

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX

TOWN OF LINCOLN

ZONING BY-LAW

Originally adopted March 4, 1929 and thereafter amended

Latest amendment March 23, 2019

Price - \$10.00

SUMMARY OF ZONING HISTORY IN LINCOLN

(This summary is included for convenience only and is not intended to be a part of the Zoning By-law.)

March 4, 1929

(Approved by Attorney General April 24, 1929)

First zoning by-law adopted by the Town. Major features as follows:

- (1) Town divided into four districts: (a) Single Residence; (b) General Residence; (c) Business; (d) Light Industrial.
- (2) Area regulations as follows: (a) One-family house - not less than 10,000 square feet; (b) Semi-detached house - not less than 12,000 square feet; (c) Two-family house - not less than 12,000 square feet.
- (3) Percentage of lot to be covered by the structure shall be not more than: (a) One-family house - 20%; (b) Semi-detached or two-family house - 25%; (c) Apartment house - 40%; (d) In business and industrial districts no buildings shall cover more than 70% of a corner lot or more than 60% of an interior lot.
- (4) Yard setbacks as follows: (a) Not less than 25 feet between the building and the line of way on which it fronts; (b) Not less than 30 feet between the rear line of the house and the rear lot line; (c) Not less than 20 feet between the side of the house and the side lot line.

March 2, 1936

(Approved by Attorney General April 3, 1936)

By-law amended. Principal changes as follows: (a) Establishment of a Board of Appeals; (b) Change in area for one-family houses to 40,000 square feet from 10,000 square feet; (c) Change in front yard requirements to 40 feet from 25 feet.

March 1, 1937

Establishment of a Planning Board. (Article 16 of the Annual Town Meeting.)

March 6, 1944

(Approved by Attorney March 14, 1944)

By-law amended. Principal changes as follows: (a) Minimum frontage of 40 feet on a street or way required; (b) Distance through dwelling, from side lot line to side lot line, must be at least 120 feet

March 7, 1949

(Approved by Attorney General June 15, 1949)

By-law amended. Principal change was increase in frontage requirements from 40 feet to 80 feet.

March 2, 1953

(Approved by Attorney General May 7, 1953)

Complete revision of By-law principally for purposes of clarification. Major changes were: (1) Change of zoning districts from 4 to 3, namely: (a) Single Residence, (b) General Residence, (c) Commercial; (2) Percentage of lot covered by buildings - not more than 25%; (3) Side yard or rear yard minimum increased to 30 feet from 20 feet previously required for side yards; and (4) Distance through dwelling from side lot line to side lot line increased to 160 feet from 120 feet.

June 6, 1955

(Approved by Attorney General August 1, 1955)

By-law amended. Principal changes were: (1) Change in area requirements in single residence districts from 40,000 square feet to 80,000 square feet; (2) Change in frontage requirement from 80 feet to 120 feet; (3) Distance through structure from 160 feet to 250 feet; (4) Change in front yard requirement from 40 feet to 50 feet; (5) Change in side or rear yard requirement from 30 feet to 50 feet.

March 21, 1956

(Approved by Attorney General April 26, 1956)

By-law amended. Establishment of requirements for parking spaces in buildings in commercial district - to be at least 3 times the ground floor area of all buildings or parts thereof.

December 13, 1960

(Approved by Attorney General January 27, 1961)

General revision and clarification of By-law. Town divided into six districts: (a) Single Residence; (b) General Residence; (c) Retail Business (from Commercial); (d) Service Business; (e) Selected Light Industrial; (f) Open-Space Conservation. Provision was also made for garden apartments of not more than four units to be built in General Residence districts with Board of Appeals approval.

November 26, 1962

(Approved by Attorney General April 3, 1963)

By-law amended. Principal changes: (1) Garden apartments allowed in General Residence District with no limit on number of units. Board of Appeals approval no longer necessary; (2) For lots put to multiple residence use - a minimum area of 10,000 square feet per dwelling unit for lots used for 2 or 3 dwelling units, and of 8,000 square feet per dwelling unit for lots used for 4 or more units.

March 16, 1964

(Approved by Attorney General April 7, 1964)

By-law amended. Principal change was provision for use of cluster development in certain cases, subject to permission of the Board of Appeals.

June 7, 1965

(Approved by Attorney General September 15, 1965)

By-law amended. Minor changes only. (Elimination of various structural requirements included in new building code, etc.)

March 29, 1971

(Approved by Attorney General May 4, 1971)

By-law amended. Principal change was provision for Open Space Residential Development (OSRD) under certain circumstances, subject to permission of Board of Appeals. Minor changes were also made in the cluster development requirements as follows: (1) minimum area of lot reduced to 35,000 square feet; (2) Minimum amount of open land increased to 35% of land area of the tract; (3) Clarification of provision for ownership of open land.

March 25, 1972

(Approved by Attorney General June 5, 1972)

By-law amended. The principal change was provision for the construction of subsidized housing for persons of low and moderate income (PCD) under certain conditions, subject to permission of the Board of Appeals. Changes were also made in the section dealing with parking regulations.

June 7, 1972

(Approved by the Attorney General October 16, 1972)

By-law amended. Principal change provided for the establishment of apartments in single family residences, under certain conditions, subject to the permission of the Board of Appeals. Standards were also voted for certain uses permitted in a single family residence district subject to the permission of the Board of Appeals. In addition to the by-law changes, the zoning map of the Town was amended to show an area designated as R-3 and an area shown as R-4.

March 24, 1973

(Approved by Attorney General July 30, 1973)

By-law amended. Only change was a reduction in the parking area required in a B-1 Retail Business district.

December 3, 1973

(Approved by Attorney General March 12, 1974)

By-law amended. The amendment provided for the establishment of a Wetland and Watershed Protection District as an overlay district, with regulations on the uses permitted within the boundaries of this district.

March 23, 1974

(Approved by Attorney General April 23, 1974)

By-law amended. Changes in the regulations governing uses in B-2 District.

March 25, 1978

(Approved by Attorney General June 8, 1978)

General revision of By-law in accordance with the requirements of Chapter 808 of the Acts of 1975, with the zoning map being revised to include the Federal Flood Plain Maps required by the Federal Flood Insurance Program. The principal change in the By-law is to permit the Planning Board, rather than the Board of Appeals, to issue special permits authorizing R-1 cluster developments. All dimensional restrictions are eliminated from the cluster provisions; instead, all development in a cluster is now subject to site plan approval.

June 20, 1978

(Approved by Attorney General September 21, 1978)

By-law amended. Number of detached single-family dwelling units permitted in an R-3 OSRD development changed from a maximum of 10% to a maximum of 20%. In addition the zoning map was amended to show the expansion of the R-3 district.

March 24, 1979

(Approved by Attorney General April 19, 1979)

By-law amended. Maximum area of an accessory apartment increased from 25% of total area to 35% with information on how the area is to be measured.

March 28, 1981

(Approved by Attorney General July 6, 1981)

By-law amended. The section pertaining to signs is completely revised. The result of this revision is to make requirements pertaining to signs more applicable to existing conditions and to allow the Planning Board to exercise discretion in certain cases.

June 18, 1981

(Approved by Attorney General October 9, 1981)

By-law amended. A change in Section 9.1 to permit certain retail establishments to conduct outdoor sales periodically, subject to a plan, including a site plan approved by the Planning Board.

March 26, 1983

(Approved by Attorney General May 9, 1983)

By-law amended. Establishment of a temporary Overlay District to be called "NL North Lincoln Planning District", only until final adjournment of the 1984 Annual Town Meeting, in order to impose a temporary moratorium within the District as far as residential development is concerned, so that studies of land use, traffic patterns, etc. may be carried out within this period. (The North Lincoln Planning District includes all land in the Town located north of the Cambridge Turnpike (Route 2) and all land within one hundred (100) feet of the southerly boundary of said Turnpike. Also amendments include change in Section 16.6(e) (Lighting for Signs), and an addition to Section 18 - General Regulations -, prohibiting the storage of more than two unregistered motor vehicles, except when special permits are issued by the Planning Board. (Section 23 - Definitions - now provides definition of what constitutes a motor vehicle.)

November 15, 1983

(Approved by Attorney General January 24, 1984)

By-law amended. Amendment to Section 14.3.2(a) - Accessory Apartment - to provide that the owner-occupancy requirement of this section shall not be applicable as long as the structures and lot are owned by the Town.

March 24, 1984

(Approved by Attorney General April 27 1984)

By-law amended. Amendment to Section 14.3.2(f) - Accessory Apartments changing date of existing building to January 1, 1984.

March 23, 1985

(Approved by Attorney General May 30, 1985)

By-law amended. Amendment to Section 14.3 - Accessory Apartment - to limit floor area of an apartment to 1200 square feet and to provide moderate income occupancy through a Housing Commission program.

April 4, 1986

(Approved by Attorney General July 1, 1986)

General revision. Town Meeting approved changes of a technical and clarifying nature. Substantive changes were made to Sections 4.5, 13.4 and 23.22. The Zoning Map was revised to eliminate the B-1 District on Rte. 2A in North Lincoln.

November 1, 1986

(Approved by Attorney General November 19, 1986)

By-law amended. Principal change provided for a NL-North Lincoln Planning District overlay district, with regulations on the uses permitted within the boundaries of this district and established two districts within the overlay district.

April 1, 1989

(Approved by Attorney General June 5, 1989)

General revision. Town meeting approved changes of a technical and clarifying nature. Substantive changes were made to Sections 6.6, 6.5.4, 17.

By-law amended. Section 6.6 changed the minimum acreage needed for cluster from ten (10) acres to four (4) acres.

By-law amended. Section 6.5.4 changed the minimum lot calculation to be dependent upon any connection being not less than 50' or constrained in length in order to determine lot size for dimensional and other constraints of the by-law.

By-law amendment. Section 17 was comprehensively revised and was approved as Section 17A exclusively for residential site plan approval.

March 24, 1990

(Approved by the Attorney General May 7, 1990)

By-law Amended: Principal change was designating Section 17, Site Plan Approval, applicable to all development in Lincoln by deletion of introductory paragraph designating Section 17 applicable to residential use only, and deletion of Section 17A in its entirety. Technical changes made to Section 3.

March 23, 1991

(Approved by Attorney General April 11, 1991)

General revision. Town meeting approved changes of a technical and clarifying nature regarding accessory apartments. Language in Sections 6.5.5, (Yards) 13.2 (Area, Frontage and Yard, Requirements in General Rules for Applying Development Regulations in all Districts), and 14.3 (Accessory Apartments in an R-1 District) changed to clarify that, where appropriate, a permit may be issued for an accessory apartment in an accessory structure which does not meet principal structure setbacks.

March 26, 1994

(Approved by Attorney General June 7, 1994)

By-law amended. Amendment to Section 6.6.2 (j) and 14.3.1 to allow special permitting of accessory apartments in R-1 Cluster Developments.

March 25, 1995

(Approved by Attorney General April 20, 1995)

By-law amended. Amendment to Section 6.3 (a) to allow that the minimum area of any lot used for a public safety facility shall be the greater of 80,000 square feet or four times the total floor area of the structure or structures. Amendment to Sections 14.3.2 (f) and 14.3 8 to allow the special permitting of accessory apartments in buildings constructed at least ten (10) years prior to the date of application. Amendments to Sections 5.4, 6.1, 6.2, 9.1, 11 and 19.1 to conform the By-law to the Massachusetts Enabling Act, which requires that religious and educational uses are to be allowed as of right in all zoning districts, and to provide a mechanism by which exemptions from zoning regulations, allowed by law for the benefit of religious and educational uses, may be granted by the Planning Board.

March 23, 1996

(Approved by Attorney General April 19, 1996)

By-law amended. Amendments to Section 5.4 and 19.1(e) to add the words "signage" and "frontage".

April 5, 1997

(Approved by Attorney General July 2, 1997)

By-law amended. Establish a new Wireless Communications Facilities Overlay District. Zoning map revised to show locations.

March 28, 1998

(Approved by Attorney General May 5, 1998)

By-law amended. Amendments to Section 12.6 Wireless Communications Facilities Overlay District.

March 27, 1999

(Approved by Attorney General July 8, 1999)

By-law amended. Amendments to Section 4 and 17 to provide site plan approval for large structures. Amend Zoning map to include North Lincoln Planned Development District No. 3 and establish district No. 3 for an Inn. Amend Section 12.2 W-Wetland protection to providing minimum contiguous developable area. Amendments to 12.6 Wireless communications. Clarifying amendments to Section 16 - Signs, Section 15.5 - parking, and 14.3 - Accessory apartments.

November 4, 2000

(Approved by Attorney General January 26, 2001)

By-law amended. Amendments to 12.6 Wireless communications adding new parcels.

March 24, 2001

(Approved by Attorney General June 29, 2001)

By-law amended. Amendments to Sections 9 and 10 to allow special permitting for restaurants in the B-1 and B-2 Business Districts. Amendment to Section 12.6.6(f) Wireless Communications conditions.

March 23, 2002

(Approved by Attorney General July 3, 2002)

By-law amended. Amendments to Sections 9 and 10 regarding restaurants. Amend 12.6 Wireless Communications adding new parcel, Amend Section 16, Signs.

March 29, 2003

(Approved by Attorney General June 12, 2003)

By-law amended. Amendments to "Big House By-law," Sections 4, 6, 13, 17. Delete Section 4.3.1, Nonconforming Uses. Add Section 4.6, Nonconforming Uses. Add Sections 6.0.1, 6.0.2, 6.0.3, 6.1.1 to R-1 Single Family Residence District. Amend Section 6.5.1, R-1 Development Regulations, Standard Development. Amend 6.5.6, Size of Structure. Amend Section 13.1.1, General Rules, adding 13.1.1a, 13.1.1b, and amending 13.1.2. Amend Section 17, Site Plans. Amend 12.6.2, Wireless Communications, adding new parcel. Add Section 12.6.6 (p), Wireless Communications Conditions, cell tower heights. Add Section 18.5, Fences. Amend Section 20.1, Members. Amend Section 23, Definitions, 23.2 and 23.4; Add Definitions 23.33 through 23.40.

March 27, 2004

(Approved by Attorney General July 1, 2004)

By-law amended. Add Section 12.7, South Lincoln Overlay District. Add 13.5 Exterior Lighting. Add definition of half story. Minor clarification to Sections 6.5.5, 6.3(b), 12.6.4, 12.6.2, 13.1.1b.

April 2, 2005

(Approved by Attorney General May 4, 2005)

By-law amended. Add Section 6.6.5 Cluster Lot Site Plan Review. Add Section 14.5 Inclusionary Housing. Amend Section 17.7, 17.7.1, 17.7.4(b), 17.7.4(g) Cluster Lot Site Plan Review. Add Section 21.7 Planning Board Associate Member. Replace Section 23 Definitions. Replace Figure 1. Technical Corrections to Sections 6.6.2(c)(iii), 7.2(b), 12.6.6(b), 13.4, 16.2, 16.4, 17.2, 17.3, and 18.5.5.6.

March 25, 2006

(Approved by Attorney General July 13, 2006)

By-law amended. Amend Section 13.3 Lot Coverage. Replace Section 16 Signs.

November 4, 2006

(Approved by Attorney General January 3, 2007)

Amended zoning map to include North Lincoln Planned Development District #5.

March 24, 2007

(Approved by Attorney General June 25, 2007)

By-Law amended. Amend Sections 6.1(g), 9.1(h), and 19.1(e) exempt uses site plan review. Amend Sections 12.6.4 and 12.6.6. wireless communications. Technical corrections to TOC and Sections 12, 6.3(a), 6.5.1, 12.7.2, 16.2, 16.5, and 23. Amend 6.6.2(h) iii conservation restriction for cluster open land.

March 29, 2008

(Approved by Attorney General April 29, 2008)

By-law amended. Amend Section 16.5 sign permits. Amend Section 17.7.3 preliminary meetings for site plan review.

March 28, 2009

(Approved by Attorney General May 7, 2009)

By-law amended. Technical correction to Section 16.6(d).

March 27, 2010

(Approved by Attorney General July 16, 2010)

By-law amended. Add new Section 12.8, SP – Solar Photovoltaic Facilities Overlay District, and add designated location to Zoning Map. Amend Section 12.3, FP - Flood Plain District, and incorporate FIRM by reference in Zoning Map. Amend Section 5.1 concerning agriculture-related uses, Section 12.6.6 concerning wireless communication facilities, adding a further condition (s), Section 13.2.7 concerning front yard setbacks, and Section 21.4 concerning the timeframe for certain decisions.

March 26, 2011

By-law amended. Delete Section 12.1, C-Open Space Conservation District. Delete Section 11, B-3 Selected Light Industrial District. Delete Section 12.4, H-Historic District. Delete Section 16.3(d) Sign Permits. Amend Sections 6.0.1, 6.0.1 (a), 6.0.1(b), 6.0.2, 6.0.3, 6.1 (g), 6.1 (h), and 6.2. to clarify treatment of uses. Amend Section 12.6.7 concerning fees. Technical correction to Section 13.2.5. Add new Section 16.2(e), Sign Permits.

March 24, 2012

By-law amended. Add Section 12.6.6(t) to increase the wireless cell facility setback. Amend Sections 4.6.1, 6.0.1, 6.0.2 and 18.1 to prohibit the stockpiling of fill without permitting.

March 23, 2013

By-law amended. Add new Section 12.4 Aquifer Protection & Watershed Protection Overlay Districts and amend the Zoning Map to add the overlay map entitled "Town of Lincoln Massachusetts, Zoning Map Aquifer & Watershed Protection Overlay Districts". Add new Section 13.6 Solar Energy Systems and amend Section 13.1.2 to delete solar panels from this section.

March 29, 2014

By-law amended. Amend Sections 7.3.1, 8.3.1, 9.3.1, and 10.4.1 regarding height of structures. Add new Section 13.7 Site Plan Review. Amend Section 6.0.2. Amend Section 12.3 to update Flood Plain District.

March 28, 2015

By-law amended. Amend Section 10.1 and 10.2 by adding permitted uses to the B-2 Service Business District. Amend Section 15.3.2.1(e) to relax parking requirements for service establishments and retail businesses.

March 19, 2016

(Approved by Attorney General April 12, 2016)

By-law amended. Amend Section 13.5 Exterior Lighting and Section 23 Definitions to include definitions for Fully Shielded Light Fixture, Light Fixture, and Lamp.

March 25, 2017

By-law amended. Amend Sections 6.1 (uses permitted), 62 (special permits) and 23 Definitions to allow certain commercial farming by right and other commercial farming with a special permit on lots containing at least 80,000 square feet. Amend Sections 13.6.3, 13.6.4 and 13.6.5 to provide more flexibility in solar installations. Delete Section 14.3 Accessory Apartments in an R-1 district, in its entirety, and replace it with a new Section 14.3 to reorganize the section and to be consistent with the Department of Housing and Community Development (DHCD) regulations, so that affordable accessory apartment units that are added in accordance with the terms of the Bylaw may be counted in the Town's Subsidized Housing Inventory (SHI). Add a new Section 18.6, Temporary Moratorium on Recreational Marijuana Establishments.

March 24, 2018

By-law amended. Amend Section 17.7.3 Procedures, to revise requirement for preliminary meeting, delete requirement of publication of notice in a newspaper, and to add a sunset provision after 5 years for residential properties with calculated gross floor area of less than 6500 square feet.
Section

October 20, 2018

By-law amended to prohibit all Recreational Marijuana Establishments effective upon passage by the voters at a Town Election and extending the existing temporary moratorium on Recreational Marijuana Establishments to June 30, 2019 or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier.

March 23, 2019

By-law amended. Amend Section 4.1.(c) to give non-conforming lot protection for a non-conforming lot that is decreased in size by a taking by or donation to the Town or other governmental entity for a public purpose. Amend Section 13.6 Solar Energy Systems to allow the sale of energy to the grid or other third party; add regulations for stand-alone Canopy/Carport structures; add a requirement for surety for abandonment and removal of commercial solar energy systems, and other clarifying language.

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ZONING BY-LAW OF THE TOWN OF LINCOLN

SECTION 1 PURPOSES. The purposes of this Zoning By-law (the "By-law") are to promote and conserve the health, safety, morals, convenience and general welfare of the inhabitants of the Town of Lincoln ("the Town"), to lessen congestion in the streets, to lessen the danger from fire and natural disasters, to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population, to encourage the provision of housing for persons of all income levels, to preserve and increase the amenities of the Town, to conserve natural conditions and resources, to conserve and protect public and private water supply, to facilitate the adequate provision of transportation, drainage, schools, parks, open space and other public requirements, to conserve the value of land and buildings, including the prevention of blight, excessive noise and pollution of the environment, to preserve historic sites, to improve and beautify the Town by encouraging the most appropriate uses of land within the Town, including consideration of a comprehensive or master plan, if any, adopted by the Planning Board or a regional planning agency.

In accordance with these purposes, the use, construction, erection, establishment, movement, repair, alteration, enlargement, height, location and occupancy of buildings and structures and the uses and occupancy of all land in the Town of Lincoln are hereby regulated and restricted as hereinafter provided.

SECTION 2 ZONING MAP. The map entitled Zoning Map of Lincoln, Mass., dated March 25, 1978 ("the Map"), and filed with the Town Clerk, together with amendments thereto and all explanatory data thereon are hereby made a part of this By-law.

2.1 Boundaries of Districts.

2.1.1 Where the boundary lines are shown upon the Map within the side lines of public and private ways, railroads or water courses, the center lines of such ways shall be the boundary lines.

2.1.2 Where the boundary lines are shown upon the Map, approximately on the location of property or lot lines, and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.

2.1.3 Boundary lines located outside of such side lines of public and private ways and shown approximately parallel thereto, which shall be regarded as parallel to such side lines, and dimensions shown in figures placed upon the Map between such boundary lines and side lines of public and private ways, are the distances in feet of such boundary lines from such side lines, such distances being measured at right angles to such side lines unless otherwise indicated.

2.1.4 In all cases which are not covered by other provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon said Map, by the use of identifications as shown on the Map, or by the scale of the Map.

2.1.5 Where a district boundary line (other than a boundary line for an overlay district) divides any lot existing at the time such line is adopted, the regulations for the less restrictive districts of such lot shall extend no more than twenty (20) feet into the more restrictive district, provided the lot has frontage in the less restrictive district.

Ref. Section 3.1.

2.1.6 Contour lines are of indicated elevation above the datum mean sea level of the U. S. Geological Survey.

2.1.7 Any change of the Zoning Map shall constitute an amendment of this By-law and the procedure for making such a change shall conform to the requirements for amending this By-law.

SECTION 3 ESTABLISHMENT OF DISTRICTS.

3.1 The Town of Lincoln is hereby divided into seven types of districts to be known in order from most restrictive to the least restrictive

R-1	Single Family Residence District	(Sect. 6)
R-2	General Residence District	(Sect. 7)
R-3	Open Space Residential Development (OSRD) District	(Sect. 8) R-
4	Planned Community Development (PCD) District	(Sect. 8)
B-1	Retail Business District	(Sect. 9)
B-2	Service Business District	(Sect. 10)
B-3	Selected Light Industrial District	(Sect. 11)

SECTION 4 NON-CONFORMING USES.

4.1 Any use or structure lawfully existing at the time of the adoption of the Town's Zoning By-law or any amendment thereto and any use or structure lawfully begun, or as to which a building or special permit has been issued, before the first publication of notice of the public hearing on this amendment to such by-law or any future amendment thereto, may be continued or completed although such structure or use does not conform to the provisions hereof or of such amendment; Provided that:

(a) Construction or use pursuant to such a building or special permit shall conform to the provisions of this By-law as amended unless the use or construction is commenced within a period of six months after issuance of the permit and, in cases involving construction, unless such construction is completed as continuously and expeditiously as is reasonable;

(b) Whenever a non-conforming structure or use has been changed to become more conforming, it shall not again revert to being less conforming.

(c) A non-conforming lot which is hereafter decreased in size loses its non-conforming protection under **Section 4.5**, except when such lot is altered by a taking, acquisition by, or donation to the Town or other governmental entity for a public purpose. A non-conforming lot which is hereafter increased in size may retain its non-conforming nature, provided that the Board of Appeals issues a special permit in accordance with **Section 20** hereof, permitting the area, frontage, width, yard and depth requirements to be those to which the lot was entitled immediately prior to such increase in size, including its determination that permitting such requirements will not be detrimental to the public safety and welfare and will be in harmony with the general purpose and intent of the By-law.

(d) Whenever a non-conforming use has been abandoned for a period of more than two years, it shall not be re-established and any future use shall conform to the Zoning By-law and any amendment thereto;

(e) Any change or substantial extension of a non-conforming use and any reconstruction, extension or structural change to a non-conforming structure which is either:

- i. for a substantially different purpose than the non-conforming use or structure or;
- ii. for the same purpose in a substantially different manner, or;
- iii. for a substantially greater extent than the non-conforming use or structure;

may be made only if a special permit pursuant to **Section 4.4** below, is granted.

All other reconstruction, extensions or changes of a non-conforming use or structure are permitted by right.

(f) Any reconstruction or repair of a partially destroyed, demolished or damaged structure put to a non-conforming use must be commenced within one year of such damage or destruction and the reconstruction completed and the same non-conforming use reinstated within two years of such damage or destruction.

- 4.2 A residence in a district where residences are permitted, but on a non-conforming lot, may be reconstructed, altered or repaired without change in the lot size.
- 4.3 A single or two-family residential structure may be the subject of alteration, reconstruction, extension or structural change provided that such alteration, reconstruction, extension or structural change does not increase the non-conforming nature of such structure.
- 4.4 The change or alteration of any non-conforming use or structure which is not otherwise permitted as a matter of right by the provisions of paragraphs **4.1(c)**, **4.1(e)**, and **4.3** hereof, may be extended, altered, reconstructed or repaired, provided that in each case the Board of Appeals, in accordance with the procedures and provisions of **Section 20** hereof, shall grant a special permit finding that such extension, alteration, reconstruction or repair is not substantially more detrimental to the neighborhood than the prior existing non-conforming structure or use.
- 4.5 A single-family or two-family residential lot established prior to June 6, 1955, and continuously existing without alteration since its establishment which complied with minimum area, frontage, width, yard and depth requirements in effect at the time such lot was established, may be used in accordance with such requirements as a non-conforming lot and need not comply with any subsequently adopted by-law or amendment which increases the area, frontage, width, yard or depth requirements applicable to such residential lot.
- 4.6 Any proposed alteration, extension, reconstruction or renovation of an existing building or accessory structure above natural grade subject to the requirements of **Section 4** that will result in: (a) the buildings and accessory structures on the lot having a calculated gross floor area in excess of 4,000 square feet or 8% of the lot area, whichever is greater; or (b) the buildings and accessory structures on the lot having a calculated gross floor area which exceeds 6,500 square feet shall require Planning Board site plan review and approval prior to the issuance of a Building Permit therefore, in accordance with **Section 17.7** of the By-law.
 - 4.6.1 No site alteration or site development work on a lot including, but not limited to, removal of vegetation, excavation, stockpiling of fill, or grading in preparation for, or anticipation of any alteration, extension, reconstruction or renovation of a building or structure subject to the requirements of this Section shall occur prior to a

Building Permit being issued for said building or accessory structure in accordance with **Section 4.6** of this By-law.

4.6.2 Removal of vegetation in the course of normal home maintenance, consistent with applicable by-laws, is allowed on a lot subject to **Section 4**.

4.6.3 No Certificate of Occupancy shall be issued by the Building Inspector for any building or structure subject to the requirements of **Section 4.6** until the Planning Board has issued a written determination that said building or structure and the lot upon which it occurs comply with the applicable site plan approved in accordance with said Section.

SECTION 5 **NEW CONSTRUCTION AND NEW USES.** No new structures shall be erected, constructed, established, altered, repaired, enlarged or moved, and no land shall be put to new use or shall be occupied except in conformity with the requirements, character and conditions laid down for each of the several districts established by this By-law. Any use not specifically listed herein or otherwise permitted in a district shall, to the extent permitted by law, be prohibited, provided that:

5.1 The use of land or the expansion, reconstruction or construction of structures for the primary purpose of commercial and non-commercial agriculture, horticulture, floriculture, aquaculture, silviculture, or viticulture on parcels of five acres or more shall not be prohibited in any district. Land divided by a public or private way or a waterway is construed as one parcel.

5.2 Nothing in this By-law shall be construed to regulate or restrict the interior area of a single-family residential building.

5.3 Nothing in this By-law shall be construed to prohibit, regulate or restrict the use of land or structures for 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 religious sect or denomination, or by a non-profit educational corporation.

5.4 Notwithstanding the foregoing, land or structures described in **paragraphs 5.1, 5.2 and 5.3** of this section shall conform to all regulations concerning the bulk and height of structures, yard sizes, lot area, setbacks, frontage, open space, width of lot through the building, signage, parking and building coverage of the district in which the land lies, provided however, that in the case of land or structures referred to in **paragraph 5.3**, such development regulations may be determined by the Planning Board to be inapplicable in whole or in part pursuant to **Section 19.1(e)** below.

SECTION 6 **R-1 SINGLE-FAMILY RESIDENCE DISTRICT.** The R-1 District is intended as a district of single family homes with not more than one dwelling unit and accessory structures upon one lot (except as may be permitted under **Sections 6.6, 14.3 and 14.4** below).

6.0.1 No site alteration or development work including, but not limited to removal of vegetation, excavation, stockpiling of fill, or grading, shall be performed on an undeveloped or vacant lot prior to Planning Board approval of a site plan therefor, in accordance with **Section 17.7** of this By-law.

6.0.1.a For purposes of **Section 6.0.1**, an “undeveloped” lot shall mean a lot upon which a structure has never existed..

6.0.1.b For purposes of **Section 6.0.1**, a “vacant” lot shall mean a lot upon which one or more structures have been removed, torn down or otherwise removed such that no structures exist upon said lot.

6.0.2 No site alteration or development work on a lot including, but not limited to: removal of vegetation, excavation, stockpiling of fill, or grading, shall occur prior to Planning Board approval of a site plan in accordance with **Section 17.7** of this By-law in preparation for, or anticipation of, construction, alteration, extension, reconstruction, or renovation of a structure above grade when (a) the proposed calculated gross floor area for the structures on the lot exceeds 4,000 square feet or 8% of the lot area, whichever is greater; or (b) the proposed calculated gross floor area of the structures on the lot equals or exceeds 6,500 square feet.

6.0.3 Removal of vegetation in the course of normal home maintenance, consistent with applicable by-laws, is allowed on a lot subject to **Sections 6.0.1** and **6.0.2**.

6.1 Uses Permitted:

(a) one building containing one dwelling unit used as a single family residence;

(b) rooming or boarding house for not over three lodgers;

(c) museums and libraries owned and operated by the Town or by a public charitable organization with respect to which the Town elects or appoints members of the governing board, and parks, playgrounds, conservation area, water supply areas and land owned and operated for the public enjoyment or service by a public or semi-public agency;

(d) preservation of a lot in its natural conditions; fields, pastures and wood lots; orchards, nurseries, truck gardens and farms, but not including farms operated in substantial part for disposal of garbage, sewage, offal or renderings; greenhouses for private uses; keeping of pets and farm animals for residents' use; sale or the offering for sale of farm produce by an owner, resident tenant, lessee or licensee of the land in the Town provided that, for parcels under five acres, a majority of the proceeds results from the sales of products raised within the Town;

(e) the commercial keeping, raising, breeding or training of farm animals, except pigs, for food, fiber or other agricultural purposes on lots between 2 acres and 5 acres, generating sales less than \$5,000.00 per acre annually which shall be calculated as the average of the previous three consecutive years. Proper enclosures and generally accepted agricultural practices shall be used. Commercial animal farmers will contact the Animal Inspector to set up annual inspections.

The annual sales limit shall be adjusted in January using the CPI-U Index from December and compounded annually.

(f) commercial greenhouses on parcels between 2 acres and 5 acres, generating annual sales less than \$5,000.00 per acre.

For purposes of 6.1(e) and 6.1(f) above, a lot that contains 80,000 square feet shall be considered to be 2 acres.

(g) accessory uses on the same lot, if entirely auxiliary to uses as permitted in **6.1(a) through 6.1(f)**;

(h) professional office, studio, laboratory, and workshop accommodating occupations customarily conducted in Lincoln in a residence or building accessory thereto by a person residing on the premises, provided that:

i. such use is clearly incidental and secondary to the use of the premises for residential purposes;

ii. not more than one person other than residents of the premises is engaged in the conduct of the home occupation, whether as an employee or otherwise;

iii. no offensive noise, vibration, smoke, dust, odors, heat, glare or unsightliness is produced;

iv. there is no public display of goods or wares and there are no signs except as permitted in **Section 16**;

v. there is no exterior storage of material or equipment (including the parking of more than one commercial vehicle) and no other exterior indication of such use or variation from the residential character of the premises;

vi. there are adequate off-street parking spaces for employees and for visitors in connection with the home occupation which does not substantially alter the appearance of the premises as a single family residence.

vii. such use does not require the parking of more than four vehicles used by persons engaged in the occupation, clients, customers or patients on a regular basis;

viii. traffic generated by such use is not inconsistent with traffic usually associated with a single family residence.

(i) religious or educational uses governed by **M.G.L. c. 40A, s. 3** (see Section 19.1.e)

(j) other uses that cannot be prohibited under **M.G.L. c.40A, s.3**.

6.1.1 No Certificate of Occupancy shall be granted by the Building Inspector for a building or structure, subject to the requirements of **Sections 6.0.1** and **6.0.2**, until the Planning Board has issued a written determination that said building or structure and the lot upon which they occur complies with the applicable site plan approved in accordance with said Section.

6.2 The following uses require a Special Permit from the Board of Appeals, as provided in **Section 20** below, with the written advice of the Planning Board in each case, and when pertaining to agriculture, the additional written advice from the Agricultural Commission. See **M.G.L. c.40A, s.3** for specifically described uses that may be exempt from this special permit requirement.

(a) hospital, sanitarium, nursing home or charitable institution other than those defined in **Section 5.3**;

- (b) use of land or structure by a public utility or by the Town;
- (c) community club or country club and golf course not conducted for profit;
- (d) commercial greenhouses on parcels under 5 acres generating annual sales greater than \$5,000.00 per acre;
- (e) the commercial raising, keeping, breeding or training of farm animals for food, fiber, or other agricultural purposes, on parcels under 5 acres, generating sales greater than \$5,000.00 per acre annually which shall be calculated as the average of the previous three consecutive years.
- (f) the commercial raising, keeping, and breeding of pigs.
- (g) the boarding, training, raising, or breeding of dogs other than farm dogs or any dogs for the residents' own use as pets, or the offering for hire of riding horses other than for residents' own use.
- (h) private, non-commercial radio and television towers; provided that a permit to erect and maintain such a tower in connection with the operation of an amateur radio station shall not be denied unless the safety of the public will be endangered by such erection or maintenance;
- (i) any museum or library not referred to in **Section 6.1(c)** or **6.1(i)** above;
- (h) any occupation which otherwise meets the requirements of **Section 6.1(h)** but which requires the parking of more than four motor vehicles on a regular basis or with respect to which more than one person other than the residents of the premises is engaged in the conduct of such occupation;
- (i) an occupation not currently customarily conducted in a residence in Lincoln which is customarily conducted in residences in other communities, and which is as consistent with the residential character of the premises as those occupations permitted under **Section 6.1(f)**, provided that the requirements of **Section 6.1(h), (i - viii)** are met.

6.3 Any structure built after June 7, 1972, or substantially altered after June 7, 1972 to accommodate a use allowed in **6.2 (a-i)**, must comply with the following additional development regulations in order to carry on any of the special permitted uses listed in **Section 6.2 (a) through (i)**.

- (a) the minimum area of any lot shall be the greater of 80,000 square feet or ten times the total floor area of the structure or structures on such lot (for purposes of this section the total floor area of any structure shall be the gross floor area and shall include the gross floor area of any basement or attic); provided that the minimum area of any lot used for a public safety facility shall be the greater of 80,000 square feet or four times the total floor area of the structure or structures on such lot;
- (b) any structure and the lot on which it is located shall comply with the height, frontage and yard requirements applicable to the R-1 District, except that the Board of Appeals may, as a condition to granting the special permit, impose lower height restrictions and greater yard and frontage requirements if, owing to the size of the structure such restrictions or requirements are appropriate to prevent the structure from adversely affecting adjacent property.

- 6.4 In connection with the application for a special permit for any use which is subject to **paragraph 6.3** above, the applicant shall submit a complete site plan prepared in accordance with **Section 17** below and elevations of the proposed structure. No permit for any such use shall be valid unless such site plan and elevations (or a modification thereof approved by the Board of Appeals) is specifically incorporated by reference in such permit and unless the structure, when built, conforms to such site plan and elevations.
- 6.5 R-1 Development Regulations - Standard Development
- 6.5.1 Height
- 6.5.1.a The height of any structure constructed before April 5, 2003 shall not exceed 36 feet, as measured in accordance with **Section 13.1.1.a**.
- 6.5.1.b** The height of any structure constructed after April 5, 2003 shall not exceed 36 feet or 2 1/2 stories which ever is less, as measured in accordance with **Section 13.1.1.b**. **(See figure 5 at end of the bylaw)**
- 6.5.2 Area - The minimum area of any lot shall be 80,000 square feet. Also refer to **Section 12.2.4** for lots within the W-Wetland and Watershed protection District.
- 6.5.3 Frontage - The minimum street frontage shall be 120 feet.
- 6.5.4(a) Width of lot - The minimum width of a lot between any point on any side lot line and any point on the other side lot line measured through any point on the principal building shall be 250 feet. **(See figure 1 at end of by-law.)**
- 6.5.4(b) Whenever any two points on lot lines shall be less than (50) feet apart, measured in a straight line, except where the distance between such points, measured along the perimeter of the lot, is less than one hundred fifty (150) feet, then no part of the smaller portion of the lot which is bounded by such straight line and such lot lines shall be considered in computing area, frontage, setback or other dimensional requirements of the Zoning By-law. **(See figure 2 at end of by-law.)**
- 6.5.5 Yards - The minimum front, side, and rear yard is 50 feet for a residential principal structure (a principal structure that is used primarily for residential purposes). The minimum front, side, and rear yard is 75 feet for non-residential principal structures and for structures that are not accessory to residential use, notwithstanding the provisions of **Section 13.4**.
- 6.5.6 Size of Structure. - No structure in existence on April 5, 2003 which exceeds the size thresholds contained in **Section 6.0.2** shall be deemed non-conforming if the property is otherwise in compliance with the applicable dimensional requirements of this By-law.
- 6.6 Development Regulations - R-1 Cluster Development
- 6.6.1 For the purpose of promoting the more efficient use of land in harmony with its natural features, an owner or owners of a tract of land situated within the R-1 Single Residence District, or a duly authorized agent of such owner or owners, may make application to the Planning Board for a special permit exempting such land from the lot area and frontage, yard, widths of lot requirements of **Section 6.5** and **Section 13.2.6** and from the requirements of **6.1(a)** that there shall be no more than one dwelling unit per lot. Such application shall be accompanied by a site

plan for approval by the Planning Board in accordance with **Section 17 (site plans)** below, and shall include all information required by Planning Board Rules and Regulations Governing the Subdivision of Land and the Laying Out of Ways.

6.6.2 After submission of fees by the applicant, publication of notice and a public hearing, the Planning Board may, after due consideration of the reports and recommendations of the Conservation Commission and the Board of Health, grant such a special permit provided that:

(a) it finds that the proposed plan is in harmony with the purposes and intent of this By-law and this Section;

(b) the area of the tract of land is not less than one hundred sixty thousand (160,000) square feet;

(c) the number of lots on which there is to be a single dwelling unit plus the number of dwelling units proposed to be located on lots containing more than one dwelling unit does not exceed the number of lots upon which dwellings could be constructed on the total land area of the tract which is usable for residential construction without reference to this **Section 6.6**, under applicable laws, as determined by the Planning Board with reference to:

- (i) (6.5) R-1 development - standard regulations;
- (ii) Subdivision control law;
- (iii) Definition of Land Usable for Residential Construction (**Section 23**);
- (iv) All other applicable laws:

(d) each of the lots shown on the plan has reasonable frontage on a public or private way deemed adequate by the Planning Board;

(e) each lot is of a size and shape to provide a building site as shown on an approved site plan by a building envelope within which a building may be built which shall be in harmony with the natural terrain and other features of the tract;

(f) the front, side and rear yards of each lot shall be shown on said approved site plan by dashed lines indicating the building envelope;

(g) provision shall be made so that at least 35% of the total land area of the tract, exclusive of land set aside for road area, shall be Open Land, and that the Open Land shall include all land not dedicated to roads or building lots;

(h) provision shall be made so that Open Land shall be owned:

- i. by the Town;
- ii. by the Lincoln Land Conservation Trust; or
- iii. an association of the land owners approved by the Planning Board, that grants a permanent conservation restriction to either the Town or the Lincoln Land Conservation Trust. The conservation restriction shall include easements for recreational use by residents of the Town, and shall provide sufficient rights to the Town to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit;

(i) provision shall be made so that Open Land shall be restricted to any one or more of the uses allowed in a C-Open Space Conservation District, except that,

subject to the approval of the Board of Health, the Planning Board may permit the Open Land to be used for subsurface waste disposal where it finds that such use will not be detrimental to the character or quality of the Open Land; and

(j) all dwelling units shall be in detached buildings and there shall not be more than one dwelling unit in a building except as allowed in **Section 14.3.1**.

6.6.3 The Planning Board may impose further restrictions upon the tract as a condition to granting the special permit as the Planning Board shall deem appropriate to accomplish the purposes of this By-law.

6.6.4 In connection with issuing or denying a special permit under this section, the Planning Board shall issue to the applicant and shall file with the Town Clerk a written decision which shall include as a minimum:

(a) a determination of the area of the tract "usable for residential construction";

(b) a determination of the number of lots upon which dwellings could be constructed without regard to this section;

(c) a general description of the neighborhood in which the tract lies and the effect of the plan on the area;

(d) the relation of the plan to long-range plans of the Town, if any;

(e) that the plan is designed to take advantage of the natural terrain of the tract;

(f) that the proposed Open Land is of a size and shape to provide adequate access to benefit the Town;

(g) if the Planning Board grants the special permit, the finding required by **Section 6.6.2** above;

(h) if the Planning Board denies the special permit, its reasons for so doing;

(i) if the Planning Board disagrees with the recommendations of the Conservation Commission or the Board of Health, it shall state its reasons therefore in writing.

6.6.5 Upon approval of the cluster subdivision special permit by the Planning Board, development of individual lots within the cluster shall require site plan review in accordance with **Section 17.7** of this bylaw. Amendments or changes to approved site plans shall require Planning Board review in accordance with **Section 17.7** unless the Planning Board makes a determination such amendment or change is de-minimis as stated under **Section 17.7.4(g)**.

SECTION 7 **R-2 GENERAL RESIDENCE DISTRICT.** The R-2 General Residence District is intended as a district of single and two-family dwellings and limited type of multi-family development.

7.2 Uses Permitted:

(a) any use permitted in an R-1 Single Residence District subject to the same restrictions as are prescribed therein;

(b) two-family dwelling, provided that there shall be only one residential building per lot; and provided that no building permit for a two-family dwelling shall be issued unless a site plan has been submitted and approved in accordance with the provisions of **Section 17** below;

(c) limited type of multi-family development known as "garden apartments," "row houses," or "town houses," provided that no building permit for a multi-family development shall be issued unless a site plan has been submitted and approved in accordance with the provisions of **Section 17** below.

7.3. R-2 Development Regulations

7.3.1 Height - Structures shall not exceed 36 feet in height or 2-1/2 stories, whichever is less.

7.3.2 Area - The minimum area of any lot for each residential building in an R-2 general residence district shall be 12,000 square feet. For lots put to multiple residence use, there shall be a minimum lot area of 10,000 square feet per dwelling unit of lots used for two or three dwelling units, and a minimum lot area of 8,000 square feet per dwelling unit of lots used for four or more dwelling units.

7.3.3 Frontage - The minimum street frontage shall be 100 feet, or as approved in accordance with **Section 17** below.

7.3.4 Width of Lot - The minimum width of lot at building shall be 100 feet, or as approved in accordance with **Section 17** below.

7.3.5 Yards - The minimum front yard shall be 40 feet and the minimum side and rear yards shall be 30 feet, or, in both cases, as approved in accordance with **Section 17** below.

SECTION 8. THE R-3 AND THE R-4 DISTRICTS.

8.1 R-3 Open Space Residential Development District. The R-3 Open Space Residential Development (OSRD) District is intended to provide an alternative pattern of land development to the pattern permitted in the R-1 District. Specifically, it is intended to encourage the conservation of more significant common open space than is normally the case in an R-1 District, while at the same time providing for a greater mixture of housing types in certain districts in the Town, at somewhat greater dwelling unit densities than would be allowed in an R-1 district, without a significant increase in population density. This is intended to be done by allowing the construction of appropriate clusters of dwelling units which will not detract from the ecological and visual qualities of the environment. An Open Space Residential Development should result in:

- (a) conservation of significant tracts of open space;
- (b) efficient allocation, distribution and maintenance of common open spaces;
- (c) economic and efficient street, utility and public facility installation, construction and maintenance;
- (d) a variety of housing types and characteristics;
- (e) housing and land development harmonious with natural features;

(f) the development and maintenance of real property values consistent with the needs of the people of the Town.

8.1.2 Uses Permitted in an R-3 District:

Any use permitted in an R-1 Single Family Residence District subject to the same use and development restrictions as are prescribed therein.

8.1.3 Uses Permitted in an R-3 District Subject to Permission of the Board of Appeals:

Detached, semi-detached, and multi-family dwelling units provided that no building permit for a development which does not conform to the use and development restrictions of an R-1 District shall be issued hereunder unless a site plan has been submitted and approved under **Section 8.3 and Section 17** hereof, and the Board of Appeals has issued a special permit under **Section 8.4** below.

8.2 R-4 Planned Community Development District.

The R-4 Planned Community Development (PCD) District is intended either to achieve the purposes of the R-3 District or to permit the construction of a limited number of subsidized housing units for persons of low and moderate income while ensuring compliance with local planning standards and policies concerned with land use, building design, and requirements of health, safety and welfare of the inhabitants of the Town. Development in an R-4 should result in the construction of subsidized housing within the same general type of development pattern as an R-3, and except as otherwise provided, it is intended that an R-4 will conform to all of the objectives and restrictions of an R-3. Development in an R-4 should, insofar as practical, result in a mixture of residents of different income levels as well as a mixture of housing of different types. No more than half of the subsidized units in such a development shall be designed specifically for occupancy by persons of low income. Development in an R-4 PCD should not produce an excessive concentration of residents of one income level or housing of a single type.

8.2.1 Uses Permitted in an R-4 District:

Any use permitted in an R-1 Single Family Residence District subject to the same use and development restrictions as are prescribed therein.

8.2.2 Uses Permitted in an R-4 District Subject to Permission of the Board of Appeals:

Detached, semi-detached and multi-family dwelling units, provided that no building permit for a development which does not conform to the use and development restrictions of an R-1 District shall be issued hereunder, unless the Board of Appeals has issued a special permit under **Section 8.4** below, as modified by **Section 14.2** below, and a site plan has been submitted to and approved by the Planning Board in accordance with **Section 8.3** hereof.

8.3 Development Regulations for a Tract of Land Situated Within an R-3 OSRD District or an R-4 PCD District, not Subject to the Restrictions of the R-1 District.

8.3.1 The development regulations for the R-1 Single Residence District shall apply to any development in the R-3 or R-4 Districts unless an owner or owners of land (or their agent) in an R-3 or an R-4 district submits a site plan meeting the requirements of **Section 17** below to the Planning Board for its approval. After notice and public hearing, the Planning Board may approve such site plan, in accordance with **Section 8.3.2**, in which case the area of lots, the streetfrontage,

and yard sizes and the widths of lot at building shall be as shown on the site plan as approved; provided, however, that structures shall not exceed 36 feet in height or 2-1/2 stories, whichever is less.

8.3.2 The Planning Board may approve a site plan for an R-3 or R-4 development provided such site plan meets the requirements of **Section 17**, and provided further that:

(a) the area of the tract to be developed is not less than twenty-five (25) acres;

(b) the number of dwelling units to be constructed in the development does not exceed twice the number of lots upon which dwellings could be constructed in the total land area of the tract which is usable for residential construction if the tract were subject to the restrictions of the R-1 Single Family Residence District;

(c) not more than 20% of the dwelling units are detached single-family dwelling units;

(d) provision shall be made so that at least 70% of the Qualifying Land Area of the tract, and all land not usable for residential construction, shall be Open Land;

(e) provision shall be made so that the Open Land in the development shall be owned:

i. by the Town;

ii. by the Lincoln Land Conservation Trust; or

iii. an association of the owners of the land that may be approved by the Planning Board, with provisions for limited easements for recreational use by residents of the town, provided that such ownership shall vest in the town sufficient rights to enable it to enforce compliance with the restrictions imposed by the Board of Appeals as conditions of its special permit;

(f) provision shall be made so that the Open Land shall be restricted to any one or more of the uses allowed in a C-Open Space Conservation District, except that, subject to approval of the Board of Health, the Planning Board may permit the Open Land to be used for sub-surface waste disposal where it finds that such use would not be detrimental to the character or quality of the Open Land;

(g) each dwelling unit shall have reasonable access to the Open Land, but need not front directly on such Open Land;

(h) the size, shape and location of any buildings to be constructed are not detrimental to the neighborhood, are appropriate to the terrain in which they are located, and do not adversely affect the visual character of the neighborhood or the Town:

(i) the plan provides for the convenience and safety of vehicular and pedestrian movement on the site and for adequate location of driveways in relation to street traffic;

(j) the plan provides for an adequate arrangement and number of parking spaces in relation to the dwelling units to be constructed;

(k) the plan provides adequate methods on the site for waste disposal, surface and subsurface drainage;

(l) the plan provides for the construction of all roads and the installation of all utilities in accordance with this By-law and the rules and regulations as may be from time to time adopted by the Planning Board;

(m) the application sets forth a specific plan for maintenance of all Open Land, waste disposal and drainage facilities, roadways, and other improvements to be constructed in the development;

(n) the location and layout of the Open Land shall take into account, preserve, and where appropriate, promote such features of the tract as rivers, streams, ponds, marshes, wetlands, historic sites, wildlife refuges, unique geological or botanical areas or features, and existing or potential trails, paths and open space links;

(o) the plan provides Open Land which is of a size, shape and location, and has adequate access so as to benefit the Town and the residents of the development;

(p) the proposed plan is appropriate to the natural terrain of the tract to be developed;

(q) in the case of an R-3 development, the applicant demonstrates to the satisfaction of the Planning Board that the population density and traffic generated by the development will not be significantly greater than the population density and traffic generated by an R-1 development.

8.3.3 In connection with its approval or disapproval of a site plan submitted in accordance with this Section 8.3, the Planning Board shall issue to the applicant and file with the Town Clerk and the Board of Appeals a written decision explaining the reasons for its action.

8.4 Application to the Board of Appeals for Special Permit for Development in an R-3 or R-4 District.

8.4.1 An owner or owners of land situated within an R-3 OSRD District or an R-4 PCD District (including their authorized agent) in connection with the submission of R-3 or R-4 site plan for Planning Board approval and after consultation with the Board of Health, may make an application to the Board of Appeals for a special permit permitting development of the tract of land for conservation of open space and multi-family uses in keeping with the purposes of the R-3 OSRD District or the R-4 PCD District, as the case may be.

8.4.2 Each application for a special permit hereunder shall be accompanied by a written statement setting forth the reasons why, in the opinion of the Applicant, the proposed plan is in the public interest and consistent with the objectives of the R-3 OSRD District or the R-4 PCD District, as the case may be. Such application shall also be accompanied by an environmental impact statement in the form prescribed by the rules and regulations of the Planning Board governing the subdivision of Land (whether or not the development constitutes a subdivision).

8.4.3 Such application shall be accompanied by the site plan submitted to the Planning Board under **Section 8.3**, and shall include floor plans and elevations of all proposed buildings.

- 8.4.4 After notice and public hearing, and after due consideration of the recommendations of the Planning Board (see **Section 8.4.6** below), the Board of Health (see **Section 8.4.7** below), and the Conservation Commission, the Board of Appeals may grant such a permit provided that It finds that the proposed plan:
- (a) is in harmony with the purpose and intent of this By-law and will promote the purposes of the R-3 OSRD District or the R-4 PCD District, as the case maybe;
 - (b) does not have a detrimental impact on the neighborhood and is in harmony with the long-range plan of the Town;
 - (c) will not, during construction or thereafter, have an adverse environmental impact on the neighborhood or on any river, stream, lake, pond, marsh or other wetlands;
 - (d) will not adversely affect any potable water supply.
- 8.4.5 The Board of Appeals may impose further restrictions upon the tract as a condition to granting the special permit as the Board of Appeals shall deem appropriate to the purposes of this By-law.
- 8.4.6 In connection with an application for a special permit from the Board of Appeals under this section, the Planning Board shall, in addition to filing its decision with respect to the site plan, submit in writing, prior to the hearing, its recommendations to the Board of Appeals. The Board of Appeals shall give due consideration to the recommendations of the Planning Board and, where its decision differs from the recommendations of the Planning Board, shall state the reasons therefore in writing.
- 8.4.7 In connection with an application for a special permit from the Board of Appeals under this section, the Board of Health and the Conservation Commission shall submit in writing, prior to the hearing, their recommendations and reports to the Board of Appeals. The Board of Health and the Conservation Commission may supplement their reports within five days after the hearing. The reports shall include as a minimum:
- (a) an evaluation of the proposed methods for waste disposal, surface and subsurface drainage with particular reference to the protection which such methods afford to any river, stream, lake, pond, marsh, or other wetlands which may be affected by the proposed structures and use;
 - (b) a recommendation as to the advisability of granting the special permit, and as to any restrictions which should be imposed upon the development as a condition of such permit. The Board of Appeals shall give due consideration to the reports of the Board of Health and the Conservation Commission, and where its decision differs from the recommendations of the Board of Health or the Conservation Commission, shall state the reasons therefore in writing.
- 8.4.8 The application for any permit hereunder shall set forth the manner in which the applicant proposes to ensure that the development will be constructed in accordance with the plan, and any permit issued hereunder shall specify that no certificate of occupancy shall be signed by the Building Inspector until the Building Inspector has certified to the Board of Appeals that the premises to be occupied have been built in accordance with the approved site plan.

SECTION 9 B-1 RETAIL BUSINESS DISTRICT. The B-1 Retail Business District is intended for local retail shopping.

9.1 Uses Permitted: provided that no building permit for the uses listed below **(a - h)** shall be issued unless a site plan has been submitted and approved in accordance with the provisions of **Section 17 below**:

(a) store for retail sale of merchandise where all display and sales are conducted within a building, except as hereinafter provided in **subparagraph (h)** below, and where no significant manufacturing, assembly or packaging occur on the premises;

(b) barber shop, beauty shop, laundry and dry cleaning pick up agency, shoe repair, and other similar retail service establishment;

(c) business or professional office, or bank;

(d) rail or bus station or terminal;

(e) Post Office;

(f) uses accessory to the foregoing;

(g) retail establishments may, subject to such conditions as the Planning Board may impose, conduct outdoor sales periodically pursuant to a plan, including a site plan, submitted to and approved by the Planning Board showing the area in which the sale is to take place, the proposed dates and hours of operation, and any other pertinent facts.

(h) Religious or educational uses governed by **G.L. c. 40A, s 3**. (subject to **Section 19.1.e**)

9.2 Uses Permitted Subject to a Special Permit from the Planning Board:

(a) Restaurant or other food service establishment whose principal business is the sale of prepared foods or beverages that are either consumed on the premises or carried out by retail customers from the premises, provided that:

(i) the Planning Board grants a special permit in accordance with the provisions of **Section 21**. In granting, denying, or considering renewal of any such special permit, the Planning Board shall consider at least the following factors:

(A) the existence of safe vehicle access to and from local ways;

(B) the existence of safe pedestrian access to and from such site;

(C) the adequacy of provisions to reduce or eliminate undesirable visual, noise, odors or similar impacts upon adjoining properties and the public;

(D) if carry out or take out service is offered, the impact of those activities on traffic and parking;

(E) the adequacy of provisions for controlling and cleaning up on-site and off-site litter and debris;

(F) the existence of water and waste management plans for the premises which will minimize any adverse impact on natural and community resources;

(G) the adequacy of proper controls for containment of exhaust fumes or other emissions from the premises;

(H) the degree to which the business will recycle waste materials, will utilize recycled materials, and will utilize water conserving and energy efficient appliances and

(I) whether in all other respects the proposed project will be in harmony with the general purpose and intent of this by-law and not detrimental to the neighborhood or the Town.

Drive-in or drive-through services are expressly prohibited. Also expressly prohibited are drive-in or drive-through services offered as part of use that would be otherwise eligible for a special permit under this **section 9.2**. Drive-in or drive-through service is defined as the sale of food or beverages in a ready-to-consume state directly to a customer or delivery person in a motor vehicle.

Any special permit granted hereunder may contain such conditions, restrictions or requirements as the Planning Board deems appropriate to accomplish the purposes and intent of this Zoning By-law and to assure that the restaurant use will satisfy the criteria listed above. In connection with the application for a special permit for any restaurant use, the applicant shall also submit a site plan prepared in accordance with **Section 17** below, and no building permit for a restaurant shall be issued unless a site plan has been so submitted and approved by the Planning Board in accordance with the provisions of said **Section 17**. A special permit granted under this section cannot be transferred to a new operator. In case of a change in management, a new application for a special permit must be made.

9.3 Development Regulations for the B-1 District.

9.3.1 Height - Structures shall not exceed 36 feet in height or 2-1/2 stories, whichever is less.

9.3.2 Area - The minimum area of any lot shall be 6,000 square feet.

9.3.3 Frontage - The minimum street frontage shall be 50 feet.

9.3.4 Width of Lot and Yards - The minimum yards and width of lot at building shall be as shown on the approved site plan.

SECTION 10 B-2 SERVICE BUSINESS DISTRICT. The B-2 Service Business District is intended for buildings and uses providing goods and services for inhabitants of the Town.

10.1 Uses Permitted: provided that no building permit for the uses listed below (**a-i**) shall be issued unless a site plan has been submitted and approved in accordance with the provisions of **Section 17** below:

Any uses permitted and as regulated elsewhere in this By-law in an R-2 General Residence District.

10.2 Uses Permitted Subject to the Permission of the Board of Appeals, as provided in **Section 20** below, with the written advice of the Planning Board in each case:

- (a) service station or repair shop for motor vehicles, appliances and other light equipment, provided that, except for the storage of school buses, there shall be no storage of such motor vehicles, appliances, or other light equipment on the premises other than those in process of, or awaiting repair, or awaiting delivery or pickup after repair;
- (b) business or professional offices, or bank;
- (c) craft workshops, including retail sales of products produced on the premises;
- (d) sale and rental of light equipment;
- (e) barber shop, beauty shop, laundry and dry cleaning pick up agency, shoe repair, and other similar retail service establishment;
- (f) store for retail sale of merchandise;
- (g) light manufacturing and assembly generating no noise, smoke, odor or other offensive characteristics;
- (h) offices for general building, building maintenance, landscaping, electrical and similar contractors, including outdoor storage of supplies, tools, equipment and vehicles incidental to actual conduct of the activity;
- (i) rail or bus station or terminal.

10.3 Uses Permitted Subject to a Special Permit from the Planning Board:

- (a) Restaurant or other food service establishment whose principal business is the sale of prepared foods or beverages that are either consumed on the premises or carried out by retail customers from the premises, provided that:
 - (i) the Planning Board grants a special permit in accordance with the provisions of **Section 21**. In granting, denying, or considering renewal of any such special permit, the Planning Board shall consider at least the following factors:
 - (A) the existence of safe vehicle access to and from local ways;
 - (B) the existence of safe pedestrian access to and from such site;
 - (C) the adequacy of provisions to reduce or eliminate undesirable visual, noise, odors or similar impacts upon adjoining properties and the public;
 - (D) if carry out or take out service is offered, the impact of those activities on traffic and parking;
 - (E) the adequacy of provisions for controlling and cleaning up on-site and off-site litter and debris;
 - (F) the existence of water and waste management plans for the premises which will minimize any adverse impact on natural and community resources;
 - (G) the adequacy of proper controls for containment of exhaust fumes or other emissions from the premises;

(H) the degree to which the business will recycle waste materials, will utilize recycled materials, and will utilize water conserving and energy-efficient appliances and

(I) whether in all other respects the proposed project will be in harmony with the general purpose and intent of this by-law and not detrimental to the neighborhood or the Town.

Drive-in or drive-through services are expressly prohibited. Also expressly prohibited are drive-in or drive-through services offered as part of use that would be otherwise eligible for a special permit under **Section 9.2**. Drive-in or drive-through service is defined as the sale of food or beverages in a ready-to-consume state directly to a customer or delivery person in a motor vehicle.

Any special permit granted hereunder may contain such conditions, restrictions or requirements as the Planning Board deems appropriate to accomplish the purposes and intent of this Zoning By-law and to assure that the restaurant use will satisfy the criteria listed above. In connection with the application for a special permit for any restaurant use, the applicant shall also submit a site plan prepared in accordance with **Section 17** below, and no building permit for a restaurant shall be issued unless a site plan has been so submitted and approved by the Planning Board in accordance with the provisions of said **Section 17**. A special permit granted under this section cannot be transferred to a new operator. In case of a change in management, a new application for a special permit must be made.

10.4 Development Regulations for the B-2 District.

10.4.1 Height. - Structures shall not exceed 36 feet in height or 2-1/2 stories, whichever is less.

10.4.2 Area, Frontage, Widths and Yards- The minimum area, frontage, widths of lot at building and yards shall be in accordance with the approved site plan.

10.5 Permits for Uses in the B-2 District.

10.5.1 In granting, renewing, revoking or denying any special permit for a use in the B-2 District, the Board of Appeals shall, as a minimum, consider the following factors:

- (a) the traffic which the proposed use is expected to generate;
- (b) the adequacy of the off street parking and traffic circulation system provided;
- (c) the adequacy of the structure to accommodate the proposed use in a safe and convenient manner;
- (d) the adequacy of the screening provided to shield the use from adjoining lots or other uses;
- (e) the adequacy of walkways, entrances and other provisions for pedestrian movement;
- (f) the relation of the use to adjoining uses and to the surrounding neighborhood;

(g) the provisions made for water supply and the disposal of sewage, drainage, and trash;

(h) the appropriateness of the use in relation to the long range plans of the Town in light of the purposes of the B-2 District and of this By-law; and

(i) in the case of any application for the renewal of a special permit, the record of the applicant in complying with the provisions of the existing permit.

10.5.2 The Board of Appeals may permit more than one use on a lot or in a building provided it determines that such uses are compatible with each other and that the existence of such uses on the same lot or in the same building is consistent with the purposes of this By-law.

10.5.3 Any use which existed in the B-2 District on January 1, 1978, by right or special permit shall be entitled to continue in existence, but all renewals of such special permits shall conform to the provisions of this **Section 10**, and no such use shall be modified, extended or enlarged in any fashion without first obtaining a special permit from the Board of Appeals.

SECTION 11 RESERVED

SECTION 12. OVERLAY DISTRICTS. The W-Wetlands and Watershed Protection District, the FP-Flood Plain District, the NL-North Lincoln Overlay District, the WCF-Wireless Communications Facility Overlay District, the SL-South Lincoln Overlay District, and the SP-Solar Photovoltaic Facilities Overlay District are hereby established as overlay districts and shall be superimposed on other districts established by this By-law. Any land lying within such overlay districts shall be subject to the development and use regulations of the underlying district to the extent not inconsistent with the regulations for the applicable overlay district or districts and shall, in addition, conform to the requirements of the one or more overlay districts in which the land lies. In the event of any conflict between the provisions of two or more overlay districts, which apply to the same parcel of land, the conflict shall be resolved by applying the most restrictive provisions.

12.1 RESERVED

12.2 W-WETLAND AND WATERSHED PROTECTION DISTRICT.

12.2.1 Purpose. The W-Wetland and Watershed Protection District is intended to preserve and maintain the ground water table and water recharge areas for water supply purposes; to protect against pollution and contamination of the water supply; to protect persons and property against the hazards of flood water inundation by assuring the continuation of the natural flow patterns of streams and other water courses within the Town and by preserving natural floodwater storage areas and other areas subject to seasonal or periodic flooding or which may provide safe floodwater storage capacity; to protect the community against the costs which may be incurred by the detrimental or unsuitable use or development of lands in or adjoining wetlands such as streams and other water courses, swamps, marshes, bogs, ponds or areas subject to flooding; to conserve natural conditions, wildlife, open space and generally the amenities of the Town; and otherwise to preserve, protect and promote the health, safety and welfare of the inhabitants of the Town and the public.

12.2.2 Uses Permitted. The following uses are permitted provided that any and all necessary permits, orders or approvals required by local, state or Federal law shall have been obtained:

- (a) conservation of soil, water, plants and wildlife;
- (b) outdoor recreation, including play and sporting areas nature study, boating, fishing and hunting where otherwise legally permitted;
- (c) flower or vegetable gardens, lawns, pastures, forestry, grazing and farming, including nurseries, truck gardening and harvesting of crops;
- (d) duck walks, landing, foot, bicycle and/or horse paths and bridges; and small structures for non-commercial recreational uses;
- (e) dams, excavations, or changes in water courses to create ponds for swimming, fishing or other recreational or agricultural use, scenic features or for drainage improvements;
- (f) driveways and roads where alternative means of access are inappropriate and not reasonably feasible.

12.2.3 Uses Permitted Subject to Permission of the Board of Appeals. The following uses are permitted only upon special permit issued by the Board of Appeals in accordance with **Section 20** hereof and subject to any additional conditions imposed pursuant hereto.

12.2.3.1 Any use permitted in the underlying District in which the land is situated subject to the same use and development regulations as may otherwise apply thereto and subject to the following conditions provided that any and all necessary permits, orders or approvals required by local, state or Federal law shall have been obtained and provided further:

- (a) that the Board of Appeals finds that the proposed use will not be significantly in conflict with the purposes set forth in **Paragraph 12.2.1 above** and **Section 1** of this By-law;
- (b) that prior to submitting an application to the Board of Appeals for a special permit hereunder, the applicant or applicants seeking such a permit shall consult with the Conservation Commission and shall submit an environmental impact statement to said Commission in such form as it may require;
- (c) that each application to the Board of Appeals for a special permit hereunder (copies of which shall also be delivered to the Planning Board, Conservation Commission and Board of Health) shall be accompanied by a copy of the environmental impact statement referred to above in the form approved by the Conservation Commission and by a statement setting forth in detail the reasons why the proposed use will not be significantly in conflict with the purposes set forth in **Paragraph 12.2.1 above**;
- (d) that, prior to the public hearing before the Board of Appeals, the Conservation Commission shall submit its written recommendations and report to the Board of Appeals. The report may be supplemented within five (5) days after said public hearing, but must include as a minimum the following:

- i. an evaluation of and an opinion on the environmental impact statement accompanying the application to the Board of Appeals;
- ii. an evaluation of the proposed use, including its probable effect or impact on the Town's water supply, the quality of water in the neighborhood, on the natural flow patterns of water courses, on any nearby or pertinent floodwater storage areas or other areas subject to seasonal or periodic flooding, and on the general health, safety and welfare of the neighbors and other inhabitants of the Town;
- iii. a recommendation as to the advisability of granting the special permit and as to any restrictions which should be imposed upon the proposed use as a condition of such permit.

The Board of Appeals shall give due consideration to the report of the Conservation Commission submitted to it pursuant to **Paragraph 12.2.3.1(d)** above, and where its decision differs from the recommendation of said Commission, shall state the reasons therefore in writing.

12.2.3.2 Any use permitted in the underlying District in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto, provided that the land designated as being within the W-Wetlands and Watershed Protection District is found by the Board of Appeals, after the matter has been referred to and reported on in writing by the Conservation Commission, not in fact to be a significant ground water or water recharge area, not an area subject to seasonal or periodic flooding and otherwise not an area which is important for water supply purposes.

12.2.4 Lot Area Requirements. The portion of any lot which is in the W-Wetland and Watershed Protection District maybe used to meet the development regulations for the District in which the land is located, provided that there is a minimum contiguous Developable Site Area of 20,000 square feet.

12.2.5 Bodies of Water. All standing or flowing bodies of water are included within the W-Wetland and Watershed Protection District, including, but not limited to, streams and other water courses, ponds and bogs.

12.2.6 Exemptions. The following are specifically exempt from the use regulations applicable to the W-Wetland and Watershed Protection District:

(a) All structures, buildings and improvements existing in the W-Wetland and Watershed Protection District on December 3, 1973, or for which building permits were issued on or prior to that date.

(b) Accessory uses and buildings (as defined in **Section 23** of this By-law).

(c) The repair, rebuilding, remodeling modification or enlargement of such structures, buildings, improvements and uses as are referred to in **Section 12.2.6(a)** and **(b)** above, provided that the provisions of **Section 4** of this By-law shall apply to any such structures, buildings, improvements and uses which are non-conforming in the underlying district and further provided that any such activity shall comply with any and all other applicable local, state or Federal law.

12.3 **FP-FLOOD PLAIN DISTRICT**. The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Lincoln designated as Zone A and AE, on the Middlesex County Flood

Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the 2010 Middlesex County FIRM that are wholly or partially within the Town of Lincoln are panel numbers 25017C0379F, 25017C0383F, 25017C0386F, 25017C0387F, 25017C0388F, 25017C0389F dated July 7, 2014; and 25017C0384E, 25017C0391E, 25017C0392E and 25017C0393E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the July 7, 2014 Middlesex County Flood Insurance Study (FIS) report. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Inspector. The FIRM is hereby incorporated as part of the Zoning Map of the Town of Lincoln.

The following Development Regulations apply in the FP-Flood Plain District:

- 12.3.1 Within Zone AE, all new construction and substantial improvements (the cost of which equals or exceeds 50 percent of the market value of the structure) of residential and non-residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation (100-year flood elevation designated on the FIRM).
- 12.3.2 Within Zone A, where the base flood elevation is not provided on the FIRM, the Building Inspector shall obtain and review any already existing base flood elevation data. If the data are reasonable, they shall be used to require compliance with Section 12.3.1 above.
- 12.3.3 Located within the FP-Flood Plain District are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:
 - (a) there shall be no encroachments, including fill, new construction, substantial improvements, or other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the 100-year flood;
 - (b) if Section 12.3.3(a) above is satisfied, all new construction and substantial improvements shall comply with all provisions of Section 12.3.
- 12.3.4 Floodway Data. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 12.3.5 Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 5 acres within unnumbered A zones.
- 12.3.6 Notification of Watercourse Alteration - In a riverine situation, the Conservation

Director shall notify adjacent communities, the NFIP State Coordinator at Massachusetts Department of Conservation, the NFIP Program Specialist at the Federal Emergency Management Agency, Region I, and other governmental authorities as may from time to time have jurisdiction, of any alteration or relocation of a watercourse.

12.4 APD&WPD-AQUIFER PROTECTION AND WATERSHED PROTECTION OVERLAY DISTRICTS

12.4.1 Purpose. The Town has determined that:

- (a) The groundwater underlying the Town is an important source of its drinking water supply.
- (b) The groundwater aquifers are integrally connected with, and flow into, surface waters that constitute significant resources of the Town.
- (c) Spills and discharges of petroleum products and other toxic and hazardous materials and discharges of sewage have repeatedly threatened the quality of groundwater and related water resources throughout Massachusetts and elsewhere, posing potential public health and safety hazards and threatening economic losses to the affected communities.

Therefore, the Town has designated an Aquifer Protection District and Watershed Protection District and enacted this bylaw to:

- (a) Preserve and maintain the existing and potential groundwater supplies, aquifers and recharge areas of the Town and to protect them from development or land use practices that would adversely affect their quality or quantity.
- (b) Preserve and protect present and potential sources of drinking water supply for the public health and safety.
- (c) Conserve the water resources of the Town.

12.4.2 Authority. The Aquifer Protection District and Watershed Protection District are adopted pursuant to authority provided by G.L. c. 40A and the Home Rule Amendment, Article 89 of the Amendments to the Constitution of the Commonwealth.

The Aquifer Protection District and Watershed Protection District are overlay districts whose boundaries are superimposed on all districts established by this Bylaw and whose regulations are in addition to any other regulations established by this Bylaw. The regulations in these districts are not intended to supersede or limit the protections contained in state or federal groundwater protection programs, but to supplement protections contained in other statutes and regulations.

12.4.3 Definitions. For the purposes of this section, the following words and phrases shall be defined as follows. References to statutes and regulations shall be deemed a reference to such laws and regulations as of the effective date of this section.

Accumulated Manure: The collection and storage of manure and/or manure litter such as bedding, sawdust, woodchips, or straw.

Aquifer: Geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

Aquifer Protection District (APD): Those land area(s) designated on a map adopted pursuant to this Bylaw that provide recharge to an existing or planned public drinking water supply well. The Aquifer Protection District includes all areas designated as a Zone II and approved by the DEP.

Automobile Graveyard and Junkyard: An establishment or place of business which is used, maintained, or operated for storing, keeping, buying, or selling wrecked, scrapped, mined, or dismantled motor vehicles or motor vehicle parts, or junk as defined in MGL C. 140B, § 1.

Commercial Fertilizers: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value, in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, as defined in MGL C. 128, § 64.

De-icing Chemicals: Sodium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.

DEP: Massachusetts Department of Environmental Protection.

Discharge: The intentional or accidental introduction of a liquid, or a soluble or leachable solid material, upon or into land or water bodies. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any wastewater disposal system, dry well, catch basin or landfill that has not received site assignment by the Board of Health.

Earth Removal: The removal or relocation of geologic materials including, but not limited to, topsoil, sand, gravel, metallic ores, or bedrock.

Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under MGL C. 21C and 21E and 310 CMR 30.100.

Hazardous Waste: Any waste defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.010. This includes, but is not limited to, waste oil, waste solvents, waste oil-based paint and waste pesticides.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation to penetrate directly into the soil.

Landfill and Open Dump: A facility or part of a facility for solid waste disposal (excluding transfer facilities) established in accordance with the provisions of 310 CMR 19.006.

Petroleum Product: Petroleum or petroleum by-product including, but not limited to: fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include

liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane

Sanitary Wastewater: Any water-carried putrescible waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, showers, dishwashers, or any other source.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material that is a hazardous waste as defined by 310 CMR 30.000.

Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the head-works of a facility.

Soil Conditioner: Any manipulated substance or mixture of substances whose primary function is to modify the physical structure of soils so as to favorably influence plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, cement kiln dust, and gypsum, as defined in MGL C. 128, § 64.

Storage or Landfilling of Sludge and Septage: Use of land to store sludge or septage as those terms are defined in 310 CMR 32.00.

Very Small Quantity Generator: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136.

Wastewater Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal, all as defined and regulated by 314 CMR 5.00.

Watershed Protection District (WPD): That area of land beyond the Aquifer Protection District from which surface water and groundwater drain into Zone II, as that term is defined in 310 CMR 22.02.

Zone I: The protective radius required around a public water supply well or wellfield, as defined in 310 CMR 22.02.

Zone II: The DEP approved area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated as defined in 310 CMR 22.02.

12.4.4 **Establishment of Districts.** The Aquifer Protection District & Watershed Protection District are herein established as overlay districts. The Protection Districts are described on a map entitled "Town of Lincoln Massachusetts, Zoning Map Aquifer & Watershed Protection Overlay Districts", with district boundary lines compiled by Town of Lincoln GIS Department dated March 2013. All maps are hereby made a part of this Zoning Bylaw and are on file in the office of the Town Clerk.

12.4.5 Boundary Disputes. Where the bounds of the APD and the WPD are in dispute, as delineated on the Aquifer & Watershed Protection Overlay Districts map, the burden of proof shall be upon the owners of the land in question to show where they should properly be located. Resolution of boundary disputes shall be through a special permit application to the Planning Board. Any application for a special permit under this subsection shall be accompanied by documentation prepared by a person who meets the following two requirements:

1. Is experienced in delineating hydrogeologic zones in Massachusetts; and
2. Has one of the following credentials:

TITLE	CONFERRING ENTITY
Registered Professional Hydrogeologist	American Institute of Hydrology
Certified Professional Geologic Scientist	American Institute of Professional Geological Scientists
Registered Professional Engineer, Sanitary	Commonwealth of Massachusetts
Certified Ground Water Professional	Association of Ground Water Scientists and Engineers
Certified Professional Soil Scientist	American Registry of Certified Professionals in Agronomy, Crops, and Soils, Ltd.

Where the boundary line of the APD and/or the WPD divides a lot or parcel, the requirements established by this bylaw shall apply only to the portion of the lot or parcel located within the Protection District(s).

The applicant shall provide information in substantial conformance with the criteria set forth in 310 CMR 22.00, as administered by the DEP, to show where the boundary should properly be located.

12.4.6 Use Regulations. The APD and WPD are overlay districts superimposed over the underlying districts set forth in this Zoning Bylaw. Within an Aquifer Protection District or Watershed Protection District, the requirements of the underlying district continue to apply, except where the requirements of the Aquifer Protection District or Watershed Protection District are more restrictive.

This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses except as provided in Section 4 of this Bylaw.

Allowed Uses: The following uses are permissible within the APD, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

- (a) conservation of soil, water, plants, and wildlife;
- (b) outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- (c) 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) maintenance, repair, and enlargement of any existing structure, subject to Table 1 of this bylaw;
- (f) residential development, subject to Table 1 of this bylaw;
- (g) farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Table 1 of this bylaw;
- (h) construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

Restricted Uses within APD and WPD: Uses are prohibited where indicated by "N" in the following schedule, and require a special permit where indicated by "SP", even where the underlying district requirements are more permissive. Uses allowed in a Protection District are indicated by "Y". Where a portion of the lot is located partially within the Protection District(s) and partially outside the Protection District(s), site design shall, to the extent feasible, locate potential pollution sources outside the District boundaries.

TABLE 1
Use Regulations with Aquifer Protection District and Watershed Protection District

	APD	WPD
Landfills and open dumps	N	N
Landfilling of sludge and/or septage	N	N
Automobile graveyards, junkyards or automotive salvage operations	N	N
Stockpiling and disposal of snow and ice containing de-icing chemicals if brought in from outside the district	N	SP
Petroleum, fuel oil, and heating oil bulk stations and terminals, including but not limited to those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983.	N	N
Treatment or disposal works subject to 314 CMR 5.00 for wastewater other than sanitary sewage. This includes, but is not limited to, treatment or disposal works related to activities under the Standard Industrial Classification (SIC) Codes set forth in 310 CMR 15.004(6) (Title 5), except the following: (a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s); and (b) treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13); and (c) publicly owned treatment works, or POTWs	N	SP
Business and industrial uses, not agricultural, which manufacture, use, process, store, or dispose of hazardous materials or wastes subject to MGL 21C and 310 CMR 30.000 as amended as a principal activity, except for the following: 1) very small quantity generators, as defined by 310 CMR 30.00; 2) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390; 3) waste oil retention facilities required by G.L. c. 21, s. 52A; 4) treatment works approved by the DEP for treatment of contaminated ground or surface waters	N	SP

Storage of sludge and septage in compliance with 310 CMR 32.30 & 32.21	SP	SP
Road salt stockpile or storage of other de-icing chemicals in the following manner: (1) outside a structure (2) within a structure designed to prevent the generation and escape of contaminated runoff or leachate	N SP	N SP
Storage of commercial fertilizers and soil conditioners, as defined in M.G.L. c.128, s.64, in the following manner: (1) outside a structure (2) within a structure designed to prevent the generation and escape of contaminated runoff or leachate.	N SP	SP Y
Storage of animal manure in the following manner: (a) Uncovered: (1) Less than 4 cubic yards of accumulated manure per lot, (2) More than 4 cubic yards but less than 8 cubic yards accumulated manure per lot, (3) More than 8 cubic yards of accumulated manure per lot (b) Covered or within a structure designed to prevent the generation and escape of contaminated runoff or leachate.	Y N N Y	Y Y SP Y
Storage of liquid hazardous materials as defined in MGL c. 21E and/or liquid petroleum products provided that such storage is above ground and on an impervious surface and either: a. In container(s) or above-ground tank(s) within a building; or b. Outdoors in covered container(s) or above-ground tank(s) in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater. However these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storage of gasoline, provided that the replacement is performed in a manner consistent with state and local requirements	SP	SP
The removal of soil, loam, sand, gravel or any other mineral substances within four feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), provided that the substances removed are redeposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical high water mark; and excavations for the construction of building foundations or the installation of utility works, or wetland restoration work conducted in accordance with a valid Order of Conditions issued pursuant to M.G.L. c. 131, § 40	SP	Y
Rendering impervious more than 15 percent of the lot, or 2500 sq. ft., whichever is greater, excluding operations associated with the construction or occupancy of a single family dwelling	SP	SP
Any enlargement, intensification or alteration of an existing use that does not conform to the Protection Districts	SP	SP
Wastewater treatment works for non-sanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities, except the following: (1) replacement or repair of existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s)	N	N
Wastewater treatment works for sanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities	SP	SP

Gasoline station, motor vehicle repair or body shop, marine repair shop, car wash	N	N
Any building, structure, or use, other than single family dwelling with accessory structures and uses, to be served by on-site wastewater disposal system with a design capacity of greater than 10,000 gallons per day	SP	SP
Golf courses, whether public or private	SP	SP
Nursing homes or hospitals	SP	SP
Accessory uses or activities: manufacture, use, transport, storage or disposal of toxic or hazardous materials in excess of 5 gallons or 25 pounds dry weight of any substance or a total of all substances not to exceed 50 gallons or 250 pounds dry weight, on a site at any one time as an accessory activity for non-residential and non-agricultural principal activities	SP	SP
Storage of heating oil or petroleum in quantities greater than 500 gallons	SP	SP

12.4.7 Special Permit Procedures.

(a) Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) shall be the Planning Board. The Planning Board may approve, approve with conditions, or deny an application for a special permit that is governed by the provisions of this Section. Such special permit may be granted if the Planning Board determines that the intent of this Section 12.4 as well as the specific criteria herein are met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed.

(b) Review by Other Boards and Officials. Whenever an application for a special permit is filed with the Planning Board under this Section 12.4, said board shall transmit within six (6) working days of the filing of the completed application, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Agricultural Commission, Building Inspector, Fire Chief, and Water Department, as appropriate, for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant consistent. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Planning Board consistent with Section 17.3. Failure to complete an application shall result in a return of all materials to the applicant, without prejudice. Reports from other boards and officials shall be submitted to the Planning Board by the date of the Public Hearing, but in any case within 35 days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the Public Hearing by the Planning Board is held prior to the expiration of the 35 day period, the Planning Board shall continue the Public Hearing to permit the formal submission of reports and recommendations within that 35 day period.

3. Applicability. Any special permit required under this Section 12.4 shall be in addition to, and separate from, any other special permit required under this Bylaw.

12.4.8 Special Permit Submittals. All applications for special permits shall contain the information listed below, unless waived or modified by the Planning Board, with reasons therefore.

(a) A site plan, submitted on 24-inch by 36-inch sheets, on a minimum scale of one inch (1") equals 40 feet, and prepared by a Registered Professional Engineer and a

Registered Land Surveyor. Site plans submitted under this section shall also include the following:

- i. All property lines;
- ii. All adjacent public streets;
- iii. All existing and proposed buildings, structures, parking areas, and service areas;
- iv. All facilities for sewage, refuse, and other waste disposal;
- v. Facilities for surface water drainage, both temporary and permanent;
- vi. Future expansion areas.

(b) A narrative statement detailing all of the information set forth below, if applicable:

i. A complete list of all chemicals, pesticides, herbicides, fuels, or other potentially hazardous materials, including but not limited to road salt or de-icing chemicals, manure, and fertilizers or soil conditioners, to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers from vandalism, accidental damage, corrosion, and leakage, and to provide for control & remediation of spills.

ii. A description of all potentially hazardous wastes to be generated in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all waste storage containers from vandalism, accidental damage, corrosion, and leakage, and to provide for control & remediation of spills.

iii. For underground or aboveground storage of hazardous materials, certification by a Registered Professional Engineer that such storage facilities or containers are (i) in compliance with all applicable federal or state regulations, (ii) in compliance with design specifications, as prepared by a Registered Professional Engineer, and (iii) are designed with secondary containment adequate to contain a spill the size of the container's total storage capacity.

iv. For any proposed activity on a lot which will render more than 15 percent of the total lot area or more than 2,500 sq. ft., whichever is greater, impervious, a system for groundwater recharge must be provided that does not degrade groundwater quality, by storm water infiltration basins or similar system covered with natural vegetation. Dry wells shall be used only where other methods are infeasible. The SPGA may require that such basins and wells be preceded by oil, grease and sediment traps to facilitate removal of contaminants.

v. For stockpiling or disposal of snow from outside the Protection Districts, district, earth removal, storage of sludge or septage, manure storage, treatment works, and/or discharge or process wastewater, a narrative statement, prepared by a Registered Professional Engineer, assessing the impacts, if any, of the proposed activity on groundwater and surface water quality on the premises, adjacent to the premises, and on any wells or wellfields downgradient from the proposed activity or use, accompanied by a description of the measures proposed to protect such wells or wellfields.

vi. Where the premises are partially outside the Protection District, such potential sources of pollution as on-site waste disposal systems, if permitted, shall be located outside the Protection Districts to the extent feasible.

12.4.9 Special Permit Criteria. Special permits shall be granted only if the Planning Board determines, after reviewing the recommendations of the reviewing parties delineated

herein, that groundwater quality resulting from on-site wastewater disposal or other operations on-site shall not fall below the more restrictive of federal or state standards for drinking water, or, if existing groundwater quality is already below those standards, on-site disposal or operations shall result in no further deterioration.

12.4.10 Regulations. After public notice and public hearing, the Planning Board may adopt and from time to time amend reasonable regulations for the administration of this section.

12.5 NL-NORTH LINCOLN OVERLAY DISTRICT

12.5.1 Purpose The NL-North Lincoln Overlay District is intended:

- (a) to permit greater flexibility in the development of tracts of land by requiring few predetermined standards,
- (b) to permit a developer to propose, and for the Town to vote on, a site development and use plan unique to a particular location,
- (c) to permit the use of development standards more detailed than the general standards elsewhere in this By-law,
- (d) to provide information for the Town to evaluate the potential impacts of a proposed development, and
- (e) to enable the Planning Board to require adherence to a site development and use plan in the granting of a special permit.

12.5.2 North Lincoln Planned Development Districts. Unless and until any portion of the NL-North Lincoln Overlay District is placed in a North Lincoln Planned Development District the permitted uses and dimensional controls shall be those in effect from time to time in the other district or districts in which such land is located, without regard to its inclusion in the NL-North Lincoln Overlay District. Upon submission of a preliminary development and use plan pursuant to **Section 12.5.3** and compliance with the other requirements of this **Section 12.5**, any portion of the NL-North Lincoln Overlay District may be placed, by a two-thirds (2/3) vote of Lincoln Town Meeting, in a North Lincoln Planned Development District. North Lincoln Planned Development Districts shall be numbered sequentially. The permitted uses and dimensional controls in a North Lincoln Planned Development District shall be governed exclusively by the provisions of this **Section 12.5**, and not by the provisions of the underlying district in which such land is located, unless and until the time for issuance of a special permit under this Section expires without a special permit having been issued, or the time when such a special permit lapses by reason of the applicant's failure to use it within the required period. After expiration of the time for issuance of a special permit under this Section without a special permit having been issued, or after the lapse of such a special permit, the permitted uses and dimensional controls in such district shall again be governed by the provisions of the other district or districts in which such land is located without regard to the inclusion of the land in such North Lincoln Planned Development District or in the NL-North Lincoln Overlay Planning District. The general rules set forth in **Sections 13.1** and **13.2**, the definitions set forth in **Section 23**, and the provisions applicable to any other overlay district in which such land may be located shall apply within any North Lincoln Planned Development District, and the requirements of other provisions of the Zoning By-law not limited in application to a particular underlying zoning

district shall apply except to the extent expressly and conspicuously otherwise stated in the written portion of the preliminary development and use plan. A preliminary development and use plan may contain alternative provisions, provided that the plan expressly and conspicuously identifies any such provisions and states the conditions in which each alternative provision will apply.

12.5.3 Preliminary Development and Use Plan. A preliminary development and use plan shall be composed of a written portion and drawings, as follows:

(a) Written Portion. The written portion of a preliminary development and use plan shall propose the creation of a North Lincoln Planned Development District for the development and use of land located in the NL-North Lincoln Overlay District, shall be signed by all of the owners of such land or their authorized representatives, and shall state the following, or, as to any restriction or other item which will not apply in the proposed North Lincoln Planned Development District, it shall expressly and conspicuously so state:

- i. the uses to be permitted in the proposed North Lincoln Planned Development District, using wherever practicable terms used elsewhere in the Zoning By-Law;
- ii. a table showing the following dimensional requirements which will apply in the proposed North Lincoln Planned Development District:
 - (A) the total area and the developable site area of the District;
 - (B) the area of open land, if any;
 - (C) the maximum height of structures;
 - (D) the minimum frontage and minimum width of a lot;
 - (E) the minimum front, side and rear yards;
 - (F) the maximum gross floor area of buildings;
 - (G) the maximum ratio of gross floor area of buildings to developable site area;
 - (H) the maximum number of dwelling units, if any;
 - (I) the maximum ratio of the number of dwelling units, if any, to developable site area;
 - (J) the maximum ratio of the area occupied by impervious surfaces on the site to the developable site area;
 - (K) the maximum number of parking spaces;
 - (L) the minimum number of parking spaces per dwelling unit, or per 1,000 square feet of gross floor area of non-residential buildings, as applicable; and
 - (M) the minimum number of loading bays, if any.

iii. an express, conspicuous statement of all respects in which the proposed development will not comply with any provision of the Zoning By-Law not limited in application to a particular underlying zoning district, including without limitation **Section 13.3 (lot coverage), Section 13.4 (accessory structure), Section 15 (off-street parking and loading areas), Section 16 (signs), and Section 18 (general regulations).**

iv. a traffic analysis to be conducted by a traffic engineer who certifies that he/she qualifies for the position of member of the Institute of Transportation Engineers (ITE) or who otherwise establishes his/her qualifications to the satisfaction of the Planning Board. The analysis shall, unless the proponent gives reasons satisfactory to the Planning Board why any element is not necessary, include the following:

(A) traffic counts on primary streets that provide access to the development site showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into 15-minute segments);

(B) intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours divided into 15-minute segments);

(C) an inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their condition;

(D) estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and typical one hour off-peak trip generation;

(E) the estimated distribution of new trips by approach streets;

(F) the effect of additional traffic generated by the development on traffic "levels of service" on each approach street;

(G) estimated off-street parking and loading requirements and time of peak accumulation;

v. a municipal impact analysis showing the anticipated fiscal effect of the proposed development on the Town of Lincoln, including real estate taxes, school usage, public safety usage, and other demands for municipal services;

vi. an environmental impact analysis considering in general terms, but with quantitative estimates, the impact of the proposed development on the environment, and on the H-Historic District, to be submitted in a form specified by the Planning Board;

vii. a description of the approximate number of dwelling units, if any, by bedroom types (efficiency-studio, one-bedroom, two-bedroom, etc.), the approximate number of square feet in each type of dwelling unit, the estimated sales or rental level for each type of dwelling unit, a specification of the minimum number of affordable units to be provided, a description of the criteria for "affordable" to be used or the way in which such criteria will be

set, and a clear and specific description of the mechanism by which any affordable units will be kept available for rental or purchase by low or moderate income persons;

viii. a list identifying by title and last revision date all drawings submitted as part of the preliminary development and use plan;

ix. a list of the public boards, commissions and committees having municipal, county and statewide representation to which the proponent has submitted copies of the preliminary development and use plan for review;

x. whether or not the fee normally required in connection with filing of an application for a special permit under **Section 12.5.8(a)** will be waived; and

xi. any additional specifications which the proponents of the plan wishes to include, provided that such additional specifications shall be binding to the same extent as required specifications.

(b) Drawings. The drawings submitted as part of the preliminary development and use plan shall include the following:

i. a reproducible 8-1/2" by 11" diagram showing the boundaries of the proposed North Lincoln Planned Development District, with dimensions, together with identification of streets and other information needed to properly locate the proposed district;

ii. a plan showing names from the current assessor's list of all abutters, and of abutters to abutters within 300' of the proposed North Lincoln Planned Development District, and any existing building located within 100' of the proposed North Lincoln Planned Development District;

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

(A) existing contours at intervals of no greater than five (5) feet,

(B) steep slopes (15% or more),

(C) predominant soil types,

(D) significant rock outcroppings,

(E) water systems (including standing surface water, brooks or streams, the direction of drainage, and wetlands),

(F) the boundary line of any W-Wetlands and Watershed Protection District or FP-Flood Plain District located on the land,

(G) significant vegetation (including mature trees, unique specimens of vegetation, and vegetation that indicates wetness),

(H) significant noise/visual impact (including views from the site and sources of noise affecting the site),

(I) locations and dimensions of existing buildings and structures on the site, and

- (J) locations of historically or architecturally significant structures and sites adjacent to the site;
- iv. preliminary building plans, showing building locations and types, and floor plans and typical elevations to scale, for all proposed buildings and structures; perspective sketches are desirable as an additional visual aid at the applicant's option;
- v. preliminary site plan(s) to scale showing:
 - (A) buildings and structures,
 - (B) roadways,
 - (C) parking areas,
 - (D) walkways,
 - (E) service and waste disposal areas,
 - (F) existing and proposed contours,
 - (G) waterways and bodies of water, and
 - (H) proposed stormwater drainage system;
- vi. preliminary landscape plan(s) to scale showing:
 - (A) planting location and type,
 - (B) screening of service areas,
 - (C) location and characteristics of open land and recreation facilities, and
 - (D) exterior lighting location;
- vii. preliminary utility plan(s) showing:
 - (A) the location and size of the Town's existing water mains, fire hydrants, sanitary sewers and storm drains which are adjacent to the land or to which the proposed development will be connected, and
 - (B) the proposed location and the approximate size of utilities to be constructed on the site and their proposed connections to the Town's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the Town to service the development;
- viii. a property rights and dimensional standards plan showing:
 - (A) the location of existing easements or other property rights affecting the development;
 - (B) the approximate location of any sections of the land to which the Town would be granted property rights, either easements or transfer of ownership for street, utility, conservation or other purposes;

(C) the anticipated division of the property into parcels in private ownership, if any, if it affects zoning provisions;

(D) the yard setback in feet for buildings and parking lots from lot lines and where applicable, a zoning district boundary, a brook or a pond; and

(E) the boundaries of any open land or other open space.

ix. any additional drawings which the proponents of the plan wish to include, provided that such additional drawings shall be binding to the same extent as required drawings.

12.5.4 Filing of Preliminary Plan; Filing Fee. Before filing the preliminary plan, the proponent is encouraged to meet informally with the Planning Board to discuss the scope and level of detail to be shown in the preliminary plan and the amount of the filing fee. Six (6) complete copies of the preliminary development and use plan shall be filed with the Town Clerk and one complete copy shall be filed with the Clerk of the Planning Board at least twenty-one (21) days before the date of the Planning Board hearing in respect of a duly filed petition for the change of the zoning district of the land described in the plan to a North Lincoln Planned Development District. The Town Clerk will distribute a complete copy of the preliminary development and use plan to each of the Selectmen, the Conservation Commission, the Board of Health, the Town Engineer and the Police and Fire Department. The plan shall be accompanied by a fee in an amount which the Planning Board estimates to be sufficient to recompense the Town for any or all of the out of pocket costs of reviewing and analyzing the plan. The Planning Board may allow late submission of any portion of the preliminary development plan, for good cause shown, so long as a general description of the plan is on file at least twenty-one (21) days before the Planning Board hearing.

12.5.5 Changes to Preliminary Plan. No change may be made to the preliminary plan except as follows: The preliminary plan may be amended in writing by an instrument signed by the owners or their authorized representative, if and only if such amendment is

(a) approved by the Planning Board, as evidenced by an endorsement to that effect on such change by the Clerk of the Planning Board, and

(b) filed with the Town Clerk and with the Clerk of the Planning Board at least two (2) days before the day on which the Town Meeting at which such change of zoning district is to be considered will commence.

The Planning Board will approve such a change only if it finds that there is good cause for the change and that the change is not inconsistent with information presented at the Planning Board public hearing. The preliminary plan may also be amended on the floor of Town Meeting to add restrictions, limitations or requirements.

12.5.6 Public Hearing; Townwide Mailing. The Planning Board shall hold a public hearing concerning creation of the proposed Planned Development District as provided in **Section 5 of Chapter 40A of the Massachusetts General Laws**. In addition to the notices required by law, a description of the preliminary plan and notice of such hearing, including reduced reproductions of architectural renderings and of the site plan, all in form approved by the Planning Board, shall be mailed to each postal patron in the Town at least 14 days prior to such

hearing. The applicant shall pay the cost of reproduction and mailing of such notice.

12.5.7 Town Meeting. The preliminary development and use plan shall be presented to the Town Meeting which considers creation of a North Lincoln Planned Development District, and shall be identified in any motion to create such a district. In the event that the procedures followed with respect to a preliminary development and use plan do not conform to all of the requirements of this **Section 12.5** such nonconformity may be waived, upon the favorable recommendation of the Planning Board, by a two-thirds (2/3) vote of Town Meeting.

12.5.8 Special Permit and Site Plan Approval. Within two years after the approval by Town Meeting of a preliminary development and use plan for a North Lincoln Planned Development District within the NL-North Lincoln Overlay District, the Planning Board may grant a special permit for the development of the land within the North Lincoln Planned Development District subject to the following provisions:

(a) Filing of Application; Filing Fee. The application for a special permit under this Section shall be filed with the Planning Board and with the Town Clerk. The copy of the application filed with the Planning Board shall be accompanied by a copy, certified by the Town Clerk, of the preliminary development and use plan approved by Town Meeting, and one complete copy of a definitive development and use plan as described below. The copy of the application filed with the Town Clerk shall be accompanied by six (6) complete copies of the definitive development and use plan as described below. The Town Clerk will distribute a complete copy of the definitive development and use plan to each of the Selectmen, the Conservation Commission, the Board of Health, the Town Engineer and the Police and Fire Department. The application shall be accompanied by a fee in an amount which the Planning Board estimates to be sufficient to recompense the Town for any or all of the out of pocket costs of reviewing and analyzing the application, unless such fee is waived as specified in the preliminary development and use plan.

(b) Definitive Development and Use Plan. A definitive development and use plan for development of land within a North Lincoln Planned Development District shall include a site plan which meets the requirements of **Section 17**, and shall contain definitive versions of all of the items specified in **Section 12.5.3** for inclusion in a preliminary development and use plan, with the following modifications and additions:

- i. a site analysis map based on a field survey which shall show existing and proposed contours at intervals of not greater than two (2) feet;
- ii. a utilities plan showing the location, size materials and connections to the Town's utilities;
- iii. a property rights plan in recordable form based on an instrument survey identifying any parcels to be conveyed to the Town whether by deed or easement;
- iv. a tree, landscaping and site construction plan:

- (A) location and species of all existing trees or groups of trees having a diameter of six (6) inches or more measured three (3) feet above ground level,
- (B) the location, species (common botanical names), and sizes of all proposed plants, and of all trees and significant plants to be removed,
- (C) details and specifications for planting procedures,
- (D) tree protection plan showing location of trees to be protected and defining measures to be implemented to prevent damage to trees and their root systems,
- (E) planting maintenance plan, and
- (F) location, type and dimension plans for any open land or recreation facilities and equipment.

v. a site lighting plan, showing location and type of fixtures and type of lighting source;

vi. plans showing cross sections and materials for streets, driveways and parking areas;

vii a traffic analysis including proposed mitigating measures, if any, to maintain an acceptable traffic "level of service";

viii. an off-street parking and loading plan;

ix. final plans and elevations at 1/4" = 1' scale of proposed buildings and structures; and an outline specification describing principal structural and finished materials, fixtures, and equipment (such as roofing, siding, windows, doors, trim, flooring, hardware and plumbing and kitchen equipment), including final exterior color selection, for all proposed buildings and structures; and

x. preliminary drafts of any deed, easement, offer or agreement to carry out any special condition.

(c) Public Hearing; Townwide Mailing. The Planning Board shall hold a public hearing with respect to any application for a special permit under this **Section 12.5** in accordance with the provisions of **Section 21**. In addition, a description of the definitive plan and notice of such hearing, including reduced reproductions of architectural renderings and of the site plan, all in form approved by the Planning Board, shall be mailed to each postal patron in the Town at least 14 days prior to such hearing, unless the Planning Board determines that the definitive plan is so similar to the preliminary plan that such a Townwide mailing is not necessary. The applicant shall pay the cost of reproduction and mailing of such notice. The purpose of such notice is to assure an opportunity for meaningful public participation in such hearing.

(d) Criteria. The Planning Board shall issue a special permit under this **Section 12.5** if it finds that the definitive development and use plan:

I. is substantially consistent in all respects with the approved preliminary development and use plan;

- ii. provides for no greater height, gross floor area, or number of dwelling units (if any) than is provided in the approved preliminary development and use plan;
- iii. provides for no uses which are not permitted by the approved preliminary development and use plan;
- iv. provides for a suitable development which is in harmony with the general purpose and intent of this Zoning By-law and not detrimental to the neighborhood or to the Town, and which meets the requirements of **Section 17** for site plan approval, including without limitation the criteria set forth in **Section 17.4**;
- v. provides that any land shown in the approved preliminary development and use plan as permanent open land is owned:
 - (A) by the Town;
 - (B) by the Lincoln Land Conservation Trust; or,
 - (C) by an association of the owners of the land that may be approved by the Planning Board, with provisions for limited easements for recreational use by residents of the Town, provided that the Town shall have sufficient rights to enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit; and
- vi. satisfies the following additional design standards and criteria:
 - (A) the existing land form shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and manmade features, such as stone walls, shall be maintained with minimal alteration or disruption.
 - (B) the natural character and appearance of the town shall be maintained or enhanced. Awareness of the existence of a development, particularly a higher density development, shall be minimized by screening views of the development from nearby streets, single family neighborhoods or Town property by the effective use of existing land forms, or alterations thereto, such as berms, and by existing vegetation or supplemental planting.
 - (C) open space shall be located and designed so as to increase the visual amenities of the neighborhood as well as for the occupants of the development.
 - (D) without specifying any particular architectural style, the scale, massing and detailing of buildings should be compatible with those prevalent in the neighborhood. Where a multi-family development is located adjacent to a neighborhood of single family dwellings, the massing scheme and the selection of exterior materials for buildings shall be complementary to a single family neighborhood.
 - (E) the removal or substantial alteration of buildings of historic or architectural significance, the new use of places of historical significance, or the location of dwellings or uses adjacent to, and incompatible with,

buildings or places of historic or architectural significance shall be minimized.

(F) buildings shall be located:

- 1) harmoniously with the land form, vegetation and other natural features of the site,
- 2) effectively for solar and wind orientation for energy conservation, and
- 3) advantageously for views from the building while minimizing intrusion on views from other buildings.

(G) buildings, and the grounds adjoining them, shall permit easy access and operation by fire, police and other emergency personnel and equipment.

(H) where applicable, improved access to, or the development of additional links or connectors, shall be made to a Town system of public facilities and services such as conservation areas, recreation facilities, footpaths or bicycle paths, streets, transportation systems or utility systems.

(I) a system of routes for pedestrians, including bicycles, with minimal conflicts with vehicles, should be developed.

(J) the number of access points to the Town's system of primary and secondary streets should be minimized and the location of intersections with primary and secondary streets should be such as to minimize traffic congestion.

(K) electric, telephone, cable TV and other such lines and equipment shall either be underground or as inconspicuous as possible. Support facilities such as storage, refuse disposal, utility buildings and structures for recreational activities shall be located, and screened, to make them less visible.

(e) Special Permit. The special permit shall incorporate by reference the definitive development and use plan, and shall require that the development and use of the land shall comply with such plan. The special permit may contain such additional conditions, modifications, restrictions and requirements as the Planning Board deems appropriate to effectuate the purpose and intent of this Zoning By-law and to assure that the development will satisfy the criteria listed above. Any construction, reconstruction, substantial exterior alteration or addition within a North Lincoln Planned Development District shall be carried on only in conformity with the provisions of a special permit issued under this **Section 12.5**.

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

(1) Bond or Deposit. By a proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the Planning Board to secure performance of the conditions and observance of the safeguards of such special permit.

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

(a) Reduction of Security. Until completion of the development the penal sum of any deposit or security held under clause (1) above may from time to time be reduced by the Planning Board to no less than 150% of the cost of completion of the work as estimated by the Planning Board.

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

12.5.10 Denial of Special Permit. The Planning Board may deny an application for a special permit under this **Section 12.5** on the basis of the applicant's failure to comply with any of the provisions of this Section, or the failure of the definitive development and use plan to satisfy any of the criteria or requirements specified in this Section.

12.5.11 Amendment of Special Permit. At any time after the issuance of a special permit under this Section, so long as such special permit has not lapsed, the Planning Board may issue an amendment to the special permit in accordance with the procedures required for the original special permit, and subject to the same limitations, except that such amendment may be issued more than two years after creation of the North Lincoln Planned Development District. The Planning Board may waive the requirement of a formal amendment to the special permit, however, with respect to minor deviations from its requirements which the Planning Board finds could properly be allowed by amendment to the special permit but which are so insignificant that no public purpose would be served by requiring a formal amendment.

12.5.12 Changes in Preliminary Plan. Changes which involve uses not permitted by the preliminary development and use plan approved by Town Meeting, or which are not substantially consistent with that plan, or which are otherwise not permitted by this **Section 12.5**, may be made only by revision of the preliminary development and use plan by two-thirds (2/3) vote of Town Meeting.

12.6 WCF - WIRELESS COMMUNICATIONS FACILITIES OVERLAY DISTRICT

12.6.1 PURPOSE. The purpose of this section is to establish areas in which Wireless Communications Facilities may be provided while protecting Lincoln's unique community character. The WCF - Wireless Communications Facilities Overlay District ("WCF District") has been created

(a) to provide for safe and appropriate siting of Wireless Communications Facilities consistent with the Telecommunications Act of 1996, and,

(b) to minimize visual and other impacts of such facilities.

12.6.2 LOCATION. The WCF District shall consist of the following parcels:

<u>Assessors' Map Parcel No.</u>	<u>Location/Street Address</u>	<u>Approximate Acreage</u>
14-16	17 Cambridge Turnpike	30.47
19-4	Mill Street	37.15
48-7	295 Cambridge Turnpike	83.75
96-2	169 Lincoln Road	1.95
103-6	30 Lewis Street	3.28
44-2	51 Sandy Pond Road	20.46
29-25	Bedford Road	1.46
24-1	Cambridge Turnpike	10.21
14-12.0 and 14.1201	23 Cambridge Turnpike	6
53-14-0	Bedford Road	1.0

12.6.3 APPLICABILITY. The WCF District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning shall remain in full force and effect, except as may be specifically superseded herein.

12.6.4 SUBMITTAL REQUIREMENTS. As part of any application for a special permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth herein at **Section 17**. In addition and without limiting the foregoing, the applicant shall also provide the following supplementary information, which the Planning Board may waive if the Board determines such requirements are not relevant to the current application:

- a) notarized statement signed by the applicant(s) that all information included in the submittal is materially accurate, true, complete, and verifiable (inaccurate, untrue, misleading or false information submitted in pursuit of a special permit by the applicant, the provider company or their agents may be grounds for denial of a special permit),
- b) A map of the entire town and the area of within two (2) miles of Lincoln's boundaries showing the location(s) of:
 - 1) Existing Wireless Communications Facilities and proposed facilities to be applied for over the next 20 months by the applicant's wireless communications service provider company.
 - 2) Existing Wireless Communications Facilities and known proposed facilities of other service provider companies;
- c) Data from field measurements taken at the proposed site defining the existing radio frequency emission levels. Such measurements shall be taken within 45 days of the application in a form acceptable to the Planning Board;

- d) Equipment data and drawings, catalog brochures, manufacturer's specifications, photographs, etc. describing equipment, antenna, equipment mounts, equipment shelters and security barriers;
- e) Plan at 1" = 40' scale for proposed Wireless Communications Facilities showing the following within the designated overlay district:
 - 1) Location of tree cover within 500 feet of the proposed facility;
 - 2) Dominant tree specie for each area of tree cover;
 - 3) Average height of existing tree cover;
 - 4) Topography contour lines at two-foot intervals within 500 feet of proposed Wireless Communication Facility site. Reference contours to mean sea level datum;
- f) Drawing(s) of cross sections at 1" = 40' horizontal scale and 1" = 20' vertical scale taken at 20 degree (horizontal plane) intervals around the center of the proposed facility and extending 500 feet on each side. Cross section drawings to indicate existing and proposed ground surface, existing and proposed structures, and existing tree cover and proposed new landscape screening materials;
- g) Proposed schedule, including alternate dates, and arrangements for a temporary test of proposed facility, showing the proposed height and demonstrating its visual impact using such devices as the Planning Board may suggest, such as a guyed balloon or crane. Applicant shall arrange and pay all costs for the test(s). The applicant shall give notice of the test(s) by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen days before the date of the test and by posting the notice in a conspicuous place in the town hall for a period of not less than 14 days before the date of the test(s). At the request of the Planning Board additional test(s) may be required showing alternate heights or locations on the property.
- h) Plan at 1" = 20' scale for proposed Wireless Communications Facilities showing the following within the designated overlay district:
 - 1) the proposed facility
 - 2) Topographical contour lines within hundred fifty (150) foot radius from the base of the antenna(s)
 - 3) Location and respective elevation of the top of all trees over twenty (20) feet tall within a hundred fifty (150) foot radius from the base of the antenna(s). Elevations are with respect to mean sea level datum.
- i) Copies of all written or electronic communications that occurred prior to the pre-application conference between the applicant and the FAA concerning the proposed site.

Applicants shall also provide such specific information with regard to the proposed facility or matters related thereto as the Board may require. These submittal requirements shall also apply to any application for a modification to or renewal of an existing special permit for a Wireless Communication Facility, but an applicant will not be required to submit duplicate information.

12.6.4.1 A pre-application conference between the proposed applicant(s) and the Planning Board shall be scheduled a minimum 30 days prior to submission of the application for a Wireless Communications Facility special permit with formal advertisement and notice to abutters provided at least 14 days in advance of the pre-application conference. The purpose of such conference is to foster

preliminary discussions regarding planning, design and siting of the proposed facility among the proposed applicant(s) for special permit, the Planning Board, and the residents of the Town of Lincoln.

12.6.4.2 Unless waived by the Planning Board, the applicant shall electronically transmit to the Planning Board or its representative a copy of all written and electronic communications to be submitted by the applicant to the FAA at least 14 days prior to such submission. The applicant shall electronically transmit to the Planning Board or its representative a copy of all written and electronic communications received from the FAA within three days of receipt by the applicant.

12.6.5 SPECIAL PERMIT. A Wireless Communications Facility may be erected in the WCF District upon the issuance of a special permit by the Planning Board if the Board determines that the adverse effects of the proposed facility will not outweigh its benefits to the town, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of each of the following:

- (a) communications needs served by the facility;
- (b) traffic flow and safety, including parking and loading;
- (c) adequacy of utilities and other public services;
- (d) impact on neighborhood character, including aesthetics;
- (e) impacts on the natural environment, including visual impacts;
- (f) potential fiscal impact, including impact on town services, tax base, and employment;
- (g) new antenna support structures shall be considered only upon a finding that existing or approved antenna support structures or facilities cannot accommodate or reasonably be made to accommodate the equipment planned for the proposed antenna support structure.
- h) potential human health hazards due to radio signal radiation from the proposed facility, to the extent not contrary to federal law.

12.6.5.1 A special permit shall also be required for a modification to an existing special permit for a Wireless Communication Facility. Where a proposed modification diminishes the impact of the existing facility, the Planning Board may waive any requirement for the issuance of such additional special permit. Modification shall include:

- a) Addition of personal wireless service(s) as defined in the Federal Communication Act of 1996 other than allowed under an existing special permit;
- b) Addition of any other type of service(s) that involves changing the physical appearance of the Wireless Communication Facility;
- c) Addition of tenant(s) by co-location, regardless of the type of service;
- d) Change(s) in equipment that by nature of the change(s) shall increase the level of radio frequency emissions;
- e) Change(s) in the physical appearance, physical characteristics or dimensions of the Wireless Communication Facility;
- f) A deviation from the existing special permit.

12.6.6. CONDITIONS. All Wireless Communications Facilities shall be subject to the following conditions:

- (a) To the extent feasible, service providers shall co-locate on a single antenna support structure. Antenna support structures shall be designed so far as is reasonable to structurally accommodate foreseeable future users.
- (b) For the purpose of this by-law tree canopy elevation is defined as the arithmetic average of the elevations of the highest points of all trees over twenty (20) feet tall within a hundred and fifty (150) foot radius from the base of the antenna(s). Elevations are with respect to mean sea level datum.

The highest point of the antenna support structure or any antenna or any component thereof or attachment thereto shall not exceed the (10) feet above the lesser of either the preexisting tree canopy elevation, or the proposed post-construction tree canopy elevation.

The Planning Board may permit an increase in the highest point of an antenna support structure or any antenna or any component thereof or attachment thereto up to twenty (20) feet above the lesser of either the preexisting tree canopy elevation, or the proposed post-construction tree canopy elevation if the Planning Board determines that no material increase in visual impacts will result from the increased height.

If there is no significant tree canopy, the maximum height of an antenna support structure or any antenna or any component thereof or attachment thereto shall not exceed sixty (60) feet above finished grade of ground elevation. Such finished grades shall not be distorted above the preexistent natural grade as a way to achieve additional height.”

- (c) Wireless Communications Facilities may be placed upon or inside existing buildings or structures. In such cases, the height of the antenna support structure or any component thereof or attachment thereto shall not exceed twelve (12) feet above the height of the existing structure or building.
- (d) All structures associated with Wireless Communications Facilities shall be removed and the site fully restored to its former condition, or to such condition as the Planning Board may require, within one year of cessation of use.
- (e) Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (f) The facility shall minimize, to the extent feasible, adverse visual effects. The Planning Board may impose reasonable conditions to ensure this result, including painting, lighting standards, landscaping, screening and antenna location. If an aeronautical study has determined that the facility will require marking and/or lighting in accordance with the most recent revision of FAA Advisory Circular 70/7460-1, then lighting shall be in accordance with Chapter 4 paragraphs 42 b of the AC. The light units must meet specified intensities, beam patterns, color and flash rates as specified in the most recent revision of FAA Advisory Circular 150/5345-43, which restricts the stray light intensity measured at 10 degrees below horizontal. The Planning Board may require installation of a cutoff fixture to limit the projection of stray

light below the horizon. The facility shall be painted with camouflage or light grey paint to match the surrounding landscape, as the Planning Board may determine.

- (g) Traffic associated with the facility shall not have a material adverse effect on public ways.
- (h) Fencing may be required to control unauthorized entry to Wireless Communications Facilities.
- (i) The Planning Board may limit the number of antenna support structures or towers upon any single parcel located within the WCF District. A parcel shall be defined as a parcel of land as it existed on the Town of Lincoln Assessors' maps on March 28, 1998.
- (j) Provision of additional supplemental landscape screening to or on neighboring properties may be required by the Planning Board in order to lessen the adverse visual impact,
- (k) Periodic monitoring of radio frequency and acoustic emissions will be required to confirm compliance with applicable regulations. This monitoring shall be performed by an independent agency acceptable to the Planning Board. Costs related to the periodic independent monitoring shall be paid by the wireless communications service provider(s);
- (l) Wireless Communications Facilities shall comply with such standards applicable thereto as may from time to time be imposed by the Lincoln Board of Health;
- (m) The Planning Board may limit the duration of special permits.
- (n) The applicant's wireless communications service provider shall provide a Certificate of Insurance for bodily injury, in a form acceptable to the Planning Board, with coverage limits of not less than five (5) million dollars. The Planning Board may from time to time require the applicant to increase the limits of such coverage.
- (o) The landowner shall enter into a recordable easement, restriction or similar instrument enforceable by the Town of Lincoln, by which it is agreed that:
 - 1) no cutting of trees or other vegetation shall occur within 200 feet of the facility without prior written approval of the Planning Board, and
 - 2) all supplemental landscaping required by the Planning Board shall be fully maintained. All cost(s) of enforcement incurred by the Town shall be paid by the landowner and be a lien against the land.
- (p) The Planning Board may allow an antenna support structure that would be taller than otherwise allowed in **section 12.6.6 b)**, if it concludes that the benefits of permitting such a height increase outweigh the adverse impacts. To do so, the Planning Board must issue a written finding:
 - 1) That the height to be approved is no greater than the minimum antenna support structure height that would allow all licensed wireless communications service providers who seek coverage from the site to meet their service coverage requirements for the subject area, and

a. That the approval of an antenna support structure of this increased height would result in the elimination of the need for one or more other new antenna support structures in the Town of Lincoln that would otherwise be required to meet the service coverage requirements of the licensed wireless communications service providers who seek coverage from the site.

The maximum height antenna support structure that the Planning Board can permit under this **section 12.6.6 p)** is 120' above the finished grade of ground elevation at the base of the structure. Such finished grade shall not be distorted above the preexistent natural grade as a way to achieve additional height.

- (q) Acoustic emissions shall be inaudible on neighboring parcels in residential zoning districts.
- (r) In the event the FAA requires aviation safety lighting, the applicant shall file an application with the FAA to waive such requirement. Communications to or from the FAA shall comply with Section 12.6.4.2.
- (s) Within 30 days of transfer of an interest in all or part of an approved WCF, the transferor shall notify the Lincoln Planning Board of such transfer and provide the name and address of the transferee, a list of equipment and structures transferred, date of the transfer, and description of the type of interest transferred (sale, lease, license, etc.). The conditions and renewal obligations imposed by a Special Permit and the Zoning Bylaw on each of the components of the WCF shall be enforceable against the transferor and/or its transferees, as necessary to maintain compliance.
- (t) The minimum setback for an antenna support structure is 125' from the WCF overlay district boundary, except for common boundaries between contiguous WCF overlay districts. The minimum setback for all other components of a WCF is 75' from the overlay district boundary, except for common boundaries between contiguous WCF overlay districts. Minimum setbacks from lot boundaries are as regulated elsewhere in this bylaw for the underlying zoning district. Notwithstanding the provisions of Section 4 of this Zoning Bylaw, extensions or alterations to pre-existing non-conforming WCF structures may be permitted by special permit granted by the Planning Board, provided that the Planning Board finds that such extensions or alterations are not substantially more detrimental to the neighborhood than the existing structure.

12.6.7 FEES

- a) Filing Fee: Every submission for a special permit for a Wireless Communication Facility or for a special permit for a proposed modification of an existing Wireless Communication Facility shall be accompanied by a Filing Fee payable by certified check to the Town of Lincoln;
- b) Review Fee: Every submission for a special permit for a Wireless Communication Facility or for a special permit for a proposed modification of an existing Wireless Communication Facility shall be accompanied by a Review Fee payable by certified check to the Town of Lincoln. The procedure for Review Fees shall be subject to **M.G.L. C.44, Section 53G** and project review fee regulations as adopted by the Planning Board. There shall be an initial review fee as determined by the Planning Board, with the Planning Board determining any additional funds during the process which

may be required to cover the expenses incurred by the Planning Board in reviewing the special permit application, including without limitation any engineering, planning or technical consulting services necessary for review purposes;

- c) Renewal Fees: Every submission for renewal of a special permit for an existing Wireless Communication Facility shall be accompanied by a Renewal Fee as determined by the Planning Board payable by certified check to the Town of Lincoln;
- d) A special permit shall not be issued until all fees due and owing shall have been paid.

12.7 SL – SOUTH LINCOLN OVERLAY DISTRICT

12.7.1 Purpose: The South Lincoln Overlay District shall overlay the contiguous B-1, B-2, R-2 zoning districts as well as Assessor’s Map 95 Parcels 11 and 12 of the R-1 District in South Lincoln for the purpose of providing for Planned Development Districts (PDD) that will offer enhanced mixed use, commercial, office, and residential opportunities in South Lincoln. The Planned Development Districts are intended to:

(a) permit greater flexibility in the development or redevelopment of tracts of land by requiring few predetermined standards,

(b) permit a developer to propose and for the Town to vote on, a preliminary development and use plan unique to a particular location; town meeting shall vote to approve the plan as a whole with a majority vote. The preliminary plan may also be amended on the floor of Town Meeting to add restrictions, limitations or requirements,

(c) permit the use of development standards more detailed than the general standards elsewhere in this bylaw,

(d) provide information for the Town to evaluate the potential impacts of a proposed development, and

(e) enable the Planning Board to require adherence to a preliminary development and use plan in the granting of a special permit.

12.7.2 South Lincoln Planned Development Districts: Unless and until Town Meeting approves by majority vote a portion of the SL-South Lincoln Overlay District as a South Lincoln Planned Development District, the permitted uses and dimensional controls shall be those of the underlying zoning district, without regard to its inclusion in the SL-South Lincoln Overlay District. Projects in the South Lincoln Overlay District shall follow the same procedures and requirements outlined in Sections 12.5.3 through 12.5.12 North Lincoln Overlay District except that all references to NL - North Lincoln shall be considered as SL – South Lincoln. References to “change of zoning district” in Sections 12.5.3 through 12.5.12 shall be read to mean “designation of planned development district.” Upon Town Meeting approval of a Planned Development District designation (based on a preliminary development and use plan prepared pursuant to Section 12.5.3) that portion of the land shown on the plan that is in the South Lincoln Overlay District shall also be deemed to be a South Lincoln Planned Development District and to have the benefit of this Section 12.7.2. South Lincoln Planned Development Districts shall be numbered sequentially. The permitted uses and dimensional controls in a South Lincoln Planned Development District shall be governed exclusively by the provisions of this section 12.7, and not by the provisions of the underlying district in which such land is located, unless and until the time for

issuance of a special permit under this section expires without a special permit having been issued, or the time when such a special permit lapses by reason of the applicant's failure to use it within the required period described in Section 21.5. After expiration of the time for issuance of a special permit under this section without a special permit having been issued, or after the lapse of such a special permit, the Planned Development District designation shall have expired and the permitted uses and dimensional controls in such district shall again be governed by the provisions of the underlying zoning districts. The general rules set forth in Sections 13.1 and 13.2, the definitions set forth in Section 23, and the provisions applicable to any other overlay district in which such land may be located shall apply within any South Lincoln Planned Development District, and the requirements of other provisions of the Zoning Bylaw not limited in application to a particular underlying zoning district shall apply except to the extent expressly and conspicuously otherwise stated in the written portion of the preliminary development and use plan. A preliminary development and use plan may contain alternative development provisions provided that the plan expressly and conspicuously identifies any such provisions and states the conditions in which each alternative provision will apply.

12.8 SP - SOLAR PHOTOVOLTAIC FACILITIES OVERLAY DISTRICT

- 12.8.1 The purpose of this Section 12.8 is to promote the creation of new large-scale ground-mounted solar photovoltaic facilities (SPFs) by: establishing areas for construction of SPFs; providing standards for the placement, design, construction, operation, monitoring, modification and removal of such facilities, which standards address public safety and minimize impacts on scenic, natural and historic resources; and providing adequate financial assurance for the eventual decommissioning of such facilities.
- 12.8.2 This section 12.8 applies to and permits the installation and operation of large-scale (nameplate capacity of 250 kW DC or greater) ground-mounted SPFs in accordance with the provisions hereunder. This section also pertains to physical modifications that materially alter the type, configuration, or size of these facilities or related equipment.
- 12.8.3 LOCATION: The Solar Photovoltaic Facilities Overlay District shall consist of the following areas:
- 1) An area of approximately 5.7 acres within Assessor's Map 19, Parcel 4-0, off North Great Road, bounded as follows: from the intersection of the northern lot boundary with the Lexington town line, running roughly south along the Lexington town line for 350 feet, then due west for 700 feet, then due north to the northern lot boundary and then roughly east along the various segments of the northern lot boundary to the Lexington town line.
- 12.8.4 No building permit shall be issued for an SPF without prior approval by the Planning Board of a site plan in accordance with the provisions of Section 17 of this bylaw. Site plans shall be deemed constructively approved if not acted upon within one year after submission of complete plans.
- 12.8.5 Applications for Site Plan Review shall include evidence that the utility company that operates the electrical grid where the facility is to be located has been informed and consents to the solar photovoltaic facility owner or operator's plan to connect to the electrical grid. Off-grid systems are exempt from this requirement.

- 12.8.6 The height of all structures comprising the SPF shall not exceed 20 feet above the pre-existing natural grade.
- 12.8.7 The applicant shall submit a plan for the operation and maintenance of the SPF.
- 12.8.8 The owner, operator, successors, and assigns of the SPF shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures.
- 12.8.9 All structures associated with an SPF shall be removed within one year of cessation of use. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Removal shall include:
 - a) Removal of all structures, equipment, security barriers and transmission lines from the site.
 - b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - c) After consultation with the Planning Board, stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- 12.8.10 Applicants, other than governmental authorities, shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the SPF and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. The project proponent 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 costs due to inflation.

SECTION 13 GENERAL RULES FOR APPLYING DEVELOPMENT REGULATIONS IN ALL DISTRICTS.

13.1 Height.

13.1.1

13.1.1.a For any structure constructed on or before April 5, 2003 height shall be measured as the vertical distance from the average ground elevation around the exterior walls of the structure to the highest point of the top story in the case of flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof provided that the ridge of a pitched roof shall not be higher than 130% of the stipulated height for the district.

13.1.1.b For any structure constructed after April 5, 2003, height shall be measured as the vertical distance from the lowest exposed point on the structure to the highest point on the structure, unless the Planning Board determines that additional height would not adversely affect the neighborhood in which case height may be

measured as the vertical distance from the average natural grade around the perimeter of the structure to the highest point on the structure.

- 13.1.2 Limitations of height shall not apply to radio and television towers, permits for which have been granted under **Section 6.2(f)** above, or to features of buildings such as chimneys, ventilators, skylights, spires, tanks, and antennae, which are carried above roofs, provided that in a residential district such features are in no way used for living purposes.

13.2 Area, Frontage and Yard Requirements

- 13.2.1 In computing the area of a lot in any district, no part of a street shall be included.

- 13.2.2** Frontage shall be measured along a straight line connecting points of intersection of the side lot lines with the street line on which the lot is located. **(See figure 3 at end of by-law.)**

There shall be not less than the required distance between said lot lines at all points from the street line to the principal building.

- 13.2.3** A lot on a turning circle of a dead-end street may have a frontage of not less than 80 feet provided that the shortest distance between side lot lines shall be at least 120 feet at every point more than 35 feet from the street line to the principal building. **(See figure 4 at end of by-law.)**

- 13.2.4 A lot having frontage on two streets which do not intersect, shall have two front yards, each of which shall comply with the requirements of this By-law but need meet the minimum frontage requirement only with respect to one of the streets. A corner lot having frontage at the intersection of two streets must have the minimum frontage on at least one of the streets and shall be deemed to have two front yards, each of which shall comply with the requirements of this By-law.

- 13.2.5** The minimum width of a lot between any point on any side lot line and any point on any other side lot line measured through any point on any principal building shall be 250 feet. **(See figure 1 at end of by-law.)**

- 13.2.6 In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for the foregoing measurements, the matter shall be decided by the Building Inspector with the advice of the Planning Board. The rear lot line is that line which is furthest from and most nearly parallel to the front yard line. All other lot lines are side lot lines. Triangular and irregularly shaped lots may have no rear lot line.

- 13.2.7 Front yard setbacks shall be measured from street lines to the nearest point of the principal building or accessory structure. Uncovered steps, cornices, window sills and other ornamental features, and walls and fences are excluded from the calculation of front yard setback.

- 13.2.8 Side and rear yards shall be measured from the nearest point of the principal building to each side lot line and to the rear lot line.

- 13.3 Lot Coverage. The Gross Floor Area of all buildings on any lot shall not exceed twenty-five (25) percent of the area of the lot.

- 13.4 Accessory Structures. Accessory structures, as defined in **Section 23** and enumerated under Structure (a-q), shall not be located closer than 50 feet from the

street line nor any closer to any side or rear lot line than the height of such accessory structure above the ground level or 20 feet, whichever is greater. Accessory structures, as defined in **Section 23**, and enumerated under Structure (b-q) may be located without regard to the foregoing dimensional requirements provided that the Board of Appeals has issued a special permit pursuant to **Section 6.2(f) and Section 20.2(c)**.

13.5 Exterior Lighting: All artificial lighting permanently installed in any district, shall consist only of fully shielded light fixtures and be so installed or shielded as to prevent direct light or glare from the light source from interfering with the vision of motorists or pedestrians passing in the street or streets abutting the premises and as to prevent direct light or glare from illuminating neighboring properties.

13.5.1 All exterior lamps shall have a Correlated Color Temperature (CCT) value of 3000K or below.

13.6 Solar Energy Systems.

13.6.1 Purpose The purpose of this Solar Energy System By-Law is to encourage investment in Solar Energy Systems in the Town of Lincoln, while providing guidelines for the installation of those systems that are consistent with the character of the Town and are necessary to protect the public health, safety and general welfare.

13.6.2 Definitions

Solar Energy System – A device or structural design feature, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for electrical power generation, or for water heating.

Roof-Mounted solar Energy System – A Solar Energy System that is comprised of Solar Collector Panels, including frames, supports and mounting hardware that is installed on the roof of a building.

Building-Integrated Solar Energy System - A Solar Energy System that is an integral part of a principal or accessory building replacing or substituting for an architectural or structural component of the building. Building-Integrated Solar Energy Systems include but are not limited to Photovoltaic, hot air, or hot water solar systems that are contained within roofing materials, walls, windows, or skylights.

Photovoltaic (PV) - The technology that uses a semi-conductor material to convert light directly into electricity.

Solar Collector Panel - Any part of a Solar Energy System that absorbs solar energy for use in the system's energy transformation process. The Solar Collector Panel does not include frames, supports, or mounting hardware.

Solar Energy Storage System – A device that reserves energy for later consumption that is charged by a connected Solar Energy System. Any such storage system shall be considered part of the Solar Energy System.

Canopy/Carport Solar Photovoltaic System – A free standing Solar Energy System where the Solar Collector Panels are designed to be the roof, and span to structural supports and which maintains the function of a parking surface or pedestrian walkway beneath the canopy.

13.6.3 General Standards

- (a) Solar Energy Systems may provide energy either (1) for consumption on site for the purpose of defraying the cost of electricity purchased for consumption on site; or (2) for the sale of electricity to the local utility company, with benefits provided either through payments directly from the utility, from a third-party owner/provider of the Solar Energy System, or through the purchase of electricity at reduced prices from the owner/provider of the Solar Energy System, or some combination of the above.
- (b) Solar Energy Systems other than compliant Building-Integrated Solar Energy Systems and compliant Roof-Mounted solar Energy Systems on existing structures shall be subject to site plan review under Section 17.7. As a condition of site plan approval, the Board may require a bond or other surety to assure appropriate decommissioning of the installation or other measure to protect public.
- (c) A Solar Energy System shall not be used to display advertising, including but not limited to signage.
- (d) Solar Energy Systems shall be placed and arranged such that reflected solar glare shall not be directed onto adjacent buildings, properties or roadways.
- (e) Appurtenant electric, piping, wiring or equipment for Solar Energy Systems shall be allowed to extend beyond the perimeter of the building on a side or rear yard exposure.

13.6.4 Design Standards in Residential Districts, excluding properties used for municipal purposes.

(a) Building-Mounted Solar Energy Systems

Building-mounted Solar Energy Systems of any size are permitted in the following locations:

- i. On the roofs of principal and accessory structures, and/or
- ii. On side and rear building facades
- iii. Building-Integrated Solar Energy Systems of any size are also permitted on front or corner building facades

All Solar Energy System appurtenances such as, but not limited to, plumbing, water tanks, mounting structures, and support equipment shall be screened to the maximum extent possible without compromising the effectiveness of the Solar Collector Panels.

(b) Roof-Mounted Solar Energy Systems

All roof-mounted Solar Collector Panels on a sloped roof will be subject to the following height limitations:

- i. The top surface of any Solar Collector Panel mounted on a sloped roof shall not exceed 12 inches above the adjacent finished roof surface and shall not extend above the adjacent ridge line.
- ii. The top most point of any Solar Collector Panel mounted on a flat roof (1/2 inch or less per foot slope) shall not exceed 30 inches above the adjacent finished roof surface on flat roofs or extend above any adjacent parapets.

(c) Ground-Mounted Solar Energy Systems and Canopy/Carport Solar Energy Systems.

Ground mounted Solar Energy Systems and Canopy/Carport solar Energy Systems shall be treated as accessory structures and shall require site plan review under Section 17.7.

Ground-mounted Solar Energy Systems shall comply with all minimum setback requirements. Ground-mounted Solar Energy Systems shall not be located within the front yard, defined as the area between the front façade of the dwelling extended to the side property lines and extending to the street line (corner lots have two (2) front facades).

Ground- or pole-mounted Solar Energy Systems shall not exceed the maximum height of twelve feet as measured from the ground to the top of the solar panels when at maximum vertical tilt.

Canopy/Carport Solar Energy Systems shall not exceed the maximum height of seventeen feet, where justified, as measured from the ground to the top of the solar panels when at maximum vertical tilt.

13.6.5 Design Standards in Non-Residential Districts and for Municipal Properties in All Zoning Districts.

(a) Building-Mounted Solar Energy Systems

Building-mounted Solar Energy Systems of any size are permitted in the following locations:

- i. On the roofs of principal and accessory structures, and/or
- ii. On side and rear building facades
- iii. In addition, Building-Integrated Solar Energy Systems of any size are permitted on front or corner building facades

All Solar Energy System appurtenances such as, but not limited to, plumbing, water tanks, mounting structures, and support equipment shall be screened to the maximum extent possible without compromising the effectiveness of the Solar Collector Panels.

(b) Roof-Mounted Solar Energy Systems

All roof-mounted Solar Collector Panels on a sloped roof will be subject to the following height limitations:

- i. The top surface of any Solar Collector Panel mounted on a sloped roof shall not exceed 12 inches above the adjacent finished roof surface and shall not extend above the adjacent ridge line.

ii. The top most point of any Solar Collector Panel mounted on a flat roof (1/2 inch or less per foot slope) shall not exceed 30 inches above the adjacent finished roof surface on flat roofs or extend above any adjacent parapets

(c) Ground-Mounted Solar Energy Systems and Canopy/Carport Solar Energy Systems

Ground-mounted Solar Energy Systems and Canopy/Carport Solar Energy Systems shall be treated as accessory structures and shall require site plan review under Sections 17.1-17.6.

Ground-mounted Solar Energy Systems shall comply with all minimum setback requirements. Ground-mounted Solar Energy Systems shall not be located within the front yard, defined as the area between the front façade of the main building (or structure) extended to the side property lines and extending to the street line (corner lots have two (2) front facades).

Ground- or pole-mounted Solar Energy System shall not exceed the maximum height of twelve feet as measured from the ground to the top of the solar panels when at maximum vertical tilt.

Canopy/Carport Solar Energy Systems shall not exceed the maximum height of seventeen feet, where justified, as measured from the ground to the top of the solar panels when at maximum vertical tilt.

13.6.6 Planning Board Waivers

The Planning Board may waive strict compliance with any requirement contained in Sections 13.6.3, 13.6.4, and 13.6.5 where it determines such action to be consistent with the purpose and intent of the Zoning Bylaw and otherwise in the public interest.

13.7 Site Plan Review Specifically described uses that generate 50 or more trips per day according to the ITE Trip Generation Manual shall, upon application for a building permit, be subject to Site Plan Review by the Planning Board in accordance with Section 17.7 in the R1 district and Sections 17.1-17.6 in all other districts.

SECTION 14 SPECIAL HOUSING PROVISIONS.

14.1 Purpose. The existing development pattern of the Town has resulted in conditions which make it difficult for Town employees, young people, older people and persons of low and moderate income to find suitable housing within the Town. The special regulations contained in this **Section 14** have been enacted for the purpose of encouraging the construction of a limited number of housing units suitable for occupancy by such persons, while ensuring compliance with local planning standards and policies concerned with land use, building

design, and requirements of the health, safety, convenience and general welfare of the inhabitants of the Town.

14.2 Increased Density in an R-4 Planned Community Development District.

14.2.1 In connection with an application to the Board of Appeals for a special permit permitting development of a tract of land in an R-4 PCD District under **Section 8.3** hereof, the Board of Appeals may waive the provisions of **Section 8.3.2(b) and (d)** hereof relating to the maximum permissible density in such a development provided that:

(a) the proposed development complies with all of the other provisions of **Section 8.3**;

(b) the number of dwelling units to be constructed in the development does not exceed one unit for each 10,000 square feet of the total land area of the development and does not exceed a total of 150 dwelling units in the development;

(c) the development is not located so close to any other development constructed under this section as to create an undue concentration of higher density housing or to defeat the requirements of subparagraph (b) above;

(d) not less than 60% of the dwelling units to be constructed in such development are subsidized housing units; and

(e) provision shall be made so that at least 70% of the total land area of the development shall be Open Land. For purposes of this paragraph, Open Land shall include land set aside for unenclosed athletic facilities or any use allowed in the C-Open Space Conservation District.

14.2.2 In addition to any other restrictions imposed under **Section 8** above, the following special provisions shall apply to a special permit for an R-4 Planned Community Development:

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

(b) any special permit granted hereunder shall impose appropriate safeguards to ensure the continued use of the subsidized units or equivalent units for subsidized housing;

(c) any special permit granted hereunder shall incorporate by reference the building design, site development and financing plans submitted by the developer with the application. Development of the tract in question under such special permit shall be in substantial conformance with such designs and plans, unless, after notice and hearing, the Board of Appeals amends such special permit.

14.2.3 In addition to the plans and supporting materials required under **Section 8.4** above, the application to the Board of Appeals for a special permit for subsidized housing under this section shall be accompanied by the following material, copies of which shall also be submitted to the Planning Board:

(a) financing plan describing the Federal or state subsidy program, the subsidizing agency, the estimated costs of land, site development, building, operation and maintenance and the planned approximate schedule of rents, leases or sale prices;

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

14.3 Accessory Apartments in an R-1 District.

14.3.1 Definitions

(a) Accessory Apartment: a distinct portion of a single-family dwelling, or a unit in an accessory structure on a single-family lot, having its own kitchen, sleeping, and bathroom facilities, and subordinate in size to the principal part of the dwelling or structure.

(b) Affordable Accessory Apartment: An Accessory Apartment that is affordable to low and moderate income households, as defined by the Massachusetts Department of Housing and Community Development ("DHCD"), and that meets DHCD requirements for accessory apartments under the Local Initiative Program ("LIP") and for inclusion in the Town's Subsidized Housing Inventory.

(c) Multiple Accessory Apartments: More than one accessory apartment per lot.

14.3.2 Requirements for an Accessory Apartment

The Board of Appeals may grant a Special Permit for an Accessory Apartment, provided that the unit meets the following requirements:

(a) Floor Area: the Accessory Apartment shall not exceed 1200 square feet, and (for a unit included in a single-family dwelling) shall not exceed 35% of the floor area of the principal dwelling unit and Accessory Apartment combined.

(b) Lot Size: the lot on which the Accessory Apartment and principal dwelling unit are located shall contain at least 40,000 square feet.

(c) Age of Structure: The residential dwelling or the accessory structure in which the Accessory Apartment is to be located shall have been constructed at least ten (10) years prior to the date of application for the Special Permit. Any addition less than ten (10) years old shall be deemed to be part of the building(s), provided that the addition does not increase the floor area or volume of the original building(s) by more than 10% and does not alter the character of the building.

(d) Occupancy: either the Accessory Apartment or the principal residence is occupied by the owner of the lot on which the Accessory Apartment is to be located, except for bona fide temporary absences. If the lot on which the Accessory Apartment is to be located is owned by the Town of Lincoln, the owner-occupancy requirement of this paragraph shall not be applicable as long as the lot and the structures thereon continue to be owned by the Town of Lincoln.

(e) Sewage: Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the occupancy of such Accessory Apartment in accordance with the requirements of the Board of Health, as certified by a written report from the Board of Health, submitted to the Board of Appeals before or at the public hearing.

(f) Access and Parking: adequate provision has been made for ingress and egress to the Accessory Apartment from the outside of the structure, and for off street parking of motor vehicles in such a fashion as is consistent with the character of a single family residence.

(g) Number of Units: There shall be no other apartment on the lot on which the apartment is to be located except as provided under Section 14.3.5, "Multiple Accessory Apartments".

(h) Appearance: The principal structure, after the creation of the Accessory Apartment, shall retain the appearance of a single-family structure. In general, any new external entrances shall be located on the side or rear of the building.

(i) Effect on Adjacent Properties and the Neighborhood: the Board of Appeals shall find that the construction and/or occupancy of the Accessory Apartment will not be detrimental to the neighborhood in which the lot is located or injurious to persons or property.

14.3.3 Procedures

(a) The applicant shall consult with the Planning Board prior to the hearing and the Planning Board shall submit, in writing, prior to the hearing, its recommendation and report to the Board of Appeals. The report of the Planning Board shall include as a minimum:

(i) a determination of the area of the lot on which the apartment is located;

(ii) a general description of the neighborhood in which the lot lies and the effect of the proposed apartment on the neighborhood;

(iii) the Planning Board's recommendations as to the advisability of granting the Special Permit and as to any restrictions which should be imposed as a condition of such permit.

(b) The applicant shall obtain and submit to the Board of Appeals a written report of the Board of Health, certifying that the conditions of Section 14.3.2(e) have been met.

(c) The Board of Appeals shall hold a public hearing on the application, in accordance with the procedures specified in MGL Chapter 40A.

(d) The Board of Appeals shall give due consideration to the report of the Planning Board and, where its decision differs from the recommendation of the Planning Board, shall state the reasons therefor in writing.

14.3.4 Affordable Accessory Apartments

The intent of this section of the bylaw is to increase the availability of moderately priced housing that qualifies for inclusion on the Town's Subsidized Housing Inventory, thus developing a variety of housing to meet the needs of low and moderate income families, town employees, the young and the elderly.

The Affordable Accessory Apartment Program is a public/private partnership to maintain local control over housing development and to increase the town's supply of low and moderate income housing.

The Board of Appeals may approve a Special Permit for an Affordable Accessory Apartment, according to the same procedures as in Section 14.3.3, above. An Affordable Accessory

Apartment shall meet the requirements set forth in Section 14.3.2 above, with the following conditions:

(a) The Affordable Accessory Apartment shall be approved by LIP and comply with LIP requirements, including but not limited to those contained within the Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory, in effect on the date of application for a Special Permit and as may be amended from time to time thereafter;

(b) Before the Affordable Accessory Apartment may be occupied, the owner(s) of the property shall execute a Regulatory Agreement and Declaration of Restrictive Covenants for Affordable Accessory Apartment Rental ("Regulatory Agreement"), enforceable by DHCD and the Town, or other form of affordable housing restriction as may then be in effect under the Local Initiative Program. The Regulatory Agreement shall be recorded with the Middlesex South Registry of Deeds;

(c) The Regulatory Agreement shall have a minimum term of 15 years;

(i) The Agreement shall terminate upon sale of the property, which, for purposes of this subsection, shall not include:

(1) A mortgage deed to secure repayment of a loan: or

(2) An inter-spousal transfer for nominal consideration where the transferor retains at least a fifty-percent ownership interest in the property; or

(3) A transfer to a trust for minimal consideration where the owner holds at least a fifty-percent beneficial interest in the property.

(ii) An owner may voluntarily terminate the Regulatory Agreement prior to its expiration with 60 days' notice, in accordance with the restrictions in such agreement. The owner shall notify the Town and DHCD, and record a notice of cancellation of the Special Permit at the Registry of Deeds. The termination of the Regulatory Agreement shall not take effect until the expiration of the current lease between the owner and the tenant occupying the Affordable Accessory Apartment.

(d) Upon termination of the Agreement, additional restrictions shall apply regarding repayment to the Town of any funds received from the Town pursuant to a grant or loan agreement.

(e) An Affordable Accessory Apartment may not be rented to an owner's family member (currently defined in DHCD regulations and guidelines as a parent, grandparent, son, daughter, uncle, aunt, niece, nephew, or sibling);

(f) The Affordable Accessory Apartment shall be subject to DHCD regulatory requirements, including requirements relative to pricing, tenant income eligibility, affirmative fair housing marketing and tenant selection plan, and maintenance. In particular, the Affordable Accessory Apartment shall be rented to income-qualified tenants selected through an open process established in accordance with the affirmative fair housing marketing plan, and the monthly rent shall not exceed the maximum affordable rent for a household of the appropriate size, as prescribed in the LIP affordable accessory apartment program guidelines and other applicable state regulations and requirements.

(g) The Lincoln Housing Commission, or other entity designated by the Board of Selectmen, shall act as the Local Project Administrator if approved by DHCD in accordance with DHCD guidelines and requirements.

14.3.5 Multiple Accessory Apartments

The Board of Appeals may issue a Special Permit under this section for more than one Accessory Apartment per lot (in which case Section 14.3.2(g) shall not apply) provided that, as a condition of the Special Permit:

(a) for each Accessory Apartment in excess of one, the owner shall designate a tract of land as "Open Space" contiguous to the lot on which the Accessory Apartments are to be constructed;

(b) the Open Space shall contain a minimum of 80,000 square feet for each Accessory Apartment in excess of one;

(c) prior to the commencement of any construction with respect to the Accessory Apartment, the Open Space shall be:

(i) designated as a separate lot and conveyed to the Town of Lincoln or the Lincoln Land Conservation Trust; or

(ii) placed under a conservation easement running to and enforceable by the Town or the Lincoln Land Conservation Trust.

(d) the Open Space shall be restricted to any one or more of the uses allowed in the C-Open Space District except that, subject to the approval of the Board of Health, the Board of Appeals may permit the Open Space to be used for subsurface waste disposal where it finds that such use would not be detrimental to the character or quality of the Open Space.

(e) the owner shall demonstrate to the satisfaction of the Board of Appeals that the Open Space meets all the applicable requirements to permit a dwelling to be constructed if the tract were subject to the restrictions of the R-1 Single Family Residence District for each apartment in excess of one.

14.3.6 Termination of Accessory Apartment Special Permits upon Sale of the Property

(a) The rights granted under the Special Permit for either an Accessory Apartment (including Multiple Accessory Apartments) or, an Affordable Accessory Apartment shall terminate upon sale of the property, which, for purposes of this subsection, shall not include:

(i) A mortgage deed to secure the repayment of a loan; or

(ii) An inter-spousal transfer for nominal consideration where the transferor retains at least a fifty-percent ownership interest in the property; or

(iii) A transfer to a trust for nominal consideration where the owner holds at least a fifty-percent beneficial interest in the property.

(iv) A transfer to a new owner where the new owner applies to and obtains from the Board of Appeals approval of the transfer of the Special Permit.

(b) A sale or transfer of title shall not dispossess the then-tenants of the Accessory Apartment or Affordable Accessory Apartment for the duration of their current tenancy.

(c) Any transfer or extension of a Special Permit for an Accessory Apartment or Affordable Accessory Apartment shall not be denied solely for the reason that the unit or property fails to comply with amendments made to Section 14.3 after the granting of the original Special Permit.

(d) In granting Special Permits under this Section 14.3, the Board of Appeals may impose restrictions as to manner and duration of use, in accordance with (and without limiting) Section 20.2(e).

14.4 Development Bonus.

14.4.1 An owner or owners of land in an R-1, R-2 or R-3 District may, in connection with the submission of an application for a special permit to the Board of Appeals or of a plan to the Planning Board, pursuant to the requirements for particular uses within such districts, apply to the Board of Appeals for a special permit to increase the number of dwelling units which would otherwise be permitted under this By-law up to a maximum of the lesser of 20% of the units otherwise permitted on the tract under this By-law or ten (10) units, provided that the applicant demonstrates to the satisfaction of the Board of Appeals that at least 50% of such additional dwelling units to be constructed in the development will be made available on a continuing basis to persons of low or moderate income.

14.4.2 No development shall take place pursuant to a special permit granted by the Board of Appeals under this **Section 14.4** until and unless a site plan is submitted to and approved by the Planning Board under **Section 17** below.

14.4.3 In the event that a special permit for a development bonus is granted under this **Section 14.4.**, the lot area, frontage, width of lot at building and yards of the development shall be as shown by a site plan submitted to and approved by the Planning Board under **Section 17** below, which site plan shall conform generally to the pattern of development permitted in the district in which the land lies with such deviations as are reasonable, in the judgment of the Planning Board, to permit the increased density.

14.5 Inclusionary Housing

14.5.1 Purpose and Intent – The purpose of this Bylaw is to increase the supply of housing in the Town of Lincoln that is available to and affordable by low or moderate income households who might otherwise have difficulty in finding homes in Lincoln, and to ensure that such housing is affordable in perpetuity and provided in accordance with the Town of Lincoln Consolidated Housing Plan, M.G.L. Chapter 40B Sec. 20-23 as amended and other ongoing programs within the Town. It is intended that the affordable housing units that result from Special Permits issued under this Bylaw subsequently be approved as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Department of Housing and Community Development (DHCD) or its successor and that such units count toward the Town's Subsidized Housing Inventory (SHI) in perpetuity. It is intended that this bylaw provide a mechanism to compensate for those decreases in the Town's percentage of affordable housing that are directly caused by increases in the Town's overall housing stock.

14.5.2 Applicability – Beginning with the effective date of this Bylaw, any development or division of land subject to M.G.L. Chapter 40A Section 9 or M.G.L. Chapter 41 Section 81K through 81GG, which will result in the creation of six (6) or more

dwelling units, shall require affordable housing units under a Special Permit by the Planning Board pursuant to Section 21 of the Zoning Bylaw and Section 17 Site Plan Review, except in accordance with Section 8 R-3 and R-4 Districts of the Zoning Bylaw which requires a special permit from the Zoning Board of Appeals. The Planning Board and Zoning Board of Appeals shall be the Special Permit Granting Authority as appropriate to the underlying zoning requirements.

14.5.2.1 This section shall be applied based on the following schedule for the number of units or lots in a proposed development:

<u># of dwelling units proposed</u>	<u># of affordable units to be constructed</u>
6 – 10 units	one affordable unit
11 – 18 units	two affordable units
19 – 24 units	three affordable units
25 – 30 units	four affordable units
over 30 units	fifteen percent (15%) of the proposed project units rounded up to the nearest whole number

14.5.2.2 Dwelling units shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of the adoption of this Bylaw Section 14.5.

14.5.3 Definitions

14.5.3.1 Affordable Housing Unit – a dwelling unit that qualifies as a local initiative unit under the Commonwealth’s Local Initiative Program (LIP) and meets the requirements of a subsidized housing unit for the purposes of inclusion in the Town’s Subsidized Housing Inventory. Each Affordable Housing Unit shall be encumbered by a deed restriction in perpetuity that is sufficient to allow the unit to qualify as a LIP unit.

14.5.3.2 Qualified Affordable Housing Unit Purchaser – An individual or family with household incomes that qualify for the requirements under the Commonwealth’s Local Initiative Program (LIP) for median area income as reported from the United States Department of Housing and Urban Development (HUD) and/or the Massachusetts Department of Housing and Community Development (DHCD).

14.5.4 Provision of Affordable Dwelling Units - affordable dwelling units required under sections 14.5.1 and 14.5.2 may be provided in any one or combination of methods described below; subject to approval of the Special Permit Granting Authority:

- a. Constructed on the locus subject to the Special Permit;
- b. An applicant may offer, and the Special Permit Granting Authority, in concert with the Board of Selectmen, may accept donations of land in fee simple, on or off-site within the Town of Lincoln, that the Planning Board determines to be suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the development and construction of the affordable units. The Special Permit Granting Authority shall require, prior to accepting land as satisfaction of the requirements of this Bylaw, that the applicant submit appraisals of the land in

question, as well as other data relevant to the determination of equivalent value;

- c. Preservation of existing dwelling units with the Town of Lincoln as affordable housing units through the purchase of deed restrictions and providing funding for rehabilitation of units equal to or greater than the value of the development and construction of the affordable units.
- d. Fees-in-lieu of affordable housing units may be used, to the extent permitted by law and with the approval of the Special Permit Granting Authority. With such approval the applicant may contribute an amount in cash equal to or greater than the value of development and construction of such affordable housing units, and satisfactory to the Special Permit Granting Authority in consultation with other Town Boards, to the Town of Lincoln's Affordable Housing Fund or other legally created account for the development and preservation of affordable housing in Lincoln.

- 14.5.4.1 Affordable Housing Units shall be only of a type allowed by the appropriate zoning district.
- 14.5.4.2 Affordable Housing Units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average be no less accessible to public amenities such as open space, as the market rate units.
- 14.5.4.3 Minimum design and construction standards for affordable units within market-rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units.
- 14.5.4.4 Timing of construction or provision of affordable units or lots - where feasible affordable housing units shall be provided coincident to the development of the market-rate units, and at no time shall the development of affordable units fail to conform to the schedule established in section 14.5.2.1.
- 14.5.5 Rules and Regulations – the Planning Board and Board of Appeals in consultation with the Lincoln Housing Commission and other Town Boards shall develop rules and regulations to implement the provisions of this Bylaw. Calculations for the value of payment or land in lieu of units shall be set forth in the Rules and Regulations.

SECTION 15 OFF-STREET PARKING AND LOADING AREAS.

- 15.1 Purpose. It is the purpose of this section to provide that land used for arrival, departure, parking or storage of motor vehicles shall be designed in such a way that all uses shall have sufficient parking and maneuvering spaces and storage spaces to meet their needs.
- 15.2 Definitions. As used herein, the following words and phrases shall have and include the following respective meanings:
 - (a) parking space - An open space exclusive of maneuvering area and driveway for the parking of one motor vehicle;

(b) parking area - An open space either used or required for parking of five or more motor vehicles, including necessary maneuvering space, but not including parking on a lot for the passenger cars of residents and guests of a one-family dwelling on said lot;

(c) storage area - An open space either used or required for the standing of motor vehicles held for sale or rental;

(d) maneuvering space - An open space in a parking area which is used or required for maneuvering a motor vehicle into a parking space but is not used for the parking or storage of motor vehicles;

(e) maneuvering aisle - A maneuvering space which serves two or more parking spaces, such as the area between two rows of parking spaces;

(f) driveway - An area on a lot, in addition to parking and maneuvering spaces and aisles, which is designed or used to provide for the passage of motor vehicles to and from a street or way;

(g) motor vehicle - Any vehicle for which registration is required in order to travel legally on Massachusetts highways;

(h) passenger car - A motor vehicle designed for private passenger use;

(i) use - The purpose for which land or building is employed, arranged, or intended, or for which either is occupied or maintained;

(j) service area - An off-street space or berth on the same lot with a building or contiguous to a building or buildings, used for maneuvering and/or temporary parking of motor vehicles or storage containers employed in providing the pickup and delivery of goods and services to such building or buildings.

15.3 Regulations and Restrictions.

15.3.1 General Provisions. No parking or storage area shall be constructed or altered; no building permit for the erection, enlargement or substantial alteration of any building for which a parking or storage area would be required by this By-law shall be issued; and the uses to which a lot is put shall not be changed to a use or uses requiring different parking requirements from those applicable to the former use; unless in each case, an Off-Street Parking or Storage Plan has been submitted to the Building Inspector. Said Off-Street Parking or Storage Plan shall include:

(a) the quantity, location, and dimensions of all driveways, maneuvering spaces and aisles, parking spaces, storage areas, drainage facilities and landscaping;

(b) the location, size and type of materials for surface paving, curbing or wheel stops, trees, screening and lighting;

(c) the location of all buildings and lot lines from which the parking lot must be set back;

(d) such other information as the Building Inspector may reasonably require.

The Building Inspector may, at any reasonable time, enter upon a lot or into any building thereon, in order to make such determinations as are necessary for the administration of this section.

Where off-street parking or storage is furnished in connection with two or more uses, the requirements shall be the sum of the requirements for the several uses.

Areas required to be kept open and unoccupied by buildings under **Section 13.3** may be used to satisfy the provisions of this Section.

Nothing herein shall be construed to prohibit the owner of a parking or storage area from restricting the use thereof to his customers, employees or other invitees, nor from charging a reasonable fee for the use thereof.

15.3.2 Required Parking. In Single Family Residence Districts, General Residence Districts, OSRD Districts, Planned Community Development Districts, Retail Business Districts, Service Business Districts, there shall be provided and maintained for every building hereafter erected enlarged or substantially altered, either on the same lot with the building or on another lot accessible to and within a walking distance of 600 feet from such lot, facilities for the storage of motor vehicles as hereinafter set forth.

15.3.2.1 Off-street parking spaces and loading areas shall be required in at least the ratio specified below for the following uses of land and buildings:

(a) dwellings: one parking space for each dwelling unit therein and sufficient parking space shall be provided to permit off-street parking either by employees or visitors;

(b) places of public assembly: one parking space for each three seats therein;

(c) schools: one parking space for each classroom therein, plus one space for each two employees or staff members other than teachers; and, in addition to the above, where an auditorium is provided, one space for each three seats therein;

(d) hotels, motels and lodging houses: one parking space for each room accommodation therein and loading spaces for all delivery trucks or sanitary collection vehicles;

(e) other service establishments and retail businesses: the minimum required parking and loading spaces, excluding driveways, for these establishments shall be in proportion to at least one parking space for each two hundred fifty (250) square feet or fraction thereof of gross floor area, excluding basement storage area;

(f) wholesale and light industrial establishments: one parking space for each person employed on the largest shift plus one space for each company owned or operated vehicle plus spaces for customers' vehicles as appropriate, and loading space for all delivery or shipping trucks;

(g) other uses requiring off-street parking and loading space: Spaces in accordance with anticipated needs as determined by the Building Inspector with the advice of the Planning Board.

15.3.3 Development Standards: Each parking area hereafter devoted to the off-street parking of fifteen or more motor vehicles shall comply with the standards as hereinafter set forth.

15.3.3.1 Design.

(a) Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table:

MINIMUM PARKING SPACE AND AISLE DIMENSIONS FOR PARKING AREAS (in feet)

<u>Angle of Parking</u>	<u>Width of Parking Space</u>	<u>Depth of Parking Space</u>	<u>Width of Maneuvering Aisle</u>
61° - 90°	8' 6"	18'	24'
46 - 60°	8' 6"	18'	18'
45°	8'6"	18'	15'
Parallel	8' 0"	22'	12'

(b) The number of driveways shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets.

(c) The width of a driveway for one-way traffic shall be not less than 12 feet as measured at its narrowest point. The width of a driveway for two-way use shall be a minimum of 18 feet as measured at its narrowest point and a maximum of 24 feet.

(d) All parking areas shall be so arranged and designed so that the only means of access to and egress from such areas shall be by driveways meeting the requirements of this Section.

(e) Driveways shall be arranged for the free flow of vehicles at all times, and all maneuvering spaces and aisles shall be so designed that all vehicles may exit from and enter into a public street by being driven in a forward direction.

(f) All portions of all parking spaces and maneuvering aisles shall be set back a minimum of five (5) feet from any wall of a building and any private or public way and a minimum of ten (10) feet from any lot line of any land in residential districts or used for residential purposes.

(g) Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other parking space, except where the parking area is attended or limited to employees.

15.3.3.2 Construction.

(a) All required parking spaces, maneuvering aisles and driveways shall have a durable, dustless, all-weather surface, and shall provide for a satisfactory disposal of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership and such surfaces shall be well maintained.

(b) When required by the Building Inspector, with the advice of the Planning Board, parking areas in all districts shall be provided with curbing, wheel stops, or other devices to prevent motor vehicles from being parked or driven within required setback areas or onto the required landscaped open space.

(c) In any parking area the surface shall be delineated so that each parking space is apparent.

15.3.3.3 Landscaping.

(a) Parking areas containing more than fifteen (15) parking spaces shall be landscaped and screened from adjacent property, in accordance with a plan submitted in compliance with **Section 15.3.1** of this Section. Such landscaping shall be so designed as to provide relief from glare and reflection and to reduce the visual impact of parking areas on adjacent property by the use of trees, shrubs, walls, fences or other landscape elements as may be required by the Building Inspector, with the advice of the Planning Board.

(b) Trees required by the provisions of this Section shall be at least two inches in diameter at a height of five feet at the time of planting and shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this Section.

15.3.3.4 Lighting. All artificial lighting used to illuminate a parking or storage area, maneuvering space or driveway shall be arranged and shielded so as to prevent direct glare from the light source into any public street or private way or onto adjacent property.

15.4 Exceptions. The Board of Appeals may grant special permits pursuant to **Section 20** of the By-law and pursuant to the provisions of this paragraph making exceptions to the provisions of this Section either upon appeal or upon written request of the owner of a parcel of land in any case, where, after a public hearing thereon, it shall find that literal enforcement would cause a substantial hardship, or that literal compliance is impractical because of the size, width, shape or grade of the lot, or the use to which it is to be put, or because a lesser area would, except in unusual circumstances, accommodate the motor vehicles of all persons at any time using the building, or less stringent requirements would carry out the other purposes of this Section, or because of factors peculiar to the lot or building involved not generally affecting the zoning district in which it is located.

SECTION 16. SIGNS

16.1 Definitions

(a) Sign - any temporary or permanent lettering, word, numeral, billboard, pictorial representation, display, emblem, trademark, device, banner, pennant, insignia, or other figure of similar character, located outdoors or visible outdoors, whether constituting a structure or any part thereof, or attached to, painted on, or in any other manner represented on a building or other structure, and which is used to announce, direct, attract, advertise or promote.

(b) Accessory sign - any sign relating to the premises on which it is located.

16.2 Signs Permitted by Right

(a) One accessory sign for each building used in whole or in part for residential purposes identifying the name(s) of the residential occupants and/or the address of the building, such sign not to exceed an area of 2 square feet.

(b) In R-1, R-2, R-3 or R-4 Districts, one unlit accessory sign per lot advertising a use described in and complying with Section 6.1(f), such sign not to exceed an area of 2 square feet.

(c) One unlit accessory sign advertising the sale or lease of premises, such sign not to exceed 8 square feet. Such sign shall not be maintained for a period of more than 180 days and in any event shall be removed after the sale or lease is consummated.

(d) Signs related to community-based events or town-sponsored events at the following intersections:
Sandy Pond Road and Lincoln Road; Ballfield Road and Lincoln Road; Lincoln Road and South Great Road; Bedford Road and Morningside Lane; and Codman Road and Concord Road.

(e) Street signs and traffic control signs erected by departments and agencies of the Town of Lincoln.

16.3 Signs Requiring a Permit from the Building Inspector

(a) Any sign shown on a site plan approved by the Planning Board pursuant to Section 17 of this By-law.

(b) One temporary accessory sign per lot for a period of not more than 14 days from the effective date of the permit, such sign not to exceed an area of 6 square feet.

16.4 Signs Requiring Approval from the Board of Selectmen and a Permit from the Building Inspector

Temporary signs on Town property for a period of not more than 14 days from the effective date of the permit, such signs not to exceed an area of 6 square feet.

16.5 Signs Requiring a Sign Permit from the Planning Board and a Permit from the Building Inspector

(a) All signs not described in Sections 16.2, 16.3, or 16.4 require a sign permit from the Planning Board and a permit from the Building Inspector

(b) In granting a permit for a sign, the Planning Board may impose such conditions, safeguards, limitations and restrictions as it deems appropriate and which are not inconsistent with any of the provisions of the Zoning Bylaw. The design (colors, font, size and style, method of lighting and form of sign) is subject to approval by the Planning Board. The Board may grant a sign permit if in its sole judgment the sign will not be detrimental to the public safety and welfare and will be in harmony with the general purpose and intent of the Zoning Bylaw. Sign permits shall only be issued following public hearing in accordance with Chapter 40A of the General Laws.

(c) For sign permits in the B-1, B-2, or B-3 districts, only one wall-mounted or parapet mounted accessory sign will be permitted for each separate and distinct place of business located on the ground level of a building. The area of such sign shall not exceed one (1) square foot for every linear foot of ground level storefront, such linear footage to be measured on the longest wall of storefront and not to exceed 30 square feet in any event.

16.6 General Provisions

(a) The construction, alteration, repair and maintenance of all signs shall comply with the State Building Code of the Commonwealth of Massachusetts.

(b) Signs must be stationary and shall not move or oscillate nor contain any visible moving parts except those needed by a thermometer, clock or calendar and except for strain-relieving devices or other moving parts authorized by special permit pursuant to Section 16.5.

(c) In determining the square footage of any sign, only one side of a free standing sign shall be counted, provided that any message carried on the reverse side is identical to the face of the sign; the support for the sign shall not be included in such determination provided it is in scale with the sign. In determining the square footage of a sign which is set on a background or within a border, the area of the background or border shall be included.

(d) Except as authorized by sign permit pursuant to Section 16.5, lighting for signs shall be white, and signs shall not be internally illuminated. Lights shall not flash or vary in intensity and shall be properly shielded to the satisfaction of the Planning Board.

(e) No sign, nor any light for a sign, shall project beyond any street line or above any building.

(f) No sign shall be erected or maintained that might, in the opinion of the Building Inspector or the Police Chief, constitute a hazard to vehicular or pedestrian traffic.

SECTION 17 SITE PLANS

17.1 Purpose. With the intent of furthering the purposes of this By-law, and for the reasonable protection of the legitimate interests of adjoining property owners and the Town, no building permit or certificate of occupancy shall be issued for any building or structure or use for which a site plan is required by this By-law until a site plan has been submitted to and approved by the Planning Board.

17.2 Site Plan Content. All site plans shall be submitted in triplicate and shall comply with the Subdivision Rules and Regulations of the Planning Board governing preliminary subdivision plans. Unless waived by the Planning Board, site plans shall also be prepared by a professional architect, registered engineer, registered land surveyor, or landscape architect at a scale of 1"=40', and shall show, at a minimum, all property boundaries and existing and proposed easements, buildings, (including also all buildings within fifty (50) feet of the boundaries) structures, existing and proposed grades, wetlands, floodplains, parking spaces, driveway openings, service areas, lighting, signs, water supply and wastewater disposal, refuse and other waste disposal, and facilities for surface water drainage, underground storage and utility facilities, all proposed landscape

features (such as fences, walks, type, size and location of planting materials, and screening methods) and any other information pertaining to the standards and criteria described in this section including without limitation, building elevations, which may be requested by the Planning Board. In any R-1 development where there is only one dwelling unit per lot, the site plan may show the proposed building sites instead of the proposed buildings, provided that applicant must apply for a site plan amendment and the site plan must be amended to show all buildings on each lot prior to the issuance of a building permit.

- 17.3 Procedure. Except as provided in this section, the procedure applicable to the issuance of a special permit pursuant to **Section 21** (notice, hearing, etc.) shall be applicable in all respects to the review of a site plan under this section. Within ten (10) business days of its receipt of an application for site plan approval, the Planning Board or its agent shall determine whether or not the submission appears to provide substantially all of the information required by the Zoning By-law. If the Planning Board finds that the submission is incomplete because all requisite information has not been included, it shall promptly notify the applicant in writing and the site plan shall not be considered filed until the Planning Board determines that the site plan application is complete. After determining that the submission is complete or after ten (10) business days have elapsed since the date on which application has been received, the Planning Board shall forward notice of receipt of the site plan to the Board of Selectmen, the Board of Health, the Conservation Commission, the Board of Appeals, the Fire Department, the Police Department, and the Water Commission, each of whom shall be requested to forward written comments to the Planning Board within 30 days of the date on which the Planning Board forwards the notice. The Planning Board shall hold a public hearing in accordance with the procedures set forth in **Section 9 of M. G. L. 40A** which pertain to special permits except that the Planning Board shall hold a hearing on the site plan within 45 days of receipt of a completed submission and shall make a decision within 30 days of the closing of the public hearing.

Applicants may request that the Planning Board approve amendments to a site plan in which case the Planning Board shall review any such amendment in accordance with the same standards and procedures as an initial submission, unless it deems the modification to be of a minor nature, in which case, a determination may be made at a Planning Board meeting instead of at a public hearing.

- 17.4 Site Plan Approval Standards and Criteria. The Planning Board shall approve a site plan in the form submitted or with such reasonable conditions relating to the standards and criteria described in this section as the Planning Board may impose, unless it finds that (a) the application for site plan approval is incomplete, (b) the imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described in this section, (c) the project does not comply with the requirements of the Zoning By-law. The standards and criteria are as follows:

(a) Preservation of Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing any grade changes and vegetation and soil removal.

(b) Relation of Buildings to Environment. Proposed development shall relate harmoniously to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity and shall provide a solar and wind orientation which encourages energy conservation.

(c) Building Design and Landscaping. Proposed development shall be in harmony with the prevailing character and scale of the buildings in the neighborhood and the Town through the use of appropriate scale, massing, building materials, screening, lighting and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to one another and the surrounding neighborhoods.

(d) Open Space. All open space shall be so designed as to add to the visual amenities of the neighborhood by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

(e) Circulation. Entrances, ramps, walkways, drives and parking, the location and number of access points, the public street (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, pedestrian and vehicular traffic, access to community facilities, and arrangement of parking areas shall be safe and convenient and, insofar as practicable, not detract from the use and enjoyment of proposed and adjacent buildings and structures, and do not materially reduce the level of service on any public ways. The development should, where applicable, serve to enhance the Town system of public facilities and services such as conservation areas, recreation facilities, footpaths or bicycle paths, streets, transportation systems or utility systems.

(f) Surface Water Drainage. The development shall incorporate measures that are adequate to prevent pollution of surface water or groundwater, to minimize erosion and sedimentation, and to prevent changes in groundwater levels, increased rates of run-off and potential for flooding.

Drainage shall be designed so that the rate of run-off shall not be increased in amount or velocity, and groundwater recharge is maximized. Proper site surface drainage should not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas, and carried away in an underground drainage system. Surface water in all impervious surfaces shall be collected at intervals and disposed of so that it will not adversely affect the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

(g) Water and Waste Disposal. The development shall be served with adequate water supply and waste disposal systems. For structures to be served by on-site waste disposal systems, the applicant shall submit a system design prepared by a registered engineer and containing all information necessary for the Board of Health to approve the on-site waste disposal system.

(h) Utility Service. To the extent feasible, electric, telephone, cable TV and other such lines and equipment shall be underground. The proposed method of solid waste disposal from all buildings shall be indicated. Building structures and adjacent grounds shall permit easy access and operation by fire, police and other emergency personnel and equipment.

(i) Signs. The size, location, design, color, texture, lighting and materials of all signs shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding neighborhood.

(j) Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall be feasible to prevent their being incongruous with the existing or contemplated environment and the surrounding neighborhood.

(k) Screening. Screening consisting of a solid fence, wall or evergreen planting, in all cases not less than six (6) feet in height or as specified by the Planning Board, shall be provided, erected and maintained wherever feasible to shield the business and light industrial uses of land from any adjoining residential property.

(l) Consistency with the By-law. The Planning Board may in any particular case where it determines such action to be consistent with the purpose and intent of the Zoning By-law and otherwise in the public interest, waive strict compliance with its Rules and Regulations and with the requirements contained in this section.

17.5 Fees. Any applicant seeking site plan approval by the Planning Board shall submit an application and pay such fees as shall be determined by the Board, to cover any expenses connected with a public hearing and review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for review purposes.

17.6 Rules. The Planning Board may promulgate or amend Rules and Regulations which pertain to the site plan approval process so long as the Rules and Regulations conform to this **Section 17** of the Zoning By-law. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

17.7 Site Plan approval under **Sections 4.6, 6.0.1, 6.0.2, and 6.6** shall be governed by the following rules and procedures:

17.7.1 Purpose. With the intent of furthering the purposes of this by-law, and for the reasonable protection of the legitimate interests of adjoining property owners and the Town, no building permit or certificate of occupancy shall be issued for any building or structure or use for which a site plan is required under **Section 4.6, 6.0.1, 6.0.2, and 6.6** until a site plan has been submitted to and approved by the Planning Board, and no occupancy permit shall be issued for such building, structure, or use until the Planning Board has issued a written determination of compliance with the approved site plan.

17.7.2 Content. The site plan submission to the Planning Board shall contain scale drawings showing proposed architectural elevations and sections, a site plan showing property boundaries, existing and proposed grades, the location of all existing and proposed structures, the location of any wetlands on or within 50 feet of the property boundaries, driveways and driveway openings, existing and proposed lighting, existing and proposed landscape features both vegetative and structural. In addition, the site plan submission shall include photographs or other readily available data concerning the location and size of structures on lots adjacent to or visible from the lot under consideration in order to provide a neighborhood context for the property under consideration. The Planning Board may, in its discretion, waive any portions of the submission requirements or request additional information, that directly relates to the purpose of **Section 17.7**

or the Planning Board's evaluation of the applicable standards and criteria under **Section 17.7**.

17.7.3 Procedures. The Planning Board encourages an applicant to have at least one preliminary meeting with the Planning staff to review any proposed project for compliance with zoning and site plan review requirements. This review will include, but will not be limited to, the siting of buildings and other structures, septic systems, drainage, landscaping, and lighting. At the discretion of the Planning staff, a preliminary meeting with the Planning Board may be required.

Except as otherwise provided in **Section 17**, the procedure applicable to the issuance of a special permit pursuant to **Section 21** (notice, hearing, etc.) shall be applicable in all respects to the review of a site plan under **Section 17.7**, except that notice by publication in a newspaper of general circulation in the Town will not be required. Within ten (10) business days of its receipt of application for site plan approval, the Planning Board or its agent shall determine whether or not the application is complete in accordance with **Section 17.7** or otherwise agreed to by the applicant and the Planning Board. If the Planning Board finds that the submission is incomplete because all requisite information has not been included, it shall promptly notify the applicant in writing and the site plan shall not be considered filed until the Planning Board determines that the site plan application is complete. The Planning Board shall hold a public hearing in accordance with the procedures set forth in **Section 9 of M. G. L. 40A** which pertain to special permits except that the Planning Board shall hold a hearing on the site plan within 45 days of receipt of a completed submission and shall make a decision within 30 days of the closing of the public hearing.

For residential properties where the calculated gross floor area of all the structures on the lot is less than 6500 square feet which have received Site Plan Approvals under this section and have had Certificates of Occupancy issued for 5 or more years shall no longer be subject to Site Plan Review except that all special conditions contained in any site plan approval shall remain in full force and effect. Further, in all cases, the requirements for site plan approval under Section 6.02 shall apply to future construction where the calculated gross floor area thresholds of that section are triggered. Such calculated gross floor area shall be the sum of the existing structures on the lot and any proposed addition to such existing structures and/or proposed additional accessory structure.

Applicants may request that the Planning Board approve amendments to a site plan in which case the Planning Board shall review any such amendment in accordance with the same standards and procedures as an initial submission, unless it deems the modification to be of a minor nature, in which case, a determination may be made at a Planning Board meeting instead of at a public hearing.

17.7.4 Site Plan Approval Standards and Criteria. The Planning Board shall approve a site plan in the form submitted or with such reasonable conditions relating to the standards and criteria described in **Section 17.7** as the Planning Board may impose, unless it finds that (a) the application for site plan approval is incomplete, (b) the imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described in **Section 17.7**, (c) the project does not comply with the requirements of the Zoning By-law. The standards and criteria are as follows:

(a) Preservation of Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing any grade changes and vegetation and soil removal.

(b) Relation of Buildings to Environment. Proposed development shall relate harmoniously to the terrain and to the use, scale, and proportions of existing and proposed buildings in the vicinity and shall provide a solar and wind orientation which encourages energy conservation. It is the intent of the Site Plan pursuant to **Sections 4.6, 6.0.1, 6.0.2, and 6.6** that all new construction shall be sited and implemented in a manner that is in harmony and scale with other structures in its immediate vicinity to preserve the characteristics of existing neighborhoods. Buildings on a slope pose unique design and development challenges since "mass and scale" when viewed from the uphill side may seem starkly different from "mass and scale" when viewed from the downhill side. To mitigate such stark differences, variations in scale and mass and the creative use of interconnected building elements are encouraged so that "scale and mass" when viewed from the downhill side is nearly as harmonious to the surroundings as when viewed from the uphill side.

(c) Building Design and Landscaping. Proposed development shall be in harmony with the prevailing character and scale of the buildings in the neighborhood and the Town through the use of appropriate scale, massing, building materials, screening, lighting and other architectural techniques. Variation in detail, form, and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to one another and the surrounding neighborhoods.

(d) Open Space. All open space shall be so designed as to add to the visual amenities of the neighborhood by maximizing its visibility for persons passing the site or overlooking it from nearby properties.

(e) Circulation. Entrances, ramps, walkways, drives and parking, the location and number of access points, the public street (especially in relation to existing traffic control and mass transit facilities), width of interior drives and access points, general interior circulation, pedestrian and vehicular traffic, access to community facilities, and arrangement of parking areas shall be safe and convenient and, insofar as practicable, not detract from the use and enjoyment of proposed and adjacent buildings and structures, and not materially reduce the level of service on any public ways. The development should, where applicable, serve to enhance the Town system of public facilities and services such as conservation areas, recreation facilities, footpaths or bicycle paths, streets, transportation systems or utility systems.

(f) Screening. A minimum of 10 foot wide vegetated buffer shall be provided along the inside property line perimeter of the lot under consideration, unless otherwise agreed to by the Planning Board under **Section 17.7**. Said vegetated buffer should consist primarily of undisturbed, existing vegetation unless, in the opinion of the Planning Board, the existing vegetation is insufficient to serve the purposes of **Section 17.7**, in which case, the Planning Board may require installation of fencing, berms, and/or additional vegetation to provide an adequate buffer.

(g) Consistency with the By-law. The Planning Board may in any particular case where it determines such action to be consistent with the purpose and intent of the Zoning By-law and otherwise in the public interest, waive strict compliance with its Rules and Regulations and with the requirements contained in **Section**

17.7. In a preliminary meeting with a prospective site plan approval applicant under **Sections 4.6, 6.0.1, 6.0.2, or 6.6** the Planning Board may make a determination that proposed construction is de-minimis and may waive additional provisions of **Section 17.7** to expedite and simplify the site plan approval process for the applicant, but any simplified process so designated must be made in writing and must include notice to abutters and the opportunity to comment in some meaningful way on the proposed construction.

17.7.5 Fees. Any applicant seeking site plan approval by the Planning Board shall submit an application and pay such fees as shall be determined by the Board, to cover any expenses connected with a public hearing and review of plans, including but not limited to the costs of any engineering or planning consulting services necessary for review purposes.

17.7.6 Rules. The Planning Board may promulgate or amend Rules and Regulations which pertain to the site plan approval process so long as the Rules and Regulations conform to this **Section 17** of the Zoning By-law. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

SECTION 18 GENERAL REGULATIONS

18.1 Removal or Stockpiling of Earth. The removal or stockpiling of earth, including soil, loam, sand, gravel, clay, quarried rock or other earth products from land not in public use, except where such removal or stockpiling is entirely incidental to or in connection with the construction at the site or removal of an approved structure or street, is specifically prohibited within the Town, unless a permit for such removal has been granted by the Board of Appeals under **Section 20** below.

18.2 Temporary Use. A temporary use, building or structure not in conformity with the provisions of this By-law may be authorized by the Board of Appeals, if found to be necessary and incidental to the development or service of a permitted use and if found to be not detrimental or injurious to persons or to adjacent property. Such authorization shall be limited to a period of not more than three years at a time. No permit, the effect of which would be to authorize in an R-1 District an additional dwelling unit in a single family dwelling or in a structure other than such dwelling, shall be granted or renewed under this section.

18.3 Uses Accessory to Scientific Endeavor. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided said Board finds that the proposed accessory use does not substantially derogate from the public good.

18.4.1 Unregistered Motor Vehicles. No more than two unregistered motor vehicles shall be placed, stored, or kept on a lot used for residential purposes except as provided herein. No unregistered motor vehicles shall be stored or placed on a street or private way except as provided herein.

(a) Motor vehicle parts must be stored in containers or structures in a visually acceptable manner that precludes the likelihood of accident, seepage,

contamination or other conditions which may constitute a nuisance or create the likelihood of a nuisance.

18.4.2 Notwithstanding any other provision of the Zoning By-law, the Planning Board may grant a special permit authorizing an applicant to place, store, or keep three or more such unregistered motor vehicles on such a lot, if the Planning Board determines in its sole judgment that such placement, storage or keeping will not be detrimental to the public general purposes and intent of the Zoning By-law. In granting any special permit hereunder, the Planning Board may impose such conditions, safeguards, limitations and restrictions, including a limitation on the duration of a special permit, which it deems appropriate and which are not inconsistent with any of the provisions of the Zoning By-law. All such permits shall only be issued following a public hearing in accordance with **Chapter 40A** of the **General Laws**.

18.4.3 This By-law does not apply to the following:

a) to unregistered motor vehicles enclosed in a building;

(b) to unregistered motor vehicles used primarily for farm, garden or nursery purposes.

18.5 Fences.

18.5.1 Purpose The purpose of this fence by-law is to assure that fences adjacent to public ways or other ways open to use by the public are constructed in a manner which will not jeopardize public safety and which will be of materials, color and design harmonious with the surrounding landscape and consistent with the historic and rural character of the Town.

18.5.2 Definitions For the purpose of this **Section 18.5** only, the word "fence" shall include the following: FENCE: any structure constructed of rails, timber, boards, metal, masonry, stone, earthworks such as berms, or other man-made objects or materials, which prevents intrusion, marks a boundary, provides visual screening or provides security from noise, wind or dust.

18.5.3 Fence Permits Required No fence which is within twenty (20) feet of a lot-line which borders a public way, a private way used by the general public, a path and/or trail open to the general public, or any publicly owned property shall be erected or replaced without a fence permit from the Building Inspector. In cases involving a fence higher than three and one half (3 ½) feet, fence plan approval shall be required from the Planning Board, after an advertised public hearing with notices to abutters, before a fence permit may be issued. No earthworks such as berms shall be erected without a fence permit from the Building Inspector, and in cases involving a berm higher than three and one half (3 ½) feet above the natural grade and which is within fifty (50) feet of a lot-line which borders a public way, a private way used by the general public, a path and/or trail open to the general public, or any publicly owned property, fence plan approval shall be required from the Planning Board, in an advertised public hearing with notices to abutters, before a fence permit may be issued. All fences proposed in a cluster development, pursuant to **Section 6.6**, are subject to site plan review pursuant to **Section 17** of these by-laws. Notwithstanding the foregoing, maintenance and restoration of fences primarily used to keep in farm animals, sheep, cows and the like on land owned or used for agricultural purposes, shall be exempt from this section of the by-laws.

18.5.4 Permit Applications Application for a permit to erect any fence shall be made to the Building Inspector. There shall be submitted with such application a plot plan showing abutting properties, all easements on the property, and the location of the proposed fence, and information regarding the materials to be used to construct the fence, the proposed design and color, and such plans, drawings and photographs as the Building Inspector or Planning Board may require.

18.5.5 Criteria For Approval In deciding whether to approve an application for a fence, the Building Inspector or Planning Board shall be guided by the following criteria. The Building Inspector may consult with the Planning Board on any fence application.

1. Fences must be constructed of materials which blend harmoniously with the surrounding landscape and the immediate neighborhood.
2. Fences shall be placed so that the finished side faces the street or other property open to use by the general public.
3. On a corner lot, in order to ensure visibility, no fence higher than three (3) feet shall be erected, placed or maintained within the triangular area formed by the intersecting streets (measured at the edge of paving) and a straight line adjoining said streets measured at points which are twenty-five (25) feet back from the point of intersection of said street lines.
4. Fences shall be located so as not to restrict sight distances at driveway entrances and exits.
5. The location of a fence shall allow adequate space for snow clearing and storage consistent with the Town's normal snow removal operations. The Building Inspector or Planning Board shall consult with the Lincoln Department of Public Works to review a proposed fence location.
6. The location of a fence shall be set back at least ten (10) feet from the edge of the public way where there is no bicycle path or sidewalk, and at least five (5) feet from a bicycle path or sidewalk.
7. The location of a fence shall allow adequate space for safety of pedestrians and for access by emergency vehicles. The Building Inspector or Planning Board shall consult with the Public Safety Officer to review a proposed fence location.
8. Conservation. The Building Inspector shall consult with the Conservation Commission to review the proposed fence location with regard to the Town's natural resource protection goals. These goals include wild life, plants and wetlands.

18.5.6 Procedure

1. The Planning Board shall adopt rules and a fee structure that governs the application of **Section 18.5**.
2. Appeal: Denial by either the Building Inspector or the Planning Board of an application to construct a fence may be appealed to the Lincoln Board of Appeals pursuant to **Section 20.2**.

Section 18.6 Temporary Moratorium on Recreational Marijuana Establishments

1. Purpose.

On November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes. The law, which allows certain personal use and possession of marijuana, began to take effect on December 15, 2016 and requires a Cannabis Control Commission to issue regulations regarding licensing of commercial activities by March 15, 2018.

Currently under the Zoning Bylaw, a Recreational Marijuana Establishment, as defined in G.L. c. 94G, §1, is not a permitted use in the Town. Regulations to be promulgated by the Cannabis Control Commission may provide guidance on certain aspects of local regulation of Recreational Marijuana Establishments.

The regulation of Recreational Marijuana Establishments raises novel legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Recreational Marijuana Establishments. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Recreational Marijuana Establishments so as to allow the Town sufficient time to address the effects of such structures and uses in the Town and to adopt provisions of the Zoning Bylaw in a consistent manner.

2. Definition.

"Recreational Marijuana establishment" shall mean "a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business."

3 Temporary Moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts a temporary moratorium on the use of land or structures for Recreational Marijuana Establishments and other uses related to recreational marijuana. The moratorium shall be in effect through June 30, 2019 or until such time as the Town adopts Zoning Bylaw amendments that regulate Recreational Marijuana Establishments, whichever occurs earlier. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission regulations regarding Recreational Marijuana Establishments and shall consider adopting a new Zoning Bylaw in response to these new uses.

Section 18.7 Recreational Marijuana Establishments Prohibited.

Consistent with G.L. c. 94G, Section 3(a)(2), all types of "marijuana establishments" as defined in 935 CMR 500.002, including marijuana cultivators, independent testing laboratories, research facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited in the Town of Lincoln. This Section shall be effective upon passage by the voters at a Town Election.

SECTION 19 ADMINISTRATION. The Provisions of this By-law shall be administered and enforced by the Building Inspector, in accordance with the provisions of **Chapter**

40A, the General Laws.

19.1 Building Permits.

(a) No application to the Building Inspector for a building permit shall be approved unless the plans, specifications and intended use set forth in said application conform in all respects with this By-law, or unless the applicant has secured a written permit from the Board of Appeals, pursuant to **Section 20** below.

(b) Any application for a building permit for a new or altered use of land or structure or for the construction, reconstruction, alteration or relocation of a building shall be accompanied by plans and specifications with a specific reference to the subject lot as recorded in the Registry of Deeds and showing the actual shape and dimensions of the lot to be built upon or to be assigned to the proposed use, the names of all present owners of record, the exact location of all buildings or structures already on the lot, all abutting streets, the lines within which all buildings or structures are to be erected, and such other information as may be necessary to provide for the administration of this By-law.

(c) Two copies of the plan of the lot shall be filed and one copy referred by the Building Inspector to the Planning Board.

(d) A record of all such applications, plans, building permits and certificates of occupancy shall be kept on file by the Building Inspector, together with a record of non-conforming uses and buildings or structures.

(e) In conjunction with any application for a building permit involving land or structures devoted to religious or educational uses governed by **G.L. c. 40A, s. 3**, the applicant may also submit a written request for exemption from any one or more, or all, of the development regulations relating to the bulk and height of structures, yard sizes, lot area, setbacks, frontage, open space, width of lot, signage, parking and building coverage for the district in which the applicant's land lies. Such request shall be accompanied by appropriate information in the form of a site plan pursuant to **Section 17.1 – 17.6** for any of the above listed development regulations, and other information that may include financial information concerning costs, which demonstrates that the regulations(s) from which an exemption is requested would be unreasonable as applied to such land or structures. Upon receipt of such an exemption request, the following procedure shall apply:

(1) The Building Inspector shall promptly transmit a copy of the building permit application, together with the site plan and all additional information submitted by the applicant, to the Planning Board for its review.

(2) The Planning Board shall consider at a public hearing whether the applicant has adequately demonstrated that compliance with the development regulations from which exemption is sought would substantially diminish or detract from the usefulness of the proposed structure, or impair the character of the applicant's setting or campus, without appreciably advancing the purposes of this By-law, and if the Planning Board determines that such an effect has been so demonstrated, which one or more of such development regulations shall be deemed not to apply to such religious or educational land or structures. The Planning Board shall report its determination in writing to the Building Inspector within thirty (30) days of the close of the public hearing.

(3) To the extent that the Planning Board's written determination concludes

that one or more development regulations shall be deemed not to apply to such religious or educational land or structures, the Building Inspector shall include such approval of exemption in any issuance of a building permit.

- 19.2 Certificate of Occupancy. No certificate of occupancy shall be signed by the Building Inspector until the premises, building or structure, and its uses and accessory uses, comply in all respects with this By-law.
- 19.3 Violations and Penalty. Whoever violates any provisions of this By-law shall be punished by a fine not exceeding one hundred (\$100) dollars for each offense. Each day or portion thereof that such violation continues shall constitute a separate offense.

SECTION 20 BOARD OF APPEALS.

- 20.1 Members. A Board of Appeals is hereby established in accordance with **Sections 12 and 14 of Chapter 40A** of the General Laws, as amended. Said Board shall consist of five members, each appointed by the Board of Selectmen for a term of five years, provided that only one term shall expire each year; there shall be three Associate Members, each appointed by the Board of Selectmen for a term of three years, one term to expire every year, to serve on said Board of Appeals in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy on the board until said vacancy is filled in the manner provided in this section.

20.2 Powers of the Board.

(a) The Board of Appeals shall adopt such rules governing its procedure and the conduct of its business and shall exercise such powers and duties as are consistent with **Chapter 40A** of the General Laws, as may be from time to time amended. Said rules of procedure shall include provisions for submission of petition in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision, and for notifying the parties at interest, including the Building Inspector and the Planning Board, as to each decision. The powers and duties of the Board of Appeals shall include the power to determine action in the cases set forth in **paragraphs (b), (c) and (d) below**.

(b) The Board of Appeals shall hear and decide appeals taken by any person aggrieved by reason of his inability to, obtain a permit or enforcement action from the Building Inspector acting as enforcement officer under this By-law or by any other person otherwise aggrieved by a decision or order of the Building Inspector pursuant to **Section 8 of Chapter 40A** of the General Laws.

(c) The Board of Appeals shall hear and decide requests for special permits as provided in previous sections of this By-law. Before granting any requests for a special permit in accordance with the previous sentence, the Board of Appeals shall determine that the use for which such permit is requested is in harmony with the general purposes and intent of this By-law, and that the proposed use is not detrimental or injurious to persons or property. In any case in which the Board of Appeals disagrees with the written advice of the Planning Board or the Conservation Commission, it shall state its reasons for so doing in writing.

(d) The Board of Appeals shall hear and decide requests for variance from the terms of this By-law in accordance with the provisions of **Section 10 of Chapter 40A** of the General Laws, as may be from time to time amended. The variance

may be granted only if the Board finds that owing to circumstances relating to the soil conditions, shape, or topography of land or structures and especially affecting such land or structures but not generally affecting the zoning district in which they are located, a literal enforcement of the provisions of the by-law would involve substantial hardship, financial or otherwise, to the Petitioner 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 by-law.

(e) In carrying out the provisions of **paragraphs (c) and (d)** above, the Board may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this By-law and such restrictions to be stated in writing by the Board and made a part of the permit or variance as the case may be, but no variance shall be conditioned on the continued ownership of the land or structures to which the variance pertains by any owner.

(p) No petition considered under **paragraphs (c) or (d)** above which has been unfavorably acted upon by the Board of Appeals shall be again considered on its merits by said Board within two years after the date of such unfavorable action unless the Board of Appeals and Planning Board consent thereto under the provisions of **Section 16 of Chapter 40A** as amended.

SECTION 21 AMENDMENTS AND PROCEDURAL MATTERS.

- 21.1 All amendments to this By-law shall be made in accordance with **Chapter 40A** of the General Laws as amended.
- 21.2 All matters with respect to the interpretation, administration or enforcement of this By-law and the conduct of proceedings of the Board of Appeals and Planning Board hereunder shall be governed by the provisions of **Section 40A** or other applicable provisions of the General Laws as well as the provisions of this By-law.
- 21.3 Special permits shall only be issued following public hearings held within 65 days after filing of an application for the special permit with the Board which has the authority to issue the special permit; a copy of each such application shall forthwith be filed with the Town Clerk by the applicant.
- 21.4 If the Board of Appeals or the Planning Board fails to take final action within ninety (90) days of the close of the required public hearing on an application for a special permit, or the Board of Appeals fails to act within one hundred (100) days of filing of an appeal, application or petition, other than for a special permit, then the matter shall be deemed approved subject to the requirements of G.L. c 40A, sections 9 and 15.
- 21.5 Special permits shall lapse within a period of eighteen months plus such time as is required to pursue or await the determination of an appeal referred to in **Section 17 of Chapter 40A** from the date of the grant thereof, if a substantial use has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- 21.6 The failure of any board or agency to which a petition for a special permit is referred for recommendation and/or a report to make such recommendations

and/or the report within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

21.7.1 The Planning Board, in accordance with MGL Chapter 40A, Section 9, may provide for one associate member to serve when the Planning Board has been designated as a special permit granting authority. The associate member position shall be filled by the joint appointment of the Planning Board and the Board of Selectmen. The Chairperson of the Planning Board may designate the associate member to sit on the Board for the purpose of acting on a special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board. The term of the Associate Member shall be three (3) years.

SECTION 22 VALIDITY AND CONFLICT OF LAWS. Where any provision of this By-law imposes a greater restriction upon the development or use of land or structures than is imposed by other by-laws, the provisions of this By-law shall control. The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

SECTION 23 DEFINITIONS. In this By-law the following terms shall have the meanings described below:

Accessory Use or Structure: A use or structure which is subordinate to, customarily incidental to and located on the same lot with the principal use or building to which it is accessory.

Attic: That portion of a pitched roof building located under the roof construction and above the ceiling construction of the story immediately below. **(See Space, Attic)**

Basement: A basement is that portion of a building which is partly or completely below average natural grade. **(See Space, Basement and Story)**

Building: A structure adapted to permanent or continuous occupancy for assembly, business, professional, education, industrial, institutional, residential or storage purposes; no trailer or mobile home shall be used as a building; and the term "building" shall be construed as if followed by the words "or portion thereof."

Building Envelope: Area within which buildings may be built.

Cooking Facilities: Any facilities (including without limitation a hot plate or portable oven, but not including an outdoor grill) which permit the occupant of a building to prepare or serve hot meals in the building on a regular basis.

Developable Site Area: That part of a lot which remains after subtracting from the lot area all land which is located in:

1. a street
2. an area subject to protection under the Wetlands Protection Act, Chapter 131, Section 40 of the Massachusetts General Laws, as defined in Title 310 of the Code of Massachusetts Regulations; and
3. any zoning district in which the principal use of the lot is not permitted.

Dwelling: A building containing one or more dwelling units.

Dwelling, Two Family: A single building containing two dwelling units.

Dwelling Unit: A portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities, but not including trailers or mobile homes, however mounted, or commercial accommodations offered for periodic occupancy.

Farm Animal: Livestock including horses, poultry, swine, cattle and other domesticated animals used for food or fiber purposes; fish, bees and fur-bearing animals.

Farm Produce: for the purpose of this bylaw only, under uses permitted, Section 6.1(d), farm produce shall include all products derived from agriculture, horticulture, floriculture, silviculture, and viticulture, but not to include animals or animal products, except honey.

Fully Shielded Light Fixture: A fixture that does not emit above a horizontal plane through the fixture.

Generally Accepted Agricultural Practices: Keeping livestock healthy requires proper nutrition, appropriate shelter, and suitable containment. Refer to the guidelines of Massachusetts Department of Agriculture Resources (MDAR) for livestock owners.

Grade, Average Natural: The average of the elevations of the natural grades around the perimeter of a proposed building, as determined by the formula:

$$\frac{\sum^s [L(e^1 + e^2) / 2]}{P}$$

\sum = sum of segments

S = a segment of the building perimeter

e¹ and e² = the natural grades at the respective ends of the segment

L = the corresponding length of the segment

P = the length of the total building perimeter.

In the case of a rectangular building, average natural grade may be determined by taking the average of the natural grades at the four extreme corners of the building.

Grade, Finished: The final elevation of the land at any point along the perimeter of a building at the completion of construction. The elevation of the finished grade shall be determined by a site plan satisfactory to the Planning Board showing proposed contours at the completion of construction.

Grade, Natural: The elevation of the land in its natural state at any point along the perimeter of a proposed building prior to disturbance for construction, filling or excavation. The natural grade shall be certified by a registered land surveyor, or may be such elevation as may be determined from maps or records satisfactory to the Planning Board.

Grade Plane: A reference plane representing the average finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line, or where the lot line is more than six feet from the building, between the building and a point six (6) feet from the building.

Gross Floor Area: The sum, in square feet, of the horizontal interior areas of all floors of a building or structure, or several buildings or structures on the same lot, measured from the exterior face of exterior walls, or from the center line of a party wall.

Gross Floor Area, Calculated: The sum in square feet of the gross floor area of all existing and proposed structures above average natural grade on the lot including any attic space, basement space and implied gross floor area, but excluding basements, and excluding unheated portions of barns existing for more than ten (10) years.

Gross Floor Area, Implied: The sum of the horizontal portions of any floor or story in any buildings or structures on the same lot that are open to the floor below that, if filled in with a structural floor, would create additional usable floor area.

Hotel, Motel or Lodging House: A building, or part thereof, or a group of buildings on a single lot, where space is used for sleeping or eating by more than three (3) persons as paying guests, regular or transient.

Lamp: A device that produces light.

Land, Open: A parcel or parcels of land or an area of water, or a combination of land and water, not including roads, set aside in an undeveloped state for the benefit, use and enjoyment of the residents of the Town and the residents of a cluster development, an R-3 OSRD development, an R-4 PCD development, or a North Lincoln Planned Development District, as the case may be.

Land, Qualifying Area of a Tract: Eighty five (85) percent of the Land Usable for Residential Construction in that tract of land.

Land Usable for Residential Construction: Land found by the Planning Board and Board of Health, at the time of application for special permit, building permit or subdivision approval, assuming compliance with this Zoning Bylaw, to be suitable for the construction thereon of residential dwelling units under the applicable laws and bylaws and rules and regulations of the Town of Lincoln and Commonwealth of Massachusetts.

Light Fixture: The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Lot: The whole area of a parcel of land or contiguous parcels of land in common ownership. Each separate and distinct parcel of land is shown on a plan recorded or registered at the Middlesex South Registry of Deeds or Registry District of the Land Court, shall be considered a lot for the purposes of this Bylaw. The term "lot" shall also include the following:

1. any such whole area which is shown as one lot on any plot plan accompanying an application for a building permit, or;
2. any such whole area which is necessary to render any structure or use conforming in accordance with this Bylaw or legal and non-conforming in accordance with Section 4.5.

Lot Lines:

1. Front lot line: that property line which establishes frontage on a way.
2. Rear lot line: that property line which is furthest from and most nearly parallel to the front lot line. All other lot lines are side lot lines. Triangular and irregularly shaped lots may have no rear lot line.
3. Side lot line: any other property line.

Manure Management: Management and disposal of manure shall be done according to Generally Accepted Agriculture Practices to contain and prevent the runoff of leachate. Manure Management shall comply with Section 12.4 of the Zoning Bylaw, Aquifer Protection and Watershed Protection Overlay Districts relating to manure management and to 310 CMR 22.02 definitions of Zone I and Zone II and accompanying regulations.

Motor Vehicle: all vehicles constructed and designed for propulsion by power, other than muscular power, including such vehicles when pulled or towed by another motor vehicle, regardless of condition. In doubtful cases the Planning Board may determine whether or not any particular vehicle is a motor vehicle as herein defined.

Motor Vehicle Parts: Any equipment, accessory, used or new integral part generally recognized as belonging to or an attachment to a motor vehicle.

Motor Vehicle Repair Shop: A shop or garage for the repair of motor vehicles, other than a private garage or service station

Motor Vehicle Service Station: A structure or lot used for the sale of gasoline and oil or for servicing or storing motor vehicles other than a private garage.

Premises: A lot, including where the context so requires, any structures on the lot.

Private Garage: Covered space for the housing of motor vehicles, no more than two of which belong to others than the occupants of the lot on which such space is located.

Public Safety Facility: Any structure or structures used for police, fire, and technical emergency medical protection.

Repair Services or Shop: A shop or business for the repair of small engines, appliances, light equipment, electronics, or other non-motor vehicle type equipment.

Rooming or Boarding House: A dwelling in which the person resident therein provides eating and/or sleeping accommodations for not more than three paying guests who are not provided with separate cooking facilities and who use the cooking facility ordinarily used by the resident family.

Space, Attic: The sum of the horizontal area(s) in an attic, including all areas under or within a dormer, whether such areas are finished or unfinished, in which the vertical distance between the attic floor and the attic ceiling exceeds, or structurally could exceed five (5) feet.

Space, Basement: The sum of horizontal area(s) below the average natural grade that meet the criteria of a story.

Story: That portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above. A basement shall be considered to be a story where the finished surface of the floor above the basement is:

1. more than four (4) feet above grade plane; or
2. more than four (4) feet above average natural grade for more than fifty (50) percent of the total building perimeter; or
3. more than ten (10) feet above the natural grade at any point.

Story, Half: A space under a sloping roof that has the line of intersection of the roof and wall face not more than three (3) feet above the floor level and in which space the possible floor area with head room of five (5) feet or less occupies at least forty (40) percent of the total floor area of the story directly beneath. Spaces not satisfying this definition shall be considered a full story.

Street:

1. a public way or a way which the clerk of the Town certifies is maintained and used as public way, or
2. a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or
3. a way in existence when the subdivision control law became effective in the Town of Lincoln having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Street Line: The side line of a street or way, as determined by deeds and plans recorded at the Registry of Deeds; where no line is thus legally established, then a line parallel with and twenty five (25) feet distant from the center line of a traveled way.

Structure: A combination of materials assembled at a fixed location to give support or shelter. The word "structure" shall be construed, where the context requires, as though followed by the words, "or part or parts thereof". In particular, the term "structure" shall include, but not be limited to: (a) buildings, (b) stadiums, (c) tents, (d) reviewing stands, (e) platforms, (f) stagings, (g) observation towers, (h) water tanks, (i) play towers, (j) swimming pools, (k) animal enclosures, (l) trestles, (m) sheds, (n) shelters, (o) courts for tennis or similar games, (p) backstops, (q) backboards, (r) fences, or (s) display signs.

Subsidized Housing: Housing for people of low or moderate income which is constructed, rehabilitated, remodeled and sold, leased, or rented by the Town of Lincoln, a local housing commission or authority, or by any other public agency, non-profit corporation, limited dividend corporation or partnership or cooperative, the construction, remodeling, financing, sale, lease or rental of which housing is regulated and financially assisted by agencies of the government of the United States or of the Commonwealth of Massachusetts under programs the purpose of which is to provide housing for people of low or moderate income. For the purposes of this paragraph, the terms "low income" and "limited dividend corporation or partnership" shall have the meanings defined in the programs or laws administered by such agencies.

Wireless Communication Facility or Facilities: shall mean all types of fixtures, structures, or equipment used by or intended for use by a public utility or an FCC-licensed commercial entity for the wireless transmission and reception of radio signals including:

1. reception and transmission equipment and fixtures such as antennas and similar devices, and
2. antenna support structures that are erected and used primarily to support such reception and transmission equipment. A Wireless Communications Facility may include accessory mechanical, electronic, or telephonic equipment necessary to operate such facility; provided, however that such facility shall be a transmission

and reception substation, not a principal facility for conducting a communication business.

Yard: An open space on a lot unoccupied by a building or structure.

1. Front yard: A yard extending between lot side lines across the lot adjacent to each street it abuts.
2. Rear yard: A yard extending between lot side lines across the lot adjacent to the rear line of the lot.
3. Side yard: A yard extending along each side line of a lot between the front and rear yards.

APPENDIX

Figure 1.

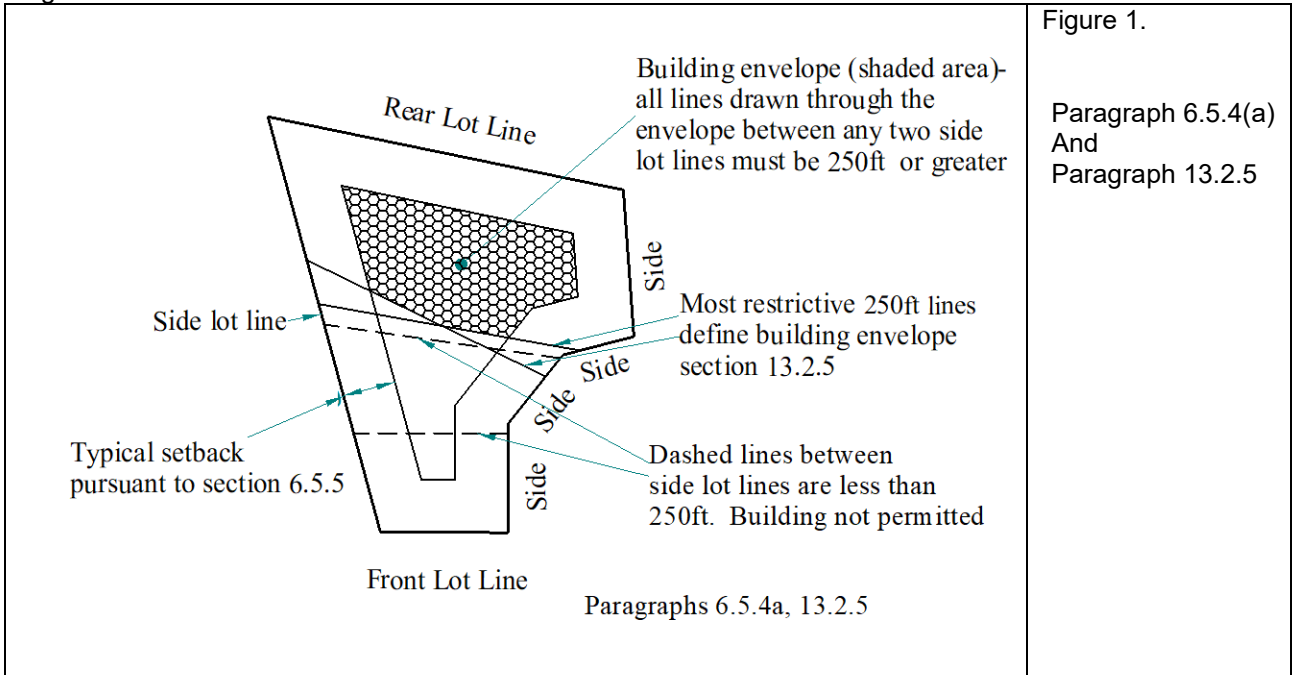


Figure 1.
Paragraph 6.5.4(a)
And
Paragraph 13.2.5

Figure 2.

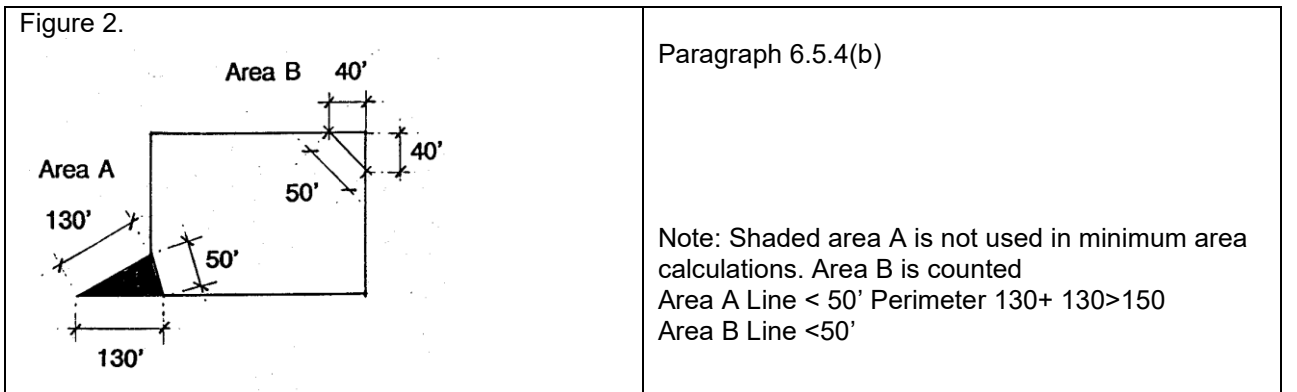


Figure 3.

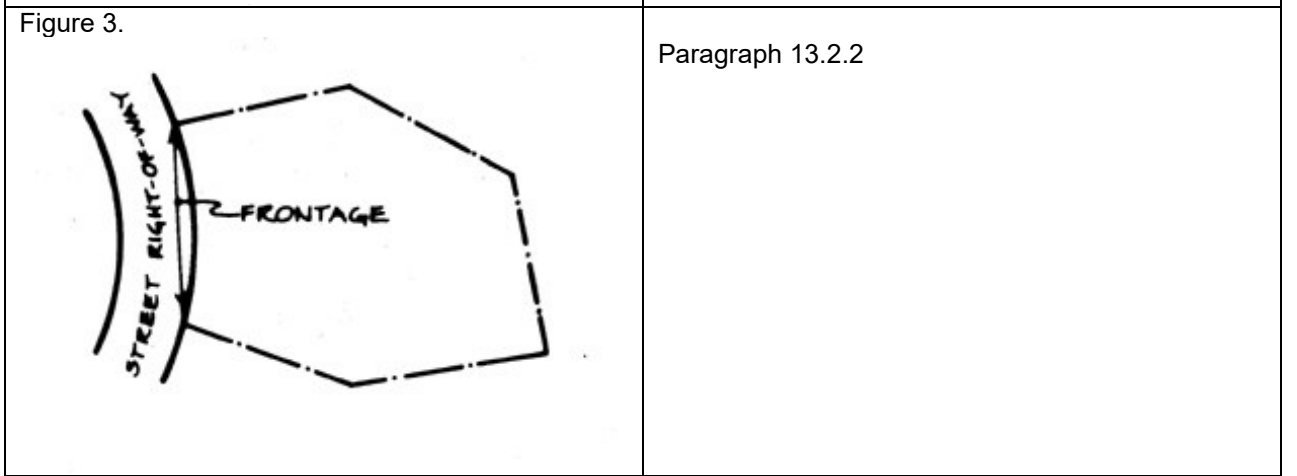
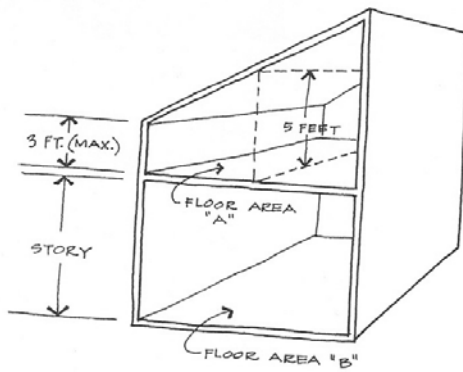


Figure 4.



Paragraph 13.2.3

Figure 5.



IF FLOOR AREA "A" IS AT LEAST
40% OF FLOOR AREA "B" -
THEN "A" IS A HALF STORY.

Paragraph 6.5.1.b