

**Draft (23) 02272024 – FINAL FOR TOWN MEETING**

**Voted by the Planning Board 2/26/2024 to bring to Town Meeting**

**Reviewed by Joel Bard, Town Counsel and Margaret Hurly, AG's office.**

**MOTION:**

That the Zoning Bylaw, and Zoning Map be amended as follows, and further that non-substantive changes to the numbering of this bylaw be permitted to comply with the numbering format of the Town of Lincoln Zoning Bylaw.

Section 23, add new definitions as follows:

*3A District:* An overlay district that complies with M.G.L., c. 40A, s. 3A which requires an MBTA community to have a zoning ordinance or bylaw that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right without age restrictions and suitable for families with children. Such district must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by Section 40 of chapter 131 and title 5 of the state environmental code per section 13 of chapter 21A, and be located not more than .5 miles from a commuter rail station, subway station, ferry terminal or bus station , if applicable.

*Executive Office of Housing and Livable Communities (EOHLC):* The Massachusetts Executive Office of Housing and Livable Communities formerly known as the Department of Housing and Community Development (DHCD).

*Live/Work Unit:* A Live/Work unit is defined as a single unit consisting of both a commercial or office component and a residential component that is used and occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant. Live/Work units are allowed only in mixed-use zoning districts and mixed-use overlay districts. The uses shall be consistent with the allowed uses in each subdistrict. Live/work units are limited to five non-resident workers.

*Multi-Family Housing:* A building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

*Street Activating Uses:* Uses designed to enhance pedestrian activity on sidewalks and nearby areas, and thereby create a sense of community or neighborhood by providing an interesting, lively, and active presence at street level. Street Activating Uses are those open to the public including but not limited to non-residential uses such as shops, restaurants, offices, and other service activities.

Street Activating Uses may also include spaces accessory to residential uses in multi-family or mixed-use buildings such as fitness or community rooms, and lobbies if they have access directly to a private or public sidewalk, or street. Fitness rooms and community rooms that are available to the public by membership or other payment or fee plan will be considered open to the public and not merely accessory to residential uses. The Planning Board will have the discretion to determine if a particular use is a Street Activating Use.

12.9 Multi-Family and Mixed-Use Overlay Districts. The Multi-Family and Mixed-Use Overlay Districts are herein established as overlay districts. The Districts and their subdistricts are described on a map entitled “Town of Lincoln Massachusetts, Zoning Map Multi-Family and Mixed-Use Overlay Districts”, with district boundary lines based on Town of Lincoln GIS maps, dated March 2024. All maps are hereby made a part of this Zoning Bylaw and are on file in the office of the Town Clerk.

Purposes:

- (a) Ensure compliance with M.G.L. c. 40A, s. 3A.
- (b) Promote multi-family housing near public transportation and major transportation routes.
- (c) Ensure pedestrian-friendly development by permitting denser housing in areas close to public transportation, shopping, and local services.
- (d) Respond to local and regional needs for housing by promoting a variety of housing options.
- (e) Promote affordable housing by permitting a variety of housing options with inclusionary housing requirements.
- (f) Create a vibrant and pedestrian-friendly village center by encouraging the development or redevelopment of a mix of residential and non-residential uses in proximity to the Lincoln Commuter Rail Station.
- (g) Promote innovative approaches to parking.
- (h) Maintain a high level of quality and design that respects and enhances the visual character of Lincoln.
- (i) Support reductions in greenhouse gas emissions by enabling housing near transit and amenities.
- (j) Meet the goals of the Town of Lincoln Comprehensive Plan.
- (k) Ensure a predictable and efficient development review and permitting process.

The Overlay Districts shall not replace existing zoning districts but shall be superimposed over them. The provisions of this section apply only to developments on a lot located entirely within an Overlay District or one of its subdistricts and where the property owner has elected to comply with the requirements of the overlay district, rather than complying with those of the underlying zoning district.

Other than as expressly stated herein, all provisions of the underlying zoning of a parcel shall apply.

Procedures and Regulations.

Development proceeding under this section shall be allowed by right and shall be subject to Site Plan Review by the Planning Board under Section 17. The Planning Board may adopt rules and regulations and/or Design Guidelines to advance the purposes, and to assist with the implementation, of this Section. Any development shall meet the relevant and applicable design criteria contained herein and in the Design Guidelines adopted pursuant to this Section.

12.9.1 The 3A District: An Overlay District to comply with G.L. c. 40A, s. 3A.

12.9.1.1 Permitted Uses:

The Uses in this section are permitted by right, subject to Site Plan Review.

Residential Uses:

- (a) All developments under this section shall include Multi-Family housing.
- (b) All residential uses under this section shall be Multi-Family housing.
- (c) Accessory uses for residential uses are permitted to the same extent they would be permitted in the R-1 District.

Non-Residential Uses:

Subdistricts of the 3A District that allow mixed-use development may include the following nonresidential uses:

- (a) Stores for retail sales, provided that all displays and sales are conducted within a building, except as hereinafter provided, and where no significant manufacturing, assembly or packaging occurs on the premises.

Retail stores may, subject to such conditions as the Planning Board may impose, conduct outdoor displays and/or sales pursuant to a 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.

- (b) Retail service establishments, including but not limited to banks, private retail postal and/or delivery services, hair salons, laundry and dry cleaning pick up, shoe repair, fitness or other exercise or wellness studio and other similar retail service establishments.
- (c) Live/work units.
- (d) Business, or professional offices including professional medical offices.
- (e) Studios, craft workshops, and similar uses, including retail sales of products produced on the premises provided that there is no outdoor storage of equipment, and the use does not cause offensive noise, odor, smoke, dust, or other offensive characteristics beyond the premises.
- (f) Food services, catering, bakeries, cafes, and restaurants provided that complete and satisfactory information has been presented to the Planning Board under Site Plan Review which shall also include review of the criteria listed in Section 9.2 of this Zoning Bylaw.
- (g) Bed and Breakfast Inn, an owner occupied residence providing overnight accommodations including breakfast.
- (h) Municipal or public utility use.
- (i) Post Office, MBTA rail station or stop, bus stop.
- (j) Any other business determined to be sufficiently similar by the Planning Board to any permitted use under this section.
- (k) Uses accessory to the foregoing.

12.9.1.2 Uses Not Permitted:

The following uses are not permitted in the 3A District:

- (a) Service station or repair shop for motor vehicles, and other light equipment.
- (b) Sale or rental of heavy equipment.
- (c) Manufacturing and assembly.
- (d) Offices or other facilities for general building, building maintenance, landscaping, electrical and similar contractors that include outdoor storage of supplies, tools, equipment, and vehicles incidental to actual conduct of the activity.

- (e) Private postal or delivery service distribution or consolidation center.
- (f) Drive-in or drive-through services as part of an allowed use in Section 12.8.1.2 are prohibited, except by Special Permit from the Planning Board.
- (g) Gun vendors including retail sales and/or manufacturing of guns or parts thereof.

12.9.1.3 Subdistricts:

The 3A District is divided into three subdistricts. Dimensional and use rules are modified for each subdistrict as follows:

1. Lincoln Woods Subdistrict:

- (a) Uses Permitted: Multi-Family housing only.
- (b) Dimensional Controls: Development Regulations under Section 13 and other Zoning Bylaw requirements shall apply except as are modified as follows:

- 1. Height: Maximum Height shall be 36'.
- 2. Lot Area: Minimum Lot Area is not applicable.
- 3. Yards: Front, Side, and Rear yards shall be a minimum of 25'.

Front Yards may only be used for public uses such as landscaping, benches, tables, seating, play areas, public art, or similar features.

- 4. Frontage: Minimum lot frontage shall be 50', or less if otherwise approved by the Planning Board under Site Plan Review.
- 5. Width of Lot: Width of Lot shall not be applicable.
- 6. Lot Coverage: Lot Coverage shall not be applicable.
- 7. Building and Parking Coverage: The footprint of the building and associated parking areas shall not be greater than 50% of the lot area.
- 8. Stories: A maximum of three stories is permitted.
- 9. Parking:

There shall be a minimum of one parking space required for each residential unit. Parking shall not be located in front of buildings except as approved by the Planning Board.

- 10. Density: A maximum density of 8 residential units per acre is permitted.

2. Lincoln Road/Lewis Street Subdistrict

- (a) Uses Permitted: Multi-Family and Mixed-Use with Multi-Family as set forth in Sections 12.9.1.1 and 12.9.1.2 above.
- (b) Dimensional Controls: Development Regulations under Section 13 and other Zoning Bylaw requirements shall apply except as modified as follows:

- 1. Height: Maximum height shall be 36' for residential buildings and 42' for mixed-use buildings.
- 2. Lot Area: Minimum Lot Area shall not be applicable.
- 3. Yards: Front and Side yards shall be a minimum of 15' and rear yards shall be a minimum of 25'.

Front Yards may only be used for public uses such as landscaping, benches, tables, seating, play areas, public art, or similar features.

4. Frontage: Minimum Lot Frontage shall be 50', or less if otherwise approved by the Planning Board under Site Plan Review.
5. Width of Lot: Width of Lot shall not be applicable.
6. Lot Coverage: Lot Coverage shall not be applicable.
7. Building and Parking Coverage: The footprint of the building and associated parking areas shall not be greater than 50% of the lot area.
8. Stories: A maximum of three stories is permitted.
9. Parking:

There shall be a minimum of one parking space required for each residential unit. Parking for non-residential uses shall be in accordance with Section 15 of the Zoning Bylaw or per the approved Site Plan. Parking shall not be located in front of buildings, except as approved by the Planning Board.

Mixed-Use Developments under this section may provide fewer parking spaces where, in the determination of the Planning Board, proposed parking is found to be sufficient to meet the needs of the development. In making such a determination the Planning Board may consider the extent to which the following, or similar, factors will likely result in a reduced demand for parking: complementary uses, proximity to public transportation, proximity to municipal and street parking, transportation demand management (TDM) measures, and shared parking arrangements.

10. Density: A maximum density of 11 residential units per acre is permitted.

### 3. Codman Road Subdistrict

- (a) Uses Permitted: Multi-Family uses only.
- (b) Dimensional Controls: Development Regulations under Section 13 and other Zoning Bylaw requirements shall apply except as modified as follows:
  1. Height: Maximum Height shall be 36'.
  2. Lot Area: Minimum Lot Area is not applicable.
  3. Yards: Front and Side yards shall be a minimum of 30', and Rear yards shall be a minimum of 50'.

Front Yards may only be used for public uses such as landscaping, benches, tables, seating, play areas, public art, or similar features.

4. Frontage: Minimum lot frontage shall be 50'.
5. Width of Lot: Width of Lot shall not be applicable.
6. Lot Coverage: Lot Coverage shall not be applicable.
7. Building and Parking Coverage: The footprint of the building and associated parking areas shall not be greater than 50% of the lot area.
8. Stories: A maximum of three stories is permitted.
9. Parking: There shall be a minimum of one parking space required for each residential unit. Parking shall not be located in front of buildings except as approved by the Planning Board.
10. Density: A maximum density of 10 residential units per acre is permitted.

#### 12.9.2 Village Center Overlay District

##### 12.9.2.1 Permitted Uses:

The Uses in this section are permitted by right, subject to Site Plan Review or pursuant to a Special Permit granted by the Planning Board where applicable.

Residential Uses:

- (a) All developments under this section that front Lincoln Road shall be mixed-use and shall include Multi-Family housing.
- (b) All residential uses under this section shall be Multi-Family housing.
- (c) Accessory uses for residential uses are permitted to the same extent they would be permitted in the R-1 District.

Non-Residential Uses:

- (a) Stores for retail sales, provided that all displays and sales are conducted within a building, except as hereinafter provided, and where no significant manufacturing, assembly or packaging occurs on the premises.

Retail stores may, subject to such conditions as the Planning Board may impose, conduct outdoor displays and/or sales pursuant to a 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.

- (b) Retail service establishments, including but not limited to banks, private retail postal and/or delivery services, hair salons, laundry and dry cleaning pick up, shoe repair, fitness or other exercise or wellness studio and other similar retail service establishments.
- (c) Post Office, MBTA rail station or stop, bus stop.
- (d) Live/work units.
- (e) Business, or professional offices including professional medical offices.
- (f) Studios, craft workshops, and similar uses, including retail sales of products produced on the premises provided that there is no outdoor storage of equipment, and the use does not cause offensive noise, odor, smoke, dust, or other offensive characteristics beyond the premises.
- (g) Food services, catering, bakeries, cafes, and restaurants provided complete and satisfactory information has been presented to the Planning Board under the Site Plan Review process as listed in Section 9.2 of this Zoning Bylaw.
- (h) Bed and Breakfast Inn, an owner occupied residence providing overnight accommodations including breakfast.
- (i) Municipal or public utility use.
- (j) Any other business determined to be sufficiently similar by the Planning Board to any permitted use under this section.
- (k) Uses accessory to the foregoing.

12.9.2.2 Uses Not Permitted:

- (a) Service station or repair shop for motor vehicles, and other light equipment.
- (b) Sale and rental of heavy equipment.
- (c) Manufacturing and assembly.
- (d) Offices for general building, building maintenance, landscaping, electrical and similar contractors that include outdoor storage of supplies, tools, equipment, and vehicles incidental to actual conduct of the activity.

- (e) Private postal or delivery service distribution or consolidation center.
- (f) Drive-in or drive-through services as part of an allowed use in Section 12.9.2.2 are prohibited, except by Special Permit from the Planning Board.
- (g) Gun vendors including retail sales and/or manufacturing of guns or parts thereof.

12.9.2.3      Dimensional Controls

- (a).      Development Regulations under Section 13 and other Zoning Bylaw requirements shall apply except as modified as follows:

- 1. Height: Maximum height shall be 36' for residential buildings and 42' for mixed-use buildings.
- 2. Lot Area: Minimum Lot Area shall not be applicable.
- 3. Yards: Front, Side, and Rear yards shall be a minimum of 25 feet.

Front Yards may only be used for public uses such as landscaping, benches, tables, seating, play areas, public art, or similar features.

- 4. Frontage: Frontage shall be 50', or less if otherwise approved by the Planning Board under Site Plan Review.
- 5. Width of Lot: Width of Lot shall not be applicable.
- 6. Lot Coverage: Lot Coverage shall not be applicable.
- 7. Stories: A maximum of three stories is permitted for all buildings.
- 8. Parking:

There shall be a minimum of one parking space required for each residential unit.

Parking for mixed-use developments shall be per the approved Site Plan. The Planning Board may consider complementary uses, proximity to public transportation, proximity to municipal and street parking, transportation demand management (TDM) measures, and shared parking arrangements. Parking shall not be in front of buildings except as approved by the Planning Board.

- 9. Density: A maximum density of 25 residential units per acre is permitted.
- 10. Required Commercial Use: A minimum of 80% of the building's ground floor frontage facing the public road and the first 100' of the primary access must be commercial or Street Activating Uses. Specifically, a minimum of 60% of such frontage must consist of retail, restaurant, service, or other commercial uses. 20% of such frontage may be Street Activating Uses that are accessory to a residential use such as a fitness room, community room, reading room etc.

In addition, a minimum of 33% of the gross floor area of all buildings on the lot must be dedicated to commercial use.

The Planning Board may reduce the required percentage of commercial uses by Special Permit upon a finding that economic and market conditions do not support the required amount of commercial space. To support such a finding, the applicant must provide documentation of significant periods of vacancy or non-payment of rent, demonstrate reasonable efforts of marketing such space, and present a report by a qualified independent real estate marketing consultant. The Town may also conduct its own third-party assessment paid for by the applicant pursuant to MGL, c. 44 s. 53G.

- 11. Window Glazing of street floor commercial space shall be transparent. Specific requirements are contained in the Design Guidelines.
- 12. Bicycle and other Mobility/Transportation Aids Storage: All residential buildings shall

provide an indoor ground floor storage area for bicycles and other transportation or mobility aids.

### 12.9.3 General Provisions

12.9.3.1 To the extent that property to be developed under sections 12.9.1 and/or 12.9.2 is subject to the requirements of section 12.2, Wetland and Watershed Protection , and/or section 12.4 Aquifer Protection and Watershed Protections, the review and approval under said districts shall be conducted by the Planning Board, which shall issue a permit upon a finding that the requirements and criteria of said sections 12.2 and/or 12.4 have been met.

### 12.9.3.2 Inclusionary Zoning:

In any development on a lot consisting of one building or multiple buildings, where such development contains six (6) or more Dwelling Units, at least 15% of the Dwelling Units shall be Affordable Housing Units. Such Affordable Housing Units shall be affordable to households earning up to 80% of Area Median Income and shall meet the requirements of a subsidized housing unit for purposes of inclusion in the Town's Subsidized Housing Inventory. Such units shall remain affordable in perpetuity. Where the calculation results in a fraction of a unit of .5 or greater, the number of required units shall be rounded up to a full unit. If EOHLC determines in writing that the Town has not shown this 15% requirement to be feasible, at least 10% of such dwelling units shall be Affordable Housing Units which shall comply with the requirements of this section.

Fees in lieu of affordable units may be used, to the extent permitted by law and with the approval of the Planning Board in consultation with the Lincoln Affordable Housing Trust. With such approval, the applicant may contribute to the Lincoln Affordable Housing Trust an amount in cash equal to or greater than the value of development and construction of such affordable housing units.

Sections 14.5.4.1 through 14.5.4.4 of the Zoning Bylaw are incorporated herein by reference.

No certificate of occupancy for a Dwelling Unit in a development permitted under this section shall be issued until the regulatory agreements for the Affordable Housing Units are recorded.

### 12.9.3.3 Building Energy Requirements

Energy Requirements will be governed by the Massachusetts Building Code including the Town of Lincoln General Bylaw Article XI Miscellaneous, Section 17 Stretch Energy Code as may be amended.