to be satisfied during construction or later.
7. Unless specifically authorized by the terms of the site plan review decision, a final certificate of occupancy shall not be issued until the applicant has complied with or satisfied all conditions of the site plan review decision.

9.5.5 Review Standards. The Planning Board in its regulations shall establish standards for site plan review that will at a minimum address the following:



1. Siting of facilities;
2. Design practices;
3. Open space and natural features;
4. Circulation;
5. Water quality;
6. Town character and historic significance;
7. Impacts on public services and facilities;
8. Signage;
9. Safety;
10. Energy efficient site design;
11. Potential adverse effects.



SECTION 135-10.0  
DEFINITIONS

**10.1. DEFINITIONS.**

In this bylaw, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the bylaw. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is mandatory and "may" is permissive or discretionary. The word "and" includes "or" unless the contrary is evident from the text. The word "includes" or "including" shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word "lot" includes "plot"; the word "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The words "building," "structure," "lot," or "parcel," shall be construed as being followed by the words "or any portion thereof." The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this bylaw.

**ACCESSORY APARTMENT** — A second dwelling unit subordinate in size to the principal dwelling unit on a lot, located in either the principal dwelling or an accessory structure. The apartment is constructed so as to maintain the appearance and essential character of a one-family dwelling and any accessory structures. **[Amended 3-30-2016 ATM by Art. 40]**

**ACCESSORY BUILDING** — A building which is subordinate and customarily incidental to the principal building and is located on the same lot.

**ACCESSORY USE** — A use that constitutes only an incidental or insubstantial part of the total activity that takes place on a lot and is commonly associated with and integrally related to a principal use. Even though a use may be a principal use in another situation, it may be conducted as an accessory use in conjunction with another principal use.

**ADEQUATE COVERAGE (WIRELESS COMMUNICATIONS FACILITIES)** — The geographic area in which the carrier provides a level of service expected by the Federal Communications Commission under its license or authority.

**ADULT DAY CARE** — A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs.

**ANTENNA** — A device by which electromagnetic waves are sent or received (whether a dish, rod, mast, pole, set of wires, plate, panel, line, cable or other arrangement serving such purpose).

**ARTISAN WORK** — The creation, finishing, refinishing or similar production of custom or handmade commodities, together with the retailing of such commodities.

**ATTIC** — A space between the top of the floor joists of the top story and the bottom of the roof rafters that cannot be accessed by a stairway compliant with the building code. **[Amended 3-27-2017 ATM by Art. 41]**

**AVAILABLE SPACE** — The space on a tower or other structure to which antennas of a wireless communication service provider are able to fit structurally and be able to provide adequate coverage.

**AVERAGE NATURAL GRADE** — The average of the elevations of the natural grade of the four extreme corners of the building or, in the case of a nonrectangular building, of such equivalent locations as the Building Commissioner may determine.

**BALANCED HOUSING DEVELOPMENT** — A type of special permit residential development as defined in § 6.9.

**BASEMENT** — A space in a building having its floor surface entirely below average natural grade and a height of at least six feet eight inches from its floor surface to the bottom of the joists of the floor above. **[Amended 3-27-2017 ATM by Art. 41]**

**BED-AND-BREAKFAST HOME** — A private owner-operated establishment, as that term is defined in MGL c. 64G, where three or fewer bedrooms are let overnight and a breakfast is included in the rent, as an accessory use.

**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, regardless of size, which advertises, calls attention to or promotes for commercial purposes any product, service or activity other than one manufactured, sold or engaged in on the premises at which the sign is located.

**BIOTECH MANUFACTURING** — Manufacturing in the fields of biotechnology, medical, pharmaceutical, physical, biological and behavioral sciences and technology, environmental science, toxicology, genetic engineering, comparative medicine, bioengineering, cell biology, human and animal nutrition including the production of equipment, apparatus, machines and devices for research, development, manufacturing and advance and practical application in any such field or area. **[Added 4-24-2017 ATM by Art. 43]**

**BODY WORK, MOTOR VEHICLE** — Repairs to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but not the storage of vehicles for the cannibalization of parts. **[Amended 4-9-2014 ATM by Art. 32]**

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

**BUILDING COMMISSIONER** — The Building Commissioner of Lexington or his/her designee.

**BUSINESS OR PROFESSIONAL OFFICE** — A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise, including office of a professional, advertising, editing, composition (but not a printer) employment agency, civic or social association, office of a manufacturer's representative or salesperson.

**CAMOUFLAGED** — A wireless service facility that is placed within an existing or proposed structure disguised, painted, colored, or hidden by a compatible part of an existing or

proposed structure, or made to resemble an architectural feature of the building or structure on which it is placed.

**CARRIER** — A company, authorized by the FCC, that provides wireless communication services.<sup>12</sup>

**CENTER STOREFRONT** — The portion of the ground floor level of a building in the CB District that has frontage on a public way or a public parking lot. [Added 3-25-2015 ATM by Art. 52]

**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 Bylaw.

**CHANNEL** — One of the assigned bands of radio frequencies as defined in the Telecommunications Act, licensed to the service provider for wireless service use. [Amended 3-23-2016 ATM by Art. 37]

**CHILD-CARE CENTER** — A day-care center or school age child care program, as those terms are defined in MGL c. 15D, § 1A.

**CLUB OR LODGE, PRIVATE** — Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

**CMR: CODE OF MASSACHUSETTS REGULATIONS** — Regulations promulgated by agencies of the Commonwealth of Massachusetts.

**CO-LOCATION** — The use of a single mount by more than one carrier and/or several mounts on a building or structure by more than one carrier. Each service on a co-location is a separate wireless service facility.

**COLOR RENDERING INDEX (CRI)** — A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from zero to 100, where 100 represents incandescent light.

**COMMERCIAL DISTRICT** — Any district in Lexington whose designation begins with the letter "C" and any district in an abutting city or town intended for commercial use. This shall not include portions of residential districts where businesses are allowed as nonconforming uses, by special permit, by variance, or otherwise.

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

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12. Editor's Note: The definition of "cellar," which immediately followed, was repealed 3-27-2017 ATM by Art. 41.

**COMMON OPEN SPACE** — 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. **[Amended 4-9-2014 ATM by Art. 32]**

**COMMUNICATION EQUIPMENT SHELTER** — A structure designed principally to enclose equipment used in connection with wireless communication transmission and/or reception. **[Amended 4-9-2014 ATM by Art. 32]**

**CONCEALED** — A wireless service facility within a building or other structure, which is not visible from outside the structure.

**CONGREGATE LIVING FACILITY** — A non-institutional, shared living environment which integrates shelter and service needs of functionally impaired and socially isolated older persons who are otherwise in good health and can maintain a semi-independent life style and who do not require constant supervision or intensive health care as provided by an institution. See § 6.6.

**CONVENIENCE BUSINESS USE** — Sales for the convenience of customers or clients already on the premises.

**CONVENTIONAL SUBDIVISION** — The division of a tract of land into two or more lots complying with the dimensional standards set forth in this bylaw, accompanied by the construction of certain public facilities, in accordance with MGL c. 41, §§ 81K to 81GG.

**CRAWL SPACE** — A space in a building having its floor surface entirely below average natural grade and a height of less than six feet eight inches from the floor surface to the bottom of the joists above. **[Amended 3-27-2017 ATM by Art. 41]**

**CUTOFF ANGLE** — The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.<sup>13</sup>

**DECK** — An unroofed structure attached to or accessory to a building, constructed on a structural frame, open under, the top surface of which is elevated above the average level of the finished grade of the adjoining ground.

**DEVELOPABLE SITE AREA** — Developable site area shall be calculated by subtracting from the lot area all land which is located in:

1. A "freshwater wetland" as defined in MGL c. 131, § 40, or land located under a brook, creek, stream or river or pond or lake; and
2. Another zoning district in which the principal use of the lot is not also permitted.<sup>14</sup>

**DIRECT LIGHT** — Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**DISTRIBUTION CENTER** — A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

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13. Editor's Note: The former definition of "DBM," which immediately followed this definition, was repealed 3-23-2016 ATM by Art. 37.

14. Editor's Note: The former definition of "development regulations," which immediately followed this definition, was repealed 3-23-2016 ATM by Art. 37. See now the definitions of "subdivision regulations" and "zoning regulations."

**DRIVE-IN FOOD SERVICE** — An establishment primarily for dispensing food or beverage for consumption in a car on the premises.

**DRIVE-THROUGH FOOD SERVICE** — An establishment primarily for dispensing food or beverage to persons in a car.

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

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

1. **ONE-FAMILY DWELLING** — A dwelling containing one dwelling unit which is not attached to any other dwelling by any means and is surrounded by open space or yards on all sides.
2. **TWO-FAMILY DWELLING** — A dwelling containing two dwelling units which is not attached to any other dwelling by any means and is surrounded by open space or yards on all sides.
3. **TOWNHOUSE** — A dwelling 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.
4. **MULTIFAMILY DWELLING** — A dwelling containing three or more dwelling units, other than a townhouse.

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

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

**ESSENTIAL SERVICES** — Services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including wireless communications facilities. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith. Included are transformer stations, substations, pumping stations (except as an accessory use), and telephone exchanges.

**FACILITY SITE** — A lot or parcel, or any part thereof, which is owned or leased by one or more personal communication wireless service providers and upon which one or more wireless communication facilities and required landscaping are located.

**FAMILY** — One or more individuals living together as a single housekeeping unit and occupying one dwelling unit. For purposes of controlling residential density, not more than four unrelated individuals shall constitute a family; any roomer living in the dwelling unit shall be included in determining the number of unrelated individuals.

**FAMILY CHILD CARE HOME** — Any private residence operating a licensed facility as defined in MGL c. 15D, § 1A for up to six children.

**FAMILY CHILD CARE HOME, LARGE** — Any private residence operating a licensed facility as defined in MGL c. 15, § 1A for up to 10 children.

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

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** — The federal agency administering the National Flood Insurance Program.

**FIXTURE** — The assembly that houses a lamp or lamps and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An Official Map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

**FLOOD INSURANCE RATE MAP (FIRM)** — An Official Map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** — An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

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

**FLOOR AREA** —

1. **FLOOR AREA RATIO, NONRESIDENTIAL** — The ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot.
2. **GROSS FLOOR AREA** — The sum, in square feet, of the horizontal areas of a building (or several buildings on the same lot) measured from the exterior face of the exterior walls, or from the center line of a party wall separating two buildings, including garages, basements, porches, and half stories. In half stories, all floor area where the headroom is greater than five feet, measured from the top of the floor joists of the top story to the bottom of the roof rafters, is included in the measurement of gross floor area. Gross floor area does not include "crawl spaces," "attics," and "decks." Where the text of this bylaw refers to floor area, the term means gross floor area unless the term net floor area is used. **[Amended 3-27-2017 ATM by Art. 41]**



3. NET FLOOR AREA — The sum, in square feet, of the occupiable or habitable area in a building determined by either using 80% of the gross floor area, or by excluding the following from the 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, and fire escapes.
  - f. Areas used for a child care facility as provided herein.

FRONTAGE, LOT — The continuous portion of the line separating a lot from a street to which the owner of the lot can provide the physical access to a principal building on the lot, in compliance with applicable bylaws, regulations or laws, for motor vehicles to reach required off-street parking spaces or loading bays, and for emergency services such as fire protection or ambulance service, and for other vehicles to gain access to the principal building for deliveries, such as mail.

FRONTAGE STREET — A street to which the owner of the lot has a legal right of access and which provides the required lot frontage.

FULLY SHIELDED LUMINAIRE — A lamp and fixture assembly designed with a cutoff angle of 90° so that no direct light is emitted above a horizontal plane.

FUNERAL PARLOR — A facility for the conducting of funerals and related activities such as embalming. **[Amended 3-23-2016 ATM by Art. 37]**

GARAGE — A space in a building designed and intended for the parking or storage of motor vehicles whether or not used for that purpose.

GLARE — Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

HALF STORY — See "story, half."

HEIGHT, BUILDING — The vertical distance between the lower elevation and the upper elevation, as described below.

1. The lower elevation shall be the natural grade of the land at the point of measurement prior to disturbance for construction. The elevation of the natural grade prior to disturbance for construction shall be certified by a registered land surveyor, or may be such elevation as the Building Commissioner may determine from Town maps or records. In a case where the finished grade is lower than the natural grade, the finished grade shall be the lower elevation.
2. The upper elevation shall be the highest point of any ridge, gable, other roof surface, or parapet.

**HEIGHT OF LUMINAIRE** — The vertical distance from the finished grade of the ground directly below to the lowest direct-light-emitting part of the luminaire.

**HOME OCCUPATION** — Any business, occupation, or activity undertaken for gain within a residential structure, by a person residing in the structure that is incidental and secondary to the use of that structure as a dwelling unit.

1. **HOME OCCUPATION, INSTRUCTION** — A home occupation that consists of teaching that takes place inside the dwelling unit of the instructor. Typical instruction includes music lessons and academic tutoring.
2. **HOME OCCUPATION, MINOR** — A home occupation with no nonresidential employee, partner, or contractor working on the premises; no more than two business-related visitors to the premises at a time; and no more than six business-related visitors to the premises over the course of a day.
3. **HOME OCCUPATION, MAJOR** — A home occupation with no more than one nonresident employee, partner, or contractor working on the premises and no more than 10 business-related visitors to the premises over the course of a day.

**HOTEL** — An establishment providing lodging for guests on a short-term basis; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is through a lobby and interior corridors.

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

**IMPERVIOUS SURFACE RATIO** — The ratio of the sum of all impervious surfaces on a lot to the developable site area of the lot.<sup>15</sup>

**INDOOR ATHLETIC AND EXERCISE FACILITY** — A commercial enterprise offering athletic activities or exercise/fitness activities to the general public for a fee; said facilities may have accessory restaurants and retail sales open to patrons of the establishment and further said facilities may be used for social or business gatherings.

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

**KENNEL** — An establishment as defined in MGL c. 140, § 137A.

**LABORATORY, RESEARCH** — Laboratory or research establishments including biotechnology companies, but excluding laboratories categorized as Level 4 by the National Institutes for Health.

**LAMP** — The component of a luminaire that produces the actual light.

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15. Editor's Note: The former definition of "indirect light," which immediately followed this definition, was repealed 3-23-2016 ATM by Art. 37.

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

**LIGHT TRESPASS** — The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located.

**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.

1. **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.
2. **LOT, CORNER** — A lot bounded by more than one street which has an interior angle of 135° or less formed by the tangents or straight segments of street lines between the side or rear lines of such lot or by an extension of such street lines. A lot bounded by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form, or would form if extended, an interior angle of 105° or less.
3. **LOT FRONTAGE** — See "frontage, lot."<sup>16</sup>

**LUMEN** — A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

**LUMINAIRE** — A complete lighting system, including a lamp or lamps and a fixture.

**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.

**MEDICAL CLINIC** — A facility licensed pursuant to 105 CMR 140.020.

**MEDICAL, DENTAL, OR PSYCHIATRIC OFFICES** — A building designed and used as an office for the diagnosis and treatment of human patients that does not include overnight care facilities or licensing as a clinic.

**MEDICAL MARIJUANA CULTIVATION CENTER (MMCC)** — A not-for-profit establishment, registered as a registered marijuana dispensary (RMD) in accordance with Massachusetts law, that acquires, cultivates, possesses, transfers, and transports: marijuana, products containing marijuana, and related supplies. **[Added 3-22-2017 ATM by Art. 46]**

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<sup>16</sup> Editor's Note: The former definition of "lowest floor (National Flood Insurance District)," which immediately followed this definition, was repealed 3-23-2016 ATM by Art. 37.

**MEDICAL MARIJUANA DISTRIBUTION CENTER** — An establishment that has been certified by the State Department of Public Health as part of a medical marijuana treatment center that sells, distributes, dispenses or administers marijuana; products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers but does not cultivate or prepare the marijuana on site. **[Added 3-26-2014 STM by Art. 30]**

**MEDICAL MARIJUANA PROCESSING CENTER (MMPC)** — A not-for-profit establishment, registered as a registered marijuana dispensary (RMD) in accordance with Massachusetts law, that acquires, possesses, processes [including development of related products such as edible marijuana infused products (MIPs), tinctures, aerosols, oils, or ointments], transfers, and transports: marijuana, products containing marijuana, and related supplies. **[Added 3-22-2017 ATM by Art. 46<sup>17</sup>]**

**MGL** — Massachusetts General Laws.

**MODIFICATION OF AN EXISTING FACILITY (WIRELESS COMMUNICATIONS FACILITIES)** — Any material change or proposed change to a facility including but not limited to power input or output, number of antennas, change in antenna type or model, repositioning of antenna(s), or change in number of channels per antenna above the maximum number approved under an existing permit or special permit.

**MONITORING (WIRELESS COMMUNICATIONS FACILITIES)** — The measurement, by the use of instruments away from the antenna, of the electromagnetic radiation from a site as a whole, or from individual wireless communication facilities, towers, antennas, repeaters or associated power supplies and generators.

**MONOPOLE** — A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below-grade foundations.

**MOTEL** — An establishment providing lodging for guests on a short-term basis; dining rooms, function rooms and other support services may be included. Access to the individual sleeping rooms is directly from parking spaces or by an exterior walkway.

**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** — Related to the Town of Lexington.<sup>18</sup>

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

**NONCONFORMING** — Those uses, buildings, structures, parking spaces, loading bays, signs, landscaping and other activities that do not now conform to the provisions of this

17. Editor's Note: This article also repealed the definition of "medical marijuana treatment center (MMTC)," added 6-17-2013 STM by Art. 4, as amended 3-26-2014 ATM by Art 30.

18. Editor's Note: The former definition of "new construction (National Flood Insurance District)," which immediately followed this definition, was repealed 3-23-2016 ATM by Art. 37.

bylaw but were lawful before this bylaw was adopted or before amendments to this bylaw which are applicable to the situation were adopted.

**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.<sup>19</sup>

**OVERLAY DISTRICT** — 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 supplies additional or alternative requirements applicable to all land within the overlay district.

**PARKING LOT** — An area on a lot which includes five or more parking spaces and their related maneuvering aisle, excluding those spaces serving one and two-family dwellings. Where there are five or more parking spaces on a lot, regardless of their location on the lot, all such spaces shall be subject to the standards for parking lots.

**PEAK HOUR** — That consecutive sixty-minute segment within the peak period in which the highest traffic count occurs as determined by traffic counts of the peak period divided into fifteen-minute segments. The morning and evening "peak period" shall usually be the two hours between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. respectively.

**PEAK PERIOD** — The period in which the highest traffic counts occur, usually the two hours between 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. [Added 4-9-2014 ATM by Art. 32]

**PEAK TRAFFIC HOURS** — See "peak period." [Added 4-9-2014 ATM by Art. 32]

**PERMITTING AUTHORITY** — The Building Commissioner, Planning Board or Board of Appeals, as the case may be, authorizing a building permit, special permit or site plan approval.

**PERSON** — One or more individuals, a partnership, an association or a corporation.

**PORCH** — A roofed structure attached to or accessory to a building, which is open-sided or screened. The area of a porch shall be measured to the outer face of the posts or other structure supporting its roof.

**PRINCIPAL USE** — A principal use is a main or primary use of a lot or structure.

**PRIVATE POSTAL SERVICES** — A retail use which includes private postal box rentals and mailing services. Such facility shall not be used as a distribution center, parcel delivery or commercial mail delivery center but shall remain as a retail convenience store for consumers.

**PROOF PLAN** — A proof plan is a plan showing the layout of lots and roadways for a development tract that fully complies with the requirements of this bylaw and the Subdivision Regulations for a conventional subdivision.<sup>20</sup> [Amended 3-23-2016 ATM by Art. 37]

19. Editor's Note: The definition of "one-hundred-year flood," which immediately followed this definition, was repealed 4-9-2014 ATM by Art. 32. See Section 7.1.

20. Editor's Note: The definition of "public," which immediately followed this definition, was repealed 4-9-2014 ATM by Art. 32.

**PUBLIC BENEFIT DEVELOPMENT** — A type of special permit residential development as defined in § 6.9.

**RACQUET COURT** — A fixed playing area such as a tennis court or racquet ball platform.<sup>21</sup>

**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.

**RECONSTRUCTION** — The term "reconstruction" shall include the voluntary demolition and rebuilding of the structure.

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

**RECYCLING COLLECTION STORE** — A center for the acceptance by donation, redemption or purchase of reusable domestic containers from the public. Reusable domestic container means containers used primarily in residences and made of materials including, but not limited to, paper, glass, metal or plastic that are intended for reuse, remanufacture or reconstruction. Reusable domestic container does not include refuse or hazardous materials. In a recycling collection store sorting, limited cleaning, compaction or shredding of containers or other light processing activities necessary for efficient temporary storage and subsequent shipment to a recycling processing facility are permitted.

**REPEATER** — A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage from the primary sending and receiving site in a wireless communication network. **[Amended 3-25-2015 ATM by Art. 52]**

**RESIDENTIAL DISTRICT** — Any district in Lexington whose designation begins with R and any district in an abutting city or town primarily 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.

**RIVERINE** — Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**ROADSIDE STAND** — The land and the structures thereon for the sale of edible farm products, flowers, fireplace wood, preserves and similar products; no goods except plants, flowers and fireplace wood shall be stored or offered for sale outdoors.

**ROOMER** — An individual, other than a member of a family occupying a dwelling unit, occupying 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 on a long-term basis.

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21. Editor's Note: The former definition of "radio-frequency radiation (RFR)," which immediately followed this definition, was repealed 3-23-2016 ATM by Art. 37.

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

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

**SATELLITE RECEIVING ANTENNA** — A device or instrument for the reception of television or other electronic communications broadcast or relayed from a satellite orbiting the earth.

**SCHOOL AGE CHILD CARE PROGRAM** — Any program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than 14 years of age, or 16 years of age if such child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. It provides for a planned daily program of activities that is attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months, and as further described in MGL c. 15D, § 1A.

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

**SIGN** — Any display device, including but not limited to a board, placard, poster, flag or banner, which advertises or communicates information to persons not on the premises on which it is located.

1. **SIGN, ACCESSORY** — Any sign which advertises, calls attention to, or indicates the person or activity occupying the premises on which the sign is located; advertises the property or some part of it for sale or lease; or contains a lawful, noncommercial message displayed by an occupant of the premises.
2. **SIGN, COMMERCIAL** — Any sign, regardless of size, which advertises, calls attention to, or indicates any commercial product, service or activity, whether or not manufactured, sold or engaged in on the premises at which the sign is displayed.
3. **SIGN, NON-ACCESSORY** — Any sign that is not an accessory sign.
4. **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.
5. **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.
6. **SIGN, STANDING** — Any 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.
7. **SIGN, WALL** — A sign securely fixed parallel to the face of a building wall.
8. **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.

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

**SITE SENSITIVE DEVELOPMENT** — A type of special permit residential development as defined in § 6.9.

**SPECIAL FLOOD HAZARD AREA** — An area having special flood and/or flood-related erosion hazards, and shown on a FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, V.

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

**SPECIAL PERMIT RESIDENTIAL DEVELOPMENT** — A residential development regulated by § 6.9, in which a tract of land is divided into one or more lots for constructing dwellings in one or more groups and common open space.

**SPGA** — Special permit granting authority.

**STORY** — That portion of a building contained between any floor and the floor or roof next above it. If the finished surface of the floor above a basement or crawl space is more than six feet above average natural grade, then the basement or crawl space is considered a story. [Amended 3-27-2017 ATM by Art. 41]

**STORY, HALF** — A story under a sloping roof accessed by a stairway compliant with the building code. The gross floor area with head room of five feet or more may not exceed 40% of the total floor area of the second story. Dormers may be constructed on those exterior walls provided the length of the dormers as measured between the lowest bearing points of the dormers on the rafters of the sloping roof does not exceed 50% of the length of the sloping roof to which it is attached. [Amended 3-27-2017 ATM by Art. 41]

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

**STREET, ROAD OR WAY** — An area of land legally open for public travel under at least one of the following classifications:

1. A public way 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;
2. A way shown on a plan approved and endorsed in accordance with the Subdivision Control Law and constructed in accordance with such plan; or
3. A way in existence on April 4, 1948, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.



Land 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 land.

**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, solar panels, or the like, or the parts thereof, and swimming pools, but not including paved surfaces such as a driveway, a walk or a patio. **[Amended 3-25-2015 ATM by Art. 52]**

**STRUCTURE (NATIONAL FLOOD INSURANCE DISTRICT)** — A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure," for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, which is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.<sup>22</sup>

**SUBDIVISION REGULATIONS** — Chapter 175 of the Code of Lexington is the document adopted and amended from time to time by the Planning Board, containing various regulations, procedures, standards, and fees for actions used in dealing with subdivision control and other matters relative to residential and commercial development in Lexington. **[Added 3-23-2016 ATM by Art. 37]**

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

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

**TELECOMMUNICATIONS ACT** — The Federal Telecommunications Act of 1996. **[Added 3-23-2016 ATM by Art. 37]**

**TEMPORARY** — The term temporary shall mean use, operation or occupancy of a parcel of land, building or structure, off-street parking, or outdoor lighting where the intent and nature of the installation are not permanent and will be removed or discontinued after the temporary use.

**TOWER** — A structure or framework, or monopole, that is designed to support wireless communication transmitting, receiving, and/or relaying antennas and/or equipment. Components of the wireless communication facility used only to attach or support other elements of that facility are excluded provided such components are relatively less substantial than those other elements and do not materially affect a dimension of that facility.

**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.

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22. Editor's Note: The former definitions of "substantial damage (National Flood Insurance District)" and "substantial improvement (National Flood Insurance District)," which immediately followed this definition, were repealed 3-23-2016 ATM by Art. 37.

TRADE SHOP — Shop and storage facilities for tradesmen such as carpenter, plumber, electrician etc. engaged in the construction and repair of residential buildings and other light frame structures with incidental sale of building materials or products on the premises.

VETERINARIAN'S OFFICE — A place where animals or pets are given medical or surgical treatment and the Boarding of animals is limited to short term care incidental to the use.

WAY — See "street, road or way."

WIRELESS COMMUNICATION FACILITY — All equipment, buildings, and structures with which a wireless communication service carrier broadcasts and receives the radio-frequency waves which carry its services and all locations of said equipment or any part thereof.

WIRELESS COMMUNICATION SERVICE PROVIDER — An entity licensed by the Federal Communications Commission (FCC) to provide wireless communication services to individuals, businesses or institutions.

WIRELESS COMMUNICATION SERVICES — Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as defined in the Telecommunications Act. [Amended 3-23-2016 ATM by Art. 37]

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, and not from the middle of any public or private way whether owned pursuant to the derelict fee statute or otherwise, to the nearest point on a building in a line perpendicular or normal to such lot or street line. The minimum required yard shall be a strip of land of uniform depth required by this bylaw measured from the lot or street line and adjacent thereto.

1. YARD, FRONT — A yard extending between lot side lines across the lot adjacent to each street it abuts.
2. YARD, REAR — A yard extending between the side lines of a lot adjacent to the rear line of the lot.
3. YARD, SIDE — A yard extending along each side line of a lot between front and rear yards.

ZONE A (NATIONAL FLOOD INSURANCE DISTRICT) — The one-hundred-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local, or other data.

ZONE A1-30 AND ZONE AE (FOR NEW AND REVISED MAPS) (NATIONAL FLOOD INSURANCE DISTRICT) — The one-hundred-year floodplain where the base flood elevation has been determined.

ZONES B, C, AND X (NATIONAL FLOOD INSURANCE DISTRICT) — Areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

ZONING REGULATIONS — Chapter 176 of the Code of Lexington is the document adopted and amended from time to time by the Planning Board, containing various regulations, procedures, standards, and fees for actions that the Planning Board uses in dealing with special permits, site plan review, and other matters relative to residential and commercial development in Lexington. [Added 3-23-2016 ATM by Art. 37]



ZONING

Town of Lexington

Table 2  
(Section 4.1.1)

Schedule of Dimensional Controls

[Amended 3-20-2013 ATM by Art. 34; 4-9-2014 ATM by Art. 32; 3-23-2016 ATM by Art. 38; 3-30-2016 ATM by Art. 41; 4-24-2017 ATM by Art. 43; 3-28-2018 ATM by Art. 38]

		Zoning Districts										
	GC	RO	RS & RT	CN	CRS	CS	CB	CLO	CRO	CM	CSX	
Minimum lot area	NR	30,000 SF	15,500 SF	15,500 SF	15,500 SF	20,000 SF	NR	30,000 SF	5 AC(f)	3 AC	20,000 SF	
Minimum lot frontage in feet	NR	150	125	125	125	125	20	175	300(f)	200	125	
Minimum front yard in feet (a), (b),(h)	NR	30	30	30	30	30	NR(g)	50	100(f)	25	30	
Minimum side yard in feet	NR	15(d)	15(d)	20	20	15	NR	30	50(f)	25(f)	15	
Minimum rear yard in feet	NR	15(d)	15(d)	20	20	20	10	30	50(f)	25(f)	20	
Minimum side and rear yard adjacent to, or front yard across the street from a residential district in feet	NR	15	15	30	30	30	30	50	100(f)	100(f)	30	
Maximum nonresidential floor area ratio (FAR)	NR	NR(g)	NR(g)	0.20	0.20	0.20	2.0	0.25	0.15(f)	0.35(f)	0.20	
Maximum site coverage	NR	15% (e)	15% (e)	20%	25%	25%	NR	20%	NR	NR	25%	
Institutional buildings, maximum height:												
In stories:	2.5(f)	2.5	2.5	3	3	3	2	3	NR	NR	3	
In feet:	40(f)	40	40	45	45	45	30	45	45(f)	65(f)	45	
Other buildings, maximum height:												
In stories:	2.5 (f)	2.5	2.5	1	2	2	2	2	NR	NR	2	
In feet:	40(f)	40	40	15	25	25	25	30	45(f)	65(f)	25	

## LEXINGTON CODE

### NOTES:

As used in the Schedule of Dimensional Controls, symbol "NR" means no requirements, "AC" means acres, "SF" means square feet, and "feet" means linear feet.

- a. Where lawfully adopted building lines require yards in excess of these requirements, the building line shall govern.
- b. The minimum front yard for any other street, which is not the frontage street (see definition), shall be 2/3 of that required for the frontage street. In the case of nonresidential uses located in the RO, RS, or RT Districts (see Table 1) or for uses located in the CM and CRO Districts, the minimum front yard facing all streets shall be the same as that for the frontage street.
- c. Except ten-foot yard on Muzzey Street, Raymond Street, Vine Brook Road and Wallis Court for lots abutting these streets.
- d. For institutional uses (see Table 1) the minimum setback for a building shall be the greater of 25 feet or a distance equal to the height of the building as defined in § 4.3. For other nonresidential uses (see Table 1), increase the required side yard to 20 feet plus one foot for every 1/2 acre (or fraction thereof) over 1/2 acre lot area.
- e. Applicable only to uses permitted by special permit.
- f. This limit may be waived by special permit.
- g. For institutional uses (see Table 1), the maximum floor area ratio shall be 0.25.
- h. Along the southwestern side of Bedford Street between the Northern Circumferential Highway (Route 128) and Hartwell Avenue there shall be a front yard of 233 feet measured from the base line of Bedford Street as shown on the Commonwealth of Massachusetts layout 4689, date June 3, 1958, and shown as auxiliary base line "F" on the State Highway Alteration layout 5016, dated August 30, 1960.