PROTECTIVE BYLAW

OF THE

TOWN OF LUNENBURG

ADOPTED - AUGUST 18, 1960

AMENDED THROUGH MAY 5, 2012

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1.0. PURPOSE AND AUTHORITY

1.0. Purpose and Authority

1.1. Purpose

1.1.1. *The purpose of this Bylaw is to achieve the objectives of the Zoning Enabling Act, Chapter 40A, as amended, as presented in Section 2A of Chapter 808 of the Acts of 1975 which include but are not limited to the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements to conserve the value of land and building, including the conservation of natural resources and the prevention of blight and pollution of the environments; to encourage the most appropriate use of land throughout the city or town, including consideration of recommendations of the Master Plan, adopted by the Planning Board and the Comprehensive Plan of the Regional Planning Agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.*

1.2. Authority

1.2.1. This Bylaw is adopted under the authority provided by and in accordance with, the provisions of Chapter 40A of the General Laws, as amended.

2.0. DEFINITIONS

2.1. Terms and Words

2.1.1. For the purposes of this Bylaw certain terms and words are herein defined as follows:

2.1.1.1. *Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "lot" includes the words" plot", and "parcel" and "land" includes the words "marsh" and "water".*

2.1.1.2. Access: A strip of land, calculated in the frontage available, capable of being and used for vehicular ingress or egress to the property, measured from the right-of-way to the set back line.

2.1.1.3. Assisted Living Residence: A residential development with support services as defined by Chapter 19D of the General Laws of Massachusetts and which conforms to the requirements of said chapter.

2.1.1.4. Bed and Breakfast or Bed and Breakfast Establishment: A private owner occupied dwelling for rent which meets the definition of the Commonwealth of Massachusetts Department of Revenue for Bed and Breakfast.

2.1.1.5. Building: The word "building" shall include the word "structure" unless the context unequivocally indicates otherwise. "Building" shall also mean a three (3) dimensional enclosure built, erected or framed of any combination of building materials on any space for use or occupancy, temporary or permanent and may include foundations in the ground, also all parts of any kind of a structure above ground except fences and fields or garden walls or embankment retaining walls.

2.1.1.6. Building Lot or Lot (see Section 2.1.1.28.)

2.1.1.7. Car Wash: A facility for washing, cleaning and waxing vehicles, including light trucks and vans.

2.1.1.8. Catering Service: A business which prepares and provides food on site and/or to be delivered and served at an off site location.

2.1.1.9. Cellular Tower: A tower used for cellular phone communication equipment.

2.1.1.10. Constructed: Shall include the words "built", "erected", "reconstructed", "altered", "moved", or "placed".

2.1.1.11. Continuing Care Retirement Community: A residential development, which provides housing in independent units, skilled medical care and such services as a nursing home, meals and unit cleaning; which may also provide such amenities as a craft area, library, store, bank or post office for sale of products or provision of services to meet daily needs of the residents only, and transportation for residents to shopping, social and recreational activities and to off-site medical appointments.

2.1.1.12. Driveway: A way for the passage of vehicles from the street used to qualify for required frontage to a garage or off-street parking and loading area.

a) Common Driveway: Any drive, right-of-way or private way which provides access to two (2) lots but which does not qualify for determining frontage under Chapter 40A and 41 of the General Laws of Massachusetts.

2.1.1.13. Dwelling: Any building or part thereof, used for habitation for one (1) or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

a) Dwelling Unit: One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.

2.1.1.14. Exterior Line: The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

2.1.1.15. Family: One (1) or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal arrangements.

2.1.1.16. Farm: A parcel of land five (5) acres or more used for gain in the raising of agricultural products, livestock, poultry, dairy products, viticulture, horticulture and floriculture. It includes necessary farm structures and the storage of equipment used.

2.1.1.17. Frontage: The distance measured along the boundary of a lot coinciding with the street line, being an unbroken distance through which actual access to the potential building site shall be required, provided that:

1.
a) The lot is on a street or way legally accepted by Town Meeting vote, or

b) The lot is on a street or way established by a state or federal authority, or

c) The lot is shown on a street or way established by a subdivision plan approved in accordance with the Subdivision Control Law, or

d) The lot is on a street or way on a list maintained by the Town Clerk, which is determined to qualify for frontage under the provisions of this Section.

2.1.1.17. continued

And

2.

a) For a corner lot, which has a corner with a radius, frontage shall be measured between the above described lot line and the midpoint of the arc made by the common radius, or

b) For a corner lot, which has no radius, frontage shall be measured between one side lot line and the intersection with the abutting street right of way line, or

c) For a lot with frontage on a curved portion of a cul-de-sac, frontage shall be measured along a straight line running between the points where the lot's sidelines intersect with the street's right of way line.

2.1.1.18. Function Facility: A building and its grounds used for meetings and events to include receptions, dinners, weddings and similar social affairs, and business and civic meetings.

2.1.1.19. Garage: Covered space for housing of motor vehicles.

a) Garage - Private: A garage which is a part of or separate from a dwelling but which is not used for the rental of more than one (1) stall or for commercial repair or commercial storage.

b) Garage - Public: Any garage other than a private garage, available to the public, operated by a public authority or for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles or supplying of gasoline or oil to motor vehicles or fuel to any kind of self-propelled vehicles.

2.1.1.20. Gasoline Station/Service Station or Filling Station: An establishment which provides for the servicing of motor vehicles and operations incidental thereto limited to:

a) Retail sale of gasoline, oil, tires, batteries and new accessories.

b) The changing and repairing of tires, but not including recapping.

c) Battery service, charging and replacement, but not including repair or rebuilding.

d) Radiator cleaning and flushing, but not including repair or steam cleaning.

e) Installation of minor accessories.

f) The following operations, if conducted wholly within an enclosed building:

1. Lubrication of motor vehicles.
2. Brake adjustment, replacement of brake cylinders and brake fluid lines.

3. Minor repair including the testing, adjustment and replacement of carburetors, coils, condensers, distributor caps, fan belts, filters, generators, points, rotors, spark plugs, voltage regulators, fuel pumps, motor hoses and wheel balancing.

g) Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, or major body, engine or transmission work.

2.1.1.21. Guest House, Private: An accessory use on a lot which contains a dwelling. The guest house can be occupied on a temporary basis by non-paying guests of the principal dwelling and may contain sleeping and sanitary facilities but may not contain cooking facilities.

2.1.1.22. Hazardous Material: A substance or material whether in gaseous, liquid or solid form, or a combination thereof in a quantity or form that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed as hazardous by the Environmental Protection Agency, under the Toxic Substance Control Act, Federal Resource Conservation and Recovery Act as set forth in 40 CFR Section 261, or similar authority, the Department of Energy or by the Commonwealth of Massachusetts pursuant to applicable General Laws.

2.1.1.23. Hotel, Inn, Motel, Tourist Home or Lodging House: A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of three (3) or more persons who are lodged, with or without meals and in which major provisions for cooking may be made in a central kitchen but may not be in individual rooms or suites.

2.1.1.24. Impervious Surface: An impervious surface shall be considered one with a runoff coefficient of greater than ninety (90) percent. All structures, driveways, parking areas and paved surfaces exceeding a ninety (90) percent runoff coefficient shall be considered as impervious surfaces.

2.1.1.25. Industrial Park: An area planned for occupancy for more than one (1) industrial building with shared common areas and/or parking areas.

2.1.1.26. Kennel: One pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained (Chapter 140 MGL §136A).

2.1.1.27. Loading Space, Off - Street: An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material and which has access to a street or other appropriate means of ingress and egress.

2.1.1.28. Lot:

a) A single area of land in one ownership, capable of being built on and designated by metes and bounds or boundary lines shown in a recorded deed or a recorded plan or a plan proposed to be recorded.

b) Lot width is the minimum distance between the side lot lines of the lot measured on any line parallel to a line joining the intersection of the side lot lines with the right-of-way at any point between said intersection and the nearest point of the principal building and the right-of-way line.

c) A building lot is that area of land described in a site plan application for a building permit; or any application to the Board of Appeals for a Special Permit or a Variance or any application to the Planning Board for Development Plan Review or for a Special Permit; or otherwise described as an area on which a structure is to be constructed which will be recorded by plan or deed at the Worcester North District Registry of Deeds.

d) A building lot shall not include any part of the street.

e) A corner lot shall be any lot abutting on two (2) or more streets that are intersecting.

f) A Planned Residential Area lot is defined as the land within the perimeter boundaries of the unified plan.

2.1.1.29. Non-conforming:

a) A non-conforming building is a building lawfully existing at the time of adoption of this Bylaw or any amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the building is located.

b) A non-conforming lot is a lot lawfully existing at the time of the adoption of this Bylaw, or any amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the lot is located.

c) A non-conforming use is a use of a building or lot, lawfully existing at the time of the adoption of this Bylaw, or any amendment thereto, which use is not allowed by the Bylaw in the district in which it is located.

2.1.1.30. Office Park: An area planned for occupancy for more than one (1) office building with shared common areas and/or parking areas.

2.1.1.31. Planned Residential Area: A unified one lot development, including one or more residential building types, undertaken in accordance with an overall plan, incorporating a consistent architectural concept and incorporating the preservation of natural areas within the development.

2.1.1.32. Private Way: Any way that is not a “public way” as defined by this Bylaw.

2.1.1.33. Professional Building: An office or offices of recognized professions such as doctors, dentists, lawyers, architects, engineers and others who are qualified to perform, with or without staff, personal services of a professional nature, provided that the residential character of the exterior is maintained.

2.1.1.34. Public Way: A way over which the public is entitled to pass, and which has been either 1) laid out and accepted as public in the manner prescribed in statute or 2) dedicated to perpetual public use by its owner prior to 1846 or 3) made public by prescription, as adjudged by a Massachusetts court.

2.1.1.35. Right of Way: 1) A way serving property other than that on which it is located; or 2) a right held by one or more parties to pass over land of another.

2.1.1.36. Rooming or Boarding House: A building or premises, other than a hotel, inn, motel, tourist house or lodging house, where rooms are let and where meals may be regularly served by pre-arrangement for compensation; not open to transient guests, in contrast to hotels, restaurants and tourist homes, open to transients.

2.1.1.37. Screened Area: A section shielded from view from adjacent areas by fencing, hedges or trees.

2.1.1.38. Shopping Center: An area or building planned for occupancy for more than one (1) retail businesses with shared common areas and/or parking areas.

2.1.1.39. Sign: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

2.1.1.40. Street: A public way or private way either shown on a plan approved in accordance with the Subdivision Control Law or otherwise qualifying a lot for frontage under the Subdivision Control Law or in existence when the provisions of the Subdivision Control Law became effective in the Town of Lunenburg having, in the opinion of the Planning Board, suitable grade, adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby or for the installation of municipal services to serve the plan and/or to be erected thereon.

a) Street Line - See Exterior Line, 2.1.1.14. above.

2.1.1.41. Structure: Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land, excluding fences, but including all indoor or outdoor swimming pools whether or not so attached and equipment and appurtenances thereto when the pool is used for landscaping, swimming or bathing and has twenty-four (24) or more inches of depth and has a surface of seventy-five (75) or more square feet and all other structures of over one hundred twenty square feet (120).

2.1.1.42. Telecommunication Tower: A tower used for telecommunication equipment and transmitting.

2.1.1.43. Town House: A single-family dwelling attached to another single family in such a manner that each dwelling has a door at ground level and front and rear access to the outside. Said dwelling may be in separate ownership from the unit(s) to which it is attached.

2.1.1.44. Toxic Material or Toxic Waste: A substance or material, whether in gaseous, liquid or solid form or a combination thereof in quantity or form that significantly contributes to serious illness or death or that poses a substantial threat to human health or poses an unreasonable risk to health when improperly managed, including all materials listed as toxic by the Environmental Protection Agency, under the Toxic Substance Control Act, Federal Resource Conservation Recovery Act as set forth in 40 CFR, Section 261 or similar authority or by the Commonwealth of Massachusetts pursuant to applicable General Laws.

2.1.1.45. Trailer or Mobile Home: Any vehicle or object whether resting on wheels, jacks or other foundation and having no motive power of its own, but which is drawn by or used in connection with a motor vehicle and which is designed and constructed as a dwelling unit which permits its transportation and relocation as a complete unit on its own wheels. It shall contain complete electrical, plumbing and sanitary facilities and may be installed on a temporary or permanent foundation for permanent living quarters. This shall not include the type of vehicle known as a recreational camping type vehicle, motorized travel vehicle, boat trailer, horse trailer or similar trailer vehicles nor shall it include any other prefabricated dwelling unit which contains detachable parts equal to or greater than fifty (50) percent of the floor area of the total dwelling unit.

2.1.1.46. Wind Energy System (WES): All equipment, machinery and structures for wind energy systems utilized in connection with the conversion of wind to electricity.

a) Small Wind Energy System (SWES): A WES with a rated name plate capacity of 60kW of less.

b) Commercial Wind Energy System (CWES): A WES with a rated name plate capacity of more than 60kW of which more than fifty (50) percent of the output is intended for use off site.

c) KiloWatt: (kW): 1000 watts.

2.1.1.47. Yard: An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line and is not occupied or obstructed from the ground upward by a building or a structure.

a) Yard, Front - A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and front lot line.

b) Yard, Rear - A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of the rear yard shall be the minimum distance between the building and the rear lot line.

c) Yard, Side - A yard between the side lot line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be minimum distance between the building and the side lot line.

3.0. ESTABLISHMENT OF DISTRICTS

3.1. Types of Districts

The Town of Lunenburg is hereby divided into fourteen (14) types of districts designated as:

a) Residence A
b) Residence B
c) Outlying
d) Recreation
e) Commercial
f) Limited Business/Residential District
g) Retail Commercial District
h) Route 2A Overlay District
i) Office Park and Industrial District
j) Flood Plain District
k) Water Supply Protection District
l) Whalom Overlay District
m) Tri Town Smart Growth District
n) Summer Street Revitalization Overlay District

3.2. Location of Districts

3.2.1. Said Districts, except Flood Plain Districts, Water Supply Protection Districts, Route 2A Overlay District, Whalom Overlay District, and Tri Town Smart Growth District hereinbefore referred to are located and bounded as shown on a map entitled "Revised Protective Bylaw Map of the Town of Lunenburg, Massachusetts", dated May 3, 2008, signed by the Planning Board and filed with the Town Clerk, which map, together with all explanatory matter thereon, shall be deemed to accompany and be a part of this Bylaw. The Flood Plain District location described in Section 4.8.2., Water Supply Protection District described in Section 4.9., Route 2A Overlay District as described in Section 4.10., Whalom Overlay District as described in Section 4.12. and Tri Town Smart Growth District as described in Section 4.13.

3.3. Lots in Two Districts

3.3.1. Where a district boundary line divides any lot laid out by deed or conveyance or shown on a duly recorded plan prior to the time such boundary line is established and in effect, the regulations applying to the less restricted portion of such lot may be considered as extending not more than fifty (50) feet into the more restricted portion provided, however, that the lot has frontage on a street in the less restricted district.

3.3.2 Where a district boundary line divides a lot not covered by the provisions of Section 3.3.1., the more restrictive zoning district shall be interpreted as extending no further than twenty (20) feet into the adjacent district.

3.4. Two (2) dwellings on a lot.

3.4.1. No more than one (1) building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot, in a subdivision or elsewhere in the Town, without the approval of the Planning Board.

4.0. USE REGULATIONS

4.1. Application of Use Regulation

4.1.1. No building or structure shall be constructed and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than:

a) One principal permitted use, except as hereinafter provided:

b) A use permitted by Special Permit from the Zoning Board of Appeals or the Planning Board;

c) An accessory use allowed in Residential and Outlying Districts;

d) A residential use in the Retail Commercial and the Commercial District; which shall comply with Section 5.1.4.1.

4.1.2. Any use not specifically listed or otherwise permitted in a District herein established shall be deemed prohibited. All residential development of ten (10) or more units permitted pursuant to the Subdivision Control Law (MGL Chapter 41), the Lunenburg Zoning Bylaw Planned Residential Area (Bylaw, Section 5.5), and the Lunenburg Zoning Bylaw Mixed Residential Development (Section 5.4), in all districts shall "set aside" dwelling units for low or moderate income persons and families as defined by the Massachusetts Department of Housing and Community Development (DHCD) and said set aside dwelling units shall qualify for the DHCD Subsidized Housing Inventory for the Town of Lunenburg and shall count toward the mandate of the Housing Inventory Threshold set in MGL Chapter 40B.

4.1.2.1. A development containing ten (10) or more units shall set aside ten percent (10%) of the units as moderate or low income units. A Development containing thirty-six (36) or more units shall set aside fifteen percent (15%) of the units as moderate or low income units. The set aside units shall conform to the zoning requirements of the zone in which the units shall be built. The set aside units may be developed as sale or rental units. All partial units under this formula will be rounded to the next highest number.

4.1.2.2. The following conditions will prevail:

a) The low or moderate price set-aside units shall be dispersed within the site.

b) The exterior and interior quality and appearance of the set aside units shall be the same as the market price units.

c) A development that contains set-asides shall be exempt from Section 4.11 of the Zoning Bylaw.

d) The set-aside units shall be made available to qualified low and moderate income persons or families in perpetuity. The Lunenburg Housing Authority will determine the qualified persons or families and will administer the process through a lottery.

4.1.3. Nothing in this Bylaw shall prohibit, regulate or restrict the use of land or structures in any district for the following uses:

a) Religious purposes or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a non-profit educational corporation, except as provided in Section 3 of Chapter 40A of the General Laws as amended.

b) Agriculture, horticulture, floriculture and viticulture, provided that such uses shall be limited to parcels of land containing at least five (5) acres.

c) Activities, accessory to activities otherwise permitted within the district as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right, subject to the provisions of Section 8.3. for a Special Permit.

4.1.4. Uses Permitted in all Districts:

4.1.4.1. Cemeteries

4.1.4.2. Municipal Buildings and Use

4.1.4.3. Conservation areas for water, plants and wildlife and dams necessary for achieving this purpose, farming, including raising, harvesting and storing crops, truck gardening and grazing, orchards, nurseries, forest and tree farms and areas for horticulture and floriculture, but not including fur farms or piggeries, provided that:

a) Equipment necessary for these uses is normally stored in an enclosure.

4.1.4.4. Small waste water treatment facilities which shall be designed and operated in accordance with the Lunenburg Planning Board Regulations for the Design, Operation and Maintenance of Small Wastewater Treatment Facilities and Sewage Pumping Stations contained in the Rules and Regulations Governing the Subdivision of Land, provided that:

a) The location of such plants shall be shown on a development plan approved by the Planning Board in accordance with Section 8.4.

b) The facility shall be located on a lot in conformance with the dimensional regulations in Section 5.1. for the District in which it is located or as approved on a Special Permit granted under Section 5.5. (Planned Residential Area).

c) No construction shall be undertaken prior to review, approval and granting of a Disposal Works Construction Permit by the Board of Health.

d) Communal Sewage or Waste Water Disposal or Treatment Systems. In view of the high vulnerability of Lunenburg's wetlands, water absorption areas, water bearing bedrock fissures, groundwater supply and individual or private wells to pollution and contamination from sewage or waste water disposal within the Town of Lunenburg, it is important, in order to protect the drinking water, the public health and the environment, that any communal or central sewage or waste water disposal or treatment plants or systems which may be built in Lunenburg shall be constructed, owned operated, monitored, maintained, repaired and replaced by the Town rather than by private individuals, associations or other private entities, since such plants or systems typically handle substantial amounts of sewage, require frequent monitoring, have a useful life far shorter than that of the building they serve and pose a substantially greater threat to pollution or contamination of wetlands, water absorption areas, groundwater and wells in the event of malfunction or failure than do the smaller individual systems serving individual homes.

For these reasons and to carry out the intent and purposes stated elsewhere in this subsection and the Purpose section (Section 1.1.1.), the use of privately constructed or privately owned, operated and maintained communal sewage or waste water disposal or treatment systems, facilities or plants with capacity in excess of fourteen thousands nine hundred and ninety-nine (14,999) gallons per day, serving two (2) or more main buildings for commercial or residential use (other than institutional use) is prohibited pursuant to Massachusetts General Laws Chapter 40A (the Zoning Act), Article II, Section I through IX of the Amended Massachusetts Constitution (known as the Home Rule Amendment), and other provisions of the law. A building permit shall not be issued for a building to be served by such a private constructed or privately owned, operated or maintained communal system or plant.

4.1.4.5. Child care facilities, as defined by Massachusetts General Laws Chapter 28A Section 9, as "Day Care Center" or "School Age Child Care Program" but not "Family Day Care Home", provided that:

a) If the proposed Day Care Facility requires four (4) or more parking spaces, the site to be used shall be shown on a Development Plan prepared by the applicant and approved by the Planning Board in accordance with those parts of Section 8.4 deemed applicable by the Planning Board based on the scale of the application.

b) The lot area shall conform to the area requirements contained in Section 5.1. or, if none is prescribed for the District in which it is located, or, if it is a legal non-conforming lot, the area shall be a minimum of twenty thousand (20,000) square feet.

c) The building used for the purpose conforms to all dimensional regulations contained in Section 5.0., which are applicable in the District in which it is located and to all requirements of Section 6.0., pertaining to off-street parking and loading areas, lot monuments, land, driveways and entrances, signs and performance standards and further provided that buildings, structures, driveways, walkways, parking areas and other impervious surfaces shall not cover more than twenty (20) percent of the total lot area on which the facility is located.

d) No building or structure shall exceed thirty-five (35) feet in height in Residence A, Residence B, Outlying, Recreation or Limited Business Districts and shall not exceed thirty-five (35) feet in height elsewhere unless shown on the Development Plan and approved by the Planning Board.

e) With the exception of a driveway and walkway, no required front yard shall be paved or used for the purposes of the child care facility.

f) Parking areas and play areas shall be located behind the setback line in the side or rear of the building used for a child care facility and shall be screened from abutting residences in the same manner as is required in the second sentence of 6.6.15.1.

g) Any new or remodeled structure shall be designed to be compatible with the character of the neighborhood in which it is located.

h) In addition all requirements of Section 8.4.:

1. A traffic impact statement form designated by the Planning Board, will be completed and submitted to the Planning Board, who will determine whether a traffic study prepared by a registered engineer will be required.

2. The Planning Board shall be satisfied that there is safe access and ingress and egress to and from the site, as provided in Sections 6.0. and 8.4.

4.1.5. Prohibited Uses

4.1.5.1. Uses Prohibited in all Districts:

a) Non permanent residential structures, trailers and mobile homes (except in existing mobile home park or as provided for in Section 4.2.1.1.o), but not including recreational vehicles which are parked for a limited time as approved by the Building Official.

b) Non permanent business structures, such as trailers, trucks, storage boxes, open air stands and carts used for office space, retail space, wholesale storage, except for an accessory use as permitted in Section 4.6.3.1.l and 4.7.2.2.d.

c) Storage of explosive materials, except in accordance with the provisions of Section 6.6.1.1.

4.1.6. Small Wind Energy System (SWES) and Commercial Wind Energy System (CWES): Uses Permissible by Development Plan Review Granted by the Planning Board.

4.1.6.1. Small Wind Energy System (SWES) in any district on a lot of one (1) acre or more, subject to the provisions of Section 6.6.6.2.

4.1.6.2. Commercial Wind Energy System (CWES) on Town owned property or on ten (10) acres.

4.2. Residence and Outlying District Uses.

4.2.1. Permitted Uses

4.2.1.1. Residence A, Residence B or Outlying District, any of the following uses are permitted:

a) Detached one (1) family building, but not including mobile home or automotive type trailer.

b) An accessory housing unit may be attached to or within a primary dwelling provided the primary dwelling unit is on a lot of forty thousand (40,000) square feet or more in the Residence A Districts or eighty thousand (80,000) square feet or more in Residence B Districts or Outlying Districts and further providing that:

1. The primary building has at least twelve hundred (1200) square feet of floor area.

2. The entire structure used for dwellings shall not occupy more than fifty (50) percent of the lot area.

3. There is at least one (1) off street parking space for each bedroom or efficiency apartment in the converted portion of the structure, which space shall not be provided in the front or side yard.

4. There is provision for screening by fencing or landscaping of outside storage areas.

5. No accessory unit shall have a floor area of less than five hundred (500) square feet plus one hundred (100) square feet for each bedroom over one (1).

6. The floor area of the accessory unit(s) shall not be more than thirty (30) percent of the normally habitable floor area excluding garage, unfinished attic and crawl space and the normally inhabitable floor area of the principal dwelling unit, after conversion.

7. Each unit shall be a complete and independent housekeeping unit, containing a bedroom or bedroom/living room combination, bathroom and kitchen or kitchenette and shall have a separate entrance.

8. The exterior appearance of the structure shall not be altered except for:

a) stairways and exits required by law, which shall be in the rear of the building,

b) restoration consistent with the original architecture of the structure.

9. One (1) of the units shall be occupied by the owner of the property.

10. If the second unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings in writing.

11. No permit for accessory housing granted hereunder shall take effect sooner than one (1) year after occupancy of the primary dwelling, nor until the owner/petitioner records the authorization in the applicable Registry of Deeds at his own expense.

12. All permits for accessory housing must be secured before any construction is undertaken.

c) New detached two-family dwelling if located on a lot having an area of at least one and one half (1 1/2) times that required by Section 5.1.

d) Church or other place of worship, parish house, rectory or convent.

e) Educational uses on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by religious sect or denomination, or by a non profit educational corporation.

f) Recreational or water supply use of a public agency.

g) Public administration building, fire or police station.

h) Public school, library, museum, art gallery or community building.

i) Private school offering general education courses.

j) Orchard, market garden, nursery, greenhouse or other use of buildings or land for the raising of agricultural, horticultural, viticulture or floricultural crops.

k) Use of buildings or land for the raising of poultry, livestock or other farm animals, without limitation if in an Outlying District, but only as an accessory use, as hereinafter defined, if in a Residence A or B District; provided, however, that the Board of Appeals may, in addition, authorize by Special Permit such use as a main or commercial use in a Residence B District (but not in a Residence A District), subject to the conditions hereinafter set forth for authorizing other uses permissible by said Board in Residence Districts.

l) Removal of soil, loam sand or gravel from a parcel of land, provided that such removal is in conformity with Bylaws of the Town pertaining thereto.

m) Accessory use customarily incidental to a permitted main use on the same lot or a lot adjacent thereto, including the following:

1. The raising or keeping of a small flock of poultry or of saddle horses livestock or other farm animals for use only by residents of the premises.

2. Tool shed, playhouse, tennis court, boat house or other structure for domestic use; private garage for motor vehicles, but not including more than one (a) commercial vehicle used for a commercial enterprise or more than one (1) school bus or farm vehicles. There shall be no commercial vehicle of more than the Manufacture's Gross Vehicle Weight Rating of more than thirty-three thousand (33,000) pounds and/or a Highway tractor and/or a Highway tractor/trailer combination.

3. The use of a room or rooms, in a dwelling or building accessory thereto by a resident of the premises as an office, studio or workroom for a home occupation, provided that:

(a) Such use is clearly incidental and secondary to the use of the premises for dwelling purposes,

(b) Not more than two (2) persons other than residents of the premises are regularly employed thereon in connection with such use,

(c) No stock in trade is regularly maintained, except for products of the occupation itself or for goods or materials which are customarily stored, used or sold incidental to its performance,

(d) From the exterior of the building so used, there is not visible any display of goods or products, storage of materials or equipment, regular parking of commercial vehicles or any other exterior indication that the premises are being utilized for any purpose other than residential (except for an accessory sign).

n) Temporary placement of a mobile home or trailer for temporary use as a dwelling notwithstanding provisions herein contained to the contrary, provided, however;

1. Such use is necessary to provide housing for occupants of a dwelling house (exclusive of a summer camp) which has recently been rendered uninhabitable by fire or other disaster,

2. The dwelling was being continuously used as a dwelling at the time of disaster and the Board of Health has determined after examination that the dwelling house is uninhabitable without immediate and substantial repairs.

3. Such temporary use of the premises shall not exceed one (1) year from the date of the granting of the permit, but application for an extension of the time may be made to the Building Official who shall be governed by the same provisions as in the granting of the original permit, so far as applicable, provided no extension shall extend such use beyond two (2) years from the original granting of such permit.

4. Mobile homes and trailers used as temporary owner living quarters during construction of a permanent home shall be permitted only after the building permit and other required permits for the permanent structure have been issued, and a temporary permit has been granted by the Building Official, which temporary permit shall be granted only for a determined length of time up to, but not more than one (1) year.

4.2.2. Uses Permissible by Special Permit Granted by the Board of Appeals

4.2.2.1. In Residence A, Residence B or Outlying District, the Board of Appeals may, in a specific case, authorize by Special Permit in accordance with provision of Section 8, Chapter 40A of the Massachusetts General Laws, any of the following additional uses, provided that the premises in question is reasonably adaptable to such use and will allow proper layout thereof (including adequate separation of buildings and open areas from adjacent premises):

a) Inns with incidental dining facilities if primarily for the convenience of overnight guests, but not including any place which provides dancing or entertainment or serves alcoholic beverages.

b) Boarding or lodging house, private guest house, rest home, convalescent or nursing home, funeral parlor.

c) Private organized camp.

d) Hospital, sanitarium, philanthropic or charitable institution (but not including a correction institution).

e) Antique shop in a dwelling or building accessory thereto, provided there is no exterior display (except for an accessory sign) and the residential character of the premises is preserved.

f) Any public use not specifically listed herein or any public utility or communication use except for Telecommunication and cellular towers which are governed by other provisions of this Bylaw.

g) Private club, lodge or other non-profit, social, cultural, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business).

h) Sales room or stand for the sale of nursery, greenhouse, garden or farm produce (including articles of home manufacture from such produce), provided that the major portion thereof is raised on the premises (or made from produce so raised).

i) Boat yard for the service of small, private craft, including the incidental sale, storage and repair of such craft but only to the extent specifically authorized by the Board of Appeals and subject to the requirements of the Commercial and/or Retail Commercial District Bylaw (Section 4.5.4).

j) Any of the following commercial recreation uses: boat or canoe livery, riding stable, ski ground or bathing beach, including the incidental sale of refreshments if primarily for the convenience of patrons thereof and of equipment customarily related to the use (fishing tackle and the like), but only to the extent specifically authorized by the Board of Appeals.

k) Any other use similar to the uses hereinbefore listed in function, general character and effect on adjacent property (but not including any use specifically listed herein by name as a permitted or authorized Retail Commercial or Commercial District use).

l) Mobile home or automotive type of trailer, whether mobile or immobile, for dwelling or business purposes, either of which is incidental to construction on or development of the premises on which it is located, in any area other than areas designated as a Mobile Home Park under this Bylaw, for such periods as may be prescribed by the Board of Appeals, providing however, that in no case shall the total period or periods prescribed extend more than two (2) years beyond the date of the initial authorization.

m) Professional building.

n) The use of a room in a residence or an accessory building for display of articles incidental to an accessory use as defined in Section 4.2.1.1.n.)3).

o) Kennel

1. A kennel license shall be issued by the Dog/Animal Control Officer subject to fees established by the Board of Selectmen according to the following schedule:
   Four (4) dogs
   Five to ten (5-10) dogs
   Eleven to fifteen (11-15) dogs

2. The license period shall be from April 1 to March 31 of the following year.

3. The Dog/Animal Control Officer will inspect the premise where the applicant's kennel will be located and determine if the premise is appropriate for use and size of the proposed kennel.

4. The Dog/Animal Control Officer will determine if the kennel provides adequate shelter, sanitary and humane conditions.

5. The Dog/Animal Control Officer will keep detailed records of the kennel operation, will inspect the licensed kennel at least once a year and/or when a complaint is registered.

6. All dogs shall be kept confined to the kennel and fenced outside runs or otherwise under suitable control.

7. The kennel will have no significant adverse effect, such as excessive barking, or other conditions on the peace and quiet of the neighborhood.

8. The kennel, including outside runs, shall comply to the setbacks as provided in Section 5.0. for side and rear yards.

9. An applicant other than the owner, requires a notorized permission to apply for a license.

Enforcement

For the purpose of this section, irrespective of Section 8.0. of this bylaw, the Building Official may seek the assistance of the Dog/Animal Control Officer to enforce conditions of the permit.

4.2.3. Uses Permissible by Special Permit Granted by the Planning Board

4.2.3.1. In a Residence A, Residence B or Outlying District, the Planning Board may authorize, in a specific case, by Special Permit and subject to the approval of a Plan if required by Town Bylaw and in accordance with the provisions of Section 5., any of the following additional uses. The provisions of the Section 4.2.3., Section 5.4., Section 5.5 and Section 6.4. may be modified by application to the Planning Board, who in this instance shall hear and determine the application for said modification.

a) A Mixed Residential Development, provided that in Residence A District or Outlying District twenty-five (25) percent and in Residence B twenty (20) percent of the dwelling units are sold to buyers who qualify as low or moderate income households as defined by the Commonwealth of Massachusetts Executive Office of Communities and Development.

The Mixed Residential Development may include:

1. All one (1) family dwelling structures.

2. A mix of any of the following: one (1), two (2), three (3), and/or four (4) family dwellings.

3. Package sewage treatment facilities or common leaching area (s) for use by all the dwellings in the Mixed Residential Development in accordance with the provisions of Section 4.1.4.4.

4. Common open space, defined as land not included in lots for building purposes and which is left in a natural or landscaped state for the enjoyment of the residents of the Mixed Residential District.

b) A Planned Residential area, which may include:

1. Town Houses

2. A mix of Town Houses and two-family dwellings

3. A mix of Town Houses, one- family and two-family dwellings

4. An eighteen (18) hole golf course, similar to a Professional Golf Association golf course whether public or private, may have club facilities including a restaurant, function room, equipment repair and retail sale of golf equipment, provided that equipment used in connection with the maintenance of the course and facilities is stored in an enclosed structure.

5. Accessory uses and recreation facilities for the use of the residents of the area only to include golf course, tennis courts, jogging trails, swimming pools and similar outdoor facilities community building not to exceed five (5) percent of the total floor area of the residential units, parking areas and garages, storage sheds, cabanas, detached fireplaces and similar facilities for use by the residents of the planned residential areas, but not including home occupations, taking of boarders or lodgers, renting rooms or professional offices.

4.2.3.2. Assisted Living Residence and Continuing Care Retirement Community, provided that irrespective of the dimensional requirements shown on the table in Section 5.4.1.2.a), the dimensional requirements shall be:

Minimum frontage per facility:	300 feet
Minimum front, rear and side yard setback:	100 feet
Minimum area per facility:	5 acres
Maximum height	35 feet
Maximum area coverage	35% of site

4.2.3.3. Telecommunication towers on an existing public or utility structure, subject to the provisions of Sections 5.3.1.1. and 6.6.13.1. and subject to a determination by the Planning Board that the siting is compatible with the rural landscape of the district and provided that:

a) The Planning Board may waive provisions of its Rules and Regulations for Telecommunication and Cellular Towers as appropriate to the character of the Town.

b) The applicants are the Town of Lunenburg, a public utility or such other entity as may be required by Statute.

4.2.3.4. Farm related uses not permitted as of right in 4.2.1.1. or a Special Permit granted by the Planning Board or by the Board of Appeals in other sections as provided in this Bylaw, to include bee keeping, fish hatcheries, animal hospitals, sawmills, blacksmith shops, and farm implement repair shop for implements not exceeding thirty (30) horsepower, provided that:

a) Vehicles and equipment in connection with the use are parked behind the setback line.
b) Buffers are provided for the storage of materials and equipment and related to above uses and located to limit adverse impacts on adjacent properties.
c) In addition to the conditions of Sections 6.5., Signs and 6.6., Performance Standards, the hours of operation, decibel levels, signs may be subject to further conditions of the permit.

4.2.3.5. More than one (1) dwelling per farm, provided that:

a) There is a minimum of five (5) acres for each dwelling.
b) The additional dwelling or dwellings are intended for occupancy by persons employed on or associated with the farm.
c) Dwellings are located to have the minimum impact on prime farmland.
d) The dwellings remain part of the farm and are not separated by subdivision of the land.

4.3. Recreation District

4.3.1. Purpose

4.3.1.1 ***The purpose of the Recreation District is to provide areas for passive and active recreation.***

4.3.2. Permitted Uses

4.3.2.1. Any of the following uses are permitted in a Recreation District:

a) All uses permitted in Section 4.2.1.

b) All uses permitted in Section 4.1.3.

4.3.3. Uses Permissible Subject to Development Plan Review

4.3.3.1. In a Recreation District, the following uses are permitted subject to Development Plan Review in accordance with Section 8.4.:

a) A commercial outdoor recreation area, or an expansion of an outdoor recreational area existing at the time of this Bylaw, including one or more of the following:

1. A golf course, not including a miniature golf course or a “Par Three” golf course.

2. Tennis, badminton, bocci and shuffle board courts.

3. Softball, baseball and soccer fields.

4. Cross country ski areas.

5. Swimming pools not exceeding Olympic size and not including water parks, e.g., commercial water recreation establishments with slides, wave pools or similar equipment.

6. Accessory uses, such as club houses (which may, for golf courses only, include function rooms and restaurants), changing and shower rooms, cabanas, equipment repair and sale of related equipment, snack bars, maintenance shops and offices related to the business of recreation areas and non-permanent bleachers only. Such uses are to be primarily for use of members and users of the facilities. All equipment used in connection with the maintenance of the area shall be stored in an enclosed structure.

4.3.4 Uses Permissible Upon Special Permit from the Board of Appeals

4.3.4.1. In a Recreation District, the following uses are permitted upon issuance of a Special Permit from the Board of Appeals after the Development Plan Review has been completed and the development plan approved by the Planning Board:

a) Indoor swimming pool

b) Indoor racquet sports facility

c) Accessory uses to a) and b) above which may include function rooms and restaurants, changing and shower rooms, cabanas, equipment repairs and sale of related equipment, snack bars, maintenance shops and offices related to the primary use. Such uses are to be primarily for use of members and users of the facilities. All equipment used in connection with the maintenance of the facility shall be stored indoors.

4.3.5. Conditions for Use of a Development Plan or Special Permit for Recreation Uses

4.3.5.1. All uses permitted subject to Development Plan Review pursuant to Section 4.3.3. above or permitted upon issuance of a Special Permit pursuant to Section 4.3.4. above shall also be subject to the limitations set forth in Section 5.0. of this Bylaw, the Performance Standards contained in Section 6.0. of the Bylaw, the guidelines contained in Section 8.4.5. of the Bylaw (as to uses described in Section 4.3.3.), the guidelines for a Special Permit contained in 8.3.3.2. (as to uses described in Section 4.3.4.), as well as the following conditions:

a) Night lighting of parking areas shall not be visible at ground level from adjacent properties.

b) Landscaped or naturally treed buffers shall be provided along the periphery of the property.

c) Facilities which generate outside noise, such as swimming pool or a shooting range, shall be located and buffered so as not to be a nuisance and an unenclosed pool, if any, shall be set back from any public street at least two hundred (200) feet.

d) Natural features shall be preserved to the maximum extent feasible.

e) Stone walls and man-made features which improve or contribute to the character of the area shall be maintained where possible.

f) Service areas shall be screened from active recreation areas.

g) Reasonable mitigation measures shall be taken to address traffic, parking and safety (including road safety) concerns posed by the proposed development where, in the opinion of the Planning Board, such measures are deemed necessary.

h) Conditions of approval set forth in the requirements of Section 8.2.4. of this Bylaw (as to uses described in Section 4.3.4.) and the Rules and Regulations Governing the Subdivision of Land, Lunenburg Planning Board, and the Rules and Regulations of Lunenburg Planning Board for Conduct of Planning Board Functions, Meetings and Hearings and the Regulations of the Planning Board of the Town of Lunenburg Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas.

i) There shall be more than one (1) means of access.

j) All residents of the Town shall be eligible for membership.

k) In the case of the proposed adjacent Planned Residential Area, special care will be taken to coordinate the development with the Planned Residential Area, if any.

l) Maximum capacity limitations shall be established by the Licensing Authority for accessory facilities, including restaurants and function rooms, after recommendations from appropriate Town Boards, including (but not necessarily limited to) the Planning Board, Board of Health, Fire Chief, Building Official and Police Chief. Maximum capacity limitations shall be based on, but not limited to, the following criteria, but in no case shall exceed two hundred (200) persons; provision for adequate off-street parking in accordance with Section 6.1. of this Bylaw; provision for adequate wastewater disposal; provision for adequate refuse disposal provision for crowd control and security; and no adverse impact on adjacent uses.

m) No more than ten (10) percent of the total lot area shall be covered by an impervious surface.

4.3.6. Procedure for Submittal

4.3.6.1. It is recommended that a concept plan showing the proposed use be submitted to the Planning Board for review and discussion prior to the filing for Development Plan Review.

4.3.6.2. The provisions of Section 8.3.3. (as to Special Permits) and Section 8.4. (as to Development Plan Review) shall apply.

4.3.6.3. Filing under Section 8.3.3. and 8.4. may be simultaneous.

4.3.7. Map Changes

4.3.7.1. Any area designated for the Recreation District and the uses permitted under this section shall constitute a change on the Protective Zoning Bylaw Map and shall require a two-thirds (2/3) vote of Town Meeting in accordance with Section 8.0 of this Bylaw. All such areas shall be site specific and shall be shown on the Protective Zoning Bylaw Map.

4.4. Limited Business/Residential District

4.4.1. Purpose

4.4.1.1. ***The purposes of the Limited Business/Residence District are to preserve the existing structures which define the character of the community and provide the opportunity, for use of these structures which is consistent with modern land use, and to ensure new construction which is compatible with the community.***

4.4.2. Uses Permitted

4.4.2.1. One (1) and two (2) family dwellings.

4.4.2.2. Renting of two (2) rooms by a resident occupying the dwelling to not more than three (3) non-transient persons.

4.4.2.3. Accessory Building and uses as permitted in Section 4.2.1.1.

4.4.3 Use Allowed By Special Permit and Development Plan Review Granted by the Planning Board, subject to the Conditions of Section 8.4.5.

4.4.3.1. Orchard, market garden, nursery, greenhouse or other use of buildings or land for the raising of agricultural, horticultural, viticultural or floricultural crops.

4.4.3.2. Service shop, provided that there will be a maximum gross floor area of one thousand (1000) square feet for the ground floor (exclusive of basement areas and up to two thousand (2000) square feet total for structures of two (2) floors).

4.4.3.3. Repair shop, for small appliances, similar in function to toasters, sewing machines and vacuum cleaners, jewelry or similar items, with a maximum gross floor area of one thousand (1000) square feet for the ground floor (exclusive of basement areas and up to two thousand (2000) square feet total for structures of two (2) floors).

4.4.3.4. Business or professional offices.

4.4.3.5. Retail sales and services, such as antiques, flowers, gifts, arts and crafts.

4.4.3.6. Bed and Breakfast, Bed and Breakfast Establishment, Inn, Function Facility, Catering Service

4.4.3.6.1. Bed and Breakfast, or Bed and Breakfast Establishment provided that:

a) The use complies with the definition of Bed and Breakfast, or Bed and Breakfast Establishment provided the dwelling is owner occupied.

b) The lot conforms to all dimensional requirements of the Zoning Bylaw.

c) Parking for each room available for rent is provided in the side yard behind the setback line or in the rear yard, but not nearer than ten (10) feet to any property line. One (1) parking place shall be provided for each bedroom.

d) The outside appearance of the building is not altered except to comply with the Building Code.

4.4.3.6.2. Inn, an establishment for lodging for temporary occupants, including a Function Facility and Dining Facilities open to the public, provided that:

a) The lot conforms to all dimensional requirements of this Zoning Bylaw.

b) The Function Facilities and dining Facilities open to the public and Catering Services on the premises meet the requirements of Section 3 and 4 listed below.

c) The sleeping rooms do not exceed twelve (12) in number.

d) The parking complies with Section 6.1. Off Street parking and Loading Areas of the Zoning Bylaw and shall be provided in the side yard behind the setback line or in the rear yard, but no nearer than ten (10) feet to any property line.

e) Dining Facilities shall be limited within the time and hours approved by the Special Permit.

4.4.3.6.3. Function Facility, allowed only as an accessory to uses permitted in Sections 4.4.3.6.1. and 4.4.3.6.2., to serve as a facility for meetings and other functions to include reception, dinners, weddings and business and civic meetings and similar social affairs subject to all provisions of Sections 4.4.4. and 8.4.5. and further provided that:

a) The building is located on a lot of at least two (2) acres.

b) The original structure plus accessory buildings devoted to the use shall contain at least three thousand (3000) square feet of floor area.

c) Additions to the floor areas, if any, shall not exceed fifty (50) per cent of the existing floor area and shall conform to the residential architectural style of the existing residential building.

d) The number of persons attending events shall be determined by the maximum number allowed by Building Code, the Board of Health Regulations and/or the Sewer Commission Permit.

e) The number of events in any calendar year shall be determined during the Development Plan Review process.

f) Anticipated parking shall be provided and parking of over fifty (50) vehicles may require a traffic policeman at the discretion of the Police Department.

g) Outside lighting or music, if any, shall not extend beyond ten (10) PM and shall be limited in so far as possible to the property on which the use is located. No lighting shall be reflected into adjacent abutters' properties. The level of sound shall be no higher than 70 decibels at the property line or beyond.

h) Tents or suitable enclosures to be used in connection with an event shall be located back of the setback line and shall be erected and removed within twenty-four (24) hours of the beginning and end of the event.

4.4.3.6.4 Catering Service

a) Kitchen and cooking facilities, allowed only as an accessory to uses permitted in Sections 4.4.3.6.1. and 4.4.3.6.2. on the premise and off site catering must meet Board of Health Regulations and/or any other pertinent permitting requirement.

b) Any vehicle identified for business used in connection with making catering deliveries must be garaged or parked in the rear of the structure.

4.4.3.7. Irrespective of Section 3.3. of this Bylaw, the use of the lot in the Limited Business/Residential District with frontage within the District may extend into the adjacent district, provided that:

a) No new buildings or structure are constructed in connection with the use in the adjacent district.

b) The side and rear yards of the portion of the land in the adjacent district shall conform to the requirements of that district.

4.4.3.8. Any other use similar to the uses hereinbefore listed in function or general character.

4.4.3.9. Assisted Living Residence and Continuing Care Retirement Community, provided that irrespective of the dimensional requirements shown on the table in Section 5.4.2.f) the dimensional requirements shall be:

Minimum frontage per facility:	300 feet
Minimum front, rear and side yard setback:	100 feet
Minimum area per facility:	5 acres
Maximum height	35 feet
Maximum area coverage	35% of site

4.4.4. Conditions for Use on a Development Plan for Business Use

4.4.4.1. The architectural style of the original structure shall not be altered and new construction shall be of a residential style consistent with the present residences.

4.4.4.2. There shall be no drive-in window service.

4.4.4.3. All parking shall be off-street, shall be located behind the set back line of the principal building or in an area approved in the Development Plan Review. Parking restrictions shall be a minimal ratio of three (3) square feet of ground area to one (1) square foot of gross floor area. A designated area shall be landscaped and shall conform to provisions of Section 6.4.

4.4.4.4. There shall be no exterior storage, display or sales.

4.4.4.5. There shall be no exterior sign except for an announcement sign in accordance with the provisions of Section 6.5.

4.4.4.6. There shall be no exterior evidence of the non-residential use of the structure.

4.4.4.7. Existing residential buildings shall not be destroyed to permit new construction, except for another residential building.

4.4.4.8. A Development Plan Review application shall address all applicable Sections of 4.3.5. and Section 8.4. and shall be accompanied by a plan of suitable scale and shall include:

a) A plan or plans illustrating the following:

1. Lot boundaries, dimension and lot areas.

2. The use, ownership and zoning of the lot or lots subject to the application and of the adjacent land and the use of any buildings thereon within two hundred (200) feet of the subject property.

3. Existing and proposed vegetation, ground culture or surface.

4. Existing and proposed easements, if any.

5. Existing and proposed watercourses, if any.

6. All existing buildings, structures, parking spaces, driveway openings, pedestrian walks, landscaped areas and natural areas on the subject property and the dimensions thereof.

7. Proposed screening, surface treatment, lighting and landscaping, including fencing, walls, planting areas and signs.

b) Information describing proposed provisions for waste disposal, refuse removal, drainage, dust and erosion control and other utilities and their appurtenances.

4.4.4.9. New construction shall be accompanied by a plan, prepared by an architect, landscape architect, professional engineer or land surveyor and shall be drawn as listed in 4.4.4.8.a) though b) and shall include the following.

a) Existing and proposed topography at two (2) foot intervals.

b) Facade elevations of any new construction and/or alteration to any building or structure.

4.5. Retail Commercial District Uses

4.5.1. Purpose

The purpose of the Retail Commercial District is to provide areas for retail sales and services for the daily needs of residents.

4.5.2. Permitted Uses

4.5.2.1. In a Retail Commercial District, any of the following uses are permitted.

a) Church or other place of worship, parish house, rectory or convent.

b) Educational uses on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a non-profit educational corporation.

c) Public administration building, fire or police stations.

d) Public school, library, museum, art gallery or community building.

e) Orchard, market garden, nursery, greenhouse or other use of buildings or land for raising of agricultural, horticultural or floricultural crops.

f) Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within a building, with the exception of those uses for which a Special Permit is required in accordance with Section 4.5.3. below.

g) Business or professional office or agency, bank or other financial institution, provided that any drive-in or window service shall require a Special Permit as provided by Section 4.5.3. below.

h) Restaurant, refreshment stand or other place for serving food or beverages within a structure, provided that any drive-in or window service shall require a Special Permit as provided by Section 4.5.3. below.

i) Parking areas or garages for the use of employees and customers of, or visitors to, a permitted use.

4.5.3. Uses Permissible by Special Permit Granted by the Board of Appeals

4.5.3.1. In a Retail Commercial District, the Zoning Board of Appeals may authorize by Special Permit any of the following additional uses:

a) Drive-in or window service accessory to a use permitted in accordance with Section 4.5.2.1.g) or h) above and any consumer service establishments such as laundry or dry cleaning where the actual work is performed off premises.

b) Adult uses, as defined by Section 9A of Chapter 40A, provided that:

1. All buildings containing adult uses are at least two hundred fifty (250) feet from an existing residence, school or place of worship and are at least five hundred (500) feet from an existing Residential or Outlying District boundary.

2. All parking is in the rear of the setback line and is screened from view of abutting properties.

3. All signs shall be approved by Development Plan Review and the Planning Board shall review the size, location, number, design, color and content to determine a public nuisance or be incompatible with the character of the community and, as to content, to determine only that the sign or signs are not obscene.

4. All requirements of Section 9A of Chapter 40A are met including that no Special Permit is granted to a person (s) who have been convicted of violating the provisions of Section 63 of Chapter 119 or Section 28 of Chapter 272 of MGL.

5. The Board of Selectmen may require that a security guard be on the premises during all or some hours of operation.

c) Any public or municipal use not specifically listed herein or any public utility or communications use.

d) Activities, accessory to activities permitted as a matter of right, which are necessary in connection with scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right.

e) Any other use similar to the uses hereinbefore listed in function, general character and effect on adjacent property, but not including any use specifically listed herein by name as a permitted or authorized Commercial District use.

4.5.4. Limitations Upon Uses

4.5.4.1. In addition to the limitations set forth in Section 5.0. of the Bylaw, all uses within a Retail Commercial District shall be subject to the following limitations:

a) The gross floor area of all buildings and structures on a lot shall not exceed twenty-five (25) percent of the total lot area.

b) The total area on any lot devoted to building, parking, outdoor storage and display and other paved or hard-surfaced areas shall not exceed seventy-five (75) percent of the total lot area.

c) The minimum area of any lot devoted to a permitted use shall be eight (8) times the minimum total area for both a leaching area and a reserve leaching area to serve said use required by the State Environmental Code, Title V, Minimum Requirements for the Sub-surface Disposal of Sanitary Sewage (310 CMR 15.00, as amended or superseded) and in no case shall the area be less than ten thousand (10,000) square feet.

d) The area between the front facade of the building and the street line not devoted to walkways, drives or parking shall be planted with grass or suitable ground cover and at all lot lines the area not crossed by drives or walkways shall be planted and landscaped with indigenous shrubs to provide four (4) feet of buffer.

e) If a permitted use is connected to a municipal sewer system the minimum area of the lot shall be ten thousand (10,000) square feet, irrespective of the requirements of c) above.

4.5.4.2. Telecommunication and cellular towers may be authorized by special permit from the Planning Board subject to the provisions of Sections 5.3.1.3. and 6.6.13.1. and a determination by the Planning Board that the tower where proposed is compatible with the character of the Town Center and further provided that the tower is not free standing and does not extend beyond the highest part of an existing structure and further provided that:

a) The Planning Board may waive provisions of its Rules and Regulations for Telecommunication and Cellular Towers as appropriate to the character of the Town.

b) The applicants are the Town of Lunenburg, a public utility or such other entity as may be required by Statute.

4.6. Commercial District Uses

4.6.1. Purpose

4.6.1.1. ***The purpose of the Commercial District is to provide areas for transient services, automobile oriented sales and services and commercial uses requiring large land areas.***

4.6.2. Permitted Uses

4.6.2.1. In a Commercial District, any of the following uses are permitted:

a) Any use permitted, without requiring a Special Permit, within a Retail Commercial District.

b) Outdoor storage and display, provided that such display is conducted in the rear and/or side yard and such storage or display is screened from view of dwellings in abutting Residence or Outlying Districts by shrubs or a fence.

c) Parking areas or garages for the use of employees and customers of, or visitor to, a permitted use.

4.6.3. Uses Permissible by Special Permit Granted by the Board of Appeals

4.6.3.1. In a Commercial District, the Zoning Board of Appeals may authorize by Special Permit any of the following additional uses:

a) Any use which may be authorized by a Special Permit within a Retail Commercial District.

b) Shopping Center

c) Drive-in theater, amusement park or other open-air commercial amusement; and theaters, bowling alleys and other commercial places of amusements, (provided that all activity is conducted within a structure).

d) Gasoline service stations, including non-automotive retail sales, commercial garage or sales room with incidental repair services for automobiles, boats, trailers, trucks, machinery, farm implements and similar equipment, provided that parking, loading and review requirements will be applied to the principal use and to each non-automotive retail sales use as separate principal uses.

e) Motel or hotel.

f) Medical or dental clinic.

g) Consumer service establishments, such as a catering service or collections station for laundry or dry cleaning where the actual work is performed off-premises or self-service laundry or similar use where the service is performed by the customer.

h) Shop of a carpenter, cabinetmaker, electrician, painter, paperhanger, plumber, printer, sign painter, upholsterer or similar tradesman or artisan.

i) Showroom for sale by retail or wholesale of building supplies, including plumbing, heating and ventilating equipment; and warehouse-mercantile structures, providing that parking requirements shall be calculated separately for each principal use, e.g., warehouse, storage, retail sales.

j) Contractors plant, material storage yard, lumber yard, warehouse or other storage or distribution use, monument sales, used car lots and any other open-air sales.

k) Kennel

1. A kennel license shall be issued by the Dog/Animal Control Officer subject to fees established by the Board of Selectmen according to the following schedule:
   Four (4) dogs
   Five to ten (5-10) dogs
   Eleven to fifteen (11-15) dogs

2. The license period shall be from April 1 to March 31 of the following year.

3. The Dog/Animal Control Officer will inspect the premise where the applicant's kennel will be located and determine if the premise is appropriate for use and size of the proposed kennel.

4. The Dog/Animal Control Officer will determine if the kennel provides adequate shelter, sanitary and humane conditions.

5. The Dog/Animal Control Officer will keep detailed records of the kennel operation, will inspect the licensed kennel at least once a year and/or when a complaint is registered.

6. All dogs shall be kept confined to the kennel and fenced outside runs or otherwise under suitable control.

7. The kennel will have no significant adverse effect, such as excessive barking, or other conditions on the peace and quiet of the neighborhood.

8. The kennel, including outside runs, shall comply to the setbacks as provided in Section 5.0. for side and rear yards.

9. An applicant other than the owner, requires a notarized permission to apply for a license.

Enforcement

For the purpose of this section, irrespective of Section 8.0. of this bylaw, the Building Official may seek the assistance of the Dog/Animal Control Officer to enforce conditions of the permit.

l) Veterinary hospital.

m) Accessory uses customarily incidental to a permitted use, on the same lot or a lot adjacent thereto, provided that:

1. Any open display or storage of goods, products, materials or equipment or any service or repair operation performed outside of a building does not occupy a ground area in excess of twenty-five (25) percent of that covered by the building to which the outdoor use is accessory.

n) Adult uses, as defined by Section 9A of Chapter 40A, provided that:

1. All buildings containing adult uses are at least two hundred fifty (250) feet from an existing residence, school or place of worship and are at least five hundred (500) feet from an existing Residential or Outlying District boundary.

2. All parking is in the rear of the setback line and is screened from view of abutting properties.

3. All signs shall be approved by Development Plan Review and the Planning Board shall review the size, location, number, design, color and content to determine a public nuisance or be incompatible with the character of the community and, as to content, to determine only that the sign or signs are not obscene.

4. All requirements of Section 9A of Chapter 40A are met including that no Special Permit is granted to a person(s) who have been convicted of violating the provisions of Section 63 of Chapter 119 or Section 28 of Chapter 272 of MGL.

5. The Board of Selectmen may require that a security guard be on the premises during all or some hours of operation.

o) Car Wash, provided that:

1. The process used is for on-site recycling water or approved for sewer disposal.

2. There is no queuing of vehicles from the street and from adjacent properties.

3. Lighting is shielded from the street and from adjacent properties.

4. Entrances and exits from the public way are separated.

5. If automatic equipment is used, all washing, cleaning and waxing will be done within an enclosed structure.

6. Outside washing, cleaning and waxing will be limited to hand held equipment.

7. Parking spaces for vacuum cleaners shall not exceed the number of outside bays plus the number of vehicles that can be serviced at any one time by the automatic equipment.

8. Outside washing, cleaning and waxing shall be limited to daytime hours.

9. The facility shall be suitably landscaped and screened from view of abutting properties.

10. The car wash facility shall be attended by an attendant whenever open and not be open when there was no attendant available.

4.6.3.2. Spray painting is subject to the approval and regulations of the Lunenburg Fire Chief, which will become a condition of Special Permit.

4.6.4. Uses Permissible by Special Permit Granted by the Planning Board

4.6.4.1. Assisted Living Residence and Continuing Care Retirement Community, provided that irrespective of the dimensional requirements shown on the table in Section 5.4.1.2.a) the dimensional requirement shall be:

Minimum frontage per facility	300 feet
Minimum front, rear and side yard setback	100 feet
Minimum area per facility	5 acres
Maximum height	55 feet
Maximum area coverage	35% of site

4.6.4.2. Telecommunication and cellular towers, subject to the provisions of Sections 5.3.1.3. and 6.6.13.1. and further provided that:

a) The Planning Board may waive provisions of its Rules and Regulations for Telecommunications and Cellular Towers as appropriate to the character of the Town.

b) The applicants are the Town of Lunenburg, a public utility or such other entity as may be required by Statute.

4.6.5. Design Standards

4.6.5.1. PURPOSES: The purposes of this Section are:

a) To assure development which is compatible with the prevailing architecture and character of the Town.

b) To protect the environment.

c) To enhance rather than detract from the quality and character of the Town.

d) To preserve and enhance property values.

4.6.5.2. STANDARDS: In addition to requirements contained elsewhere in this Bylaw the following design elements shall pertain in the Commercial District, reviewed by the Board of Appeals, and where applicable, shall be reviewed by the Planning Board in connection with Development Plan Review (DPR) under Section 8.4.

a) Occupied Lot Area.

1. The total area on any lot devoted to building, parking, outdoor storage and display and other paved hard surface areas may occupy up to eighty-five (85%) percent of the total lot area.

b) Building Location and Utilities.

1. The Building front shall face the street on which the lot obtains its frontage.

2. If there is more than one building on the site, the siting shall be reviewed through DPR pursuant to the procedures outlined in Section 8.4.

3. All utilities shall be placed underground.

c) Building façades, materials and roof lines shall be reviewed under the DPR to ensure consistency and compatibility with other structures.

d) Flat roofs that are visible from the street level are prohibited unless an appropriate façade is included in the design.

e) Roof colors and signs shall be reviewed for consistency with other uses in the district and reviewed under DPR.

f) The principal building(s) shall be connected to public water and sewer where readily available and accessible.

g) Lighting, signage and architectural style shall be consistent with other uses in the District and reviewed under the DPR.

h) LEED (Leadership in Energy and Environmental Design).

1. LEED Certification should be encouraged to meet the best practicable level.

i) Interior Streets, Drives, Walkways and Access.

1. Site access shall be a divided way (one way in and one way out) where and when appropriate determined under DPR.

2. Surfaces shall be pervious when possible and practical, excluding the required parking areas.

j) Parking and Loading Area.

1. Parking shall be in the rear or side of building(s) and shall not be visible from the street line when possible. Parking will be reviewed under the DPR.

2. All loading docks shall be to the rear of the building(s) and shall not be visible from the street.

3. All paved areas shall be separated from the lot line setbacks by a four (4) foot landscaped area of indigenous materials.

k) Sidewalks.

1. Sidewalks shall be provided from the street line, when applicable, and from the parking areas to building(s).

l) Screening.

1. Screening of the site shall be by a four (4) foot landscaped strip at the rear and side lot lines.

2. Additional landscaping and screening may be required during the Development Plan Review or by the permitting authority.

m) Landscaping.

1. There shall be a minimum of a four (4) foot landscaped area along the street frontage and along the front and side of the principal building(s) and plantings of indigenous materials along the façades of the building(s) and between the building(s) if there is more than one principal building on site.

2. Such landscape shall be a type and height that does not interfere with sight lines of drivers.

3. Natural features shall be retained to the extent possible.

4. A landscape plan shall be provided and reviewed.

n) Street Furniture.

1. Light fixtures shall be designed to be of number and height that grants plentiful lighting. Such lighting shall shine downwards as to not affect adjacent properties.

2. Lighting must also be placed on the side and rear of the building.

3. Outdoor tables, benches, and bicycle racks shall be of a style consistent with the principal use(s) of the site.

4. The location, number and style of trash receptacles shall be reviewed under DPR.

4.7. Office Park and Industrial District

4.7.1. Purpose

The purpose of the Office Park and Industrial District is to provide suitable areas for offices, research, development, assembly and light manufacturing consistent with the level of services provided in the community and natural resources available.

4.7.2.1. In the Industrial District the following uses are permitted:

a) Office buildings

b) Office parks

4.7.2.2. In the Industrial District the following uses are permitted subject to a Special Permit granted by the Planning Board:

a) Industrial parks, including buildings for assembling of previously manufactured parts, processing and packaging products.

b) Research establishments, including laboratories and incidental assembly.

c) Manufacturing.

d) Enclosed storage

e) Distribution

f) Earth removal and landfill operations subject to the Lunenburg Earth Removal Bylaw and to all other provisions of this Bylaw.

g) Parking areas or garages for the use of employees and customers of, or vistor to, a permitted use.

h) Retail uses and services accessory to a permitted use such as cafeteria for employees.

i) Telecommunication and/or cellular towers in accordance with the provisions of Sections 5.3.1.3. and 6.6.13.1. and further provided that:

1) The Planning Board may waive provisions of its Rules and Regulations for Telecommunication and Cellular Towers as appropriate to the character of the Town.

2) The applicants are the Town of Lunenburg, a public utility or such other entity as may be required by Statute.

4.7.3. Conditions for Use

4.7.3.1. A development plan shall be submitted in the manner as provided in Section 8.4. To assist in its deliberations the Planning Board may request an opinion from the Industrial Development Commission.

4.7.3.2. The off-street parking and loading shall comply with the Rules and Regulations of the Planning Board Governing Off-Street Parking and Loading Design, Construction and Maintenance of Off Street Parking and Loading Areas.

4.7.3.3. The plan shall show a buffer strip which shall be landscaped or covered with natural growth indigenous to the area.

a) At least fifty (50) feet where the District joins a lot used or available for residential purposes.

b) At least twenty (20) feet at all side and rear property lines, except as provided above.

4.7.3.4. Unless otherwise approved with the development plan, accessory uses not contained in the principal building shall be provided with safe access and shall be screened from view from a public way or shall be in a structure of an architectural style compatible with the principal structure.

4.7.4. Limitations Upon Uses

4.7.4.1. In addition to the limitations set forth in Section 5.0. of the Bylaw, all uses within an Office Park and Industrial District shall be subject to the following limitations:

a) The gross floor area of all buildings and structures on a lot shall not exceed;

1. Fifty (50) percent of the total lot area of a lot used for an office park or office building.

2. Seventy (70) percent of the total lot area of a lot used for storage or distribution.

3. An amount determined by the Planning Board not to exceed seventy (70) percent of the total lot area for any other use.

b) The total area of any lot devoted to building, parking, required leaching area, outdoor storage and display and other paved or hard-surfaced areas shall not exceed;

1. Ninety (90) percent of the total lot area of a lot used for an office park or an office building.

2. Seventy (70) percent of the total lot area of a lot used for storage or distribution.

3. An amount determined by the Planning Board not to exceed ninety (90) percent of a lot used for any other purpose.

4.7.4.2. No building shall be constructed nearer to the exterior street line of any street than forty (40) feet.

4.8. Flood Plain District Uses

4.8.1. Purpose

4.8.1.1. ***The purposes of the Flood Plain District are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the flood plain and to preserve and maintain the ground water table and water recharge areas within the flood plain.***

4.8.2 District Delineation

4.8.2.1. The general boundaries of the Flood Plain District are shown on the Lunenburg Flood Insurance Rate map (FIRM), dated June 15, 1982, as Zones A, A 1-30 to indicate the 100 year flood plain. The exact boundaries of the District are defined by the 100 year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated December 15, 1981. The Floodway boundaries are delineated on the Lunenburg Flood Boundary Floodway Map (FBF), dated June 15, 1982 and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two maps as well as the accompanying Study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector and Board of Selectmen.

4.8.2.2. Within Zone A, where the 100 year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Planning Board. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this Bylaw and the State Building Code.

4.8.3. Use Regulations

4.8.3.1. The Flood Plain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plain (currently Section 2102).

4.8.3.2. Permitted Uses

a) The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.

4. Conservation of water, plants, wildlife.

5. Wildlife management areas, foot, bicycle and/or horsepaths.

6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.

7. Buildings lawfully existing prior to the adoption of these provisions.

4.8.3.3. Uses Permissible by Special Permit Granted by the Planning Board

a) No structure or building shall be erected, constructed, substantially improved or otherwise created or moved; no earth or other materials dumped, filled, excavated or transferred, unless a Special Permit is granted by the Planning Board. Said Board may issue a Special Permit hereunder, subject to other applicable provisions of this Bylaw, if the application is in compliance with the following provisions:

1. The proposed use shall comply in all respects with the provisions of the underlying district, and

2. Within ten (10) days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Board of Health and Building Inspector. Final action shall not be taken until reports have been received from the above Boards or until thirty-five (35) days have elapsed, and

3. All encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood, and

4. The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupant of the proposed use.

4.9. WATER SUPPLY PROTECTION DISTRICT

4.9.1. Purpose

4.9.1.2. ***The purpose of the Water Supply Protection District is to promote the health, safety and general welfare of the community; to protect, preserve and maintain present and potential sources of water supply and watershed areas for the public health and safety; to protect, preserve and maintain the existing and potential ground water supply and ground water recharge areas within the Town for public health and safety; to preserve and protect the lakes, ponds, streams, brooks, rills, marshes, swamps, bogs and other water bodies and water courses in Town; to protect the community from the detrimental use and development of land and water within the District; to conserve the natural resources of the Town; to preserve and maintain the ground water table and water recharge areas within the Town and to prevent blight and the pollution of the environment.***

4.9.2. District Delineation

4.9.2.1. The boundaries of the Water Supply Protection District shall be as follows: Zone I, Zone II, and Zone III for the Town of Lunenburg, approved by Department of Environmental Protection (DEP) according to Map 1 entitled Water Protection District, revised October, 2009.

4.9.2.2. Where the bounds as delineated are in doubt or in dispute, the burden of proof that the use is outside the Water Supply Protection District or does not impact the District shall be upon the owner(s) of the land in question. However, the Building Official retains its authority to determine final location with regard to said Water Supply Protection District.

4.9.2.3. At the written request of the owner(s) of the property in question, the Town may engage a professional geologist, a certified soil scientist or a registered professional engineer trained in hydrology to determine the location and extent of a protection area on the parcel in question and charge the owner(s) of said parcel for the cost of the investigation.

4.9.3. Use Regulations

4.9.3.1. The Water Supply Protection District is established as an overlay district to all other districts. Land in the Water Supply Protection District shall be subject to the requirements of this Section, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts. Uses that are not permitted in the underlying district shall not be permitted in the Water Supply Protection Districts.

4.9.3.2. **Uses Permissible in the Restricted Area Zone 1 by Special Permit Granted by the Planning Board:** Irrespective of the permitted uses in the underlying district only the following uses are permitted within the Restricted Area Zone 1 of the Water Supply Protection District, subject to the granting of a Special Permit by the Planning Board provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained, and except as limited by the Conservation Commission and/or Lunenburg Water District as outlined in Guidelines and Policies for Public Water Systems, Department of

Environmental Quality Engineering, Division of Water Supply, Revised May 1, 1991 as amended.

a) Conservation of soil, water, plants and wildlife.

b) Outdoor recreation, nature study, boating and fishing.

c) Duckwalks, foot, bicycle and/or horse paths and bridges.

d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.

e) Farming, gardening, nursery, conservation, forestry, harvesting and grazing as provided under M.G.L. Chapter 40A, provided that fertilizers, herbicides, pesticides, manure hazardous materials, liquid petroleum products, and other leachable materials are stored within an enclosed structure that will not permit groundwater contamination.

f) Uses accessory and subordinate to the above uses, if permitted in the underlying district and subject to the provision of the underlying district, provided that the use does not result in coverage of more than fifteen (15) percent of the lot with impervious surfaces.

4.9.3.3 Uses Permissible in Zone 2 by Special Permit Granted by the Planning Board. Irrespective of the permitted uses in the underlying district only the following uses are permitted within Zone 2 of the Water Supply Protection District, subject to the granting of a Special Permit by the Planning Board provided that all necessary permits, orders or approvals are required by local, state or federal law are also obtained and except as limited by the Conservation Commission and/or Lunenburg Water District as outlined in Guidelines and Policies for Public Water Systems, Department of Environmental Quality Engineering, Division of Water Supply, Revised May 1, 1991.

a) Conservation of soil, water, plants and wildlife.

b) Outdoor recreation, nature study, boating and fishing.

c) Duckwalks, foot, bicycle and/or horse paths and bridges.

d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.

e) Farming, gardening, nursery, conservation, forestry, harvesting and grazing as provided under M.G.L. Chapter 40A, provided that fertilizers, herbicides, pesticides, manure, hazardous materials, liquid petroleum products and other leachable materials are stored within an enclosed structure that will not permit groundwater contamination.

f) Uses accessory and subordinate to the above uses, if permitted in the underlying district and subject to the provision of the underlying district, provided that the use does not result in coverage of more than twenty (20) percent of the lot with impervious surfaces.

g) Detached one-family dwellings, if permitted in the underlying district and subject to the provision of the underlying district, provided that no more than twenty (20) percent of the required lot area is covered with impervious surfaces.

h) New detached two-family dwelling, if permitted in the underlying district and if located on a lot having an area at least one and one-half (1 1/2) times that required by Section 5.1. and provided that no more than twenty (20) percent of the required lot area is covered with impervious surfaces.

i) Maintenance and repair of an existing structure provided that there is not an increase in impervious surfaces.

j) Public utilities and facilities provided that no adverse impact on surface water or ground water will occur.

4.9.3.4 Permitted Uses: Zone 3 The following uses are permitted within Zone 3 of the Water Supply Protection District, provided that all necessary permits, orders or approvals are required by local, state or federal law are also obtained and except as limited by the Conservation Commission and/or Lunenburg Water District as outlined in Guidelines and Policies for Public Water Systems, Department of Environmental Quality Engineering, Division of Water Supply, Revised May 1, 1991 as amended.

a) Conservation of soil, water, plants and wildlife.

b) Outdoor recreation, nature study, boating and fishing.

c) Duckwalks, foot, bicycle and/or horse paths and bridges.

d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.

e) Farming, gardening, nursery, conservation, forestry, harvesting and grazing provided under M.G.L. Chapter 40A, provided that fertilizers, herbicides, pesticides, manure and other leachable materials are stored within an enclosed structure that will not permit groundwater contamination.

f) Uses accessory and subordinate to the above uses, if permitted in the underlying district and subject to the provision of the underlying district, provided that the use does not result in coverage of more than twenty (20) percent of the lot with impervious surfaces.

g) Detached one-family dwellings, if permitted in the underlying district and subject to the provisions of the underlying district,

h) New detached two-family dwelling, if permitted in the underlying district;

i) Maintenance and repair of an existing structure, provided that there is no increase in impervious surfaces.

j) Public utilities and facilities provided that no adverse impact on surface water or ground water will occur.

k) The application of pesticides for non-domestic or agricultural uses provided that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the Water Supply Protection District as a result of such application. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water or the use of pesticides having low solubility in water, the prevention of volatilization and redeposition of pesticides and the lateral displacement of pesticides.

l) The application of fertilizers for non-domestic or agricultural uses provided that such application shall be made in such a manner as to minimize adverse impacts on surface and ground water due to nutrient transport and deposition and sedimentation;

m) Planned Residential Development subject to development plan and provided that no more than fifteen (15) per cent of the required lot area is covered with impervious surfaces;

n) Those commercial and industrial activities permitted in the underlying district subject to development plan approval to prevent adverse impact on the environment;

4.9.3.5 Uses Prohibited in the Water Supply Protection District

a) Storage of road salt or deicing chemicals;

b) Chemical and bacteriological laboratories;

c) Industrial uses which discharge process water including any commercial or service uses discharging wastewater;

d) Storage of petroleum or other refined petroleum product except within buildings which will be heated by the petroleum or other refined petroleum product; however, nothing in this Section shall prevent the owner of a tank or tanks existing at the time of adoption of this section to replace said tanks, providing there is no increased in capacity;

e) Any other use which involves the manufacture, use, storage, transportation or disposal of toxic or hazardous materials or generates, treats, stores or disposes of hazardous materials as defined in Section 2.0. in quantity exceeding two hundred fifty (250) total gallons of liquid material(s) or two thousand (2000) total pounds of solid material(s) at any one (1) time;

4.9.3.6 Uses Prohibited in Zone 1 and Zone 2 The following uses are prohibited in Zone 1 and Zone 2:

a) Public or private sanitary landfills including the deposition of any foreign or non-indigenous material upon the land except for normal and accepted agricultural;

b) Junk Yards or recycling facilities;

c) Sewage treatment facilities;

d) Commercial car washes;

e) Dry cleaning establishments

f) Metal plating or metal finishing;

g) Use of chemicals for deicing unless deemed necessary for public safety by the Board of Selectmen;

h) The use of septic system cleaners which contain toxic organic chemicals;

i) The rendering impervious of more than fifteen (15) percent of a required lot area;

j) The disposal of liquid or leachable wastes, except subsurface domestic waste disposal systems;

k) Dumping of snow brought in from outside the District;

l) The alteration of any natural site features or topography including but not limited to the cutting or removal of trees or other natural vegetation or the dumping, filling, excavation, grading, transferring or removing of any gravel, sand, loam or other soft material, rock or ledge prior to obtaining all permits and approvals for final development plans required by the Bylaw;

m) Any use determined by the Planning Board to be detrimental to the purposes of this section of the Bylaw;

n) Mining of land except as incidental to a permitted use, subject to a special permit granted by the Board of Selectmen;

4.9.4. Conditions for use

4.9.4.1. Each application for a Special Permit in the Water Supply Protection District shall be accompanied by five (5) copies of a plan. The plan is to be prepared by an architect, landscape architect, professional engineer or land surveyor, registered in the Commonwealth of Massachusetts. Said plan shall be drawn at a suitable scale on sheets no large than twenty-four (24) by thirty-six (36) inches. When more than one sheet is required, a key sheet shall be provided, unless a specific item(s) is waived by the Planning Board as the Special Permit Granting Authority, upon the written request of the applicant at the time of filing, the plan submission shall include, at the minimum, the following:

a) A plot plan showing:

1. Location of wetlands, streams, water bodies and flood plain;

2. Existing drainage patterns including direction of surface flow and, if required, subsurface flow;

3. Existing soils;

4. Soil boring locations and results;

5. Existing woodlands;

6. Areas having slopes exceeding fifteen (15) percent;

7. Areas to be disturbed by construction;

8. Areas where earth and other material subject to erosion will be temporarily stockpiled;

9. Areas to be used for disposal or storage of construction debris, stones, stumps, etc. if within the district;

10. Temporary and permanent erosion control measures planned, such as sediment basins, storm waste basins, diversions, rip-rap, stabilization seedings, etc;

11. Temporary work roads to be used during projects;

12. Locations and size of septic systems;

13. Method to contain spillage in fuel filling areas;

b) A storm drainage plan showing:

1. Locations of drains and culverts and names of streams, rivers, ponds or reservoirs in the Town into which they flow;

2. Discharge peaks and expected velocities at drain or culvert outlets;

3. Conditions above and below outlets and expected flow vehicles;

4. Supporting computation for the above;

c) A grading plan showing existing topography and planned grade along existing and/or proposed street or highway profiles.

d) A siltation and sedimentation control plan including:

1. Sedimentation and erosion control structures such as diversions, waterways, slope stabilization structures and sediment basins, in sufficient detail to implement their installation together with referred standards for soil erosion and sedimentation as appropriate and design calculations as required for each structure;

2. Seeding and/or sodding requirements for all exposed areas including seedbed preparation, seed mixtures, lime, fertilizer and mulching requirements with referenced standards;

3. Schedule or sequence of operation with starting dates for clearing and/or grading, timing for storm drain and culvert installations, both temporary and permanent indicated dates when critical area stabilization, paving, seeding, mulching and/or sodding is to be completed;

4. General notes for sediment control that spell out the procedures for implementing the plan.

e) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by description of measures proposed to protect such materials from vandalism, corrosion and leakage and to provide for control of spills;

f) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods;

g) Evidence of approval by the Massachusetts Department of Environmental Quality Engineering (DEQE) of any industrial water treatment or disposal systems;

h) For underground storage of toxic or hazardous materials, evidence of qualified professional supervision of system design, installation and operation;

i) Analysis by a Professional Engineer in Sanitary or Civil Engineering registered in the Commonwealth of Massachusetts certifying compliance with Section 4.9.5. below;

4.9.4.2. The Planning Board shall transmit one (1) copy of the plan to the Board of Health and one (1) copy to the Conservation Commission, one (1) copy to the Fire Department and one (1) copy to the local water purveyor for review and comment. The Board of Health and the Conservation Commission shall submit a written report to the Planning Board within fourteen (14) days.

4.9.4.3. Said plan submission shall be submitted to the Planning Board at a regularly scheduled meeting of the Planning Board;

a) In case of a use not requiring a Special Permit, the Planning Board, within forty-five (45) days of the receipt thereof shall submit a report to the Building Inspector. Said report shall summarize the Board's findings with regard to the compliance of the plan with the provisions of the Zoning Bylaw and any recommendations of the Board to ensure that;

1. The proposed use shall comply in all respects with the provisions of the underlying district and will promote the purposes of the Water Supply Protection District; and

2. The proposed use is appropriate to the natural topography, soils and other characteristics of the site to be developed; and

3. The proposed use will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and

4. The proposed use will not result in the deterioration of existing ground water or surface water quality whether or not such water meets established state or federal standards; and

5. The proposed use complies with the provisions of Section 8.3.3.2.

b) The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.

c) The Building Inspector shall not issue a permit until the report of the Planning Board, or more than forty-five (45) days shall have elapsed from the time of submittal to the Planning Board without receipt of such report has been submitted to the Building Official.

4.9.5. Limitations Upon Uses

4.9.5.1. In addition to the limitations set forth in Section 5.0. of the Bylaw, all uses within the Water Supply Protection District, except for single-family dwelling lots on plans not requiring Planning Board approval, shall be subject to the following limitations;

a) Safeguards

Provision shall be made to protect against toxic or hazardous materials discharged or lost through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials and indoor storage provisions for corrosive or dissolvable materials.

b) Location

Where the premises are partially outside of the Water Supply Protection District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the District.

c) Disposal

For any toxic or hazardous waste to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with Chapter 21C of the Massachusetts General Laws and all other applicable Laws and Regulations.

d) Drainage

All runoff from impervious surfaces shall be recharged on the site, diverted towards areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination

e) Monitor Test Wells

Where fertilizers, pesticides, herbicides or other potential contaminants are to be applied, utilized or stored and in the opinion of the Planning Board are a matter of concern, a groundwater monitoring program shall be established before the Special Permit is granted. Such a program shall adequately monitor the quality of the groundwater leaving the site through the use of monitor wells and/or appropriate groundwater sample analyses.

f) Natural Vegetation

No more than thirty (30) percent of existing natural vegetation on any lot may be disturbed in an underlying residential district, nor more than fifty (50) percent of existing natural vegetation on any lot may be disturbed in an underlying non-residential district.

g) Technical reference

The Technical Reference to be used to prepare and review plans is "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts," 1977, U.S.D.A. Soil Conservation Service, Amherst, Massachusetts. Specific guidelines to use include, but are not limited to:

1. Limit grading to only those areas actively undergoing current construction;

2. The smallest practical area of land should be exposed at one time during development;

3. Limit the length of time graded areas are exposed;

4. Provide temporary or permanent stabilization of disturbed areas at the earliest opportunity. Limit exposure to less than sixty (60) days;

5. Retain and protect as much of the natural vegetation as possible;

6. Permanent improvements such as streets, utilities, storm sewer, vegetated waterways and other features of the development should be scheduled for installation to the greatest extent possible before removing the vegetative cover from an area scheduled for building construction;

7. Protect all fill slopes and cut slopes exceeding five (5) feet in height from storm run-off through the use of diversion berms, drop chutes or other acceptable means;

8. Rough-graded rights-of-way awaiting installation of utilities and/or pavement should be protected by the installation of interceptor berms across the right-of-way so as to reduce the length of slope between berms to not more than two hundred-fifty (250) feet;

9. On sites where the above procedures are impractical or not acceptable, where the topography permits, install sediment basins, desilting basins or silt traps to remove sediment from runoff waters.

h) Non-point source pesticide contamination.

All pesticide use in Zone 2 shall comply with the provisions 333 CMR 12.00.

4.10. Route 2A Overlay District

4.10.1. Purpose

4.10.1.1. ***The purposes of the Route 2A Overlay District are to improve the safety for pedestrians and vehicular traffic, to protect natural features, to improve the appearance of the commercial area, to encourage sound economic development, to reduce conflicting or abrasive site treatment to increase property values and employment opportunities, and to create a more commercial-friendly environment.***

4.10.2. Permitted Uses

4.10.2.1. All uses of the underlying district are permitted

4.10.3. Condition of Use

4.10.3.1. When considering a development plan, application for Special Permit, or subdivision plan for any use in the Route 2A Overlay District, the Planning Board shall consider all information submitted in accordance with Section 8.4. of this Bylaw, the Town of Lunenburg Rules and Regulations Governing the Subdivision of Land, the Planning Board Rules and Regulations Governing Off-Street Parking and Loading Design, Construction and Maintenance and other rules and regulations adopted by the Planning Board for applications submitted within this Overlay District, relative to landscaping, signage, lighting, safety, pavement treatment, underground wires, bikeways and sidewalks, streets, pedestrian crossings and amenities, curb cuts, impervious surfaces, buffers, architectural compatibility, historic buildings, street furniture, coordinate development, office parks and retail villages.

4.10.3.2. In addition to the requirements of Section 8.4., the Planning Board shall consider the following:

a) The arrangements of access points, service roads, driveways, parking areas, loading areas, lighting, and pedestrian walkways in a manner which facilitates interior circulation, minimizes conflict between vehicles and pedestrians, provides for coordination with adjacent street, properties and improvements and which minimizes strip development.

b) Ease of access, travel and on-site movements for fire and police equipment and other emergency services for public safety.

c) The siting of buildings, structures, and open spaces to permit maximum use of passive solar energy and to permit maximum protection of pedestrian areas from adverse impacts of winds, vapors or other emissions, shadows and/or noise.

d) Conformance to design guidelines adopted by the Planning Board for the Route 2A Overlay District.

4.10.3.3. The Planning Board may require the following:

a) Provisions for maintenance of common areas.

b) Measures proposed to mitigate impacts of development to include, but not be limited to construction of sidewalks, service roads and turning lanes.

c) Shared access to reduce curb cuts.

d) A completion date.

4.11. Phased Growth for Subdivision, Planned Residential Area, and Mixed Residential Development

4.11.1. Purpose

4.11.1.1. *The purposes of Phased Growth are to protect and promote the public health, safety, and welfare of the Town of Lunenburg, by phasing the growth of the Town at a manageable rate to ensure that the Town has adequate time to expand its resources and to provide the necessary services to meet the educational, infrastructure, and public safety needs of its residents, and preserve the essence of the Rural Residential character of the Town.*

4.11.2. Applicability

4.11.2.1. Residential uses permitted in the Residence A, Residence B, and Outlying Districts, including those on Special Permit, as referenced in Section 4.11.3.1.

4.11.2.2. The provision of this Section 4.11. shall be in effect for ten (10) years from the date of the adoption of this section by the Town; May 13, 2000 or upon the completion of the updated Master Plan, Sewer Facility Plan, School, Library and Public Safety Buildings Programs, completion of construction of any and all facilities and public infrastructure outlined in said plans and compliance with the Commonwealth of Massachusetts Executive Order 418.

4.11.2.3. The requirements of this Section shall limit the number of building permits for new dwelling units that may be issued in twelve (12) month period on lots created after the passage of this Section except as provided below.

4.11.2.4. Building permits shall not be issued authorizing construction of more than forty-five (45) dwelling units in any twelve (12) month period with the first such period beginning with the passage of this Section. No more than fifty (50) percent shall be for dwellings within a subdivision unless one (1) or more of the following conditions applies.

a) The dwelling units are created under a program or statute intended to assist the construction of low or moderate income housing, as defined in an applicable statute or regulations for affordable housing in the Town of Lunenburg.

b) The dwelling units are designated for persons fifty-five (55) years and older through a properly executed and recorded deed restriction running with the land.

c) The lots are shown on an approved Definitive Plan or subdivision for which approval was granted prior to the effective date of this section and which has not otherwise expired, as per MGL, Chapter 40A, S81P.

d) The lots are shown on a plan approved prior to the effective date of this section and which are subject to Section 4.11.3.1.

Lots satisfying any one of the four conditions found in (a) – (d) of this Section shall also be exempted from the overall limit of 45 dwelling units to be constructed in any 12 month period pursuant to this section.

4.11.2.5. No applicant shall be issued more than six (6) building permits in any one (1) year on existing or new lots for which approval is not required under the Subdivision Control Law (Massachusetts General Laws, Chapter 41).

a) ANR lots, which have statutory use protection as per MGL, Chapter 40A, S81P for three years.

4.11.2.6. The procedure for issuing building permits referred to herein shall be as follows:

1. The applicant must complete and file an application for a Building Permit with the Building Official.

2. The Building Official shall accept applications for Building Permits on a first come, first serve basis during normal business hours. The Building Official will assign a consecutive number, starting with the number one (1) to applications as each application is received and will stamp the date of receipt on the application. This procedure will start on the date of passing of this Article and shall be renewed annually on the anniversary date of the passing of the article.

3. The Building Official will notify each applicant in the order that the application for the Building Permits are received on its standing based on the order of submission of the Building Permit application.

4. Building Permits issued but subsequently abandoned under the provision of the State Building Code shall not be counted toward the forty-five (45) new dwelling units allowed.

5. A building permit remains active only if a substantial start of construction has taken place. If the Building Official determines that there is not a substantial start and/or no extension has been granted, then the Building Official may revoke the permit and the building permit application will lose its number and will have to refile for a new permit and will receive a new number.

6. In the case that building permits have been issued for forty-five (45) new dwelling units, and, upon review, a permit application shall be deemed invalid and thereby lose its standing number, the next number will be issued but the number of new dwelling units authorized for the given twelve (12) month period will remain at forty-five (45).

7. In the case of building permit applications for subdivision lots, the Building office will confer with the Planning Board as to the status of the maximum dwelling units allowed each year as noted in Section 4.11.3.1.

4.11.3. Conditions of Use

4.11.3.1. Building permits for the construction of residential dwelling units in a Subdivision, Planned Residential Area, and Mixed Residential Development or land held in common ownership on the effective date of this section shall not be granted at a rate per annum greater than that permitted by the following schedule:

Number of Dwelling Units	Minimum Years of Development	Maximum Dwelling Units Developed per Year
1-6	1	All
7-20	2	40%
21-45	3	30%

4.11.3.2. Lots or exclusive use areas can be sold any time for the construction of dwellings in designated future years subject to phasing approved by the Planning Board when the Definitive or Development Plan is approved; however, any lots covered by this provision hereafter sold or otherwise transferred to another owner, shall include in the deed, the earliest date of which construction may commence in accordance with these provisions.

4.11.3.3. Subsequent changes in the shape or ownership of lots or exclusive use areas shall not affect the applicability of this Section.

4.11.3.4. For purposes of this Section 4.11, land shall be deemed to be held in common ownership with contiguous land if the individuals, partnerships, corporations, trusts or other legal entities owning the land in question ("owner") is also an owner of any contiguous land. A person or entity shall be deemed to be an "owner" if they hold a legal or beneficial interest in the property of more than one percent (1%).

4.11.3.5. The effective date of this provision shall be no earlier than the date on which the first building permit is obtained.

4.12. Lake Whalom Overlay District

4.12.1. Purpose

4.12.1.1. The purpose of the Lake Whalom Overlay District is to provide for the coordinated development of the former amusement park area and its adjacent area in a manner which will protect the historic features of the area, provide housing, encourage sound economic development, protect the adjacent neighborhood, and respect adjacent natural features and Town properties, all with minimum environmental and traffic impacts.

4.12.2. Location

4.12.2.1. The Lake Whalom Overlay District includes the area bounded as follows: by the present Commercial District boundary line on the west from the Leominster City line to the center line of Whalom Road, easterly along the center line of Whalom Road, continuing along the center line of Pond Street to Kimball Street, southeasterly along the center line of Kimball Street to the center line of Prospect Street, westerly along a line extending straight across Prospect Street to the shore line of Whalom Lake, southwesterly along the shore line of Whalom Lake to the Commercial District boundary line, southerly along the Commercial District boundary to the Leominster City line to the point of beginning.

4.12.3. Permitted uses

4.12.3.1. All uses of the underlying districts, subject to the restrictions and provisions of the underlying district except for those uses permitted by Section 4.2.3.1. a), 4.6.3.1.j), l) and m).

4.12.4. Uses Permissible by Special Permit granted by the Planning Board

4.12.4.1. Town houses and garden apartments.

4.12.4.2. Recreation facilities limited to lake front facilities, including a club house, beach, tennis, badminton, bocce, shuffleboard, gardens, outdoor seating and similar uses.

4.12.4.3. Restaurant

4.12.5. Conditions of Use

4.12.5.1. All uses are subject to the applicable provisions of Section 8.4.

4.12.5.2. The dimensional requirements of Section 5.0. can be modified by the Planning Board in connection with a Special Permit or a Development Plan Review, if

a) the development plan is for more than ten (10) acres, and
b) the use or uses are connected to municipal sewer and
c) at least ten (10) percent of the residential portion, if any,

is limited in perpetuity to occupancy by persons fifty-five (55) years or more of age or qualifying for affordable units as defined by the Commonwealth.

And provided that

a) the density shall not be more than eight (8) units per acre, and
b) there shall not be more than two (2) bedrooms per unit.

4.12.5.3. Consideration shall be given to preserving some of the previous character of the area as an amusement park, such as signing or markers, maintaining a feature of the park or other historic structures.

4.12.5.4. Development of uses permitted by Section 4.12.3. shall be completed within three (3) years from the date of approval of the special permit, unless otherwise approved by the Planning Board.

TRI-TOWN SMART GROWTH DISTRICT

CHAPTER 40R

SECTION 4.13 TRI-TOWN SMART GROWTH DISTRICT

4.13.1. Purpose and Authority

4.13.1.1. The purposes of the Tri-Town Smart Growth District are to encourage smart growth in accordance with the purposes stated in MGL. Chapter 40R and to encourage a range of housing types and opportunities which are appropriate in Lunenburg. The objectives include:

a) To promote the public health, safety and welfare by encouraging a diversity of housing opportunities.

b) To provide a range of housing choices for households of varying size, incomes and ages and increase the production of housing to meet existing and anticipated need.

c) To establish requirements, standards and guidelines which will ensure suitable and cost effective development and a clear, predictable and efficient development review and permitting process.

d) To enable the Town to receive Zoning Incentive and Density Bonus Payments under MGL Chapter 40R and Chapter 40S.

4.13.2. Definitions

For purposes of this Section, the following definitions shall apply. All terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section, or as set forth in the rules and regulations of the Permit Approval Authority ("Regulations"), if any. To the extent that there is any conflict between the definitions set forth is this Section or the Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Accessory Uses - an accessory use shall be customarily incidental to any of the permitted uses, provided that there is no exterior display and that there are no products sold on the premises and no customers or clients coming to the premises.

Affordable Homeownership Unit - an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in MGL Chapter 184, Section 31 and the requirements of Section 4.13.7.5 of this By-law.

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

As-of-right Project or Project - means a development of housing under zoning without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires approval pursuant to this Section shall be considered an as-of-right Project.

Eligible Household - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws - MGL Chapter 40R and 760 Code of Massachusetts Regulations 59.00.

Garden Apartment - A multifamily residential building of not more than three floors.

Multifamily Residential Use - Apartment or condominium units in one or more buildings that contain or will contain more than three dwelling units.

Plan Approval - standards and criteria which a Project in the Tri-Town Smart Growth District must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority - For purposes of reviewing Project applications and issuing decisions on development Projects within the Tri-Town Smart Growth District, the Planning Board, consistent with MGL Chapter 40R and 760 Code of Massachusetts Regulations 59.00, shall be the Plan Approval Authority, and is authorized to approve a site plan to implement a Project.

Recreational Uses - Active recreational uses, including but not limited to ball fields, and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

4.13.3. Overlay District

4.13.3.1. Establishment. The Tri-Town Smart Growth District is an overlay district having a land area of approximately +8.97 acres in size that is superimposed over the underlying zoning district applicable to a portion of the property shown on the map entitled "Tri-Town Smart Growth District," dated __, being the locus formerly used as the Tri-Town Drive-in Theater on Youngs Road and shown on Assessor's map Number 81, Parcel Number 907. This map is hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.

4.13.3.2. Underlying Zoning. The Tri-Town Smart Growth District is an overlay district superimposed on all underlying zoning districts. When a building permit is issued for any Project approved in accordance with this Section 4.13, the provisions of the underlying districts(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 4.13.12 for such Project.

4.13.4. Applicability of Tri-Town Smart Growth District

In accordance with the provisions of MGL Chapter 40R and 760 Code of Massachusetts Regulations 59.00, an Applicant for a Project located within the Tri-Town Smart Growth District may seek Plan Approval in accordance with the requirements of this Section. In such case, then notwithstanding anything to the contrary in this Zoning By-law, such application shall not be subject to any other provisions of this Zoning By-law, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations.

4.13.5. Permitted Uses

The following uses are permitted as of right in the Tri-Town Smart Growth District:

1. Multifamily Residential Use, including Garden Apartments, with a density of twenty-two and three-hundredths (22.03) dwelling units per acre;

2. Parking, including surface, garage-under, and structured parking (e.g., parking garages).

3. Open space and Recreational Uses.

4. Accessory uses customarily incidental to any of the above permitted uses shall be permitted.

4.13.6. Project Phasing

The Planning Board, as a condition of any Plan Approval, may require a Project to be phased for the purpose of coordinating development with the mitigation required to address any adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable units and the proportion of market rate units shall be consistent across all phases.

4.13.7. Housing and Housing Affordability

4.13.7.1. Marketing Plan. Prior to granting Plan Approval for a Project within the Tri-Town Smart Growth District, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. Not less than ten (10) percent of the residential units within a Project shall be three-bedroom units. These documents in combination, to be submitted with a Site Plan application pursuant to Section 4.13.12., below, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

4.13.7.2. Number of Affordable Housing Units. Not less than twenty-five percent (25%) of housing units constructed in a Project shall be Affordable Housing; provided, however, that the Planning Board may consider an application where 20% of the units are Affordable Housing set aside for Eligible Households. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

4.13.7.3. Requirements. Affordable Housing shall comply with the following requirements:

a) For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

b) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

c) Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

4.13.7.4. Design and Construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the development. The total number of bedrooms in the Affordable Housing shall be proportionate to the total number of bedrooms in all the units in the development of which the Affordable Housing is part, provided that at least ten (10%) percent of the three bedroom units within the District shall be Affordable Housing.

4.13.7.5. Affordable Housing Restriction. Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

a) specification of the term of the affordable housing restriction which shall be not less than thirty years;

b) the name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;

c) a description of the unit of Affordable Housing by address and number of bedrooms;

d) reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;

e) a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

f) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;

g) designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;

h) a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the administering agency;

i) provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;

j) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and the Town of Lunenburg Lunenburg in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

k) provision that the restriction on an Affordable Rental Unit shall run in favor of the administering agency and the Town of Lunenburg Lunenburg in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

l) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the administering agency, in a form specified by that agency certifying compliance with the Affordability provisions of this By-law and containing such other information as may be reasonably requested in order-to ensure affordability;

m) a requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability.

4.13.7.6. Administering Agency. An administering agency which may be the Lunenburg Housing Authority or other qualified housing entity shall be designated by the Planning Board. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Planning Board or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such agency shall ensure the following:

a) prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

b) income eligibility of households applying for Affordable Housing is properly and reliably determined;

c) the housing marketing and resident selection plan conforms to all requirements and is properly administered;

d) sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;

e) Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

4.13.7.7. Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed one-half (1/2%) percent of the amount of rents of Affordable Rental Units (payable annually) or one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

4.13.7.8. Age Restrictions. The District shall not include the imposition of restrictions on age.

4.13.7.9. Phasing. For housing that is approved and developed in phases, the proportion of Affordable Housing Units shall be consistent across all phases.

4.13.7.10. Computation. Prior to the granting of any Building Permit for the housing component of a Project, the applicant for such building permit must demonstrate, to the satisfaction of the Planning Board, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town.

4.13.7.11. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section shall not be waived.

4.13.8. **Density and Dimensional Regulations**

4.13.8.1. Lot Area, Width and Frontage.

a) No building, except a detached building or accessory use, shall be constructed on a lot smaller than the land in the Tri-Town Smart Growth District.

b) The frontage of the lot must be available for access.

4.13.8.2. Setbacks and Yards.

a) No building shall be constructed less than forty (40) feet from the exterior line with Youngs Road unless otherwise approved by the Planning Board in accordance with Section 4.13.14.1.

b) No building or accessory use shall be constructed nearer to the boundary lines of the district than twenty-five (25) feet unless approved by the Planning Board in accordance with Section 4.13.14.1.

4.13.8.3. Building Height

a) The maximum height of a building or structure shall be thirty-eight (38) feet measured from the highest level abutting the building to the highest point of the building.

b) The vertical distance between any point on the roof of a building, whether main or accessory, and any point on the side or rear lines of its lot shall not exceed the horizontal distance between the same two (2) points by more than five (5) feet.

4.13.8.4. Density and Unit Type

a) There shall not be more than two hundred and four (204) dwelling units.

b) Twenty percent (20%) of the units shall be one (1) bedroom units, seventy percent (70%) shall be (2) bedrooms and ten percent (10%) shall have three (3) bedrooms.

4.13.9. Parking Requirement

4.13.9.1. Dwellings: two (2) parking spaces for each dwelling containing two or three bedrooms, one (1) parking space for each dwelling unit containing one bedroom, which shall be attached to the dwelling structure unless otherwise approved by the Planning Board.

4.13.9.2. Guest Parking: The location and number of guest parking spaces shall be approved during the Development Plan Review process.

4.13.10. Signs

4.13.10.1. No sign except an entrance sign and interior directional signs are allowed.

4.13.11. Performance Standards

4.13.11.1. The architectural style, including facades and color, handicapped units and access, walkways and landscaped areas shall be approved by the Planning Board as compatible with the Town of Lunenburg Lunenburg.

4.13.11.2. Landscaping shall be used to establish buffers between incompatible land uses, which shall be shown on the plan, including plant type and location.

4.13.11.3. Open spaces and pedestrian amenities shall be available to the public.

4.13.11.4. Access points, service roads, driveways and driveway entrances, parking areas, lighting and pedestrian walkways shall be arranged and provided in a manner which facilitates interior circulation and minimizes conflict between vehicles and pedestrians.

4.13.11.5. Ease of access, travel and on site movement for fire and police equipment and other emergency services for shall be assured for public safety.

4.13.11.6. Utilities shall be placed underground, unless otherwise approved by the Planning Board.

4.13.11.7. Surface run-off shall be minimized and the protection of the site and adjacent properties from erosion as a result thereof is assured.

4.13.11.8. The relationship of the buildings to the site, including the siting of buildings, structures and open spaces shall be designed to permit passive solar energy and to permit maximum protection of pedestrian areas from adverse impact of winds, vapors or other emissions, shadows and/or noise.

4.13.11.9. The relationship of the buildings and site to adjoining areas, including compatibility with the prevailing architectural style and landscape shall assure suitable transition to adjoining properties.

4.13.11.10. Historical considerations and compatibility with abutting properties and the area in which it is located are respected.

4.13.11.11. Provision shall be made for maintenance of common areas and special features.

4.13.11.12. The design of parking and off-street loading areas shall comply with the Regulations of the Planning Board of the Town of Lunenburg Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas", effective January 1, 2005.

4.13.11.13. The landscaping shall comply with the "Planning Board Guidelines for Non-Residential Landscaping", effective January 1, 2005.

4.13.11.14. Alteration of the topography shall be limited as nearly as possible to that which is necessary for the provision of access.

4.13.11.15. Appropriate surface treatment, fencing, walls and signage shall be provided.

4.13.11.16. Adequate size, location and screening of exterior and outside storage and service areas shall be provided.

4.13.11.17. Appropriate provision shall be made for waste disposal, water supply; refuse removal, drainage, dust and erosion control and other utilities and their appurtenances, in accordance with applicable Town regulations.

4.13.11.18. Adverse impacts as identified in the "Environmental Impact Statement" required by the Lunenburg Planning Board Rules and Regulations Governing the Subdivision of Land, dated March 2002, shall be mitigated to the satisfaction of the Planning Board.

4.13.11.19. Utilities, including water, sewer, drainage, and electricity shall conform to the applicable sections of the Lunenburg Planning Board Rules and Regulations Governing the Subdivision of Land, dated March 2002.

4.13.11.20. Project Review, Development and Construction shall be monitored in accordance with the "Monitoring and Inspection Procedures", dated 2005 and the Fee System of the Lunenburg Planning Board in effect January 1, 2005.

4.13.12. Application for Plan Approval

4.13.12.1. Required Submittals. The application for Plan Approval shall be accompanied by the following plans and documents. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the Planning Board, and shall show the following:

a) The perimeter dimensions of the lot; Assessors Map, lot and block numbers.

b) Existing and proposed buildings, structures, building setbacks, parking spaces, driveway openings, distance between buildings, plan view exterior measurements of individual buildings, driveways, service areas and open areas.

c) Internal roads, sidewalks and parking areas (width dimensions of paving and indication of number of parking spaces).

d) All facilities for sewage, refuse and other waste disposal and for surface water drainage.

e) All proposed landscaping features, such as fences, walls, planting areas and walks on the lot and tract.

f) Existing major natural features, including streams, wetlands and all trees six inches or larger in caliper (caliper is girth of the tree at approximately waist height).

g) Scale and North arrow (minimum scale of one inch equals 40 feet).

h) Total site area in square footage and acres and area to be set aside as public open space, if appropriate.

i) Percentage of lot coverage (including the percentage of the lot covered by buildings) and percentage of open space, if appropriate.

j) The proposed residential density in terms of dwelling units per acre and types of proposed commercial uses in terms of the respective floor area, and recreation areas, and number of units proposed by type: number of one bedroom units, two-bedroom units, etc., if appropriate.

k) Location sketch map (indicate surrounding streets and properties and any additional abutting lands owned by the applicant).

1) Representative elevation sketches of buildings (indicate height of building and construction material of the exterior facade).

m) Typical unit floor plan for residential uses. (Floor plan should be indicated for each type of unit proposed: either one bedroom, two bedrooms or more.) The area in square feet of each typical unit should be indicated.

n) Developer's (or his representative's) name, address and phone number.

o) Any other information which may include required traffic, school, utilities impact study and in order to adequately evaluate the scope and potential impacts of the proposed project.

4.13.12.2. Records. All plans and elevations presented with the application shall remain a part of the records of the Planning Board. The provision of the plan and the application shall be the sole responsibility of the applicant.

4.13.13. Procedures

4.13.13.1 Filing. An applicant for Plan Approval shall file the application form and other required submittals as set forth above with the Town Clerk, and also shall file forthwith the required number of copies of the application and other required submittals as set forth above with the Planning Board including the date of filing with the Town Clerk.

4.13.13.2. Circulation to Other Boards. Upon receipt of the Application, the Planning Board shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

4.13.13.3. Hearing. The Planning Board shall hold a public hearing for which notice has been given as provided in Section 11 of MGL Chapter 40A. The decision of the Planning Board shall be made, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the Planning Board, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the Planning Board to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.

4.13.13.4. Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to MGL c. 44 s. 53G.

4.13.14. Decision

4.13.14.1. Waivers. Upon the request of the Applicant, the Planning Board may waive dimensional and other requirements of Section, including the performance standards of Section 4.13.11., in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose

and objectives of the Tri-Town Smart Growth District, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section.

4.13.14.2. Plan Review. An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review and shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

4.13.14.3. Plan Approval. Plan Approval shall be granted where the Planning Board finds that:

1. the applicant has submitted the required fees and information as set forth herein; and

2. the Project and site plan meet the requirements and standards set forth this Section, or a waiver has been granted therefrom; and

3. extraordinary adverse potential impact of the Project or nearby properties have been adequately mitigated.

4.13.14.4. Plan Disapproval. A site plan may be disapproved only where the Planning Board finds that:

1. the applicant has not submitted the required fees and information as set forth herein; or

2. the Project and site plan do not meet the requirements and standards set forth this Section, or a waiver has not been granted therefrom; or

Section 4.13.13.4 Peer Review. Reads as changed by The Commonwealth of Massachusetts, Office of the Attorney General

3. it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

4.13.14.5. Form of Decision. The Planning Board shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Planning Board. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

4.13.15. Change in Plans After Approval by Planning Board

4.13.15.1. Minor Change. After Plan Approval, an applicant may be apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the Planning Board on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Planning Board. The Planning Board may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Planning Board shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.

4.13.15.2. Major Change. Those changes deemed by the Planning Board to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the Planning Board as a new application for Plan Approval pursuant to this Section.

4.14. Summer Street Revitalization Overlay District

PURPOSE

The Summer Street Revitalization Overlay District has been established: to encourage development that in itself is compatible and aligns with the character of the Town; to create through amenities, a sense of community that is an appealing place to live and work ensuring the vision of Lunenburg as a New England Town, and further, to provide clear and precise guidelines as to the building and lot design that will revitalize the area and when possible, using sustainable building materials and design features that include indoor/outdoor conservation methods.

LOCATION

In Lunenburg from the Fitchburg line to the Leominster line including all of the Industrial District along Summer Street in Lunenburg and all of the Commercial District along Summer Street and Youngs Road in Lunenburg.

OBJECTIVES

a. Allowing a mix of uses in close proximity in the district within the development including residential, retail, office, and light industrial;

b. Preserving and restoring a village style character to the designated overlay area;

c. Promoting a balance of land uses;

d. Promoting the opportunity for people to work, meet , shop, and utilize services in the vicinity of their residences;

e. Providing opportunities for the development of variety of housing opportunities;

f. Providing opportunities for a mixture of uses in the same building;

g. Promoting a positive pedestrian environment in the district;

h. Facilitating integrated physical design;

i. Promoting a consistent level of design quality;

j. Encouraging the development of flexible space for small and emerging businesses;

k. Facilitating development proposals responsive to current and future market conditions;

l. Encouraging the development of open spaces and parks within the district to accommodate workers, residents, pedestrians, and shoppers.

PERMIT GRANTING AUTHORITY

The Zoning Board of Appeals (ZBA) is hereby the review authority pertaining to the Commercial District and where applicable projects proposed within the Overlay District shall be reviewed under Section 8.4., Development Plan Review. The Planning Board is hereby the permit granting authority pertaining to the Industrial District where applicable projects proposed within the Overlay District shall be reviewed under Section 8.4., Development Plan Review.

PERMITTED USES

The following uses are permitted within the Summer Street Revitalization Overlay District.

(a) Any use permitted by right or special permit in the underlying zone.

(b) Mixed Use Development, which is a development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, office, retail, institutional, or entertainment. Residential uses shall be allowed as part of a mixed use project.

DIMENSIONAL STANDARDS

These standards herein are hereby established as such to achieve a village style design for the Summer Street Revitalization Overlay District.

(a) Occupied Lot Area:
   1. The total area on any lot devoted to building, parking, outdoor storage, and display and other hard surface areas may occupy up to eighty-five (85%) percent of the total lot area.

(b) Maximum Height: No more than 55 feet measured from ground level.

(c) Setbacks: Front 20 feet
   Side 15 feet
   Rear 20 feet

A landscape plan shall be required for screening and buffering purposes for setback areas.

(d) Minimum Lot Size: Twenty Thousand (20,000) square feet

(e) Minimum Frontage: Fifty (50) feet

(f) Minimum Open Space: All projects within the Summer Street Revitalization Overlay District shall have at least ten (10%) of the total site area devoted to Open Space; required setbacks shall be considered as part of the total area required for Open Space. The required Open Space shall not be used for parking or loading purposes and shall be open and unobstructed to the sky. Items such as benches, walkways, planters, landscaping, kiosks, gazebos and similar structures shall not be considered obstructions.

(g) Mixed Use Developments: that propose to have retail and residential uses within the same building on lots that meet the minimum dimensional requirements established herein, shall be allowed only in a two story building.

(h) A Mixed Use Development within the Summer Street Revitalization Overlay District must provide at least ten (10%) percent of its residential units be made affordable to low to moderate income persons in perpetuity as defined by the Executive Office of Housing and Economic Development (EOHED).

ADDITIONAL STANDARDS

As well as the standards required under Section 8.4 Development Plan Review, these additional standards are established for the Summer Street Revitalization Overlay District.

a) Building – Location & Facade

1. The Building front shall face the street on which the lot obtains its frontage.
2. If there is more than one building on the site, the siting shall be approved by the Special Permitting Granting Authority pursuant to the procedures outlined in Section 8.4., and there shall be sidewalk connections between buildings.
3. Flat roofs that are visible from the street level are prohibited unless an appropriate façade is included in the design.
4. Roof colors shall be appropriate to the area and consistent through the site except signs approved under the Development Plan Review.
5. The principal building(s) shall be connected to public water and sewer where readily available and accessible.
6. Lighting, signage, and architectural style shall be consistent with other uses in the District and reviewed under the Development Plan Review (DPR).

b) Parking, Loading, and Interior Streets

1. Parking lots shall be located at the rear of or the side of buildings wherever feasible or practical.
2. Parking lot layout shall take into consideration pedestrian circulation. Pedestrian crosswalks shall be provided, where necessary and appropriate.
3. Turning radius of emergency response vehicles shall be accommodated within the design of the project.
4. All loading docks shall be at the rear of building(s) and not be visible from the street.
5. All paved areas shall be separated from the lot line setback by a four (4) foot landscaped area of indigenous materials.

c) Landscaping and Screening

1. There shall be a minimum of a four (4) foot landscaped area along the street frontage and along the front and side of the principal building(s) and plantings of indigenous material along the façade of the building(s) and between the building(s) if there is more than one building on site.
2. Such landscaping does not interfere with sight lines of drivers.
3. Natural features shall be retained wherever feasible.
4. Screening of the site shall be by a four (4) foot landscaped strip at the rear and side lot lines.
5. Additional landscaping and screening may be required where it is deemed such appropriate measures are in order.

d) Streetscape

1. Light fixtures shall be designed to appropriately blend within the District and be of number and height that grants plentiful lighting. Such lighting shall shine downward as to not affect adjacent properties.
2. Lighting must also be placed on the side and rear of the building.
3. Outdoor tables, benches, and bicycle racks shall be of size and be consistent with the principal use(s) of the site.
4. Trash receptacles must be of a size that provides proper usage.
5. Sidewalks shall be provided from the street line, when applicable and practical, and from the parking areas to building(s).

WAIVER

The review authority may waive any of the standards within this Section provided that such waiver will not substantially derogate from the village style design standard established herein.

COMMONLY HELD LOTS

Any lot that is commonly held in ownership with an adjacent lot in this district may be treated as a single lot in accordance with this Section, provided that the total area of such lots is at least 20,000 square feet in area combined, the lots have a combined contiguous frontage of at least fifty (50) feet, and both are vacant of structures, parking facilities, or accessory uses.

CONFLICT WITH OTHER LAWS

All development activities within the Summer Street Revitalization Overlay District shall comply with applicable laws, regulations, and standards of the Town, except that in the event of a conflict between this bylaw and any such laws and regulations, the provisions of this Bylaw shall control, provided that they are consistent with State and Federal Law.

SEVERABILITY

If any section or provision of this bylaw is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other section or provision of this Bylaw.

4.15. Solar Energy Systems

4.15.1 Purpose

The purpose of this section is to provide siting for solar photovoltaic energy systems for power generation for all home, commercial or industrial installations. Small-Scale Ground-Mounted Photovoltaic Installations, Roof-Mounted Solar Energy Installations and Large-Scale Ground-Mounted Photovoltaic Installations within the Solar Overlay District may be constructed without need for discretionary approval as set forth herein. Large-Scale Ground-Mounted Photovoltaic Installations outside of the Solar Overlay District may be constructed by special permit provided certain criteria as set forth herein are met. The provisions in this section of the Zoning Bylaw shall apply to the construction, operation, repair, and/or removal of all solar electric systems, and to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

4.15.2 Definitions

Small-Scale Ground-Mounted Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and has a nameplate capacity under 10 kW.

Large-Scale Ground-Mounted Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and has a nameplate capacity of 10 kW or greater.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in Direct Current (DC).

Solar Photovoltaic Array: An arrangement of solar photovoltaic panels.

Roof-Mounted Solar Energy Installation: Solar photovoltaic arrays placed on the roof of residences, or commercial, industrial or institutional buildings and Town owned municipal buildings.

Buffer Strip: A strip of land between the solar photovoltaic arrays, and any structures accessory thereto, and the boundary of the parcel, reserved for plant material, berms, walls or fencing to serve as a visual barrier.

Plant Material: Trees or shrubs of a type and height that sufficiently screen the arrays without blocking necessary sun that would hinder the product performance, including ground cover that would screen the lower portion of the arrays.

4.15.3 Small-Scale Ground-Mounted Solar Photovoltaic Installations and Roof-Mounted Solar Energy Installations

4.15.3.1 Purpose

The purpose of this section is to promote the creation of renewable energy for individual residences, commercial enterprises and municipal buildings, as-of-right.

4.15.3.2 Roof-Mounted Solar Energy Installations

Roof-Mounted Solar Energy Installations shall be located so as not to increase the total height of the structure more than one (1) foot above the applicable zoning regulations related to height in the District in which it is located, or such other height as is determined by the Building/Zoning Official to be essential for proper operation, but in no case no more than four (4) feet.

4.15.3.3 Small-Scale Ground-Mounted Solar Energy Installations

Small-Scale Ground-Mounted Photovoltaic Installations are not permitted in the Zoning Dimensional Setbacks as listed in Section 5.0, Subsection 5.2 of the Zoning Bylaw and may not be located closer than 25 feet from residential side-yard lines.

Dimensional setbacks for Small-Scale Ground-Mounted Photovoltaic Installation shall have a front lot setback no closer than the existing foundation of the primary dwelling to the front property line, except when the existing foundation of the primary dwelling is more than 125 feet from the front property line or otherwise if determined appropriate by the Building/Zoning Official.

Small-Scale Ground-Mounted Photovoltaic Installation shall be adequately screened from the neighboring lot line as determined by the Building/Zoning Official.

A Small-Scale Ground-Mounted Photovoltaic Installation with twenty feet or greater in height, at its maximum extension, shall require a Special Permit in accordance with Section 4.15.4.3.

4.15.3.4 Required Documents

The following documents shall be required:

A. Sun and shadow diagrams specific to the proposed installation to determine the solar access.

B. Detailed information, including maps, plans or dimensional sketches showing proposed location of the solar installation, including any setbacks from property lines or distances from structures which are used for habitation on adjacent properties, and a landscape diagram showing proposed screening.

C. Site drawings showing the building and structure footprints, property lines, location and the dimensions of solar arrays, ridgeline of roof and description of the installation.

D. Elevation drawings showing heights of buildings and solar arrays.

4.15.3.5 Permitting

Small-Scale Ground-Mounted Solar Photovoltaic Installations and Roof-Mounted Solar Energy Installations require only a building permit, except that a Small-Scale Ground-Mounted Solar Photovoltaic Installation twenty feet in height or greater, at its maximum extension, shall require a special permit in accordance with Section 4.15.4.3. All data listed above shall be submitted to the Building/Zoning Official. All other necessary permits shall be obtained before a building permit is issued.

4.15.3.6 As Built Plans

As-built plans shall be submitted prior to final inspection to the Building/Zoning Official and copied to the Planning Board.

4.15.4 Large-Scale Ground-Mounted Solar Photovoltaic Installations

4.15.4.1 Purpose

The purpose of this section is to facilitate the creation of new Large-Scale Ground-Mounted Solar Photovoltaic Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

Subject to the requirements below, Large-Scale Ground-Mounted Solar Photovoltaic Installations are permitted as-of-right in the Solar Overlay District and by special permit in any other district. The special permit granting authority for these purposes shall be the Planning Board.

4.15.4.2 Solar Overlay District

Large-Scale Ground-Mounted Solar Photovoltaic Installations are allowed by right in the following designated Overlay District:

1. 27 Youngs Road, 42 Acres, Map 115, Parcel 016 (Commercial District)
2. 671 Lancaster Avenue, 132 Acres, Map 110, Parcel 003 (Residence B)
3. 500 Leominster Shirley Road, 17.4 Acres, Map 144, Parcel 001 (Office Park and Industrial)

4.15.4.3 Siting By Special Permit

Except where permitted as-of-right in the Solar Overlay District, Large-Scale Ground-Mounted Solar Photovoltaic Installations may be located on any lot containing more than 20 acres in any district by special permit issued by the Planning Board, provided however, that the requirements of Section 4.15 and the following criteria are met.

1. Standards: In granting the special permit, the Planning Board shall find that the permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this bylaw, and shall find that:

- the specific site is an appropriate location for such an installation;
- the proposed installation will not adversely affect the existing neighborhood; by the following:
    - historical significance
    - scenic vistas
    - natural and rural character
    - public safety
- the granting of the special permit will not reasonably diminish the available light, air, sunlight and other amenities, and;
- there will be no nuisance or serious hazard to vehicles or pedestrians.

2. Conditions: The Planning Board may impose any conditions deemed necessary to achieve the purpose of this Bylaw, such as, but not limited to, the following:

- greater than minimum setback requirements;
- modification of exterior appearance;
- limitation of size or extent of facilities;
- regulation of traffic and site plan features;
- screening of premises from view by use of appropriate walls, fencing or buffer strips;
- control of the number, location, size and lighting of signs;
- additional design and siting modifications where appropriate.

4.15.4.4 Development Plan Review

All Large-Scale Ground-Mounted Solar Photovoltaic Installations shall require Development Plan Review, under Section 8.4 of the Zoning Bylaws, by the Lunenburg Planning Board. A public information meeting shall be held by said Board. The Building/Zoning Official shall not issue a building permit unless, and until, the Planning Board submits an approved Development Plan Review Document, and Special Permit documentation where applicable, to the Building/Zoning Official.

A building permit will be issued by the Building/Zoning Official that shows evidence that the project is consistent with state and federal building codes, the findings and directives of the Development Plan Review, and/or Special Permit, and local bylaws and regulations, including those set forth by the Conservation Commission. As-built plans shall be submitted prior to final inspection to the Building/Zoning Official with copies to the Planning Board.

4.15.4.5 Utility Notification

Evidence shall be provided at time of the application for the Development Plan Review that the utility company that operates the electrical grid where the installation is to be located has been informed of the applicant's intent to construct a solar photovoltaic installation and that approval to connect to the grid has been granted or appropriate application(s) have or will be made to such utilities for interconnection. Off-grid systems shall be exempt from this requirement. Reasonable efforts should be made to place all utility connections underground, depending on appropriate soil conditions, shape and topography of the site.

4.15.4.6 Fees

An application for a Development Plan Review shall be accompanied by the required fee and a tri-party account (in-house escrow account with the Planning Board, Developer and Town Treasurer) for engineering review, monitoring, and inspections fees. An application for a building permit shall be accompanied by the fee required for a building permit. All other fees that shall be required by permitting parties (Conservation Commission, etc.) shall be administered according to their regulations.

4.15.4.7 Setbacks and Buffer Strips

Buffer Strips in all Districts: All Ground-Mounted installations shall be surrounded by a buffer strip which shall be two hundred (200) feet in depth in a Residential, Conservation or Recreation District and shall be fifty (50) feet in a Commercial or Industrial district unless it abuts a Residential, Conservation or Recreation District in which case the buffer strip shall be two hundred feet in depth along such abutting lot lines, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.

Setbacks in all Districts:

Front Yard: The Front Yard Depth shall be at least 50 feet, provided, however, that when the lot is in a Residential, Outlying or Recreation District or abuts a Residential, Conservation, or a Recreation District, the front lot setback shall not be less than 200 feet.

Side Yard: Each Side Yard Setback shall be at least 50 feet, provided, however, that when the lot is in a Residential, Outlying or Recreation District or abuts a Residential, Conservation, or a Recreation District, the side yard setback shall not be less than 200 feet.

Rear Yard: The Rear Yard Depth shall be at least 50 feet, provided, when the lot is in a Residential, Outlying or Recreation District or abuts a Residential, Conservation, or a Recreation District, the rear yard setback shall not be less than 200 feet.

4.15.4.8 Required Documents

In addition to documents required for Development Plan Review, the following will be required for Large-Scale Ground-Mounted Solar Photovoltaic Installation. The Planning Board may waive one or more of these requirements in its sole discretion under appropriate circumstances for Large-Scale Ground-Mounted Solar Photovoltaic Installation between 10 kW and 249 kW.

A. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.

B. Property lines and physical features, including roads for property sites.

C. Proposed changes to landscape of site, including grading, vegetation, clearing, planting, screening vegetation or structures.

D. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program.

E. Locations of floodplains or inundation areas for moderate or high hazard dams.

F. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate. (See Section 4.15.4.9(I))

G. Drawings of the installation showing the proposed layout of the system and any potential shading from nearby structures.

H. One or three phase line electrical diagrams detailing the installation, associated components and electrical interconnection methods with all National Electrical Code compliant disconnects and overcurrent devices.

I. Documentation of the major system components to be used, including the electric generating PV panels, mounting system, inverter, etc.

J. Name of property owner, address, telephone number, e-mail.

K. Name of lessor or lessee, address, telephone number, e-mail.

L. Name of contact person, address, telephone number, e-mail.

M. Name of designing engineer, address, telephone number, e-mail.

N. Names of contractors, address, telephone number, e-mail.

O. Name of installer, address, telephone number, e-mail.

P. Zoning District designation for parcel of land, map and parcel.

Q. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation and maintenance of the proposed solar photovoltaic installation.

R. Provision of water including that needed for fire protection.

S. Proof of liability insurance.

T. Description of the financial surety required by Section 4.15.4.12 below.

U. Sight line representations depicting in profile the view of the proposed installation, and any appurtenant structures, from the location upon any public road within 300 feet that would have the most unobstructed view of the installations, and from the closest wall of each residential building within 300 feet of the highest point of the installation.

V. A screening plan, in compliance with Section 4.15.4.9(F).

4.15.4.9 Design Standards

A. Lighting and Security

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as any appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, any required lighting shall be directed downward and shall incorporate full cut off fixtures to reduce light pollution. Surveillance and security cameras shall be shielded from viewing abutting private property or invading the privacy of any abutting residential property owner.

B. Signage
Signage size shall comply with the Zoning Bylaw and shall not be used for displaying any advertising except to identify the owner and/or operator of the solar installation and a 24–hour emergency contact telephone number.

C. Land Clearing
Clearing of natural vegetation shall be limited to what is necessary for construction, operation and maintenance of the installation Any land disturbance, including earth removal of land cleared greater than one acre shall be subject to Stormwater Management criteria and/or otherwise prescribed by applicable laws, regulations and bylaws.

D. Safety, Emergency Service and Environmental Standards
The applicant shall provide a copy of the project summary, electrical schematic, and site plan. The applicant shall develop an emergency response plan including showing all means of shutting down the solar installation. The applicant shall submit the name of the person answerable to inquires throughout the life of the installation. If the designated person changes, the name of the new designated person shall be submitted as an addendum.

E. Monitoring and Maintenance
The applicant shall submit a plan for the operation and maintenance of the installation which shall include measures for maintaining the site including safe access, stormwater control, structural repairs and the integrity of security measures. These measures must be acceptable to the Fire Chief and emergency medical services personnel. If needed, training of service personnel will be provided by the applicant. The owner/operator shall be responsible for the cost of maintaining the installation.

The applicant shall also submit a Monitoring/Inspection Form under the Development Plan Review during construction, and shall further submit a report on the condition of the structure and site by January 15th of each year.

F. Visual Impact
Any Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be designed to minimize visual impacts including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to screen abutting residential properties whether developed or not. Siting shall be such that the view of the solar electric generating installation from other areas of Town shall be as minimal as possible. Buffer Strips shall surround the proposed project. A screening plan, that assures the facility is shielded to greatest extent possible from public view, shall be required to be reviewed under the Development Plan Review.

G. Height
The height of any structure associated with a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall not exceed 35 feet.

H. Roads
All access roads and interior roads shall be constructed to minimize grading, removal of stone wall or trees and to minimize impacts to environmental or historic resources.

I. Hazardous Materials
Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the Department of Environmental Protection ("DEP") pursuant to 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar electric equipment then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

J. Noise
Noise generated by a Large-Scale Ground-Mounted Solar Photovoltaic Installation, and by any associated equipment and machinery, shall conform to applicable state and local noise regulations, including the Department of Environmental Protection's Division of Air Quality noise regulations, 310 CMR 7.10. The site shall not produce any other vibration, harmonics, or interference, which would be perceived or impact the normal function of electronics off site.

4.15.4.10 Modifications
All modification requests to a solar photovoltaic installation, including changes in arrays, addition to number of arrays or change in placement made after issuance of the required building permit shall require review through the Development Plan Review for compliance with this Bylaw.

4.15.4.11 Abandonment and Removal

Absent notice of proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The owner or operator shall physically remove the installation no more than 150 days after the date of abandonment or the proposed date of decommissioning operations. The owner or operator shall notify the Planning Board by certified mail of their proposed date of discontinued operations and plans for removal. The notification shall consist of the methodology of physical removal of all structures, equipment, security barriers and transmission lines, disposal of all solid and hazardous waste and stabilization or re-vegetation of the site. Landscaping, etc. may be left upon approval of the Planning Board. If the owner or operator fails to remove the installation in accordance with the above criteria, the Town may, after the receipt of an appropriate court order or consent of the property owner, enter the property and physically remove the installation at the owner's expense. As a condition of Development Plan Review, a property owner shall agree to allow the Town entry to remove an abandoned or decommissioned installation. The cost for the removal will be charged to the property owner in accordance with the provisions of G.L. 139, Section 3A as a tax lien on the property.

4.15.4.12 Financial Surety
Proponents of large-scale solar photovoltaic projects shall provide a form of surety, either through an escrow account, bond or otherwise to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Development Plan Review Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state owned facilities. The project owner/operator shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal cost due to inflation.

4.15.5 Inclusionary Uses and Conflicts

Small accessory or ornamental solar products which do not generate electricity for use in a dwelling or structure are exempt from the provisions in this bylaw.

In the event that any part of this Section conflicts with other requirements of the Zoning Bylaw, the requirements of this Section shall apply.

5.0. Dimensional Regulations

5.1. Lot Area

Purpose: ***The purpose of Section 5.1. is to define all dimensional regulations related to allowable lot area, width, frontage, including dimensional regulations for all districts, and to clarify the regulations for dwellings per lot, lot size exceptions and reduction of occupied lots.***

5.1.1. Wetlands or Land Under Water

5.1.1.1. In all districts, no more than ten (10) percent of the required lot area, as defined in this Section 5.0., shall consist of wetlands or land under water.

5.1.2. Lot Area, Width, Shape and Frontage

5.1.2.1. Except as provided in Section 5.1.3., 5.1.4. and 5.5. no building, except a detached building of accessory use, shall be constructed on a lot having less area than the "Required Lot Area" or having less width than the "Required Lot Width Through Building", specified in the following table for the District in which said lot is located:

District	Required Lot Area	Required Lot Width Through Building	Required Lot Width and Frontage
Residence A	40,000 square feet	175 feet	100 feet
Residence B	80,000 square feet	175 feet	100 feet
Outlying	80,000 square feet	175 feet	100 feet
Dimensional Requirements with Sewer			
Retail Commercial	40,000 square feet	100 feet	100 feet
Commercial	40,000 square feet	150 feet	100 feet
Office Park & Industrial	60,000 square feet	200 feet	150 feet

a) An area of access is the portion of the lot between the accepted or approved Town Way and the point where the required lot width through the principal building is reached.

b) Lot Shape: Unless approved in connection with a Subdivision Plan under M.G.L. c41, or with a Development Plan Review under this Bylaw, lots shall maintain, beyond the principal building, a lot width as defined in Section 2.0-2.1.1.28b), and measured from side lot line to side lot line to be a minimum of fifty (50) percent of the required lot width as defined in 5.1.2.1. Any lot area width less than the minimum described above shall not be calculated in the required area dimension or used for any other purpose.

c) Frontage can be reduced by fifty (50) percent when it provides the only access to one dwelling unit on a lot which is equal to at least twice the minimum lot area requirement, provided that:

1. Not more than two (2) lots with such reduced frontage can be placed side by side.

2. There shall be at least two (2) lots with the otherwise required one hundred (100) percent frontage adjacent to any two (2) fifty (50) percent frontages.

3. Each fifty (50) percent frontage lot must be the access to its own lot.

4. No more than thirty (30) percent of the required lot frontage can be encumbered by easement or used for a common driveway.

5. Entrances and/or driveways to lots in all Districts must be made from an accepted or approved Town way.

d) The frontage of a lot must be available for access.

1. The Planning Board shall determine that the frontage is adequate and available for safe vehicular access in accordance with its Rules and Regulations Governing the Subdivision of Land and/or when the Inspector of Buildings requests a determination.

2. Except for public utilities in place at the time of the passage of this provision, no more than thirty (30) percent of required frontage shall be encumbered by easements, drives, access strips, or ways of any type.

e) In case of a farm exempted from the provisions of the zoning by Statute, the minimum lot area, width and frontage requirements shall be in addition to the five acres as required under Massachusetts General Law Chapter 40A, Section 3 and Chapter 61A.

5.1.3. Recreation District

5.1.3.1 In a Recreation District, except for municipal recreation uses, the following minimum areas and frontages are required:

a) The minimum frontage for all uses shall be two hundred (200) feet.

b) For a golf course, the minimum lot area shall be at least one hundred and twenty (120) acres.

c) For all other uses the minimum lot area shall be at least two (2) acres of lot area plus sufficient area for the proposed use as determined by the Standards contained in Time-Saver Standards for Site Planning, Joseph DeChiara and Lee E. Koppleman, McGraw Hill, New York City, 1984, pages 424 and 425.

5.1.4. Retail Commercial, Commercial and Office Park and Industrial Districts

5.1.4.1. In a Retail Commercial or Commercial District, no building shall be constructed as a dwelling or so used on a lot having less area or width than the amount required for the construction of a dwelling in an abutting Residence A, Residence B or Outlying District or where more than one such district abuts, in the particular district having the greatest length of common boundary with the Retail Commercial or Commercial District in question.

5.1.4.2. In an Office Park and Industrial District, the following minimum areas and frontage are required:

a) For office and industrial parks, at least five (5) acres of lot area and one hundred fifty (150) feet of frontage and two hundred (200) feet required lot width through building.

b) For all other uses, at least one and two-tenths (1.2) acres plus the minimum land area required for on-site sewage disposal.

5.1.5. One Dwelling per Lot

5.1.5.1. In all districts, not more than one building on each lot shall be constructed as a dwelling or so used except as provided in Section 3.4.

5.1.6. Reduction of Occupied Lots

5.1.6.1. No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with lot area, width, setback or yard provisions of this Bylaw, or, if such building or lot already fails to comply with said provisions, such reduction or change would bring about a greater degree of non-compliance with said provisions. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.

5.2. Setbacks and Yards

5.2. Purpose: ***The purpose of Section 5.2. is to provide specific regulations for all setbacks for buildings, side and rear yards lot lines, including corner clearance, building space, and exceptions to yard and spacing requirements.***

5.2.1. Setbacks for Buildings

5.2.1.1. In all districts, no building shall be constructed nearer to the exterior line of any street than forty (40) feet; and where the street has width of less than forty (40) feet between its exterior lines, no building shall be constructed nearer to the center line thereof than sixty (60) feet.

5.2.2. Exception for Existing Alignment

5.2.2.1. If authorized by the Board of Appeals in a Retail Commercial, Commercial and Office Park and Industrial Districts and without such authorization in all other Districts, a building may (subject to the provisions on corner clearance) be constructed as near to the exterior and/or center line of any street as the average of the setbacks of the dwellings or other main buildings nearest thereto on either side; provided, however, that where the nearest main building on either side is more than three hundred (300) feet from the building in question, such side building shall not be counted in determining said average but, instead, the intervening space shall be considered as though occupied by a main building having the required setback (whether or not said space is laid out as a separate lot).

5.2.2.2. In Office Park and Industrial District, the following minimum areas and frontage are required:

a) For office and industrial parks, at least five (5) acres of lot area and two hundred (200) feet of frontage.

b) For all other uses, at least one and two-tenths (1.2) acres plus the minimum land area required for on-site sewage disposal.

5.2.3. Setbacks for Other Uses

5.2.3.1. In all districts, no open display of goods or products, no open storage of materials or equipment, no sign over two (2) square feet in area and except for a flag, utility or light pole, no structure over five (5) feet in height shall be located nearer to the exterior line of any street than twenty (20) feet, or, where the street has a width of less than forty (40) feet, nearer to the center line thereof than forty (40) feet.

5.2.4. Corner Clearance

5.2.4.1. In all districts, no building shall be constructed within the triangular area formed by the exterior lines of intersecting streets and a line joining points on such lines fifty (50) feet distant from their point of intersection or, in case of a rounded corner, the point of intersection of their tangents and no structure; no foliage, shrubbery or other planting and no open display, storage or other open use shall be located within said triangular area in such a manner as to interfere with traffic visibility across the corner.

5.2.5. Side and Rear Yards

5.2.5.1. In all districts, no building shall be constructed nearer to the side lines of its lot than the "Required Side Yard Width", or nearer to the rear line of its lot than the "Required Rear Yard Depth", specified in the following Sections a) - d):

a) Residence A District

1. Required Side Yard Width

   Five (5) feet for a detached accessory building if one hundred (100) feet or more from the exterior line of any street, fifteen (15) feet; for all other buildings.

2. Required Rear Yard Depth

   Five (5) feet for a detached accessory building; twenty (20) feet for all other buildings.

b) Residence B or Outlying District

1. Required Side Yard Width

   Five (5) feet for a detached accessory building if one hundred fifty (150) feet or more from the exterior line of any street, twenty-five (25) feet for all other buildings.

2. Required Rear Yard Depth

   Five (5) feet for a detached accessory building; thirty (30) feet for all other buildings.

c) Retail Commercial, Commercial, Office Park and Industrial Districts

1. Required Side Yard Width

   Fifteen (15) feet for dwellings; twenty (20) feet for detached accessory buildings and twenty (20) feet for all other buildings.

   a) If a driveway is shared with an adjacent lot, the side yard requirements would be reduced to fifteen (15) feet.

2. Required Rear yard Depth
   Twenty (20) feet for dwelling; twenty (20) feet for a detached accessory building and twenty (20) feet from all other buildings.

d) Recreation District
   1. Required Side Yard Width
      Fifty (50) feet for a detached accessory building and fifty (50) feet for all buildings on the same lot.

   2. Required Rear Yard Depth
      Fifty (50) feet for a detached accessory building and fifty (50) feet from all other buildings on the same lot.

5.2.6 Building Space

5.2.6.1. In all districts, no building shall be constructed nearer than ten (10) feet to any other detached building on the same lot.

5.2.7. Yard and Spacing Exceptions

5.2.7.1. On a existing lot exempted from lot area and width requirements hereof under the provisions of Section 5.1.6. above, the required side yard width may, without authorization by the Board of Appeals, be reduced by six (6) inches for each foot by which the width of said lot (measured as herein specified) is less than the required lot width through the building required under Section 5.1.2.1.; provided, however, that no side yard shall be so reduced to less than six (6) feet. For purposes of this paragraph the width of the lot shall mean the minimum distance measured through the building and parallel to the street from one side lot line to the other side lot line. In addition, the Board of Appeals may, in the specific case of an irregular or shallow lot, or a lot unusual either in shape or topography, vary the yard and spacing regulations hereof, provided that, in the opinion of said Board it is impractical or extremely difficult to adhere to such regulations.

5.3. Building Height

5.3. Purpose: ***The purpose of Section 5.3. is to provide specific regulations for building heights in all districts.***

5.3.1. Building

5.3.1.1. In a Residence A, Residence B, Outlying or Recreation District the maximum height of a building or structure shall be thirty-eight (38) feet measured from the highest level abutting the building to the highest point of the building.

5.3.1.2. In Residence A, Residence B or Outlying District, the vertical distance between any point on the roof of a building (whether main or accessory) and any point on the side or rear lines of its lot shall not exceed the horizontal distance between the same two points by more than five (5) feet.

5.3.1.3. In all other districts, the maximum height, as measured in Section 5.3.1.1., shall not exceed fifty-five (55) feet unless approved with Development Plan Review and the approval of the Fire Chief or in case of Cellular and Telecommunication Towers approved by Special Permit. Irrespective of the preceding two paragraphs, the Planning Board may approve a Special Permit for telecommunication and cellular towers in any District, where they are permitted by this Bylaw subject to the provisions of Section 6.6.13.1.

5.3.2. Projections

5.3.2.1. Nothing herein shall prevent the projection into any required setback area or yard of cornices, eaves, sills or ornamental features not over three (3) feet in width or of terraces, steps or uncovered porches not over three (3) feet high above average finished grade and nothing herein shall prevent the projection above a roof of chimneys or antenna or of steeples, domes, towers or similar projections not used for human occupancy.

5.4 Mixed Residential Development

5.4. Purpose: ***The purposes of Section 5.4. are to provide an opportunity for varied housing stock as opposed to conventional single family subdivision or development and to encourage development alternatives.***

5.4.1. In a Mixed Residential Development, the regulations of this Section 5.4. shall apply to any grant of a Special Permit which is authorized by the Planning Board pursuant to Section 8.0. Granting of a Special Permit for a Mixed Residential Development is subject to review and approval of a Definitive Plan, the standards set forth in Section 9, General Laws, Chapter 40A, these Protective Bylaws, the Rules and Regulations promulgated by the Lunenburg Planning Board for granting of a Special Permit and the Rules and Regulations Governing the Subdivision of Land, unless specifically waived as provided in said regulations.

5.4.1.1. Intensity and Dwelling Unit Mix

a) The minimum area of any Mixed Residential Development shall be not less than five (5) acres and not more than ten (10) percent of this minimum area shall consist of wetlands or land under water or land with a slope in excess of fifteen (15) percent.

b) Where a Mixed Residential Development abuts a residential use other than another Mixed Residential Development or Planned Residential Area, there shall be a buffer of a continuous width of at least fifty (50) feet. Said buffer shall be maintained in its natural state or planted or landscaped with vegetation indigenous to the area.

c) If there is more than one (1) housing type in the Mixed Residential Development, e.g., one (1) family, two (2) family or more, no one (1) type shall constitute more than sixty (60) percent nor less than twenty (20) percent of the total number of dwelling units.

d) There shall be no more than one (1) structure constructed or used as a dwelling on a lot in a Mixed Residential Development.

e) The maximum number of dwelling units in a Mixed Residential Development may not exceed two (2) percent of the total number of dwelling units in Town as shown on the record of the Board of Assessor's for the year in which the application for the Special Permit is filed.

f) In any one (1) year no more units may be constructed than are equal to one (1) percent of the total number of dwelling units in Town as shown on the record of the Board of Assessor's for the year in which the application for Special Permit is filed.

g) Notwithstanding the foregoing subparagraphs a) though f), the number of building lots and/or the number of dwelling units to be constructed, may not exceed the number of building lots and/or the number of dwelling units of said tract of land which could be constructed under this Bylaw by means of a conventional development or subdivision plan, considering the whole tract, exclusive of waterbodies and wetlands and land prohibited from development by legally enforceable restrictions, easements or covenants.

5.4.1.2. Dimensional Regulations

a) In a Mixed Residential Development, lots shall be developed in accordance with the following table, provided that all units within the development are connected to public water or are served by a common or individual well approved by the Lunenburg Board of Health and are connected to a sewer or an on-site sewage treatment facility approved by the Lunenburg Board of Health.

Residence A District

Number of Units In Structure	Minimum Frontage Per Unit in Feet	Minimum Setbacks In Feet Front Yard/Side Yard/Rear Yard			Minimum Lot in Square Feet
1	90	40	15	20	24,000
2	50	40	15	20	32,000
3	40	40	15	20	40,000
4	30	40	15	20	41,000

Residence B and Outlying Districts

Number of Units In Structure	Minimum Frontage Per Unit in Feet	Minimum Setbacks In Feet Front Yard/Side Yard/Rear Yard			Minimum Lot In Square Feet
1	90	40	20	25	56,000
2	50	40	20	25	72,000
3	40	40	20	25	80,000
4	30	40	20	25	94,000

b) Irrespective of the table in section 5.4.1.2.a), lots in a Mixed Residential Development which abut a street in existence at the time the applications for the Mixed Residential Development is filed, shall conform to the lot size currently required in the district in which it is located and shall only be used for a one (1) family dwelling structure.

c) Except as indicated in Section 5.4.1.2.b), each unit in a Mixed Residential Development shall have the minimum frontage required on the table in Section 5.4.1.2.a). Frontage shall be on an accepted Town road or way approved by the Planning Board under the Subdivision Control Law.

d) No building in a Mixed Residential Development shall exceed twenty-eight (28) feet in height, said height to be determined by the vertical distance between the average finished grade of the ground adjoining the building to the highest point of the roof beams.

e) Each dwelling shall have at least two (2) sides with full exposures and shall have two (2) separate exits.

5.4.1.3. Design

a) All buildings shall be of an architectural style which is compatible with the prevailing style in the Mixed Residential Development.

b) Buildings, open spaces, driveways, parking areas and other development features shall be located and designed in a manner which conforms to the existing natural terrain of the site.

c) All existing or proposed utilities shall be installed underground at the time of initial construction. Each unit in a structure containing four (4) units shall be equipped with a fire protection residential sprinkler system approved by the Lunenburg Fire Department.

d) Lighting facilities, whether placed along drives, in parking areas or on the exterior of building, shall be so arranged and shielded that they do not unreasonable distract the occupants of the buildings or shine directly upon abutting properties and/or public ways. In no case shall illumination upon the window surface of any buildings used for dwelling purposes exceed five-tenths (0.5) foot candles.

5.4.1.4. Affordability Guarantee

a) All units to be sold as affordable shall contain deed restrictions guaranteeing that the unit shall remain affordable for a period of not less than twenty (20) years from first occupancy or such period as defined by the Commonwealth of Massachusetts for affordable housing. Said deed restrictions shall guarantee that during the period in which the unit must remain affordable, it may be sold only at a price that allows the seller to realize a return on improvements and a reasonable rate of appreciation according to the Consumer Price Index between the time of purchase and the sale. The deed restrictions shall also guarantee that any purchaser of the unit within the twenty (20) year period shall meet the then qualifying income and any other eligibility guidelines for purchase of affordable housing as set forth by the Lunenburg Housing Partnership or such board or authority as is designated by the Board of Selectmen.

b) Eligibility for purchase or lease of affordable units shall be determined by the Town of Lunenburg acting through the Lunenburg Housing Partnership, if any, or such board or authority as is designated by the Board of Selectmen and according to the definitions established by the Commonwealth of Massachusetts.

c) Eligibility for purchase or lease of affordable units after the initial sale or lease shall be determined by the Town of Lunenburg acting through the Lunenburg Housing Partnership, if any, or such board or authority as is designated by the Board of Selectmen. Said Housing Partnership, board or authority shall review eligibility and provide written response within thirty (30) days of receipt of the request for determination of eligibility.

5.4.1.5. Common Area and Facilities

a) All common areas and facilities shall be owned and maintained by a non-profit organization the principal purpose of which is the preservation and maintenance of common areas and facilities or a corporation or trust owned or to be owned in common by the owners of the dwelling units within the Mixed Residential Development in which the ownership of the common areas and facilities runs with the title to the dwelling units and is not separably alienable.

5.4.1.6. Off-Street Parking

a) Off-Street parking shall be provided in accordance with the provisions of Section 6.1. except as follows:

1. All parking spaces, including any which may be in excess of those requirements, shall be located a minimum of seventy-five (75) feet from the center line of any public ways or ways utilized to meet the frontage requirements of this Section.

2. Unless in an accessory garage within the structure, no parking space shall be located closer than twenty-five (25) feet from a building used for dwelling purposes.

3. All required parking spaces shall be provided within three hundred (300) feet of the dwelling units which they are required to serve.

4. The provisions of Section 6.4.3.4. shall not apply to entrances and/or driveways with a Mixed Residential Area.

5.4.1.7. Open Space and Landscaping

a) All areas not covered by pavement, curbing, buildings and/or structures including such facilities as playing areas for court games, swimming pools and plazas, shall be landscaped with grass, shrubbery, trees, flowers or ground covers indigenous to the area. Along the length of each exterior wall of each principal building, there shall be a landscaped area with bushes, shrubs or flowers indigenous to the area.

b) An area equivalent to one-half (1/2) of the minimum area required by Section 5.4.1.1.b) shall be left substantially in its natural state.

5.5. Planned Residential Area

5.5. Purpose: ***The purpose of Section 5.5. is to provide opportunities for other than single family development by establishing regulations that includes intensity, dimensions, design, ownership, maintenance and etc.***

5.5.1. In Residence A, Residence B or Outlying Districts, the following regulations shall apply to any grant of a Special Permit for a Planned Residential Area, a single lot, unified development, as may be authorized by the Planning Board pursuant to Section 8.0. Pursuant to approval of the Definitive Plan in accordance with the Rules and Regulations Governing the Subdivision of Land, adopted by the Lunenburg Planning Board, said application shall be reviewed in accordance with the standard set forth in Section 9, General Laws, Chapter 40A, these Protective Bylaws and Rules and Regulations promulgated by the Lunenburg Planning Board for granting of a Definitive Plan.

5.5.1.1. Intensity

a) The minimum area of any Planned Residential Area shall be not less than five (5) acres and that not more than ten (10) percent of this minimum area shall consist of wetlands or land under water or land with a slope in excess of fifteen (15) percent.

b) In addition to the minimum five (5) acres required in paragraph a) above, there shall be provided for each dwelling unit within the Planned Residential Area an area equivalent to the lot area required within the District for a detached one-family dwelling.

c) If twenty (20) percent or more of the dwelling units qualify as low or moderate income housing, as defined by the Commonwealth of Massachusetts Executive Office of Communities and Development for Lunenburg for the year in which they are to be first occupied and further provided that measures satisfactory to appropriate Town Boards, Selectmen are executed to assure that these units remain available as low or moderate income units and conform to the requirements of the Local Initiative Program then:

1. The minimum five (5) acres of area required by paragraphs a) and b) above shall not be required.

2. The lot area required in 5.5.1.1.b.) equivalent to a single family detached building may be reduced by thirty (30) percent and the frontage requirement in 5.5.1.2. may be reduced at the discretion of the Planning Board, provided that the Planned Residential Area has at least one hundred (100) feet of frontage on an accepted public way for the first ten (10) units and an additional two hundred (200) feet of frontage on an accepted public way for any additional units to assure two (2) means of entrance which are properly spaced or one hundred (100) feet if the second entrance is on a second public way.

d) The maximum number of dwelling units in a Planned Residential Area shall not exceed two (2) percent of the total number of dwelling units in Town, as shown on the record of the Board of Assessor's for the year in which the application is filed.

e) In any one (1) year no more units will be constructed than are equal to one (1) percent of the total number of dwelling units in Town, as shown on the record of the Board of Assessor's for the year in which the application is filed.

f) Notwithstanding the foregoing subparagraphs a) through d), the number of building lots and/or the number of dwelling units to be constructed within the Planned Residential Area, may not exceed the number of building lots and/or the number of dwelling units of said tract of land which could be constructed under this Bylaw by means of a conventional development or subdivision plan, considering the whole tract, exclusive of waterbodies and wetlands and land prohibited from development by legally enforceable restrictions, easements or covenants.

5.5.1.2. Dimensional Regulations

a) A Planned Residential area shall have a minimum frontage on a public way and/or a way approved by the Planning Board under the Subdivision Control Law, equivalent to fifty (50) feet for each dwelling unit contained within the planned development. The requirements of this section may be modified if review and a determination by the Planning Board is made that adequate access is provided and changes will not derogate from the intent of Section 5.5., Planned Residential Area.

b) No building within a Planned Residential Area shall contain more than four (4) dwelling units.

c) No building in a Planned Residential Area shall exceed twenty-eight (28) feet in height, said height to be determined by the vertical distance between the average finished grade of the ground adjoining the building to the highest point of the roof beams.

d) No building or structure shall be located closer than one hundred (100) feet from the center line of any public way or other way utilized to meet the frontage requirements of this Section or within seventy-five (75) feet from the center line of any interior street, way, or driveway.

e) No building or structure shall be located within areas which are required to be maintained in a natural state.

f) No building or structure shall be located within fifty (50) feet of a property or lot line.

g) If there is more than one building containing dwelling units on a single lot, there shall be a minimum of fifty (50) feet between such buildings.

h) Each dwelling unit shall have at least two (2) sides with full exposures and shall have two (2) separate exits.

i) No floor, except an unfinished basement, of a dwelling unit shall be located beneath the average finished grade of the ground adjoining the building.

5.5.1.3. Design

a) Buildings shall be of an architectural style which is compatible with the prevailing style in the area in which the Planned Residential Area is located and shall be compatible with other buildings in the Planned Residential Area.

b) Buildings, opens spaces, driveways, parking areas and other development features shall be located and designed in a manner which conforms to the existing natural terrain of the site.

c) Building placement which makes maximum use of solar energy shall be encouraged.

d) All existing or proposed utilities shall be installed underground at the time of initial construction. Each Town House unit shall be equipped with an approved fire protection residential sprinkler system in accordance with the Lunenburg Fire Department approval. Each dwelling shall have on the exterior a horn and light that is connected and will activate with the fire alarm protective devices.

e) Lighting facilities, whether placed along service drives, in parking areas or on the exterior of building, shall be so arranged and shielded that they do not unreasonably distract the occupants of the buildings or shine directly upon abutting properties and/or public ways. In no case shall illumination upon the window surface of any buildings used for dwelling purposes exceed five-tenths (0.5) foot candles.

f) Provisions shall be made for the storage, collection and removal of garbage. All necessary facilities shall be appropriately screened.

g) There shall be one (1) entrance road and one (a) exit road to each Planned Residential Area, unless a divided entrance-exit road is approved by the Planning Board.

h) All interior roads and drives shall be constructed to the standards of the Planning Board as contained in the Rules and Regulations Governing the Subdivision of Land.

5.5.1.4. Off-Street Parking

a) Off-Street parking shall be provided in accordance with the provisions of Section 6.1. and in accordance with the Regulations of the Planning Board of the Town of Lunenburg Governing the Design, Construction and of Off Street Parking and Loading Area except as follows:

1. All parking spaces, including any which may be in excess of those requirements, shall be located a minimum of seventy-five (75) feet from the center line of any public way or ways utilized to meet the frontage requirements of this Section.

2. Unless in an accessory garage within the structure, no parking space shall be located closer than twenty-five (25) feet from a building used for dwelling purposes.

3. All required parking spaces shall be provided within three hundred (300) feet of the dwelling units which they are required to serve.

4. The provisions of Section 6.4.3.4. shall not apply to entrances and/or driveways with a Planned Residential Area.

5.5.1.5. Open Space and Landscaping

a) All areas not covered by pavement, curbing, buildings and/or structures including such facilities as playing areas for court games, swimming pools and plazas, shall be landscaped with grass, shrubbery, trees, flowers or ground covers indigenous to the area. Along the length of each exterior wall of each principal building there shall be a landscaped area with bushes, shrubs or flowers indigenous to the area.

b) An area equivalent to one-half (1/2) of the minimum area required by Section 5.5.1.1.b) shall be left substantially in its natural state.

5.5.1.6. Ownership and Maintenance

a) The area left substantially in its natural state shall be placed in an ownership which shall provide for its permanent retention and maintenance. The manner of ownership, use and maintenance of such permanent natural area, and shall be determined by the agreement, duly executed in a form suitable for recording by the owner or owners of such natural area, and shall provide that, in the event the Planning Board shall grant a Special Permit under this Section, such permanent area shall be owned or to be owned in common by the owners of the dwelling units within the development in which the ownership of the natural areas runs with the title to the dwelling units and is not separably alienable.

b) Such natural area shall be kept in an open and natural state and shall not be built upon for residential use, for walkways, driveways and/or parking.

c) Such natural areas shall be subject to permanent restrictions as agreed under Section 5.5.1.6.a).

d) An organization, corporation or trust owned or to be owned in common by the owners of the dwelling units within the development in a form approved by the Planning Board shall be responsible for the maintenance of all common areas, not otherwise provided in accordance with Section 5.5.1.6.a), including, but not limited to lighting, plowing, roadways, sidewalks, recreation facilities and accessory structures.

5.6. Cluster Development

5.6.1. Purpose

5.6.1.1. *The purpose of Cluster Development is to encourage the preservation of useable open space, agricultural lands, and forested lands in the Town of Lunenburg and assist in preserving the Rural Residential Character of the Town.*

5.6.2. Applicability

5.6.2.1. In a Residence A, Residence B, or Outlying District, where Subdivisions, Planned Residential and Mixed Residential lots or exclusive use areas proposed to be developed with single family dwellings consist of twenty-five (25) acres or more, the following conditions must be met, pursuant to approval of a Definitive Plan in accordance with the Rules and Regulations Governing the Subdivision of Land, adopted by the Lunenburg Planning Board.

5.6.3. Intensity

a) Dwelling units shall be developed on a maximum of fifty percent (50%) of the land within the development, with the remaining fifty percent (50%) of the land being designated as permanent open space. Not more than ten percent (10%) of the open space shall consist of wetlands or land under water or land with a slope in excess of fifteen percent (15%).

b) In lieu of Cluster Development as shown above (5.6.3.a), a site can be developed in lots with a minimum of five (5) acres each, each lot may have no more than one (1) dwelling.

5.6.4. Dimensional Requirements

a) The minimum dimensional area for each dwelling shall be as follows:

1. Residence A: 30,000 square feet
2. Residence B and Outlying Districts: 60,000 square feet

b) All other Dimensional Regulations for the District in which the land is located shall apply.

5.6.5. Design

a) The selection of land to be designated as permanent open space shall be made by the Applicant and shall be subject to the approval of the Planning Board based on the following criteria:

1. The preservation of existing farms and/or the appropriateness of the land for agricultural uses.
2. The preservation of environmentally sensitive lands.
3. The appropriateness of the land for recreational uses.
4. The location of the land relative to other adjacent or nearby open space lands.
5. The location of the land relative to other development sites.
6. The area of roadway providing frontage to dwelling units shall not be calculated as permanent open space.

b) Land designated as open space shall be limited to the following uses:

1. Agriculture, farming, and/or the keeping of horses and grazing of animals as permitted by this Bylaw.
2. Passive or active recreation.

c) Open space may be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot, or if proposed and accepted for public ownership, shall be dedicated to the Town of Lunenburg, as provided by MGL Chapter 40A, Section 9, provided that prior to acceptance, said land shall be tested by the Applicant for contaminants, who shall take proper remediation action, if necessary.

d) All interior roads and drives, and utilities and other improvements shall be constructed to the standards of the Planning Board as contained in the Rules and Regulations Governing the Subdivision of Land.

6.0. GENERAL PROVISIONS AFFECTING ALL DISTRICTS

6.1. Off-Street Parking and Loading Areas

6.1.1. Unless otherwise provided in this Bylaw, Off-street parking and loading spaces shall be required as follows:

6.1.1.1. Dwellings: Two (2) parking spaces for each dwelling unit.

6.1.1.2. Place of assembly, including a funeral home: One (1) parking space for each three (3) seats therein or one (1) space for each sixty (60) inches of bleachers or benches.

6.1.1.3. Schools: One (1) parking space for each classroom or office, plus one (1) parking space for each three (3) seats in the auditorium thereof.

6.1.1.4. Hotels, motels and other places providing overnight accommodations: One (1) parking space for each room accommodation therein and adequate spaces for delivery vehicles.

6.1.1.5. Restaurants: One (1) parking space for each table or booth and one (1) parking space for every two (2) counter seats and adequate spaces for delivery vehicles.

6.1.1.6. Other service and retail establishments: Parking areas, exclusive of driveways, shall be in a minimum ratio of three (3) square feet of ground area to one (1) square foot of gross floor areas, exclusive of storage areas and adequate loading spaces.

6.1.1.7. Office and all other permitted non-residential structures, except agricultural: One (1) space for each one thousand (1,000) square feet of gross floor area and loading space for all deliveries and shipping; however, the minimum parking area shall be in a minimum ratio of one (1) square foot of ground area for each three (3) square feet of floor area.

6.1.1.8. Child Care Facilities: One parking space for each ten (10) children in attendance plus one (1) parking space for each person engaged on site in the business of the facility at any one time.

6.1.1.9. For uses not specified above, the number of required spaces will be determined by the Building Official based on accepted planning standards, as contained in latest edition of Time-Saver Standards for Site Planning, Joseph DeChiara and Lee E. Koppleman, McGraw Hill, New York City, 1984, or similar source and a reference for handicap parking as outlined in the General Bylaw of Town of Lunenburg, Article 5, subsection 13.

6.1.2. Design of Off-Street Parking and Loading Spaces

6.1.2.1. For all required off-street parking spaces, open or enclosed, each three hundred (300) square feet of net standing and maneuvering area shall be considered one (1) space. However, if such spaces are for a single or two (2) family dwelling or are located in a completely enclosed building, each two hundred and fifty (250) square feet of net standing and maneuvering area shall be considered one (1) space. All required parking spaces shall be at least fifteen (15) feet from street lines and shall be properly maintained in such a manner as to permit them to be used at all times. All required parking spaces shall be located on the same lot as the use with which such spaces are connected or, in the case of unenclosed spaces, within two hundred (200) feet of the lot, except that two (2) or more businesses may jointly provide the required spaces on one (1) or more of their lots if the lot is within five hundred (500) feet of each of the businesses. The number of spaces in any such joint facilities shall at least equal the total number required under provisions of this section for their individual uses.

6.1.2.2. All open off-street parking and loading areas, permitted and/or required, except for single family dwellings, which are located within or adjacent to a Residence A, Residence B or an Outlying District (whether on the side or rear) shall be screened from all adjacent lots in said district by a strip six (6) feet wide, densely planted with shrubs or trees, which are at least three (3) feet high at the time of planting and of a type which may be expected to form a year-around dense screen.

6.1.2.3. Required off-street parking and loading spaces shall not hereafter be reduced, nor shall one be counted as or substituted for the other.

6.1.2.4. Required off-street parking and loading spaces shall have adequate vehicular access to the street, which, along with the areas themselves, must be approved on a plan. Except in the case of parking spaces provided for single family detached or two (2) family dwellings, such accesses to the street shall not be located closer than two hundred (200) feet apart and shall be provided with separate entrance and exit lanes.

6.1.2.5. Except in the case of parking spaces provided for dwellings, off-street parking and loading areas shall be paved to specifications according to the road construction definition and directives with the advice of the Planning Board, except that a stand for the sale of farm products or a farm building may have a gravel surface parking area.

6.1.2.6. Except in the case of parking spaces provided for dwellings, off-street parking and loading areas used after sundown shall be illuminated while in use, with illuminations so arranged as not to shine on abutting properties or on streets in such a manner as to create a nuisance or hazard.

6.2. Lot Monuments

6.2.1. No building permit shall be approved for a new dwelling unit until existing permanent or new permanent monuments, a minimum of thirty (30) inches in length, have been installed defining a lot.

6.3. Plan

6.3.1. A plan for a building permit for a new dwelling, retail commercial or commercial building shall contain a two-dimensional line drawing, drawn to scale, showing the location and the perimeter outline dimensions, street names and building lot area and shall be stamped and signed by a registered land surveyor. A copy, in duplicate, of said plan, bearing the stamp and signature of the registered land surveyor, shall be filed with the application for a permit and said copies shall show, in addition to the foregoing, existing structures on said lot and any proposed structures to be constructed thereon and, also, the front, rear and side yard dimensions from the lot line to the building, water supply sources, sanitary system and, where applicable, information pertaining to the requirements of Section 6.1. hereof. The said additional details to be shown on the plan copies may be inserted therein by the registered land surveyor or the applicant provided that the plan copies shall disclose by whom such additional details were inserted; however, the official or Board having authority to issue the permit applied for shall have the right to require that the said additional details to be shown on the plan copies shall be inserted therein by a registered land surveyor and bear the stamp and signature of a registered land surveyor.

6.3.2. A plan for a building permit to construct a detached accessory building, utility shed or an addition to an existing structure shall contain a two-dimensional line drawing, drawn to scale, showing the location and perimeter outline dimensions of the lot, existing and/or proposed structures and showing thereon the front, rear and side yard dimensions from the lot line to the building, the building lot area, street names, existing water supply source and sanitary system. Such plan need not bear the stamp and signature of a registered land surveyor provided, however, that the official or board having authority to issue the permit applied for shall have the right to require a lot outline plan bearing the stamp and signature of a registered land surveyor. Submission of a copy of said lot outline plan, in duplicate, showing the data and details herein required be sufficient, provided that, in any instance where it shall be required that a lot outline plan bear the stamp and signature of registered land surveyor, the copies shall likewise bear such stamp and signature. In any case, it shall not be necessary for the original lot outline plan to show the existing structures or proposed structures or the rear and side yard dimensions from the lot line to the building, nor the water supply source or sanitary system.

6.4. Driveways and Entrances

6.4.1. Purpose

6.4.1.1. The purposes of this section are;

a) To provide maximum protection to the public through the orderly control of traffic moving onto and from a street.

b) To provide a uniform practice in the design and layout of driveways and entrances.

c) To provide for adequate drainage where required.

6.4.2. Procedure

6.4.2.1. Prior to any construction of a driveway, an owner shall make written application for approval to the Building Inspector. Before approval is granted, the application shall be referred to the DPW Director and, if necessary, the Conservation Commission.

6.4.3. Design Requirements

6.4.3.1. Entrances shall be located to the best advantage with regard to street alignment, profile, sight distance and safety conditions as determined by the DPW Director.

6.4.3.2. Entrances or driveways, including common driveways, to a given tract of land shall be located through the frontage and access of said land, which access strip shall be at least fifty (50) feet wide from the right-of-way line to the required setback line.

6.4.3.3. Driveway grades and locations shall be such as to provide for an access for vehicles, including fire and police. In addition, the first twelve feet of the driveway or access strip shall be constructed with material comparable with the pavement of the adjacent Town Roadway.

6.4.3.4. Not more than two (2) dwellings may maintain one (1) common entrance and/or driveway. Said driveway shall be located through the frontage or access strip of both lots equally, including lots with reduced fifty (50) percent frontage. Such driveway should be permitted only after issuance of a building permit and shall relate to the design and construction standards as for 6.4.3.5., 6.4.3.6., 6.4.3.7., 6.4.3.8. and 6.4.3.9.

a) Such driveway shall not provide potential access to lots not shown on an accepted plan.

b) If such a common driveway cannot be placed as determined above, a determination may be made by the Planning Board and Building Official for other acceptable locations.

6.4.3.5. Driveway Access Road Width.

	Minimum	Maximum
Residential	13 feet	16 feet
Retail Commercial, Commercial and Office Park and Industrial Districts		
One Way	14 feet	24 feet
Two Way	14 feet each way	24 feet each way

with a four (4) foot minimum width island with "Keep Right" signs. The entrance is to be measured from property line with thirty (30) foot radius or forty-five (45) degree angle to edge of street. The above may be modified if an entrance requirement cannot be designed to be accommodated on the site. The determination will be made by the Planning Board and Building Official for another acceptable design.

6.4.3.6. Location

a) Wherever possible, entrances are to be set back fifty (50) feet or more from a street corner measured between the nearest edge of the driveway and the cross road edge of pavement.

6.4.3.7. Entrances off State Highways shall conform to Massachusetts Department of Public Works Standard and Regulations.

6.4.3.8. Any adjacent disturbed areas shall be returned to a useable state.

6.4.3.9. The Town reserves the right to inspect the proposed site before, during and after construction.

6.4.3.10. No driveway shall be located closer than twenty-five (25) feet measured along the street line to any street intersection. In any nonresidential district, no two (2) driveways on the same lot shall be located closer than twenty-five (25) feet to each other at their closest limits.

6.4.3.11. No residential lot having less than two hundred (200) feet of street frontage shall have more than two (2) driveway entrances and/or exits on each street abutting the lot. Lots with more than two hundred (200) feet of street frontages may have up to one (1) driveway entrance and/or exit for each one hundred (100) feet of additional street frontage.

6.4.3.12. Street Address Numbers. A street address number shall be assigned by the Building Official and reviewed by the DPW Director and the Fire Chief for each structure.

a) The address number shall be assigned as required by the Enhanced 911 Emergency Communication System.

b) The street address number of each building to be accessed from an access road or driveway shall be posted at the entrance from the public way with numerals at least four inches high, visible from both directions.

c) A common driveway which splits to separate lots/residences shall have adequate signage with the street address number, and directional arrows shall be provided at the intersection of the drive with numbers at four inches high.

d) The street address number shall be posted on each residence or building in numbers at least four inches high.

6.5. Signs

6.5.1. General Requirements

6.5.1.1. It is the intention of these sign regulations to promote public safety, protect property values, create an attractive business climate and enhance the physical appearance of the community. No signs or advertising devices of any kind or nature, etc. shall be erected on any premises or affixed to the outside of any structure except as herein permitted.

a) All signs together with their supports, braces, guys and anchors shall be kept in good repair and in safe condition. The owner or occupier of the premises on which a sign is erected shall be directly responsible for keeping such sign and premises around it in a safe, sanitary, neat and clean condition.

b) Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and color and shall be designed, located, erected and maintained only for the purposes of illuminating the subject sign and/or premises. Said illuminated sign may not directly shine into the eyes of any occupant of any vehicle traveling upon any highway, driveway or parking area or into any window of any residence within two-hundred (200) feet or where the illumination will interfere with the visibility or readability of any traffic sign or device.

6.5.1.2. Signs Permitted in all Districts

a) The following signs are permitted in all districts provided they meet the General Requirements of Section 6.5.1.:

1. One non-illuminated identification sign not to exceed three (3) square feet in area or eight (8) feet in height from average grade, stating the name and address of the occupant, or in the case of a sign which lists only the names of occupants of dwellings on the street on which it is located, a sign of a size and location approved by the Building Official.

2. One temporary non-illuminated real estate sign pertaining to the lease, sale or use of a lot or building on which such sign is placed not exceeding a total area of six (6) square feet.

3. One sign for identification of professional and home occupations, not exceeding a total area of three (3) square feet.

4. A marker not to exceed two (2) square feet identifying a historic building.

5. A sign erected by the Town, County, State or Federal Government or other Governmental Units.

6. A sign erected by a public carrier for direct information concerning its service at the location, shall not exceed twelve (12) square feet.

7. Signs and displays associated with an approved stand for the retail sale of agricultural or farm produce not exceeding twelve (12) square feet in total area.

8. A sign erected by any fraternal, civic, religious or service organization or club, merely announcing its presence in the Town of Lunenburg and the time and place of its regular meeting, provided such sign shall not exceed three (3) feet in diameter nor nine (9) square feet in area.

9. Any flag, badge, insignia or device of any governmental agency or civic, charitable, religious, patriotic, political, fraternal or similar non-profit organization when displayed along a line of march of any parade or in sockets along any street during a fund raising drive, as permitted by the Building Official.

10. Temporary political signs displayed during election campaigns provided no sign shall exceed four (4) square feet in a residence zone or twenty-four (24) square feet in a commercial district.

11. One “open” flag or portable sandwich board style sign may be permitted as described herein. The only allowable flag shall be no larger than 3 feet by 5 feet, with only the word “open” on the flag. The only allowable portable sign shall be a so-called “sandwich board” sign, i.e., a two panel sign shaped like an inverted letter V, which rests on the ground or other flat surface. Each panel of such sign shall be no larger than 2 feet by 2 feet. Any such flag or portable sign may be displayed only when the related business is open and is permitted only on lots where only one business is located. These are not permitted on multi-business-tenant lots or malls. Flag or portable sign must comply with setback and corner clearance criteria.

b) A temporary construction sign is permitted in any district provided the sign is non-illuminated, does not exceed thirty-two (32) square feet in area, identifies an engineer, architect and/or contractor engaged in the development of land or construction or alteration of buildings and further provided such sign is set back at least ten (10) feet from any street line and is removed upon completion of construction.

c) Temporary signs, advertising special events, sales for non-profit organizations or causes or changes in the nature of an activity of a public nature may be placed on common public areas, which include the Upper Common, the Lower Common, school property, church property, parks and like property determined by the Building Official and approved by the proper governing authority, to be public property, provided that:

1. Temporary signs may only be erected for a two (2) week period.

2. Temporary signs do not exceed two (2) feet by three (3) feet.

3. Temporary signs may include banners.

4. A two (2) dimensional plot plan shall be presented to and approved by the Building Official prior to the erection of the sign.

6.5.1.3. Maximum Area, Height and Illumination Requirements of Signs.

a) Signs are permitted as follows and in accordance with all the provisions of this Section and all applicable provision for Development Plan Review (Section 8.4.).

Classification	Maximum Area of Building Sign	Max. Height of Signs from average grade	Illumination
Class A:			Natural or external lighting only
Residence A	Three (3) square feet	Eight (8) feet	
Residence B	Three (3) square feet	Eight (8) feet	
Outlying District	Three (3) square feet	Eight (8) feet	
Limited Business-Residential	Nine (9) square feet	Eight (8) feet	
Class B:			
Retail/Commercial	Twenty-four (24) square feet	Thirty (30) feet	Internal lighting
Recreational Dist.	Nine (9) square feet	Eight (8) feet	Natural or external lighting only
Class C:			
Commercial	Two-hundred and twenty (220) square feet, also see Section 6.5.1.4.	Thirty (30) feet	Internal lighting
Class D:			
Office Park/Industrial	Two-hundred and twenty (220) square feet	Thirty (30) feet	Natural or external lighting
Flood Plain District	All signs are governed by the Underlying District(s)		
Water Supply Protection District	All signs are governed by the Underlying District(s)		

6.5.1.4. Location and Number of Signs

a) Signs are permitted as follows and in accordance with all the provisions of this Section and all applicable provisions for Development Plan Review (Section 8.4.).

CLASSIFICATION	SIZE/PLACEMENT	NUMBER OF SIGNS
Class A:		
Residence A Residence B Limited Business/ Residential Outlying District .	All signs shall be located on the building or at a minimum distance from the street line of fifty (50) percent of the required front yard	One (1) per Street
Class B:		
Retail/Commercial	A free standing sign (pylon) and a sign located on the building, not exceeding twenty-four (24) feet.	One (1) per Principal Use One (1) per Principal Use
Secondary Signs	To be determined by the Development Plan Review	
Recreation District	A sign on the building or at a minimum of twenty (20) feet from street line.	One (1) per Principal Use
Class C: Commercial		
Single Use:		
Free standing Sign Primary Sign	A free standing sign (pylon) or a sign located on the building which may not exceed thirty-six (36) square feet, unless the ground floor area of the building exceeds ten thousand (10,000) square feet, in which case there may be one (1) additional square foot of sign for every additional five hundred (500) square feet of ground floor area thereafter.	One (1) per Principal Use One (1) per Principal Use
Secondary Signs	A sign(s) located on the building which may not be more than fifty (50) percent of the size of the Free standing or Primary sign.	Two (2) per Principal use
Multi-Use, One (1) Building:		
Free standing Sign Primary Sign	A free standing sign (pylon) and a sign located on the building which may not exceed thirty-six (36) square feet unless the ground floor area of the building exceeds ten thousand (10,000) square feet, in which case there may be one (1) additional square foot of sign for every additional five hundred (500) square feet of ground floor area thereafter, plus such additional square feet as may be permitted in Section 6.5.1.4.b.	One (1) per Building One (1) per Principal Use

Secondary Sign	A sign located on the building which may not be more than fifty (50) percent of the Primary sign.	One (1) per Principal Use

Multi-Use, Multiple Buildings on a site or a Shopping Center:

Free standing Sign	A free standing sign (pylon) and	One (1) per Development
Primary Sign	a sign located on the building which may not exceed thirty-six (36) square feet unless the ground floor area of the building exceeds ten thousand (10,000) square feet, in which case there may be one (1) additional square foot of sign for every additional five hundred (500) square feet of ground floor area thereafter plus such additional square feet as may be permitted in Section 6.5.1.4.b.)	One (1) per Principal Use
Secondary Sign	To be determined by the Development Plan Review	

Class D: Office Park and Industrial

Free standing Sign	A free standing sign (pylon) and	One (1) per Principal Use
Primary Sign	a sign located on the building which may not exceed thirty-six (36) square feet unless the ground floor area of the building exceeds ten thousand (10,000) square feet, in which case there may be one (1) additional square foot of sign for every additional five hundred (500) square feet of ground floor area thereafter.	One (1) per Principal Use
Flood Plain District. Water Supply Protection District:	All signs are governed by the Underlying District(s)	

b) All signs twenty (20) feet from the right of way may be a maximum of thirty-six (36) square feet plus two (2) square feet for each additional twenty (20) feet of setback from the right-of-way, but in no case shall be larger than the maximum allowed by other provision of this section.

6.5.1.5. Signs Permitted in Residence A, Residence B, Outlying and Limited Business/Residential Districts. (Class A)

a) In addition to signs permitted by Section 6.5.1.2., the following signs are permitted in all Residential Districts.

1. One non-illuminated or indirectly illuminated identification sign for each separate street line of an approved Special Permit Use not to exceed nine (9) square feet nor eight (8) feet in height; and further limited as follows: said sign shall be subject to the applicable side and rear yard requirements for principal buildings and minimum of fifty (50) percent of the applicable front yard requirements for principle buildings; the height of such sign shall not be a greater than the distance it is located from any lot line, but in no case greater than eight (8) feet in height; the square foot area of such sign shall not be greater than one-half the linear foot distance it is located from any lot line, but in no case greater than nine (9) square feet.

2. Other signs shall be limited to directional signs necessary for public safety or convenience and shall be designated and approved as an integral part of the Development Plan and for an allowable Special Permit Use.

6.5.1.6. Signs Permitted in Non-Residential Districts

a) In addition to signs permitted by Section 6.5.1.2. the following signs are permitted Commercial, Retail/Commercial and Office Park and Industrial Districts.

1. One (1) sign for the purpose of advertising the sale or lease of the premises shall not exceed thirty-two (32) square feet in signboard area.

2. One of the signs permitted, per use, in Non-Residential Districts may be internally illuminated. All internally illuminated signs located within the building but visible from the exterior of the building shall constitute one of the signs permitted.

3. Other signs limited to directional signs necessary for public safety or convenience be designated and approved as an integral part of the Development Plan as approved by the Planning Board.

6.5.1.7. Signs subject to Development Plan Review

a) Prior to the granting of a permit by the Building Official for a sign, the Planning Board must approve the following signs subject to applicable submission requirements, contents and guidelines of Section 8.4. (Development Plan Review), said determination to be made by the Planning Board:

1. All free-standing signs (pylons), except those permitted in 6.5.1.2. and 6.5.1.5.

2. All signs over thirty-six (36) square feet.

b) In addition to requirements of Section 8.4. (Development Plan Review), the Planning Board shall approve the location, safety and the design of the sign according to the design regulations adopted by the Lunenburg Planning Board.

6.5.1.8. Prohibited Signs

a) The prohibitions contained in this section shall apply to all signs, all artificial lighting and all districts, regardless of designation.

1. No permitted sign, including projecting signs, shall be located in any street right-of-way.

2. No sign or advertising device shall be erected, used or maintained which in any way simulates official directional or warning signs erected or maintained by Federal, State or Town Governments for the protection of the public health and safety.

3. No sign or advertising device shall be erected or maintained in such a manner as to obstruct or interfere with the free and clear vision on any street or driveway.

4. No sign or advertising device shall be erected or maintained with any lighting or control mechanism which may cause radio or television interference.

5. No illuminated sign or lighting device shall be placed or directed on any property in a manner that would permit the light beams and illumination therefrom to be directed or beamed onto a public street or walkway or onto adjoining properties so as to cause glare or reflection that might constitute a traffic hazard or public nuisance.

6. No animated sign or advertising device shall be erected.

7. No flashing signs or advertising device which creates intermittent or varying light intensity shall be erected.

8. No projecting sign shall extend more than twelve (12) inches beyond the building walls or parts thereof, or be less than eight (8) feet above grade, except as otherwise provided in these sign regulations.

9. No sign shall be erected on a roof of a structure, however, a sign may be attached to the facade of a building, provided that it does not exceed the allowable height limitations as stated in Section 6.5.1.3.a).

10. No building or part thereof, such as a gable, roof or wall, shall be outlined by direct illumination for the purpose of commercial advertising.

11. No sign shall be attached to or be erected or maintained in such a manner as to obstruct any fire escape, window, door or other building opening used for egress and ingress, ventilation or other fire fighting purpose.

12. No commercial advertising sign shall be allowed, except as otherwise provided in Section 6.5.1.6. hereof.

13. No free-standing sign shall be erected to exceed a height of thirty (30) feet.

14. Promotional banner shall not be in excess of eight (8) square feet for a Special Permitted Use. No special displays such as flashing signs shall be allowed.

15. Signs may not have any moving or animated parts or images, whether caused by machinery, electronics, wind, gas or otherwise, except for clocks, thermometers or cloth flags, the latter of which are moved only by natural wind. Strings of flags or streamers are not permitted, except as provided in Section 6.5.1.2.c).3.

16. A sign attached to a building shall not:

a) Project more than one (1) foot from the building wall when the building bounds on a lot line.

b) Project into or over the paved portion of a street or a right-of-way.

c) Exceed the height of the building, except as permitted by Section 6.5.1.8.a).9.

17. All off-premise signs, except for farm stands and signs for agricultural uses in Lunenburg and as in Section 6.5.1.2.a)1., are prohibited.

6.5.1.9. Sign Condition

a) All signs are required to be maintained in a safe condition. Any sign deemed not in a safe condition by the Building Official can be required to be repaired or removed at the owner's or occupant's expense.

6.5.1.10. Sign Removal

a) Any sign logo erected after adoption of this ordinance which, because of a change in occupancy, ceases to refer to a bona fide business conducted or product sold on the premises, shall be removed by the owner or occupant within sixty (60) days from the change of occupancy.

b) All signs in existence at the time of adoption of this sign Bylaw and not conforming to this Section 6.5., shall be removed within one (1) year after the adoption of this Section, unless the sign is otherwise approved by the Building Official after a determination that the sign is safe and in good condition and poses no hazard to traffic or public safety.

6.5.1.11. The following definitions apply to this Section 6.5.

a) Accessory Building - a building subordinate to and located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

b) Accessory Use - a use located on the same lot and subordinate to and customarily incidental to the principal use of a building.

c) Principal Use - the primary purpose for which a lot or the main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

6.6. PERFORMANCE STANDARDS

6.6.1. Administration and Interpretation

6.6.1.1. All proposed uses of buildings, lots or premises within any District after the passage of this Bylaw shall conform to the following:

a) The applicant, at his own expense, shall furnish evidence sufficient to satisfy the Inspector of Buildings that the proposed use of the building or premises will not produce any nuisances beyond the lot lines as measured by the performance standards listed below or as existing in comparable operations allowed in the District, which are not now creating a nuisance.

b) Any nuisance produced in excess of the standards permitted below or any other nuisance found after public hearing to be excessive shall be reduced to acceptable standards or discontinued.

6.6.2. Air Pollutants

6.6.2.1. Except as is herein provided, all use and conditions of land, buildings and structures shall be in conformance with the Regulations 310 CMR 6.00-8.00 of the Department of Environmental Quality Engineering, Commonwealth of Massachusetts, December 31, 1981 and amendments thereto.

6.6.3. Noise

6.6.3.1. No use shall be allowed if it will cause sound, noise, vibration, odor or flashing perceptible without instruments more than two hundred (200) feet from the boundaries of the originating premises except from warning devices, construction work, maintenance or other special circumstance.

6.6.3.2. At the District boundary line, noise shall not exceed sixty (60) decibels between the hours of eight (8:00) p.m. and six (6:00) a.m. and, at all other times, shall not exceed sixty (60) decibels for more than twenty (20) minutes in each hour.

6.6.3.3. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or high frequency.

6.6.4. Odor

6.6.4.1. Emissions from plant sites or other sources as measured at the user's property line shall not exceed the established threshold limit values for odors as outlined in T.M. Hellman and F.H. Small, Journal Air Pollution Control Association, 24(10), 979-982, (1974), and amendments thereto added by the Manufacturing Chemists Association, Inc., Washington, D.C.

6.6.5. Heat, Glare and Vibration

6.6.5.1. No heat, glare or vibration shall be discernible without instruments from the outside of any structure.

6.6.6. Wind Energy Systems

6.6.6.1. Wind Energy Systems (WES) are subject to a Development Plan Review granted by the Planning Board and to the following conditions, unless waived or adjusted by the Planning Board as is consistent with the purposes of this Section.

a) Area and Height.

A Small Wind Energy System (SWES) shall be located on a parcel of forty thousand (40,000) square feet minimum or on Town owned property. For a SWES the blade tip height, defined as combined tower and turbine height, shall not exceed eighty (80) feet measured from the average elevation of the existing grade at the base of the tower to the highest reach of the blade tip of the turbine.

A Commercial Wind Energy System (CWES) is located on a minimum of 400,000 square feet (10 building acres) or on Town owned property. The maximum height shall be determined by the Planning Board and/or according to manufacturer recommendation, not to exceed FAA Regulations.

b) Setback.

A SWES and CWES minimum horizontal distance shall be measured from the base of the tower structure to any property line or road right-of-way and shall be the greater of either the blade tip height plus ten (10) feet or the “fall zone”, as determined by the Wind Turbine Chart or Engineering Standards supplied by the manufacturer. No part of any WES, including guy wire and anchors, may extend closer to the property boundaries than the setback for the zoning district in which it is located, as provided in the dimensional table in Section 5.0. of this bylaw.

c) Security.

The system is to be designed to prevent unauthorized access.

d) Appearance and Design.

The system shall be of monopole design with appropriate bracings, unless otherwise approved by the Planning Board, and a non-reflective exterior color designed to blend with the surrounding environment. No logos, designs, decorations, or writing shall be visible at or beyond the property line so that the visual character of surrounding neighborhoods and the community is minimally affected by site selection, turbine design or appearance, buffering, screening or lighting.

e) Cables.

All electrical cables from the tower base on all connected facilities are to conform to 527 CMR 12.00: MASSACHUSETTS ELECTRICAL CODE as promulgated by the Massachusetts Board of Fire Prevention regulations in accordance with M.G.L. c. 143, s. 3L and as directed by the Inspector of Wires in accordance with M.G.L. c. 166, s. 32.

6.6.6.2. Construction, Operation and Maintenance.

a) An application for a Wind Energy System:

A review for a Wind Energy System (WES) shall include a plan for the general procedures for safe and effective operation and maintenance of the facility and the following:

1. SWES. A schematic plan to scale showing placement of the tower distance to all property lines and abutting dwellings, proposed elevations, public and private roads, above ground utility lines, any other significant features and any measures designed to mitigate the impact of SWES. Any portion of these requirements may be waived by the Planning Board, if, in its opinion, the engineering/manufacturing information submitted is sufficient for the Board to make a decision.

2. CWES. A site plan, which is prepared to scale, stamped by a professional land surveyor, registered landscape architect or licensed civil engineer, showing, in addition, to other applicable requirements for a Site Plan, the location of the proposed WES and any associated buildings or appurtenances, distances to all property lines and abutting dwellings, existing and proposed structures, existing and proposed elevations, public and private roads including temporary access roads, above and below ground utility lines, any other significant features or appurtenances, and any measures designed to mitigate the impacts of the WES. Any portion of these requirements may be waived by the Planning Board, if in its opinion, the engineering/manufacturing information submitted is sufficient for the Board to make a decision.

3. A plan for the construction, operation, maintenance and removal of wind facilities, which shall be consistent with all other applicable Town, State and Federal requirements, including all applicable health and safety regulations *shall be submitted to the Planning Board*. Evidence shall be submitted to the Planning Board that the utility has been informed of the customer's plans and approval for an intertie agreement *has been obtained*.

b) Codes.

Wind energy systems and structures shall comply with 780 CMR: MASSACHUSETTS STATE BUILDING CODE in accordance with M.G.L. c. 143.

c) Noise.

Wind Energy Systems shall comply with the Massachusetts noise regulations (310 CMR 7.10).

d) Height.

WES towers shall comply with the above applicable section or with applicable FAA regulations, whichever is more restrictive.

e) Abandonment.

Unless authorized by written approval from the Planning Board, a WES shall be considered to be abandoned if it is not operated for a period of two (2) years, and shall be removed. If it is designated a safety hazard by the Building Commissioner, the owner shall correct the hazard or remove the WES within ninety (90) days. If the property owner fails to correct the safety hazard or to remove the wind energy system in accordance with the requirements, the Town may physically remove the WES at the owner's expense.

f) Removal.

Removal of a WES, any equipment shelters, and security barriers from the subject property requires proper disposal of the waste materials from the site in accordance with Local and State solid waste disposal regulations and restoration of the location of the WES to a stable condition with vegetation sufficient to prevent erosion and sedimentation.

g) Fees:

SWES. The applicant shall pay all costs, including application fee, review and inspecting fees as deemed appropriate by the Planning Board Fee Schedule.

CWES. The applicant shall pay all costs, including application fee, peer review and inspecting fees as determined by the Planning Board Fee Schedule.

h) Insurance.

Evidence of insurance coverage for all potential damages relating to a CWES shall be provided prior to construction.

i) Inspections.

Annual inspections to determine certification, safety and appearance shall be performed by the Building Commissioner.

j) Bonds.

An original Bond for a CWES shall be required to cover the cost of construction. An annual maintenance bond shall be posted as directed by the Planning Board Fee Schedule.

6.6.7. The applicant shall furnish all necessary data for a permit that shall be granted by the Building Commissioner. In the event that a Development Plan Review by the Planning Board involves a solar project, the Building Commissioner shall refer to the Planning Board's Development Plan Review Report. The Planning Board shall include the Building Commissioner, Electrical, and Plumbing Inspectors as well as other departments in the review process.

6.6.8. As-built plans shall be submitted prior to final inspection.

6.6.9. Waste Disposal, Water Supply and Water Quality

6.6.9.1. Regulations of the Department of Public Health, Commonwealth of Massachusetts and the Lunenburg Board of Health relative to water disposal, water supply and water quality shall be met and when required, approval shall be indicated on the application for a Building Permit.

a) In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resources Commission, Division of Water Pollution Control, as published and entitled "Water Quality Standards", filed with the Secretary of State on September 21, 1978, and amendments thereto, for streams and water bodies within the Town.

b) Water use shall not cause a reduction in the ground water supply used by abutting residents or reduce the supply so that the Water District needs to reduce or limit service residents of the District.

c) Materials used in exterior or cleanup of structures or vehicles or of any equipment shall be disposed of in accordance with the regulations of the Board of Health.

d) No sewage leaching field shall be located within one hundred (100) feet of the normal bank of any waterway or land subject to flooding. Sewage leaching fields shall be constructed in compliance with the Regulations of the Lunenburg Board of Health.

e) Any activity within one hundred (100) feet of a wetlands, subject to the protection of the Bylaw, including point source discharges, will be subject to normal wetlands procedures.

6.6.10. Storage

6.6.10.1. Unless otherwise approved in the Development Plan Review process, all materials, supplies and equipment shall be stored in accordance with the Fire Prevention Standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties.

6.6.11. Exterior Lighting

6.6.11.1. No exterior lighting shall shine on adjacent properties or toward any street.

6.6.11.2. Exterior illumination of buildings or grounds in Residential and Outlying Districts, except as may be permitted for required parking areas, shall:

a) Be permitted only for non-commercial uses open to the public, such as a church or playground: and

b) Shall be shown on an approved development plan.

6.6.11.3. Any lighting shall be continuous, non-flashing and permanently mounted.

6.6.12. Building Construction

6.6.12.1. All buildings shall be of construction prescribed in the State Building Code. No building permit shall be granted unless the application for such permit is filed in accordance with the Building Code.

6.6.13. Hazardous Materials

6.6.13.1. No use shall be allowed which would create clear or unlawful hazard through emission of dangerous elements into the air, any waterbody, or the ground; through vehicular egress at points of constricted visibility; through use of storage of toxic, hazardous, inflammable, radioactive or explosive materials without evidence of compliance with all applicable regulations; or through lack of security measures to prevent exposure to potentially hazardous structural or site conditions.

6.6.13.2. All hazardous materials in connection with a permitted use, used, created, stored, processed, disposed of by processing, diluting, burying or containment, leaching or any other manner or transported (including piping) in the Town shall be used, stored or transported in accordance with all applicable Federal, State and Local regulations.

6.6.13.3. A notice for use, creation, storage, processing, disposal and transport shall be filed with the Board of Selectmen, the Fire Department, Planning Board, and the Board of Health, on

such forms as they shall require. Notification shall include, as a minimum, identification of material, the amount involved, the process, if any, the routes of transport, carrier and conveyance, if any. The Board of Selectmen may require some assurance, as determined by the Board, to cover any and all possible damage to persons, property and environment.

6.6.14 Erosion Control

6.6.14.1. Whenever the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of water to or from abutting properties, and shall be suitably landscaped.

6.6.14.2. No use shall be allowed if it will leave the earth exposed for greater than fourteen (14) days, unless erosion control measures as defined in "Guidelines for Soil and Water Conservation in Urbanizing Areas of Mass." 1977, United States Department of Agriculture, Soil Conservation Service, and conservation controls within one hundred (100) feet of wetlands and water bodies, are employed.

6.6.14.3. No use shall be allowed which will damage or harm adjoining properties, waterways or public utilities through uncontrolled erosion and sedimentation.

6.6.15. Dish Antennae and Radio Antenna Towers

6.6.15.1. Accessory dish antennae and radio antenna towers shall be located in the rear yard, shall be set back a distance at least the height of the antennae from all property lines, principal buildings and accessory buildings, and shall not have a diameter greater than one-third (1/3) of the required rear yard except that the Planning Board may approve a special permit for a roof antennae or a telecommunication or cellular tower, provided that telecommunication and cellular towers, not including Amateur Radio Tower, are located, erected, constructed, maintained and operated in accordance with the Rules and Regulations of the Lunenburg Planning Board for Cellular and Telecommunication Towers dated March 4, 1996 and as amended April 22, 1996 and as may from time to time be amended.

6.6.16. Electrical Interference

6.6.16.1. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.

6.6.17. Fencing, Screening and Landscaping

6.6.17.1. Boundary fences, walls or hedges shall be permitted provided that they do not exceed six (6) feet in height and provided that no fence which obstructs vision shall exceed thirty-six (36) inches in height within twenty (20) feet of the street line or within twelve (12) horizontal feet

of habitable room in an abutting dwelling. Open storage, loading or service areas and parking lots for six (6) or more cars shall be screened from any adjacent residence or public way by a wall, fence or densely planted trees or shrubs at least three (3) feet in height or shall be equivalently obscured by natural vegetation.

6.6.17.2. Junk, trash or debris shall be confined out of sight.

6.6.17.3. No more than fifty (50) percent of required front yard shall be covered by impervious surfaces and except for walkways, driveways and walls, impervious surfaces shall not be within ten (10) feet of the right-of-way line.

6.6.17.4. Any site on which construction has begun, but is not completed within twenty four (24) months, or such other time as approved under the Development Plan Review, Subdivision Plan approved by the Planning Board or Special Permit, if any, or within such other period of time as is approved by the Planning Board or other appropriate Special Permit Granting Authority, unless an extension has been requested by the owner and approved by the Planning Board or other appropriate Special Permit Granting Authority, shall be restored to its natural state, pre-constructed state or other state as approved by the Planning Board or other appropriate Special Permit Granting Authority within such time as the Planning Board or other appropriate Special Permit Granting Authority shall specify.

6.6.18. Signs

6.6.18.1. Signs shall be located in conjunction with Section 6.5. of this Bylaw.

6.6.19. Fire Protection

6.6.19.1. All Construction and use of structures and land shall be in accordance with 527 CMR, Commonwealth of Massachusetts Regulations N.1.P.A. the State Building Code, the Rules and Regulation of the Lunenburg Fire Department and other pertinent Town of Lunenburg Rules and Regulations. The Fire Department shall certify to the Inspector of Buildings that the plans and construction comply with its regulations before the Building Inspector issues an occupancy permit.

6.7. STORMWATER MANAGEMENT – NPDES PHASE II PERMITS

6.7.1. Purpose and Intent

6.7.1.1. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Lunenburg's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater which result in the; contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; and flooding. This bylaw establishes minimum storm water management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts offsite and downstream which would be born by abutters, townspeople and the general public.

6.7.1.2. This regulation requires local review and approval of a stormwater management plan for all development and redevelopment projects that disturb one (1) acre or more. In addition to these regulations, the owner and/or developer is also obligated to meet the requirements of the Federal Environmental Protection Agency's (EPA) regulations for stormwater management.

6.7.2. The Objectives of this Bylaw are:

6.7.2.1. To require practices to control the flow of stormwater from new and redeveloped sites town's storm drainage system in order to prevent flooding and erosion;

6.7.2.2. To protect groundwater and surface water from degradation;

6.7.2.3. To promote groundwater recharge;

6.7.2.4. To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;

6.7.2.5. To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed;

6.7.2.6. To comply with state and federal statutes and regulations relating to storm water discharges; and

6.7.2.7. To establish Lunenburg's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

6.7.3. Applicability

6.7.3.1. No person may undertake a construction activity, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land draining to the Town of Lunenburg's municipal separate storm sewer system, without a permit from the Special Permit Granting Authority. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site. Construction activities that are exempt are:

a) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
b) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
c) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
d) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
e) Work activities of municipal, state or federal agencies or their agents outside of the Phase II boundaries as shown on the latest U.S. Environmental Protection Agency's National Pollutant Discharge Elimination System (NPDES) Phase II maps.
f) As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in Section 6.7.3.1.a. that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this bylaw.

6.7.4. Permits and Procedures

6.7.4.1. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Lunenburg Planning Board. Such special permit shall be granted if the SPGA determines in conjunction with the Conservation Commission, Department of Public Works, Board of Health and Zoning Enforcement Officer that the intent of this bylaw, as well as specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other Town boards or departments in its decision.

6.7.4.2. The site owner or his agent shall file with the SPGA, ten (10) copies of a completed application package for a Stormwater Management Permit (SMP). Permit issuance is required prior to any site altering activity. While the applicant can be a representative, the permittee must be the owner of the site. The SMP Application package shall include:

a) A completed Application Form with original signatures of all owners;
b) Ten (10) copies of the Stormwater Management Plan and project description as specified in Section 6.7.5.1.;
c) Ten (10) copies of the Operation and Maintenance Plan as required by Section 6.7.6. of this bylaw;
d) Payment of the application and review fees.

6.7.4.3. Entry. Filing and application for a permit grants the SPGA or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.

6.7.4.4. Other Boards. The SPGA shall give one copy of the application package to the designated technical reviewers, which include the Conservation Commission, Department of Public Works, and Zoning Enforcement Officer for the purpose of reviewing the permit application. The SPGA may also engage the services of a peer review engineer at their discretion.

6.7.4.5. Fee Structure. The SPGA shall obtain with each submission an Application Fee established by the SPGA. The SPGA is authorized to retain a Registered Professional Engineer or other professional consultant to advise the SPGA on any or all aspects of these plans. Applicants must pay review fees before the review process may begin.

6.7.4.6. Actions. The SPGA's action, rendered in writing, shall consist of either:

a) Approval of the Stormwater Management Permit Application based upon determination that the proposed plan meets the Standards in Section 6.7.5.2. and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;
b) Approval of the Stormwater Management Permit Application subject to any conditions, modifications or restrictions required by the SPGA which will ensure that the project meets the Standards in Section 6.7.5.2. and adequately protects water resources, set forth in this bylaw;
c) Disapproval of the Stormwater Management Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Standards in Section 6.7.5.2. or adequately protect water resources, as set forth in this bylaw.

6.7.4.7. Project Completion. At completion of the project the permittee shall submit as-built record drawings of all structural stormwater controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

6.7.5. Contents of Stormwater Management Plan

6.7.5.1. Application. The Stormwater Management Plan shall contain sufficient information for the SPGA to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The plan shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Section 2 below and the current edition of the Department of Environmental Protection guidelines and policies. The plan shall be designed to also meet the policy standards of the SPGA. The Stormwater Management Plan shall fully describe the project in drawings, and narrative. It shall include:

a) Locus map,
b) The existing zoning, and land use at the site,
c) The proposed land use,
d) The location(s) of existing and proposed easements,
e) The location of existing and proposed utilities,
f) The site's existing and proposed topography with contours at 2 foot intervals,
g) The existing site hydrology,
h) A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows,
i) A delineation of 100-year flood plains, if applicable,
j) Estimated high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration,
k) The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
l) A drainage area map showing pre- and post- construction watershed boundaries, drainage area and stormwater flow paths,
m) A description and drawings of all components of the proposed drainage system including:
    1) Locations, cross sections, and profiles, of all brooks, streams, drainage swales and their method of stabilization,
    2) All measures for the detention, retention, or infiltration of water,
    3) All measures for the protection of water quality,
    4) The structural details for all components of the proposed drainage systems and stormwater management facilities,
    5) Notes on drawings specifying materials to be used, construction specifications, and typicals, and
    6) Expected hydrology with supporting calculations.

n) Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
o) Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization,
p) A maintenance schedule for the period of construction, and
q) Any other information requested by the SPGA.

6.7.5.2. Standards

6.7.5.2.1. Projects shall meet the Standards of the Massachusetts Stormwater Management Policy, which are as follows:

a) No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or water of the Commonwealth.
b) Stormwater management systems must be designed so that post-development peak discharges rates do not exceed pre-development peak discharge rates.
c) Loss of annual recharge to groundwater should be minimized through the use of infiltration measures to the maximum extent practicable. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions, based on soil types.
d) For new development, stormwater management systems must be designed to remove 80% of the average annual load (post development conditions) of Total Suspended Solids (TSS). It is presumed that this standard is met when:

1) Suitable nonstructural practices for source control and pollution prevention are implemented;
2) Stormwater management best management practices (BMPs) are sized to capture the prescribed runoff volume; and
3) Stormwater management BMPs are maintained as designed.

e) Stormwater discharges from areas with higher potential pollutant loads require the use of specific stormwater management BMPs. The use of infiltration practices without pretreatment is prohibited.
f) Stormwater discharges to critical areas must utilize certain stormwater management BMPs approved for critical areas (see MA DEP's Stormwater Management Volume I: Stormwater Policy Handbook). Critical areas are Outstanding Resource Waters (ORWs), cold water fisheries, and recharge areas for public water supplies.
g) Redevelopment of previously developed sites must meet the Stormwater Management Standards to the maximum extent practicable. However, if it is not practicable to meet all the standards, new (retrofitted or expanded) stormwater management systems must be designed to improve existing conditions.
h) Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.

i) All stormwater management systems must have an Operation and Maintenance Plan to ensure that systems function as designed.
j) When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

6.7.5.3. Project Changes. The permittee, or their agent, shall notify the SPGA in writing of any change or alteration of a land-disturbing activity authorized in a Stormwater Management Permit before any change or alteration occurs. If the SPGA determines that the change or alteration is significant, based on the design standards listed in Section 6.7.5.2. and accepted construction practices, the SPGA may require that an amended Stormwater Management Permit application be filed and a public hearing held. If any change or deviation from the Stormwater Management Permit occurs during a project, the SPGA may require the installation or interim measures before approving the change.

6.7.6. Operation and Maintenance Plans

6.7.6.1. Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit, this bylaw and that the Massachusetts Surface Water Quality Standards, 314, CMR 4.00 are met in all seasons and throughout the life of the system. The Operation and Maintenance Plan shall remain on file with the SPGA and shall be an ongoing requirement. The O&M Plan shall include:

a) The name(s) of the owner(s) for all components of the system.
b) Maintenance agreements that specify:
1) The names and addresses of the person(s) responsible for operation and maintenance.
2) The person(s) responsible for financing maintenance and emergency repairs.
c) Maintenance Schedule for all drainage structures, including swales and ponds.
d) List of easements with the purpose and location of each.
e) The signature(s) of the owner(s).
f) Stormwater Management Easement(s):
1) Stormwater management easements shall be provided by the property owner(s) as necessary for:
a) Access for facility inspections and maintenance,
b) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
c) Direct maintenance access by heavy equipment to structures requiring regular cleanout.
2) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
3) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the SPGA.

4) Easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a Certificate of Completion by the SPGA.

g) Changes to Operation and Maintenance Plans:

1) The owner(s) of the stormwater management system must notify the SPGA of changes in ownership or assignment of financial responsibility.
2) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the SPGA and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

6.7.7. Surety

6.7.7.1. The SPGA may require the permittee to post before the start of land disturbance or construction activity, a surety bond, cash, or other acceptable security. The form of the bond shall be approved by town counsel, and be in an amount deemed sufficient by the SPGA to ensure that the work will be completed in accordance with the permit. If the project is phased, the SPGA may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the SPGA has received the final inspection report as required by Section 6.8. and issued a Certificate of Completion.

6.7.8. Inspections

6.7.8.1. At the discretion of the SPGA, periodic inspections of the stormwater management system construction may be conducted by the Town via the Planning Board, Conservation Commission, DPW or a professional engineer approved by the SPGA. Written reports shall include:

a) Inspection date and location.
b) Evaluation of compliance with the stormwater permit.
c) Any variations from approved specifications or any violations of the Stormwater Management Plan.

6.7.8.2. At a minimum, the SPGA or its designee may inspect the project site at the following stages:

a) Initial Site Inspection: prior to approval of any plan.
b) Erosion Control Inspection: to ensure erosion control practices are in accord with the filed plan.
c) Bury Inspection: prior to backfilling of any underground drainage stormwater conveyance structures.

d) Final Inspection: After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The SPGA or its agent may inspect the system to confirm its “as-built” features. This inspector may also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the SPGA which will issue a Certificate of Completion. As-built plans shall be full size plans that include all final grades, prepared by a Professional Engineer. All changes to project design should be clearly depicted on the as-built plans.

e) If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act the Town of Lunenburg may use the surety bond to complete the work. If the system does not comply with the Plan, the permittee shall be notified in writing of the violation and the required corrective actions. A Stop Work order shall be issued until any violations are corrected and all work previously completed has received approval by the SPGA.

6.7.9. Waivers

6.7.9.1. The SPGA may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:

a) Such action is allowed by federal, state and local statutes and/or regulations,
b) Is in the public interest, and
c) Is not inconsistent with the purpose and intent of this bylaw.

6.7.9.2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaws does not further the purposes or objectives of this bylaw.

6.7.9.3. All waiver requests shall be discussed and voted on at the public hearing for the project.

6.7.9.4. If in the SPGA’s opinion, additional time or information is required for review of a waiver request, the SPGA may continue the hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

6.7.10. Certificate of Completion

6.7.10.1. The SPGA will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.

6.7.11. Enforcement

6.7.11.1. Enforcement Agents

6.7.11.1.1. The Zoning Enforcement Officer in conjunction with the Planning Board, Conservation Commission and DPW Director shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

6.7.12. Civil Relief

6.7.12.1. If a person violates the provision of this bylaw, regulations, permit, notice, or order issued thereunder, the Planning Board, through the Zoning Enforcement Officer may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

6.7.13. Orders

6.7.13.1. The Planning Board, in conjunction with the Conservation Commission and DPW Director, may issue a written order to the Zoning Enforcement Officer to enforce the provisions of this bylaw or the regulations thereunder, which may include:

(a) elimination of illicit connections or discharges to the MS4;
(b) performance of monitoring, analyses, and reporting;
(c) that unlawful discharges, practices, or operations shall cease and desist,
(d) remediation of contamination in connection therewith.

6.7.13.2. If the Zoning Enforcement Officer, in conjunction with the Planning Board, Conservation Commission and DPW Director, determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

6.7.13.3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the cost incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within thirty (30) days of receipt of the notification of the cost incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30)

days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G. L. Ch. 59, 57 after the thirty-first day at which the costs first become due.

6.7.14. Non-Criminal Disposition

6.7.14.1. As an alternative to criminal prosecution or civil action, the Planning Board may elect, through the Zoning Enforcement Officer, to utilize the non-criminal disposition procedure set forth in G. L. Ch 40 Section 21D and Article X of the General Bylaws of the Town in which case the Planning Board, its authorized agents and the Zoning Officer of the Town shall be the enforcing person. The penalty for the 1st violation shall be $25.00. The penalty for the 2nd violation shall be $50.00. The penalty for the 3rd shall be $100.00 and $200.00 for the 4th and each subsequent violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

6.7.14.2. Entry to perform Duties under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board, its agents, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examination surveys or sampling as the Planning Board deems reasonably necessary.

6.7.15. Appeals

6.7.15.1. The decisions or orders of the Planning Board in conjunction with the Conservation Commission and DPW shall be final. Further relief shall be to a court of competent jurisdiction.

6.7.16. Remedies Not Exclusive

6.7.16.1. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

6.7.17. Severability

6.7.17.1. The invalidity of any section, provision, paragraph, sentence, or clause of these Regulations shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

6.8. DISCHARGES TO THE MUNICIPAL STORM SEWER SYSTEM AND WATERS OF THE COMMONWEALTH – NPDES PHASE II PERMITS

6.8.1. Purpose

6.8.1.1. Increased and contaminated stormwater runoff is a major cause of:
impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
contamination of drinking water supplies;
alteration or destruction of aquatic and wildlife habitat;
flooding.

6.8.1.2. Regulation of illicit connections and discharges to the municipal storm sewer system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment.

6.8.1.3. The objectives of this bylaw are:
a) to prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
b) to prohibit illicit connections and unauthorized discharges to the MS4;
c) to require the removal of all such illicit connections;
d) to comply with state and federal statutes and regulations relating to stormwater discharges; and
e) to establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

6.8.2. Definitions

For the purposes of this bylaw, the following shall mean:

a) AUTHORIZED ENFORCEMENT AGENCY: The Planning Board (hereafter the Board), its employees or agents designated to administer/enforce this bylaw.
b) BEST MANAGEMENT PRACTICE (BMP): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.
c) CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
d) DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm sewer system or into the waters of the United States or Commonwealth from any source.
e) GROUNDWATER: Water beneath the surface of the ground.

f) ILLICIT CONNECTION: A surface or subsurface sewer or conveyance, which allows an illicit discharge into the municipal storm sewer system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

g) ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm sewer system that is not composed entirely of stormwater, except as exempted in Section 6.17.8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 6.17.8. of this bylaw.

h) IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

i) MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) or MUNICIPAL STORM SEWER SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Lunenburg.

j) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

k) NON-STORMWATER DISCHARGE: Discharge to the municipal storm sewer system not composed entirely of stormwater.

l) PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

m) POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth.

Pollutants may include but are not limited to:

paints, varnishes, and solvents;
oil and other automotive fluids;
non-hazardous liquid and solid wastes and yard wastes;
refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances,
accumulations and floatables;
pesticides, herbicides, and fertilizers;
hazardous materials and wastes; sewage, fecal coliform and pathogens;

dissolved and particulate metals;
animal wastes;
rock, sand, salt, soils;
construction wastes and residues;
noxious or offensive matter of any kind.

n) PROCESS WASTEWATER: Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
o) RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.
p) STORMWATER: Storm water runoff, snow melt runoff, and surface water runoff and drainage.
q) SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
r) TOXIC OR HAZARDOUS MATERIAL or WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
s) WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
t) WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, and groundwater.
u) WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

6.8.3. Applicability

6.8.3.1. This bylaw shall apply to flows entering the municipally owned storm sewerage system and waters of the Commonwealth.

6.8.4. Authority

6.8.4.1. This bylaw is adopted pursuant to the regulations of the Federal Clean Water Act found
at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

6.8.5. Responsible for Administration

6.8.5.1. The Planning Board in conjunction with the Conservation Commission, Department of Public Works Director and Zoning Enforcement Officer shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the above may be delegated in writing by the above to employees or agents of the above.

6.8.6. Regulations

6.8.6.1. The Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

6.8.7. Prohibited Activities

6.8.7.1. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the Commonwealth.

6.8.7.2. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm sewer system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

6.8.7.3. Obstruction of Municipal Storm Sewer System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm sewer system without prior written approval from the Planning Board.

6.8.8. Exemptions

6.8.8.1. Discharge or flow resulting from fire fighting activities.

6.8.8.2. The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm sewer system:

a) Waterline flushing;
b) Flow from potable water sources;
c) Springs;
d) Natural flow from riparian habitats and wetlands;
e) Diverted stream flow;
f) Rising groundwater;
g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
i) Discharge from landscape irrigation or lawn watering;
j) Water from individual residential car washing;
k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
l) Discharge from street sweeping;
m) Dye testing, provided verbal notification is given to the Planning Board prior to the time of the test;
n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations.
o) Discharge for which advanced written approval is received from the Planning Board as necessary to protect public health, safety, welfare or the environment.

6.8.8.3. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town of Lunenburg Chief Administrative Financial Officer, the Planning Board or the Board of Health.

6.8.9. Emergency Suspension of Storm Sewerage System Access

6.8.9.1. The Planning Board may suspend municipal storm sewer system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

6.8.10. Notification of Spills

6.8.10.1. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps

to ensure containment, and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Planning Board and the Lunenburg Board of Health. In the event of a release of non-hazardous material, the reporting person shall notify the Planning Board no later than the next business day. The reporting person shall provide to the Planning Board written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

6.8.11. Enforcement

6.8.11.1. The Zoning Enforcement Officer in conjunction with the Planning Board, Conservation Commission and DPW Director shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

6.8.11.2. Civil Relief

6.8.11.2.1. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Planning Board through the Zoning Enforcement Officer may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

6.8.11.3 Orders

6.8.11.3.1. The Planning Board in conjunction with the Conservation Commission and DPW Director may issue a written order to the Zoning Enforcement Officer to enforce the provisions of this bylaw or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.

6.8.11.3.2. If the Zoning Enforcement Officer in conjunction with Planning Board, Conservation Commission and DPW Director determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

6.8.11.4. Costs

6.8.11.4.1. Within thirty (30) days after completing all measures necessary to abate the violation

or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, 57 after the thirty-first day at which the costs first become due.

6.8.11.5. Non-Criminal Disposition

6.8.11.5.1. As an alternative to criminal prosecution or civil action, the Planning Board may elect

through the Zoning Enforcement Officer to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, 21D in which case the Zoning Enforcement Officer of the Town shall be the enforcing person. The penalty for the 1st violation shall be $25.00. The penalty for the 2nd violation shall be $50.00. The penalty for the 3rd violation shall be $100.00. The penalty for the 4th violation and subsequent violations shall be $200.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

6.8.11.6. Entry to Perform Duties

6.8.11.6.1. Under this Bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board, its agents, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Planning Board deems reasonably necessary.

6.8.11.7. Appeals

6.8.11.7.1. The decisions or orders of the Planning Board Conservation Commission and DPW shall be final. Further relief shall be to a court of competent jurisdiction.

6.8.11.8. Remedies Not Exclusive

6.8.11.8.1. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

6.8.12. Severability

6.8.12.1. The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

6.8.13. Transitional Provisions

6.8.13.1. Residential property owners shall have 180 days from the effective date of the bylaw to comply with its provisions or petition the Planning Board for an extension provided good cause is shown for the failure to comply with the bylaw during the specified period. All other property owners shall have 180 days from the effective date of the bylaw to comply with its provisions or petition the Planning Board for an extension provided good cause is shown for the failure to comply with the bylaw during the specified period.

7.0. Non-Conforming Uses, Structures and Lots

7.1. Non-Conforming Lots: Increased requirements respecting lot area, frontage, width, yard and similar dimensions provided in this Bylaw or amendments thereto shall be subject to the exceptions provided in Section 6 of Chapter 40A of the General Laws and shall not apply to a lot for single and two-family residential use which at the time of the recording or endorsement, whichever occurs sooner, was not held in common ownership with adjoining land, conformed to the then existing requirements and had less than the proposed requirement but had at least five thousand (5000) square feet of area and fifty (50) feet of frontage.

7.2. Building, Structures and Uses already in Existence; Abandonment

7.2.1. A non-conforming building or structure, or a non-conforming use of a building, structure or land, which has been abandoned, or which has not been used for more than a period of two (2) years shall not be resumed, provided that where the non-conforming use is agriculture, horticulture or floriculture, non-use shall not constitute abandonment under this Bylaw, and the non-conforming use may otherwise be resumed, unless such non-use was maintained for a period of more than five (5) years.

7.2.1.2. Voluntary demolition of a non-conforming structure without permission of the Zoning Board of Appeals shall constitute abandonment.

7.3. Non-conforming Uses

7.3.1. A lawfully non-conforming use of a building, structure, or land shall not be altered, extended, changed or substantially extended, except to a conforming use, unless authorized by the Board of Appeals pursuant to Section 7.3.2.

7.3.1.1. Alterations to a legally non-conforming use that: a) do not reflect the nature and purpose of the original use; or b) result in a use different in quality, character, or degree from the original use and not ordinarily and reasonably adapted to the original use; or c) result in a use that is different in kind in its effect on the neighborhood than the original use, shall constitute a change or substantial extension of the original use.

7.3.1.2. A non-conforming use has been substantially extended if the total of all floor area plus open ground area devoted to such use on the premises has been increased by more than fifty (50) percent over the total so devoted at the time the use first became non-conforming. This Section shall not apply to residential use of single and two-family structures.

7.3.2. No non-conforming use shall be extended, altered, or changed unless approved via a special permit issued by the Zoning Board of Appeals upon its finding that such extension, alteration or change will not be substantially more detrimental than the existing non-conforming use to the neighborhood.

7.4. Non-conforming Structures

7.4.1. Except as provided in Section 7.4.2., a lawfully non-conforming building or structure shall not be reconstructed, extended or altered except pursuant to special permit issued by the Zoning Board of Appeals upon its finding that such reconstruction, extension or alteration will not be substantially more detrimental than the existing non-conforming structure to the neighborhood.

7.4.1.1. Any reconstruction, extension or alteration of a non-conforming structure that increases an existing nonconformity or results in the creation of an additional non-conformity shall require a Special Permit from the Zoning Board of Appeals in addition to the finding set forth in Section 7.4.1.

7.4.2. Reconstruction, extension, alteration or structural change to a single or two-family residential, non-conforming structure, may be allowed, upon a determination provided that such reconstruction, extension, alteration, or structural change meets all current zoning requirements, is not more substantially detrimental to the neighborhood, and does not increase the non-conforming nature of the structure.

7.4.2.1. Notwithstanding Section 7.4.2. reconstruction, extension, alteration or structural change (collectively "alteration") of a single or two-family residential, lawfully non-conforming structure shall be deemed not to increase the non-conforming nature of said structure and shall be eligible for a building permit without review by the Zoning Board of Appeals, if:

a) the structure is located on a conforming lot and the proposed alteration will comply in all respects with the Bylaw, or

b) the structure is located on a lawfully non-conforming lot and the proposed alteration will not result in new or increased violation of any of the dimensional requirements of this Bylaw.

7.4.3. No reconstruction, extension, or alteration to a non-conforming structure shall be permitted that results in lot coverage greater than thirty percent (30%), except for determination by the Zoning Board of Appeals.

7.4.4. No conforming building or structure devoted to a non-conforming use (whether in whole or in part) shall be moved, reconstructed, replaced or substantially altered, except as authorized by a finding of the Zoning Board of Appeals, pursuant to Section 7.4.1.

7.4.5. A building or structure devoted to a non-conforming use (whether in whole or in part) and a building or structure non-conforming as to height, setback or yards may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot, to the same or lesser dimensions, and used as before, without a finding as provided in either Section 7.4.1. or Section 7.4.2., provided that such repair or reconstruction is substantially completed within two (2) years of said damage or destruction, otherwise, such building shall be repaired, reconstructed and used only in conformity with the provisions of this Bylaw. The Board of Appeals may, however, in a specific case, authorize the extension of the two (2) year time limit or authorize a special exception from the requirement of conformity, where, in the opinion of the Board of Appeals, such limit or requirement will impose undue hardship.

8.0. Administration

8.1. Permits

8.1.1. No building shall be built, erected, reconstructed, moved, placed, externally altered or changed in use without a permit from the Building Official. With each application for such a permit, there shall be filed a plan as described in Section 6.3. Construction or operations covered by the permit which are not begun within six (6) months of the issuance of the permit or construction not continued through to completion as continuously and expeditiously as is reasonable shall conform to any subsequent applicable amendment to this Bylaw.

8.2. Enforcement

8.2.1. The Building Official shall issue no permit for a building, structure or use which would be in violation of this Bylaw. Where authorization by the Board of Appeals or the Planning Board is also required, no permit shall be issued until such authorization is granted and any conditions imposed by said Board shall be made a part of the permit.

8.2.2. The Building Inspector shall take appropriate action in the name of the Town of Lunenburg to prevent, correct, restrain or abate violations of this Bylaw. Any person violating any of the provisions of this Bylaw shall be subject to a fine not exceeding three hundred (300) dollars for each offense. Each day that such violation continues shall constitute a separate offense.

8.2.3. Non Criminal Disposition

In addition to the procedures for enforcement described above, the provisions of this Zoning Bylaw may also be enforced by the Building Inspector, by non criminal disposition pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of any provisions of this Bylaw shall be twenty-five (25) dollars for the first offense; fifty (50) dollars for the second offense; one hundred (100) dollars for the third offense; and two hundred (200) dollars for the fourth and each subsequent offense.

8.2.4. Special Permit Granting Authority

8.2.4.1. Unless otherwise designated in this Bylaw, the Board of Appeals is the Special Permit Granting Authority.

8.2.4.2. When the Planning Board or Selectmen are designated the Special Permit Granting Authority they shall act as provided by Chapter 40A of the General Laws, the Rules and Regulations they have adopted in accordance with Chapter 40A and the provisions established in this section for the Board of Appeals acting as the Special Permit Granting Authority.

8.3. Board of Appeals

8.3.1. Establishment

8.3.1.1. There is hereby established a Board of Appeals of five (5) members and three (3) associate members, who shall be appointed by the Board of Selectmen in accordance with the provisions of Section 12 of Chapter 40A of the General Laws, as amended.

8.3.2. Powers

8.3.2.1. The Board of Appeals shall have the following powers:

a) To hear and decide appeals in accordance with Section 8 of Chapter 40A of the General Laws, as amended, from any person aggrieved by reason of his inability to obtain a permit or enforcement action from the Administrative Officer or Board in the Town or from the Regional Planning Agency, abutting City or Town or other Administrative Official.

b) To hear and decide in accordance with the provisions of Section 9 of Chapter 40A of the General Laws, as amended, application for Special Permits including:

1. Permits for uses requiring authorization of the Board of Appeals as specified in Sections 4.2.2., 4.3.4., 4.5.3., 4.6.3.

2. Permits for lots with lot areas, setbacks or yard areas less than those otherwise required or provided in Sections 5.1.5., 5.2.2.1. and 5.2.8.1.

3. Permits to change, alter, extend and/or repair a non-conforming use/structure as provided in Sections 7.3. and 7.4. subject to such conditions as the Board may impose in accordance with Section 8.3.3.2. below.

4. The Board of Appeals may grant a special permit to vary dimensional requirements upon its determination that the exception will not create undesirable conditions caused by overshadowing or loss of privacy, that access to utility and public services will be adequate, and within the standards listed below. Dimensional requirements may be exceeded by special permit so as to conform to the average height, setbacks or other relevant dimensions of existing principal buildings fronting on the same street or within 500 feet of the premises.

a) Standards: In granting the special permit, the Board shall find that the permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this Bylaw (see Sections 4.2.2., 4.5.3., 4.6.3., and 8.3.2.1.), and shall find that:

-the specific site is an appropriate location for such building or alteration;

-the proposed building or alteration is compatible with the existing neighborhood with regard to size, location and architecture;

-the granting of the special permit will not adversely affect the neighborhood;

-the granting of the special permit will not unreasonably diminish the available light, air, sunlight, and other amenities; and

-there will be no nuisance or serious hazard to vehicles or pedestrians.

b) Conditions: The Board of Appeals may impose any conditions deemed necessary to achieve the purpose of this bylaw, such as but not limited to, the following:

-greater than minimum yard requirements;

-modification of exterior appearance;

-limitation of size, occupancy, or extent of facilities;

-regulation of traffic and site plan features including additional off-street parking;

-screening of parking areas or other premises from view by use of appropriate wall, fence, or planting;

-control of the number, location, size, and lighting of signs;

-additional design and siting modifications where appropriate.

c) To hear and decide petitions for variances in accordance with Section 10 of Chapter 40A of the General Laws, as amended from the terms of this Bylaw where the Board specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw, provided that;

1. No variance within the Water Supply Protection District will be allowed through the Zoning Board of Appeals without a written advisory report from the Board of Health. Review and recommendation of the Planning Board and the Conservation Commission shall also be considered in the granting of the variance.

d) To hear and decide appeals as provided in Chapter 40B of the General Laws.

8.3.3. Procedure

8.3.3.1. In exercising the powers granted by Section 8.3.2. above, the Board of Appeals shall act in accordance with the provisions of Sections 11, 14, 15 and 16 of Chapter 40A of the General Laws.

8.3.3.2. In granting any Special Permit, the Board of Appeals shall assure that the proposed use:

a) Will not be injurious or dangerous to the public health or unduly hazardous because of traffic congestion, danger of fire or explosion or other reasons.

b) Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.

c) Will be operated with reasonable regard for order and sightliness, if an open use.

d) Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.

8.3.3.3. Where action by the Board of Appeals is required under this Bylaw, a written application therefore shall be submitted by delivery or by registered mail (with return receipt requested) to the Clerk of the Board of Appeals or to such other person as the Board may have authorized to receive such applications. If submission is by delivery, the Clerk or other authorized person shall give a written receipt therefore, indicating the date of such submission. The Board of Appeals shall hold a public hearing with regard to any such application within sixty-five (65) days of the filing.

a) In the case of Special Permits under Section 8.3.2.1.b), the Board of Appeals shall act thereon within ninety (90) days of the filing of the application.

b) In the case of appeals or applications for variances under Sections 8.3.2.1.a) and 8.3.2.1.c), the Board of Appeals shall act within seventy-five (75) days of the filing of the application.

8.3.3.4. Should the Board of Appeals fail to act within the time limits specified above, the application shall be deemed approved and the Building Official/Zoning Officer shall, upon receipt of evidence of such submission and failure to act, issue forthwith a permit for the proposed use, provided such use is otherwise in conformity with this Bylaw.

8.3.3.5. Any approval granted by the Board of Appeals for a Special Permit shall lapse within two (2) years from the grant thereof and time for an appeal as provided in Section 17A of Chapter 40 A, if a substantial use thereof has not sooner commenced or, in the case of a permit for construction, if construction has not begun by that date. A Special Permit is further limited by the six (6) month period provided in Section 8.1.1.

8.4. Development Plan Review

8.4.1. Purpose

8.4.1.1. ***The purpose of the Development Plan Review process is to provide individual detailed review of certain uses and structures which have a substantial potential for impact upon the character of the Town and upon traffic and utilities therein, thereby affecting the public health, safety and general welfare thereof. The Development Plan Review process is intended to promote and protect the natural, environmental, scenic and aesthetic qualities of the Town of Lunenburg.***

a) The Planning Board shall publish a notice of the date, time, place and subject of an informational meeting regarding the Development Plan Review.

8.4.2. Application

8.4.2.1. A development plan approved in accordance with this Section is required before the issuance of a building permit for:

a) All uses in a Retail Commercial District encompassing more than five hundred (500) square feet of gross floor area (for new construction) or one thousand (1000) square feet of gross floor area (for expansion of existing construction) or requiring three (3) or more parking spaces and including expansion of an exterior use.

b) All uses in a Commercial District or Industrial District encompassing more than one thousand (1000) square feet for new construction, or more than two thousand five hundred (2500) square feet for expansion of existing construction of gross floor areas or, in any case, requiring six (6) or more parking spaces.

c) All uses in all Districts requiring a Special Permit or requiring ten (10) or more parking spaces.

d). Use of a Child Care Facility in a Residential District.

8.4.3. Contents

8.4.3.1. Each permit application shall be accompanied by a plan, prepared and certified by a professional architect, landscape architect, registered professional engineer or registered professional land surveyor. Said plan shall be drawn at a suitable scale, preferably one (1) inch equals forty- (40) feet, on sheets no larger than twenty-four (24) by thirty-six (36) inches. When more than one sheet is required, a key sheet shall be provided. The plan submission shall include the following:

8.4.3.1. continued

a) A plan or plans illustrating the following:

1. Location map at six hundred (600) feet per inch or such other scale as appropriate.

2. Name(s) of the owner(s) of property shown and the name of the applicant.

3. Lot boundaries, dimension and lot areas.

4. The use, ownership and zoning of the lot or lots subject to the application and of the adjacent land and the use of any buildings thereon within two hundred (200) feet of the subject property.

5. Existing and proposed vegetation, ground culture or surface, including wetlands.

6. Existing and proposed topography at two (2) foot intervals. Sufficient information to clearly indicate areas in the site, and within fifty- (50) feet of the site where gravel or loam removal or filling is proposed, and the approximate volume in cubic yards. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark (NGVD).

7. Existing and proposed easements, if any.

8. Existing and proposed watercourses, if any.

9. All existing and proposed buildings, structures, parking spaces, driveways, driveway openings, pedestrian walks, loading areas, service areas, landscaped areas and natural areas on the subject property and the dimensions thereof.

10. Proposed screening, surface treatment, exterior storage, lighting and landscaping, including fencing, walls, planting areas and signs.

11. All land subject to the Rivers Protection Act.

b) Facade elevations of any new construction and/or alteration to any existing building or structure, provided, however, that the Planning Board may waive this requirement.

c) Information describing proposed provisions for waste disposal, refuse removal, drainage, dust and erosion control and other utilities and their appurtenances.

d) Photographs showing the proposed building site and surrounding properties. Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.

e) One (1) or more tables indicating, by zoning classifications, the required and proposed setback, side yard and rear yard distances, the intended use of the site, existing and proposed floor area and the use or uses of the floor area by square feet and number of units and parking areas, with their location.

f) An Environmental Impact Statement prepared in accordance with the Planning Board Rules and Regulation For the Preparation of Environmental Impact Statements.

8.4.4. Submittal Procedure

8.4.4.1. Eight (8) copies of said plan shall be submitted to the Planning Board at a regularly scheduled meeting of the Planning Board.

a) In the case of a use not requiring a Special Permit, the Planning Board, within forty-five (45) days of the receipt thereof shall submit a report to the Building Inspector. Said report shall summarize the Board's finding with regard to the compliance of said plan with the provisions of the Zoning Bylaw and any recommendations of the Board to ensure that:

1. The proposed use will not adversely impact the neighborhood by causing damage on adjacent properties, lighting to shine on adjacent properties, increasing noise levels, or causing vehicular congestion.

2. There will be no nuisance or serious hazard to vehicles or pedestrians created by the layout of parking and loading area or of the access and egress to site.

3. Each site has one (1) entrance and one (1) exit, designed in accordance with the Design Requirements for Driveways and Entrances set forth in Section 6.4 of this Bylaw, either divided by a lane divider strip at least eighteen (18) inches wide or separated by a landscaped area provided, however, that the access and egress may be shared by more than one (1) use, provided that such shared access and egress is constructed at least to the standards for a common driveway as set forth within the Planning Board's Rules and Regulations Governing the Subdivision of Land. Any access or egress shall be located on a level area, at a location where adequate site distances are provided.

4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. Said facilities shall include:

i) Storage
ii) Refuse Storage and Removal
iii) Drainage
iv) Dust and Erosion Control
v) Water Supply
vi) Waste Water Disposal
vii) Power Supply

b) The Building Inspector shall not issue a permit until the report of the Planning Board shall have been received or more than forty-five (45) days shall have elapsed without receipt of such report.

c) In the case of a use for which a Special Permit is required, the Board of Appeals, upon receipt of an application and an acceptable descriptive plot plan, shall submit said plan to the Planning Board. The Planning Board, at or before the Public Hearing regarding said application, shall submit to the Board of Appeals, a report encompassing those terms delineated in Section 8.4.4.1.a) 1) - 4) above. Upon approval from the Zoning Board of Appeals, the Applicant will submit to the Planning Board under 8.4.3. and 8.4.4.

8.4.5. Requirements and Directives

8.4.5.1. A plan submitted under this Section shall meet the following requirements.

a) The plan submitted complies with Section 8.4.3.

b) Visual corridors are protected.

c) Landscaping is used to establish buffers between incompatible land uses, including plant type and location.

d) Open spaces and pedestrian amenities are available to the public.

e) Access points, service roads, driveways, parking areas, lighting and pedestrian walkways are arranged and provided in a manner which facilitates interior circulation and minimizes conflict between vehicles and pedestrians.

f) Ease of access, travel and on site movement for fire and police equipment and other emergency services for public safety.

g) Utilities are placed underground.

h) Surface run-off is minimized and the protection of the site and adjacent properties from erosion as a result thereof is assured.

i) The relationship of the buildings to the site, including the siting of buildings, structures and open spaces is designed to permit passive solar energy and to permit maximum protection of pedestrian areas from adverse impact of winds, vapors or other emissions, shadows and/or noise.

j) The relationship of the buildings and site to adjoining areas, including compatibility with the prevailing architectural style and landscape and suitable transition to adjoining properties.

k) Historical considerations and compatibility with abutting properties and the area in which it is located are respected.

l) Provision is made for maintenance of common areas and special features.

m) The design of parking and off-street loading areas complies with the "Regulations of the Planning Board of the Town of Lunenburg Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas".

n) The landscaping complies with the Planning Board Guidelines for Non-Residential Landscaping".

o) Architectural style, including facades, are consistent within the development and with the character of Lunenburg, as determined by the Planning Board.

p) Alteration of the topography is limited as nearly as possible to that which is necessary for the provision of access.

q) Appropriate surface treatment, landscaping, fencing, walls, planting areas and signage is provided, in accordance with this Bylaw and the applicable Regulations of the Planning Board.

r) Adequate size, location and screening of exterior and outside storage and service areas is provided in accordance with this Bylaw and the determination of the Planning Board.

s) Appropriate provision is made for waste disposal, water supply, refuse removal, drainage, dust and erosion control and other utilities and their appurtenances, in accordance with the Bylaw, other applicable Town regulations and other applicable regulations of the Planning Board.

t) Adverse impacts identified in the "Environmental Impact Statement" are mitigated.

u) Construction of utilities, including drainage, conform to the applicable sections of the Lunenburg Planning Board Rules and Regulations Governing the Subdivision of Land".

v) Project Review, Development and Construction shall be monitored in accordance with the “Monitoring and Inspection Procedures and Fee System of the Lunenburg Planning Board”.

8.4.5.2. The Planning Board may request mitigations measures for public facilities, municipal infrastructure and services, and/or equipment to offset the effect of the development of the community.

8.4.6. Review

8.4.6.1. In reviewing applications under this section, the Planning Board may require modifications, conditions and safeguards reasonably related to the environmental impact and design standards of this section.

8.4.6.2. If the Development Plan or Environmental Impact Statement complies with the Section 8.4.3.1.f.), it may be approved or approved with conditions, if needed to assure compliance. If it does not comply with the purposes and specifications of this Section 8.4., it may be disapproved. If disapproved, the plan or statement can be revised and resubmitted without prejudice.

8.5 Applicability

8.5.1. Effective Date

8.5.1.1. The effective date of this Bylaw or any amendment thereof shall be the date such Bylaw or amendment is adopted by vote of Town Meeting.

8.5.2. Other Regulations

8.5.2.1. Nothing contained in this Bylaw shall be construed as repealing any existing Bylaw or regulation of the Town, but shall be in addition thereto; provided that whenever this Bylaw imposes greater restrictions upon the construction of buildings or structures, or upon the use of buildings, structures or land than other Bylaws or regulations, such greater restrictions shall prevail.

8.5.3. Invalidity

8.5.3.1. The invalidity of any Section or provision of this Bylaw or of any District or part thereof as shown on the Protective Bylaw Map, shall not affect the validity of any other Section or provision of said Bylaw or of another District or part thereof on said Map.

8.6. Adoption Amendment

8.6.1. This Bylaw shall be adopted and may be from time to time changed by amendment, in accordance with the provisions of Section 5 of Chapter 40A of the General Laws.