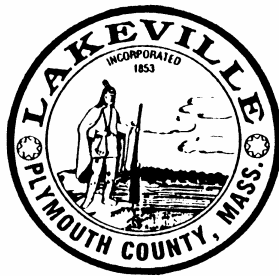


# ZONING BY-LAWS



## Town of Lakeville

**1994 REVISION**

(WITH AMENDMENTS THROUGH SEPTEMBER 2007)

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\*Great care has been taken to produce this document as accurate as possible and we are not responsible for any errors or omissions that may be contained within. This document should not be used for legal purposes without verification of accuracy.

## **PROTECTIVE BY- LAWS**

### **1.0 PURPOSE AND SCOPE**

#### **1.1 Purpose of Zoning By-Law**

This By-Law, which may be known and cited as the Lakeville, Massachusetts Zoning By-Law, is hereby adopted for the purpose of promoting health, safety, convenience, morals or welfare of the inhabitants of the Town of Lakeville, for lessening the dangers of congestion and fire, to conserve the value of the land and buildings, to encourage the most appropriate use of land and for other purposes stated in Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended from time to time.

#### **1.2 Applicability of Zoning By-Law**

No building or structure in the Town of Lakeville shall hereafter be erected, reconstructed, altered, enlarged, moved or changed in use, nor shall the use of any land be changed, except in conformity with the provisions of this By-Law for the district in which such building, structure or land is or shall be located. All buildings, structures and uses not hereby specifically or generally permitted in a district, nor permitted by Special Permit, nor exempt by State Laws or legally non-conforming, are hereby expressly prohibited.

#### **1.3 Minimum Provisions of Zoning By-Law**

The provisions of this By-Law shall be deemed to be minimum requirements adopted for the purposes stated in Section 1.1. Whenever any other by-law of the Town of Lakeville or any law or regulation of the Commonwealth of Massachusetts imposes greater restrictions than this By-Law, such other by-law, law or regulation shall prevail to the extent of such greater restrictions.

#### **1.4 Severability**

The provisions of this By-Law shall be held to be severable, and the invalidity of any section or any provision hereof shall not invalidate any other section or provision.

### **2.0 DEFINITIONS**

In this By-law, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings: Words used in the present tense include the future, and the plural numbers and words include the singular; the word "lot" includes the word "plot"; the word "may" is intended to be "permissive"; the word "shall" is mandatory and directive; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied". The word "person" includes a corporation or partnership as well as an individual.

**Accessory Building or Use:** A building and/or use customarily incidental or subordinate to and located on the same lot with the principal building or use.

**Adult Bookstore:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, videos, visual materials and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws as amended. (Adopted June 17, 1996; approved by Attorney General September 10, 1996)

**Adult Motion Picture Theater:** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the Massachusetts General Laws as amended. (Adopted June 17, 1996; approved by Attorney General September 10, 1996)

**Alterations:** Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

**Building:** An enclosed structure, either a principal building or shed, garage, stable, or other accessory building.

**Building, Half Story:** A story in a sloping roof the area of which at a height of four (4) feet above the floor does not exceed two-thirds of the floor area of the story immediately below it.

**Building, Story:** That part of the building above the basement or cellar and between the top of any tier of floor beams and the top of the tier of floor or roof beams next above.

**Building, Height:** The vertical distance measured from the average ground level adjacent to the building to the highest point of the building. Maximum Building Height shall not apply in any district to chimneys, ventilators, spires or other ornamental features of buildings, which features are in no way used for living purposes

**Drive - Through Facility:** A commercial establishment which provides a service directly to the occupants of a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle. (Adopted at Town Meeting June 11, 2007; approved by Attorney General September 12, 2007)

**Dwelling:** A building designed or used exclusively as the living quarters for one or more families.

**Dwelling, Single-Family:** A building occupied by a single family and having no party wall or walls in common with an adjacent structure.

**Dwelling: Single-Family with an attached apartment:** For the purpose of this Zoning By-law , a single-family detached dwelling with an attached apartment shall mean an apartment not to exceed 600 to 720 square feet of habitable space which may include a kitchen or kitchenette and be accessible to and attached to the main dwelling area and shall have a common entrance and maintain a single-family appearance. (Adopted June 21, 1999; approved by Attorney General August 23, 1999)

**Dwelling Unit:** Living quarter for a single family with living, sanitary and sleeping facilities independent of any other unit.

**Facility:** A site or works for the storage, treatment, dewatering, refining, incinerating, reclamation, stabilization, solidification, disposal or other process where hazardous wastes can be stored, treated or disposed of; however, not including a municipal or industrial wastewater treatment facility if permitted otherwise under these by-laws (Adopted May 10, 1982).

**Fast Food Restaurant:** Any restaurant serving the majority of its food in disposable containers, packages or other similar wrapping, for consumption on or off the premises. (Adopted at Town Meeting June 11, 2007; approved by Attorney General September 12, 2007)

**Family:** One or more individuals living together as a single housekeeping unit.

**Farm:** Any tract of land used for the production of crops or the rearing of livestock or poultry.

**Filling Station:** A filling, service or gasoline station shall mean a place where motor fuels, lubricating materials and other automotive accessories and supplies are sold at retail and where motor vehicles are serviced and installation of batteries, tires and minor repairs of like nature are undertaken, but not including a body or paint shop, garage for major automotive repairs or a car wash.

**Forebay:** A storm water sediment trap or settling basin. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

**Frontage:** That portion of a lot which is bounded by the street line or way, the sidelines and the minimum building setback line. The frontage must be suitable for development of an access route or driveway to the building site. (Adopted June 17, 2002; approved by Attorney General September 16, 2002)

**Hall:** A room or a building appropriate to the meetings of a fraternal, literary or other incorporated society.

**Hazardous Waste:** A waste, or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of or otherwise managed, however, not to include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act of 1967 as amended, or source, special nuclear or by-product material as defined by the Atomic Energy Acts of 1954 (Adopted May 10, 1982).

**Home Occupation:** Home occupation is the use of a room or rooms in a dwelling and/or accessory building on the premises for a business activity carried on by the person or persons who live in that dwelling. A home occupation is a profession, trade, craft, activity, or other legal use conducted for financial gain. Such use must be clearly incidental and subordinate to the primary residential use of the premises. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

**Junk:** Old (used) metal, glass, paper, plastic, wood, cloth, including trash, rubbish and useless materials.  
(Adopted June 17, 1996; approved by Attorney General September 10, 1996)

**Lot:** An area of land in one ownership with definite boundaries recorded in the Registry of Deeds or in the Land Court.

**Lot Coverage:** That percentage of the lot area covered by the horizontal projection of the largest single floor area of the principal structure, plus all accessory structures, parking and loading areas and access roads.

**Mobile Home:** Same as house trailer, meaning a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities, designed and intended to be moved as a unit to a fixed location and installed on a permanent or a temporary foundation or support for use as stationary living quarters. This definition shall not include a travel or camping trailer which is a vehicle designed to travel on highways on rubber-tired wheels and used as living quarters for a period not to exceed several weeks at any one location.

**Mobile Home Park:** An area of land designed as a unit to accommodate a

number of mobile homes in specific location with a network of access roads, provisions for parking, water supply, wastewater disposal, electricity and other services and amenities, approved by the Board of Health and licensed under the provisions of Chapter 140, Sections 32-A through 32-L of the General Laws.

**Projections:** Projections shall mean cornices, eaves, gutters, outside chimneys, steps, bay windows and terraces.

**Seasonal/Summer Residence:** A dwelling with a sub-standard septic design not meeting minimum Title V requirements for a year-round residence.

**Setback:** The distance between the lot boundary line and the building line, measured for the front, rear and side yards.

**Sign:** Any words, lettering, parts of a letter, figures, numeral phrases, sentences, emblems, devices, trade names or trade marks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product, which are located outdoors or otherwise visible to persons not on the premises.

**Sign Area:** For a sign the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed. Frames and structural members not designed as advertising or attention-getting devices shall not be included in computation of sign area. For a sign consisting of individual letters, designs or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs or symbols.

**Street:** An accepted town way, or a way established by or maintained under county, state or federal authority, or a way established by a subdivision plan approved in accordance with the Subdivision Control Law, or a way determined by the Planning Board to have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land.

**Street Line:** The dividing line between the street right-of-way and abutting property.

**Storage Boxes, Trailers:** any trailer, completely enclosed or covered in any way; shipping containers, also referred to as cargo boxes; and trailers which are or were part of a tractor trailer unit. This definition shall not include a travel or camping trailer which is a vehicle designed to travel on highways on rubber-tired wheels and used for recreational purposes. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

**Structure:** Any combination of materials attached to or requiring a fixed location on or in the ground. For the purposes of location on a lot, the following shall not be deemed to be structures prohibited within a setback required in the Zoning By-Law: boundary walls and fences, utility poles, support posts not over 4 feet in height for mailboxes and name signs and parking lots, except for parking lots which are within a building.

**Tattoo or Body Art Establishment:** Commonly referred to as tattoo parlors where puncturing of the skin with needles and various colored compounds create a design.(Adopted Special Town Meeting, June 11, 2001, approved by General Attorney September 19, 2001)

**Towers:** Any tower including but not limited to telephone, radio, television, electronic, wind-generation and smoke stacks, shall be limited to 35 feet above mean ground level on the lot in question in all districts except Industrial where 45 feet shall be allowed. (Adopted June 17,1996; approved by Attorney General September 16, 1996)

**Wireless Communications Facility:** See New Section 9.0 entitled “9.0 Wireless Communications Facility”: (Adopted March 3, 1999; approved by Attorney General March 8, 1999)

### 3.0 **ESTABLISHMENT OF DISTRICTS**

#### 3.1 **Zoning Districts**

For the purposes of this By-Law, the Town of Lakeville is hereby divided into the following types of use districts:

3.1.1 Residential

3.1.2 Business

3.1.3 Industrial

3.1.4 Flood Plain Protection (Overlay)

3.1.5 Water Resource Protection (Overlay)

3.1.6 Planned Special Purpose (Overlay)

3.1.7 Industrial-B (Adopted June 16, 1997; approved by Attorney General August 11, 1997)

3.1.8 Mixed Use Development District (Overlay) (Adopted June 16, 2003; approved by Attorney General September 9, 2003.)

3.1.9 “The Residences at Lakeville Station Smart Growth Overlay District (SGOD)” (Adopted at Special Town Meeting October 10, 2006; approved by Attorney General November 6, 2006)

## 3.2 Location of Districts

- 3.2.1 The Residential, Business and Industrial Districts shall be shown on a map entitled "Map of the Town of Lakeville, Massachusetts, to accompany Protective By-Law" dated March 10, 1958, as adopted and amended by vote of the Town. Said map, identified as to the date of adoption and the dates of adoption of any amendments and certified by the town seal and signature of the Town Clerk, together with any other maps which may be adopted as parts thereof by vote of the Town, shall be a part of this By-Law.
- 3.2.2 The original of said map shall be kept in the custody of the Town Clerk, who may cause to be made and, if necessary, certify as to correctness copies thereof for use by the Town or for sale.
- 3.2.3 The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Lakeville Flood Insurance Rate Maps (hereinafter called FIRM) and the Flood Boundary and Floodway Maps, dated effective June 4, 1980, on file with the Town Clerk. These maps and the accompanying Flood Insurance Study of the Town of Lakeville are incorporated herein by reference (adopted May 12, 1980).
- 3.2.4 The Water Resource Protection District shall be considered to be superimposed over the entire Town.
- 3.2.5 The Planned Special Purpose District shall be bounded as follows:  
Northerly by Middleborough/Lakeville Town Line  
Easterly by Route 18 - Bedford Street  
Southerly by Taunton Street  
Westerly by Cross Street
- 3.2.6 Industrial-B. Any area rezoned Industrial, which at the time of acceptance of this zone, having one-third or more of all existing road frontage through the zone currently in lesser use.  
To change any currently zoned land to Industrial-B shall require the use of  
all rules and regulations as presently established by the Lakeville Zoning By-Laws. (Adopted June 16, 1997; approved by Attorney General August 11, 1997)
- 3.2.7 Mixed Use Development District (Lakeville Hospital) (Adopted June 16, 2003; approved by Attorney General September 9, 2003) Refer to 7.5.2 for District Designation

3.2.8 “The Residences at Lakeville Station Smart Growth Overlay District), and Zoning Map by placing the parcels of land comprised of approximately 10.87 acres, more or less, and shown of Lakeville Assessor’s Maps as Parcels 62-3-7A, 62-3-7B, 62-3-7G, 62-3-10I, and 62-3-10J within the newly-created “The Residences at Lakeville Station Smart Growth Overlay District.” (Adopted at Special Town Meeting October 10, 2006; approved by Attorney General November 6, 2006)

3.3 District Boundaries

3.3.1 Whenever a road, way, right-of-way, railroad or comparable man-made or man-designed area or feature, or any pond, stream, river, swamp, bog, marsh, or other body of water or comparable natural or quasi-natural geographic features are shown on the zoning map as a boundary between districts of different zoning, the geographic district boundary shall be on the centerline of such feature. Any such feature lying totally within a designated zone shall be zoned as the other land around it. No part of the land or water area within the Town shall be unzoned.

4.0 **USE REGULATIONS**

Except as provided by law or in this By-Law, no building, structure or land shall be used except for the purpose permitted in the district as described in this section. Any use not listed shall be construed to be prohibited.

A use listed in Section 4.1 is permitted as of right in any district under which it is denoted by the letter "Y" subject to such requirements as may be specified elsewhere in this By-Law. If designated in the Table by the letters "SP", the use may be permitted as an exception only if the Special Permit Granting Authority so determines and grants a Special Permit therefore as provided in Section 7.0 subject to such restrictions as set forth elsewhere in this By-Law and such further restrictions as said Special Permit Granting Authority may establish. The letter "N" shall designate that the use is not permitted.

4.1 Table of Use Regulations: R-Residential; B-Business; I-Industrial; I-B Industrial-B (Adopted by Town Meeting June 16, 1997; approved by Attorney General August 11, 1997)

**LAKEVILLE ZONING DISTRICTS**

(I-B and allowed uses as shown, adopted by Town Meeting June 16, 1997; approved by Attorney General August 11, 1997)

4.1.1 <u>Residential Uses</u>	R	B	I	I-B
Single-family, detached dwellings	Y	SP	N	SP
Single-family, detached dwelling with an attached apartment	Y	SP	N	SP

(Adopted 6/21/99, approved by Attorney General 8/23/99)

	R	B	I	I-B
Farm, garden, greenhouse or nursery, including the display and sale of natural products; when involving the raising and keeping of livestock other than for the private use of the residents, allowed only on parcels of five (5) acres or larger.	Y	Y	Y	Y
Stand for the sale of agricultural products less than 5 acres	SP	SP	SP	SP
Religious, educational, or use by the Town of Lakeville	Y	Y	Y	Y
Mobile Home	N*	N*	N	N
*(Adopted 6/13/05; approved by Attorney General 9/30/05)				
Mobile Home Park	N*	N*	N	N
*(Adopted 6/13/05; approved by Attorney General 9/30/05)				
Alterations, otherwise prohibited, of a dwelling in existence as of January 1, 1978 for two (2) families	SP	SP	N	N
Conversion of a seasonal home or non-residential building for year-round residential occupancy, subject to Board of Health approval and to conditions and limitations on the occupancy and use	SP	SP	N	N
Hospital, convalescent or nursing home	SP	Y	N	N
Home for the elderly, residential care facility, charitable institution or use	SP	Y	N	N
Cemetery	SP	SP	SP	SP
Golf Course	SP	SP	SP	SP
Riding Stable	SP	SP	SP	SP
Private Club not conducted for profit and not containing sleeping quarters for more than four (4) persons	SP	SP	SP	SP
Recreational or sports facilities primarily for participatory, rather than spectator sports, including day or seasonal camp for boys and girls	SP	SP	SP	SP

4.1.2 Business Uses

Large –scale retail building with 35,000 or more square feet of gross floor area and smaller retail stores within such building, subject to Section 7.6 (Adopted June 14, 2004; approved by Attorney General September 16, 2004) *(Adopted 6/13/05; approved by Attorney General 9/30/05)	N	SP*	Y	Y
Retail business, service or public utility not involving manufacture on the premises except of products the major portion of which is to be sold at retail by the manufacturer to the consumer and provided further that not more than ten (10) operators shall be employed in such manufacture	N	Y	SP	SP
Newspaper or job printing	N	Y	Y	Y
Business or professional office or bank	N	Y	Y	Y
Restaurant	N	Y	Y	Y
Theater (seating capacity of less than 300), bowling alley Y or other commercial amusement, provided all business is conducted within the structure		N	Y	SP
Museum	SP	Y	Y	Y
Hotel or Motel	N	Y	Y	N
Wholesale office or showroom with no on-site storage	N	Y	Y	Y

Launderette	N	SP	N	N
Funeral Home	SP	Y	N	N
	R	B	I	I-B
Mortuary or crematory	N	SP	N	N
Animal kennel or hospital	N	SP	N	N
Radio or television studio	N	Y	Y	Y
Bus or railroad terminal or passenger station	N	SP	SP	SP
Commercial parking facility	N	SP	SP	SP
Auto or boat sales, rentals or service	N	Y	SP*	N
*(Adopted 6/16/97; approved by Attorney General 8/11/97)				
Car Wash	N	SP	N	N
Filling station allowed only in areas served by municipal water	N	SP	SP	N
(Adopted at ATM 5/8/06; approved by Attorney General 6/14/06)				
Storage of junk for commercial purposes		N	SP	SP
N				
<b>Drive through facility</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>N</b>
<b>Fast food restaurant</b>	<b>N</b>	<b>SP</b>	<b>N</b>	<b>N</b>
<b>(Allowed only in areas served by municipal water)</b>				
(Adopted at ATM 6/11/07; approved by Attorney General 9/12/07)				
<u>4.1.3 Industrial Uses</u>				
Warehouse, offices or facilities for distributing merchandise	N	N	Y	Y
Plant for manufacturing, processing, fabricating or assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke gas, sewerage, refuse, noise, excessive vibration or danger of explosion or fire	N	N	Y	SP
Research laboratory				
Dry-excluding genetic or biological research	N	N	SP	SP
Research laboratory				
Wet-including genetic or biological research	N*	N*	N*	N*
*(Adopted 6/13/05; approved by Attorney General 9/30/05)				
Sale of new or used construction or materials handling equipment	N	Y	Y	N
Farm implements and machinery wholesaling	N	N	Y	SP
Lumber, feed or ice establishment wholesaling	N	N	Y	SP
Plumbing, electrical or carpentry shop or other similar service or repair establishment	N	SP	Y	Y
Water towers or reservoirs	N	SP	SP	SP
Steam laundry or dry cleaning plant	N	SP	SP	SP
Fuel establishment involving storage and distribution to to be sold wholesale to suppliers allowed only in areas served by municipal water (adopted at ATM 5/8/06; approved by Attorney General 6/14/06)	N	N	SP	SP
Uses accessory to permitted (Dry-excluding genetic or biological research)) scientific research and development, whether or not located on the same lot as the permitted use	<b>N*</b>	<b>N*</b>	SP	SP
*Adopted 6/13/05; approved by Attorney General 9/30/05				
Uses accessory to permitted (Wet-including genetic or biological research)) scientific research and development, whether or not located on the same lot as the permitted use	N*	N*	N*	N*

*Adopted 6/13/5; approved by Attorney General 9/30/05				
Collection, treatment, storage, burial, incineration or disposal of hazardous waste	N	N	N	N
Adult Bookstore/Adult Motion Picture Theater (Adopted June 17, 1996; approved by Attorney General September 10, 1996)	N	N	SP	N
Wireless Communications Facility (Adopted March 3, 1999; approved by Attorney General March 8, 1999)	SP	SP	SP	SP
Tattoo or Body Art Establishments (Adopted Special Town Meeting June 11, 2001, approved by Attorney General September 19, 2001)	N	SP	SP	N
Towers over 45 feet (Adopted March 3, 1999; approved by Attorney General March 8, 1999)	SP	SP	SP	SP

5.0 **INTENSITY REGULATIONS**

Except as provided otherwise in this By-Law, no structure hereafter erected, altered, or placed in any district shall be located on a lot having less than the minimum requirements set forth in the table below (see 5.1), **no more than one (1) principal structure shall be built upon any lot**, and no existing lot shall be changed as to size or shape so as to violate the requirements set forth below. (Add Industrial-B with requirements as shown - adopted by Town Meeting June 16, 1997; approved by Attorney General August 11, 1997) (Removed the word *such* from the phrase in bold above – adopted by Town Meeting June 11, 2007; approved by Attorney General September 12, 2007)

5.1	<u>Requirements</u>	<u>Residential</u>	<u>Business</u>	<u>Industrial</u>	<u>Industrial-B</u>
	Minimum Lot Dimension Area in square feet	70,000 (52,500 of contiguous non-wetland as defined by MGL Ch 131, Sec 40)	Same as Residential	Same as Business	3 Acres (adopted 6/14/04 approved by A. G 916/04)
	Frontage in feet	175	175	175	200
	Minimum Lot Area for Single-Family Dwelling *(Adopted June 21, 1999; approved by Attorney General August 23, 1999)				3 acres*
	Minimum Setback Dimension				
	Front yard in feet	40	40	40	60
	Side yard in feet	20	40	40	40
	Rear yard in feet	20	40	40	40
	Maximum Height of Buildings				
	Number of stories	2.5	3	3	3
	Height in feet	35	35	35	35
	Maximum Percentage of Land Covered by Structures, Parking and Paved Areas	25%	50%	50%	50%

(adopted 6/14/04;  
approved by A.G

Maximum Height of Towers                      35'                      35'                      45'                      45'  
 (Adopted by Town Meeting June 17, 1996; approved by Attorney General September 16, 1996)

### 5.1.2 Upland Circle

No dwelling, building or structure having permitted use in any district shall be erected on a lot unless the lot has an area within its bounds which encompasses an upland circle with a minimum diameter of 160 feet and within which the frontage, or frontage at the required set back must pass. This by-law shall not apply to any buildable lot legally established and existing prior to May 11, 1998. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

### 5.1.3 Easements

General, access, septic or drainage easements shall not be included in the required frontage or lot area. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

#### Section 5.1.3.1 Landscape Easements

Landscape easements shall be permitted within the required lot area or frontage providing that such easement occurs entirely within the upland area of such lot and does not limit the use of such land area as may be required for use by the property owner. In every case the easement shall never become the responsibility of the Town nor shall it be greater than 10% of the upland area or frontage of the lot it is part of as defined by the By-laws of the Town. (Adopted by ATM 5/8/06; approved by Attorney General 6/14/06)

### 5.1.4 Density Bonus

The maximum percentage of land covered by structures, parking and paved areas may be increased for any development in the Business and Industrial District, provided that said development receives approval from the Planning Board under Section 7.6.1 Large Scale Development Site Plan Review, as follows: up to 10% density bonus increase in lot coverage for full compliance with the standards of Section 7.6.3 Building Design Standards, and up to 10% additional density bonus increase in lot coverage for full compliance with Section 7.6.4 Site Design Standards, for a maximum of 70% total percentage of land covered by structures, parking and paved areas, and further provided that the calculation of the percentage of land covered include the area of all impervious surfaces of any type located on the land receiving the density bonus. (Adopted July 19, 2004; approved by A. G. August 27, 2004)

## 5.2 Footnotes to Intensity Requirements

- 5.2.1 Reserved (for future use)  
(adopted June 14, 2004; approved by A. G. September 16, 2004)
- 5.2.2 Any portion of a lot which is less than fifty (50) feet in width or depth when measured perpendicular to any property line shall not be included in the determination of the required minimum area and/or frontage.  
(Adopted Special Town Meeting June 11, 2001, approved by Attorney General September 19, 2001)
- 5.2.2.1  
Any portion of a lot which falls within a wetland as defined by Massachusetts General Laws Chapter 131 Section 40 or any portion of a lot which will be used for drainage structures including detention ponds, retention ponds, forebays, and drainage swales, shall not be included in the determination of the maximum percentage of land covered by structures, parking and paved areas (section 5.1) (Adopted June 14, 2004; Approved by Attorney General September 16, 2004)
- 5.2.3 Corner Clearance - Within the area formed by lines by intersecting ways and a line joining points on such lines fifteen feet distant from their point of intersection, or in the case of a rounded corner, the point of intersection of their tangents, no structure and no foliage shall be maintained between a height of two feet and eight feet above the plane through their curb grades.
- 5.2.4 In Business Districts adjacent to the boundary of a Residential District, there shall be provided, other than along a street, either:
- 5.2.4.1 a buffer strip no less than forty (40) feet wide. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen, and may contain fences, ornamental and acoustic walls, driveways and walks, wells or septic systems, but no part of any building, structure or paved space intended or used as a parking area shall be located within such buffer strip, or;
- 5.2.4.2 a buffer strip no less than twenty (20) feet wide with an acoustical wall to prevent the sound level from increasing by more than 10db above ambient as defined in the Commonwealth of Massachusetts Division of Air Quality Control Policy regarding noise regulation. Such a wall must be located at least 10 feet from the property line between the Business and Residential property. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen. Positioning

of lights should be such that it is not offensive to any adjacent abutter.

5.2.5 In Industrial Districts adjacent to the boundary of a Residential District, other than along a street, there shall be provided either:

5.2.5.1 a buffer strip not less than one hundred (100) feet wide. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen, and may contain fences, ornamental and acoustic walls, driveways and walks, wells or septic systems, but no part of any building, structure or paved space intended or used as a parking area shall be located within such buffer strip, or;

5.2.5.2 a buffer strip no less than fifty (50) feet wide with an acoustical wall to prevent the sound level from increasing by more than 10db above ambient as defined in the Commonwealth of Massachusetts Division of Air Quality Control Policy regarding noise regulation. Such a wall must be located at least 10 feet from the property line between the Industrial and the Residential property. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen. Positioning of lights should be such that it is not offensive to any adjacent abutter.

5.2.6 A buffer strip could be created on Residential Property abutting business or industrial zones provided said area be restricted by a deed covenant to use as a buffer area only for the abutting business or industrial property.

5.2.7 Projections - Nothing herein shall prevent the projection of steps, stoops not exceeding thirty (30) square feet in area, eaves, cornices, window sills, or belt courses into any required yard.

## 6.0 **GENERAL REGULATIONS**

### 6.1 **Non-Conforming Uses, Structures and Lots** (approved by Attorney General August 20, 1993)

The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this By-Law may be continued although such structure or use does not conform with provisions of the By-Law, subject to the following conditions and exceptions:

6.1.1 Abandonment - A non-conforming use which has been abandoned or discontinued for a period of two (2) years shall not be re-established and any future use shall conform with the By-Law, except in the case of land used for agriculture, horticulture, or floriculture, where such non-use shall

have existed for a period of five (5) years.

- 6.1.2 Limitation on Restoration - A non-conforming building which has been destroyed by fire or other act of God may be repaired or rebuilt, but the restoration shall not exceed 105% of the original living area and height and shall be placed no nearer the street than the building which it replaces. If possible, the replaced or repaired building shall conform to the intensity requirements of the current By-Law.
- 6.1.3 Extension - Pre-existing non-conforming structures or uses may be extended or altered by Special Permit from the Board of Appeals, finding that such change, extension or alteration is not substantially more detrimental than the existing non-conforming use. \* Residential lots of 20,000 square feet or more shall be exempt from the above Special Permit except when a violation of the By-Law is believed to exist. (\*approved by Attorney General August 20, 1993)

Additions to existing non-conforming residential structures shall be allowed on lots of 70,000 square feet or more providing the addition complies to the setback requirements or is no closer to the property lines than what already exists. (Adopted June 8, 1998; approved by Attorney General July 3, 1998)

- 6.1.4 Changes - Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. On Special Permit from the Board of Appeals, the use of premises may be changed from one non-conforming use to another which is no more detrimental to the neighborhood.
- 6.1.5 The construction of a building or operation of land use under a building permit or a Special Permit shall conform to any subsequent amendment to the By-Law adopted after the issuance of the permit, unless such construction or operation commences within a six-month period beginning with the issuance of the building or Special Permit and is substantially and continuously constructed until completion.
- 6.1.6 No lot having 20,000 square feet or more of area may be considered to be non-conforming for accessory use to a permitted principal use on the same premises, provided lot coverage and setback requirements are not violated. Detailed plans showing buildings, wells, disposal areas, and other details may be required before a permit is issued by the Building Commissioner. (approved by Attorney General August 20, 1993)
- 6.1.7 Any pre-existing dwelling in a Business or Industrial zoned area shall be allowed all rights of use as if in a Residential District without special permit so long as all residence district regulations are met. (Adopted

June 17, 1996; approved by Attorney General September 10, 1996)

6.1.8 Demolition and replacement of an existing residential structure may be allowed on lots of 20,000 square feet or more in area with Board of Appeals approval provided new construction is in compliance with Section 5.1 Minimum Setback Dimension, Maximum Building Height, Maximum Percentage of Lot Coverage, and subject to Board of Health approval. Non-conforming structures on lots of less than 20,000 square feet shall satisfy the requirements of 6.1.2 Limitations on Restoration. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

## 6.2 **General Prohibitions**

Any use permitted by right or Special Permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare, liquid or solid, refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance, conditions, or element in an amount as to affect adversely the surrounding environment.

## 6.3 **Accessory Uses**

6.3.1 Uses accessory to a permitted principal use are permitted on the same premises.

6.3.2 No accessory structure shall be located within the required front, side or rear yard area.

## 6.4 **HOME OCCUPATION**

A home occupation is defined and regulated as follows:

6.4.1 Home occupation is the use of a room or rooms in a dwelling and/or accessory building on the premises for a business activity carried on by the person or persons who live in that dwelling. A home occupation is a profession, trade, craft, activity, or other legal use conducted for financial gain. Such use must be clearly incidental and subordinate to the primary residential use of the premises. The purpose of these standards is to strictly limit the size, type, and intensity of a proposed home occupation so that the residences and residential properties do not become retail, commercial, or industrial in appearance or character.

6.4.2 A home occupation is permitted, upon the property owner filing an

application with the Building Department for and receiving a home occupation permit reflecting the change of use, provided that the home occupation conforms to the following standards and requirements:

- 6.4.2.a the activities of the home occupation are primarily interior to the principal residential dwelling and/or accessory building, and do not substantially alter the residential appearance of the property.
- 6.4.2.b The home occupation shall be accommodated within an existing dwelling and/or accessory building and said dwelling and/or accessory building shall not be expanded to accommodate the occupation. Any accessory structure associated with the business use, such as a garage or shed, must be only for the storage of supplies, materials, tools, equipment, and/or vehicles. Building of a garage, shed, or any structure specifically for use in or by the home occupation is not permitted.
- 6.4.2.c No more than twenty-five percent of the total useable floor area of the residence and accessory building shall be used for the home occupation, which includes useable basement floor area.
- 6.4.2.d No more than three people who are not residents of the dwelling shall be employed on the premises in the home occupation. All primary business activities connected with the home occupation shall occur inside the dwelling and/or accessory building or off the premises.

For the purposes of this bylaw, any person who works at a business activity shall be considered as and counted as an employee of the home occupation. This includes, but is not limited to, a sub-contractor, a fee-for-service contractor or professional, and/or a person who rents business space within the home occupation.

- 6.4.2.e No more than three commercial vehicles registered to the home occupation or to any employee shall be parked on the premises. Any such vehicles shall not be offensive as to noise, emissions, odors, or vibration to the residential community. No vehicle used in the home occupation shall exceed 26,000 lbs. gross vehicle weight (GVW) nor shall require a Commercial Driver's License (CDL). Any ancillary registered vehicle, such as a trailer, shall be considered as and counted as a commercial vehicle of the home occupation. Any such trailer shall have no more than a 6,000 lbs. GVW. The total GVW of any trailer and towing vehicle shall not exceed 26,000 lbs.

6.4.2.f No offensive noise, smoke, vibration, dust, odors, heat, light, or glare shall be produced by the home occupation.

There shall be no exterior announcement or display of the home occupation except for a single unlighted sign on the premises. This sign shall not exceed two (2) square feet in area, as provided in Section 6.6.4.3. The sign shall conform in all other ways to the relevant portions of the Town bylaws.

Any and all products, supplies, materials, tools and/or equipment shall be stored in an appropriate storage shed or building or be visually screened from the street and abutting properties. Products, supplies, materials, tools and/or equipment allowed under this bylaw shall not include junk, scrap, waste or hazardous materials, and shall not create an undesirable or inappropriate environment in a residential area.

6.4.2.g Vehicular traffic generated by the home occupation shall not increase in volume, type, noise, or hours normally expected in a residential neighborhood.

6.4.2.h Acceptable off-street parking must be provided for employees and customers. No on-street parking is permitted for vehicles associated with a home occupation, including customers' or clients' vehicles.

6.4.2.i All structures used for home occupations must comply with all applicable federal, state and local laws and regulations.

6.4.2.k The owner of a home occupation will register said home occupation with the Town Clerk. Said registration does not constitute a business license, business permit, or business certificate.

(Adopted June 14, 2004; approved by Attorney General September 16, 2004).

## 6.5 **Access, Parking and Loading**

6.5.1 Parking areas shall be accessible from a maximum of two separate entry/exit points, separated by a minimum of fifty (50) feet and no closer than fifty (50) feet from an intersection. Corner properties may have a third access point.

6.5.2 Driveways and parking areas shall be adequately lighted during business

hours.

6.5.3 Parking space shall conform to the following standards:

6.5.3.1 Number of Spaces: Off-street parking shall be provided, according to the standards set forth in the following schedule.

6.5.3.2 Mixed Uses: Where mixed uses occur, the parking spaces required shall be the sum of the requirements for the several individual uses, computed separately unless it can be demonstrated to the Board of Appeals under a Special Permit application that the need for parking occurs at different times and that adequate spaces will exist to handle the requirements for each use.

6.5.3.3 Parking Space Schedule:

<u>Land Use, Category Spaces</u>	<u>Minimum Number of Off-Street Parking</u>
Handicapped Spaces	One per establishment and/or use, with a maximum of 10%, inclusive, of total parking required. These spaces shall be a maximum distance of 50 feet from any accessible entrance, suitably displayed, with a safe means of access/ egress. This is in addition to the land uses and their required spaces within this section.
Residential	Two per dwelling unit.
Hotel or Motel	One per guest room, plus one for each employee.
Place of Assembly, Church, Meeting Hall or Room, Club, Lodge, and Country Club	One per each four seats of total seating capacity, or one per 400 square feet of gross floor area, whichever is greater, plus one for each employee.
Restaurant, Stadium, Gymnasium, Arena, Auditorium	One per each three seats of total seating capacity, plus one for each employee.
Theatre	One per each two seats of total seating capacity, plus one for each employee.
Bank	One per each 150 square feet of gross floor

	area or fraction thereof, plus one for each employee.
Commercial Establishments serving the general public (except automotive service retail establishments)	One per each 300 square feet of gross floor area or fraction thereof, plus one for each employee.
Automotive Retail and Service Establishments	One per each 1,000 square feet of gross floor area or fraction thereof, plus one for each employee.
Wholesale, Warehouse, or Storage Establishment	One per each employee on the largest shift.
Medical or Dental Clinic or Office	Three per each doctor, plus one for each employee.
Hospital	Two per bed at design capacity, plus one for each employee on the largest shift.
Nursing Home	One per two beds.
Business, Trade, or Industrial School or College	One per each 200 square feet of gross floor area in classrooms and other teaching stations, plus one for each employee.
School or College Dormitory Facilities	One space per person or ultimate dormitory resident capacity.
Other Schools	Two per classroom in an elementary and junior high school; four per classroom in a senior high school, plus any other "mixed use" requirements, plus one for each employee.
Office	One per 300 square feet of gross floor area, or one per each employee, whichever is greater.
Golf Course	Two per green, plus one for each employee.
Tennis Court	One per four spectator capacity and two per court.
Swimming Pool, Skating Rink	One per four spectator capacity, plus one per

	each 100 square feet of gross floor area.
Sports Field	One per four spectator capacity.
Amusement Park	One per each 30 square feet of amusement area.
Ranges (golf, batting, etc.)	One and one-half per station.
Campgrounds	Two and one-half per campsite.
Public Utility	One for each 200 square feet of gross floor area.
Manufacturing or Industrial Establishments	One per each employee in the largest working shift.
Any use permitted by these laws not interpreted to be covered by this schedule.	Closest similar use as determined by the by-Building Commissioner.

#### 6.5.3.4 Dimensions:

Each off-street parking space shall be a minimum of nine (9) feet in width by twenty (20) feet in length. Each off-street handicapped parking space shall be a minimum of twelve (12) feet in width by twenty (20) feet in length. In the case of angle parking, the measurement of the width shall be perpendicular to the parking line.

#### 6.5.3.5 Aisle and Entrance Dimensions:

For business and industrial uses, the minimum width of aisles and entrance drives providing access to more than two spaces shall be at least 24 feet wide. On lots where one entrance and exit driveway or access is constructed, the access shall not exceed fifty-four (54) feet in width. Where two driveways or accesses are constructed, the accesses shall each not exceed thirty (30) feet in width. For automotive service stations, the maximum width shall be thirty-two (32) feet for each driveway or access.

6.5.4 Driveways, parking areas, and storm drainage for business and Industrial uses shall be constructed and paved according to the Rules and Regulations of the Planning Board Governing the Subdivision of Land, adopted

under the Subdivision Control Law. No such driveway or parking area will be allowed to shed water upon town ways.

6.5.5 Adequate loading areas shall be provided for all structures.

## 6.6 **SIGN REGULATIONS**

### 6.6.1 Purpose

To provide information to the public and for the identification of permitted activities from public ways, the erection and maintenance of signs shall be subject to regulation in order to preserve and enhance the visual appearance and character of the Town, to provide for the safety and general welfare of the public, and to prevent injurious and detrimental effects from the distracting demands for attention resulting from uncontrolled shapes, sizes, colors, motions, lighting, and inappropriate locations.

### 6.6.2 General Sign Prohibitions

6.6.2.1 Signs, any part of which moves, flashes, or incorporates traveling or animated lights and all beacons and flashing devices whether a part of, attached to, or apart from a sign are prohibited.

6.6.2.2 No illumination shall be permitted which casts glare onto any residential premises, or onto any portion of a way so as to create a traffic hazard.

6.6.2.3 Any sign which is considered by the Building Commissioner, police department or fire department to be obstructive, hazardous, or dangerous because of age, damage, poor construction, or a potential danger in a severe storm must be removed immediately, but in no case later than seven (7) days following receipt of written notice from the Building Commissioner.

6.6.2.4 No sign shall be attached to or obstruct any fire escape, fire or emergency exit; no sign shall be located as to obstruct free passage of light and air to any door, window, skylight, or other similar opening.

### 6.6.3 General Sign Regulations

6.6.3.1 No sign shall be located closer than ten (10) feet from the

street right-of-way, and no closer than thirty (30) feet from the side or rear property lines.

- 6.6.3.2 Signs shall be limited to a maximum height of twenty (20) feet as measured from the crown of the road directly perpendicular to the sign.
- 6.6.3.3 Signs shall be limited in number to two (2) signs for each business or industrial establishment or company. Business or industrial sites containing more than one establishment (mill outlets, shopping centers, industrial parks, etc.) shall be limited to two (2) signs per establishment, one of which shall be attached to the structure to designate the establishment within the structure, and the other attached to or part of a central common directory sign. Business and Industrial subdivisions may have one (1) entrance sign, not being a directory sign, in addition to the above. Signs for this common directory sign and for the business and industrial subdivision entrance sign may be double-sided and a maximum of sixty-four (64) square feet in area.
- 6.6.3.4 Unless permitted elsewhere in this By-Law, no sign may exceed thirty-two (32) square feet in area.
- 6.6.3.5 Signs erected upon or attached to a building shall not project:
  - 6.6.3.5.1 horizontally more than two (2) feet;
  - 6.6.3.5.2 into or over any way;
  - 6.6.3.5.3 above the highest part of the building, not exceeding twenty (20) feet from ground level.
- 6.6.3.6 No free-standing sign shall project more than two (2) feet horizontally from its means of support.
- 6.6.3.7 The colors red, green or yellow shall not be used in a manner that might confuse the meaning or stop signs, stop lights or other traffic signs.

#### 6.6.4 Exemptions

- 6.6.4.1 Flags or insignia of the United States or any political subdivision thereof or any other nation or country when not used for commercial promotion or display.
- 6.6.4.2 Temporary posters, placards, or signs associated with a

political campaign or current political issue. Any such sign must be removed within 48 hours after its relevance has expired.

- 6.6.4.3 Signs located on residential structures or driveways, so long as they do not exceed two (2) square feet and are for the primary purpose of indicating the name or names of the resident.
- 6.6.4.4 For sale, lease, or rent signs on real property or the signs of real estate agents or brokers, so long as they do not exceed six (6) square feet in area.
- 6.6.4.5 Signs less than two (2) square feet designating entry and egress from parking areas, and other directional traffic control and safety-related signs.
- 6.6.4.6 Normal highway control signs, hazard signs, and other state-approved highway safety signs.

#### 6.6.5 Temporary Signs

- 6.6.5.1 Temporary exterior signs or mobile sign displays are permitted to advertise the opening of a business at a new location or to advertise a special event at its intended location.
- 6.6.5.2 Such signs shall not exceed thirty-two (32) square feet in area.
- 6.6.5.3 No two or more of such signs shall be closer than five hundred (500) feet apart.
- 6.6.5.4 The combined total number of days that one or more temporary signs may be displayed on the premises shall not exceed sixty (60) days in each twelve (12) month period per establishment.
- 6.6.5.5 Temporary signs shall be displayed in conformance with setback requirements for all signs.
- 6.6.5.6 At the end of the sixty (60) day period, the sign shall be removed by the initiative of the company, organization, or individual or their agents as indicated by the display of information.
- 6.6.5.7 All such temporary signs as herein described must meet the approval of the Building Commissioner regarding safety of construction, placement, mounting, and lighting. By written notice specifying the corrections needed, the Building

Commissioner shall order the immediate action of the displayer to either correct the sign or have it removed.

If immediate action is not taken, the Building Commissioner may, at his own initiative or with the enlisted aid of any Town department, remove such sign.

- 6.6.6 Off-premise signs, signs larger in area or higher than specified or a greater number of signs, may be granted by Special Permit of the Board of Appeals.

## 6.7 **SITE PLAN REVIEW**

### 6.7.1 Purpose

The purpose of site plan review is to ensure that the design and layout of certain developments permitted as of right or by Special Permit will constitute suitable development and will not result in a detriment to the neighborhood or the environment.

The site plan review shall consider the following:

- 6.7.1.1 Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against light, sight, sound, dust and vibration, and preservation of light and air.
- 6.7.1.2 Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- 6.7.1.3 Adequacy of the methods for disposal of wastes;
- 6.7.1.4 Protection of environmental features on the site and in adjacent areas.
- 6.7.1.5 **Management of stormwater runoff to minimize stormwater runoff, maximize infiltration and recharge where possible and minimize pollutants in the runoff as required to meet the performance standards of the Massachusetts Department of Environmental Protection's March 1997 Stormwater Management Policy as amended;**
- 6.7.1.6 **Minimization of on-site erosion and the prevention of eroded soil from being deposited onto adjacent properties, rights-of-way, the municipal storm drainage system, wetlands or water courses during and after construction.**

### 6.7.2 Procedure-Business or Industrial

Applicants for a building permit for new construction or for modification of or addition to a business or industrial structure resulting in floor area of over 1,500 square feet in the aggregate shall submit six (6) copies of a site plan as described herein to the Town Clerk for Planning Board approval. Failure of the Planning Board to act within twenty-one (21) days of receipt of a site plan shall be deemed lack of opposition thereto.

The following information shall be required by the applicant for site plan review:

- 1) locus plan;
- 2) location of structures within 200 feet of property lines;
- 3) existing and proposed buildings, showing setbacks from property lines;
- 4) building elevations;
- 5) parking areas, driveways, and facilities for pedestrian movement including parking calculations based on current regulations;
- 6) drainage system;
- 7) utilities and lighting;
- 8) landscaping, including trees to be removed and retained;
- 9) loading and unloading facilities;
- 10) provisions for refuse removal;
- 11) drainage calculations and **verification of soil types**;
- 12) existing and projected traffic volumes from the site and effect on the local road network;
- 13) existing and proposed contour elevations in five (5) foot increments;
- 14) location of well or public drinking water supply;
- 15) location of wetlands **approved by the Conservation Commission**;
- 16) proposed and existing location of signs;
- 17) any building over 35,000 cubic feet should be accompanied by engineered plans drawn by a certified architect as required by the Massachusetts building code;
- 18) all information should pertain to existing and proposed;
- 19) **Stormwater Management Plan detailing the Best Management Practices that will be employed at the site such that stormwater runoff shall meet the performance standard found in the most current version of the Massachusetts Department of Environmental Protection's Stormwater Management Policy**;
- 20) **Sediment and Erosion Control Plan detailing the location, installation and maintenance of sediment and erosion**

**controls during and after construction. The Plan shall adhere to the standards and specifications found in the Massachusetts Erosion and Sediment Control Guidelines dated March 1997 as amended;**

- 21) other information as may be necessary to determine compliance with the provisions of this By-Law.

In addition, at least ten (10) days prior to filing a site plan with the Planning Board, an applicant shall submit one copy of the site plan to each of the following boards and officers, together with a request for review and recommendation to the Planning Board pursuant to this section:

Police Chief  
Fire Chief  
Board of Health  
Conservation Commission  
Highway Surveyor  
**Building Department**  
**Open Space Committee**  
**Board of Selectmen**

Said boards and officers shall review the site plan, considering the effects of the proposed use and related construction, and shall make recommendations as they deem appropriate to minimize any detrimental effects of the development on nearby property or on Town Roads or other infrastructure.

(Adopted at Special Town Meeting June 11, 2001, approved by Attorney General September 19, 2001)

### **6.7.3 Procedure-Residential**

**Applicants for a building permit for new construction of or for modification or addition to any residential structure which will disturb more than 3,000 square feet of ground for which filing of a Notice of Intent with the Lakeville Conservation Commission is not required shall submit three (3) copies of a site plan as described herein the Town Clerk for Planning Board approval. Failure of the Planning Board to act within twenty-one (21) days of receipt of a site plan shall be deemed lack of opposition thereto.**

**The following information shall be required by the applicant for site plan review:**

- 1) locus plan;**
- 2) location of structures within 100 feet of property lines;**

- 3) existing and proposed buildings, showing setbacks from property lines;
- 4) existing and proposed contour elevations in two (2) foot increments;
- 5) location of well or public drinking water supply;
- 6) location of wetlands approved by the Conservation Commission;
- 7) all information should pertain to existing and proposed;
- 8) Stormwater Management Plan detailing the Best Management Practices that will be employed at the site such that stormwater runoff shall meet the performance standard found in the most current version of the Massachusetts Department of Environmental Protection's Stormwater Management Policy;
- 9) Sediment and Erosion Control Plan detailing the location, installation and maintenance of sediment and erosion controls during and after construction. The Plan shall adhere to the standards and specifications found in the Massachusetts Erosion and Sediment Control Guidelines dated March 1997 as amended;
- 10) other information as may be necessary to determine compliance with the provisions of this By-Law.

In addition, at least ten (10) days prior to filing a site plan with the Planning Board, an applicant shall submit one copy of the site plan to each of the following boards and officers, together with a request for review and recommendation to the Planning Board pursuant to this section:

**Police Chief  
Fire Chief  
Board of Health  
Building Department  
Conservation Commission  
Highway Surveyor  
Open Space Committee  
Board of Selectmen**

Said boards and officers shall review the site plan, considering the effects of the purposed use and related construction, and shall make recommendations as they deem appropriate to minimize any detrimental effects of the development on nearby property or on Town Roads or other infrastructure.

(Bolded text adopted 6/13/05; approved by Attorney General 9/30/05)



## 6.8 **HAZARDOUS WASTES**

The operation of hazardous waste facilities as defined in Section 2.0, including the operation of such facilities at commercial dump sites or sanitary landfills, is prohibited within the Town of Lakeville (adopted May 10, 1982).

## 7.0 **SPECIAL REGULATIONS**

### 7.1 **Flood Plain District Regulations**

#### 7.1.1 Statement of Purpose

The purposes of the Floodplain District are to: 1) ensure public safety through reducing the threats to life and personal injury; 2) eliminate new hazards to emergency response officials; 3) prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding; 4) avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding; 5) eliminate costs associated with the response and cleanup of flooding conditions; 6) reduce damage to public and private property resulting from flooding waters.

#### 7.1.2 Existing Regulations

All development in the district including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR 3107 of the Massachusetts State Building Code which address floodplain and coastal high hazard areas
- 310 CMR 10.00, Wetlands protection, Department of Environmental Protection
- 302 CMR 6.00, Inland Wetlands Restriction, D.E.P.
- 310 CMR 15, Title 5, minimum requirements for the subsurface disposal of sanitary sewage, Department of Environmental Protection.

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

#### 7.1.3 Definitions

"Area of Special Flood Hazard" is the land in the floodplain within a

community subject to one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, VO or V1-30, VE or V.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining dredging, filling, grading, paving, excavation or drilling operations.

"District" means floodplain district.

"Federal Emergency Management Agency (FEMA)" administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community issued by FEMA where the boundaries of the flood, mudslide (i.e. mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

"Flood Insurance Study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

"Floodway" - see "Regulatory Floodway".

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; PROVIDED, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 60.3.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use

with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

#### 7.1.4 Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment: 1) agricultural uses such as farming, grazing, truck farming, horticulture, etc.; 2) forestry and nursery uses; 3) outdoor recreational uses, including fishing, boating, play areas, etc.; 4) conservation of water, plants, wildlife; 5) wildlife management areas, foot, bicycle, and/or horse paths; 6) temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; 7) buildings lawfully existing prior to the adoption of these provisions.

#### 7.1.5 Use Regulations

The Floodplain District is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains (currently 780 Section 3107).

7.1.5.2 Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

7.1.5.3 There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health and Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits. (adopted June 18, 1990)

## 7.2 Water Resource Protection District Regulations

### 7.2.1 Purpose and Application

For the purpose of protecting groundwaters and other water resources in the Town, there are hereby established water resource protection regulations as part of the Zoning By-Law. These regulations apply throughout the Town.

All uses and dimensional requirements and other provisions of this by-law applicable to land, buildings, and uses in underlying zoning districts shall remain in force and effect, except that where the water resources protection regulations impose greater or additional restrictions and requirements, such restrictions and requirements shall prevail.

### 7.2.2 Use Regulations

Notwithstanding use regulations for a particular district, the uses listed below are prohibited. Such uses where lawfully existing, may be continued, but may not be expanded or altered without a Special Permit from the Special Permit Granting Authority (SPGA) which for the purpose of this section of the Zoning By-Law is the Planning Board.

7.2.2.1 Outdoor storage of the following substances: salt, snow-melting chemicals, or hazardous substances such as pesticides, herbicides, and water soluble and volatile chemical compounds. This prohibition shall include, without limitation, outdoor storage of materials containing or coated with such chemicals susceptible to being carried into surface or groundwaters (Adopted May 10, 1982).

7.2.2.2 Disposal, use as fill in layers or in bulk, or stockpiling of any demolition materials, waste or residue typically known as sludge, waste sludge, fly ash, or any other substance that contains hazardous chemicals or other compounds that are hazardous.  
(Adopted Special Town Meeting June 11, 2001, approved by Attorney General September 19, 2001)

## **7.3 Planned Special Purpose District Regulations**

### **7.3.1 Title and Purpose**

The purpose of the Planned Special Purpose District is to encourage and to authorize the mixed use development of large land areas by means of an association of a variety of building types and uses which are subordinate and mutually related to an identified authorized principal activity, with conditions and safeguards to prevent detrimental effects and impacts upon neighboring land uses and upon the Town of Lakeville generally.

### **7.3.2 District Designation:**

The PSP district shall be bounded:

Northerly by Middleborough/Lakeville Town Line  
Easterly by Route 18 - Bedford Street  
Southerly by Taunton Street  
Westerly by Cross Street

The PSP district is an overlay district superimposed over the underlying district. This section shall only apply to the following uses on parcels of greater than twenty-five acres. This section shall not apply nor shall it prohibit uses permitted as of right or by Special Permit in the underlying use district.

### **7.3.3 Permitted Uses as Principal Activities in the PSP District:**

- 1) Cranberry culture and related uses including structures, canals, dams, dikes, bogs, ditches, roadways and reservoirs
- 2) Hotel and Motel Facilities
- 3) Medical Facilities
- 4) Town of Lakeville Municipal Facilities
- 5) Museum, Library or Data Storage Facilities
- 6) Office Buildings
- 7) Recreational Facilities
- 8) Scientific Research Facilities as it relates to other principal activities

All permitted uses are subject to Section 7.3.5, "General Regulations".

### **7.3.4 Accessory Uses:**

The following uses shall be allowable as accessory to the above principal activities:

- 1) Banks
- 2) Barber/Beauty Shops
- 3) Tourist Shops
- 4) Dry Cleaning Shop
- 5) Medical/Dental Office
- 6) Restaurants

### 7.3.5 General Regulations in the PSP District - Applicable to Uses Permitted.

7.3.5.1 Minimum lot area - shall not be less than twenty-five acres.

7.3.5.2 Buffer Zones - A buffer zone, not less than one hundred feet in depth shall be continuously maintained along all exterior boundary lines. Buffer zones, defined for the purposes of this by-law as designated areas providing or designed to provide visual and special protection for adjoining land areas, shall have natural vegetation or grass, bushes and trees suitably landscaped. Driveways, roads or walkways shall be allowable within 100 feet of existing streets for access purposes. No parking access shall be built within the buffer zone.

Informational signs, fences, hedges and earthen berms may be maintained within a buffer zone, to be of appropriate design and location.

7.3.5.3 Site Plan Approval - For the purposes of determining compliance with provisions of the PSP district the applicant shall submit a site plan to the Planning Board of the Town of Lakeville prepared by a registered professional engineer in the quantities and scale required, oriented to true north, and showing boundaries of the district, of the lots in question, names of abutting owners, natural and manmade features including any wetlands and the boundaries of a wetlands district, and the location of existing and proposed structures and means of access, roadways, parking areas, buffer zones and landscaped areas.

Streets shall be constructed and utilities designed and installed in accordance with the Rules and Regulations of the Planning Board in effect at the time of the filing of the site plan.

7.3.5.4 The Site Plan - including construction of roads and utilities, may be approved at any regular or specially posted meeting of the said Planning Board. (Adopted May 13, 1985, approved by Attorney General August 5, 1985)

## 7.4 **Special Permits**

7.4.1 Certain specific uses, buildings and structures identified in other sections of this By-Law shall be allowed to be located, relocated, altered or substantially expanded in specified districts only upon the issuance of a Special Permit by the Special Permit Granting Authority, as designated herein. Special Permits shall only be issued for uses which are in harmony with the general purpose and intent of this By-Law and subject to its general or specific provisions and only if the Special Permit Granting Authority finds that the following conditions are met:

7.4.1.1 The use is not noxious, harmful or hazardous, is socially and economically desirable and will meet an existing or potential need.

7.4.1.2 The advantages of the proposed use outweigh any detrimental effects, and such detrimental effects on the neighborhood and the environment will not be greater than could be expected from development which could occur if the special permit were denied.

7.4.1.3 The applicant has no reasonable alternative available to accomplish this purpose in a manner more compatible with the character of the immediate neighborhood.

The Special Permit Granting Authority shall determine that the proposal generally conforms to the principals of good engineering, sound planning, and correct land use, and that the applicant has the means to implement the proposal if a Special Permit is granted.

The Special Permit Granting Authority shall have the power to impose reasonable conditions and modifications, including limitations of time and use, as a condition of a Special Permit, and may secure compliance or performance by requiring the posting of a bond or other safeguards.

7.4.1.4 Golf Courses, once allowed, shall be permitted to make modifications and additions to principal buildings and construct accessory buildings, provided all other requirements are complied with. (Adopted June 17, 1996; approved by Attorney General September 10, 1996)

#### 7.4.2 Application

Application for Special Permits shall be on such forms or in such manner as the Special Permit Granting Authority may specify and in accordance with its Rules and Regulations, and shall be submitted together with all required exhibits and site plans.

The plans shall include, but not be limited to, pertinent information where applicable in regard to the following: lot boundaries, names of abutting owners, streets contiguous to the site, vegetation, existing and proposed roadways, existing and proposed buildings, location of sources of water, sewage disposal, parking, ponds, wetlands, known permanent monuments and other cross sections, profiles and contour maps required to describe the proposal. The plans shall be prepared by a registered engineer. The site shall show existing, intermediate, and final ground levels with those of adjacent properties, and shall indicate natural surface water flows and drainage ditches, if any.

Any dwelling pre-existing or allowed by a Special Permit in a Business zoned area shall be allowed all rights of use as if in a Residential District without a special permit so long as all residence district regulations are met. (Adopted June 17, 1996; approved by Attorney General September 10, 1996)

#### 7.4.3 Distribution of Plans

Copies of the project plan will be referred to the following boards or individuals within fourteen (14) days for their review and input:

Conservation Commission	Board of Health
Highway Surveyor	Building Inspector
Fire Chief	Chief of Police
Town Planner	Planning Board
Board of Appeals	

Comments from these officials must be received by the Special Permit Granting Authority within thirty-five (35) days of the plan's distribution, or else the Special Permit Granting Authority will assume their acceptance of the plan. Failure of any of these Town officials to report on the proposal does not in any way exempt the applicant from compliance with the Rules and Regulations administered by those boards or individual officials.

#### 7.4.4 Public Hearing

A public hearing will be held after the time allowed for review by Town officials, and within sixty-five (65) days after submission of plans.

Publication and notices of the public hearing to abutters and costs of conducting the hearing will be borne by the applicant.

#### 7.4.5 Decisions

Special Permits will be granted or disapproved within ninety (90) days after the date of the public hearing.

#### 7.4.6 Specific Uses by Special Permit

No Special Permit shall be issued, except in accordance with the following conditions and requirements for each specific use:

##### Uses accessory to permitted scientific research or development

SPGA - Board of Appeals; All Districts

Compatible with other uses nearby, adequate access and parking. May be permitted on a lot other than the locus of the principal use.

##### Stand for the sale of agricultural products

SPGA - Board of Appeals; All Districts

Must be limited to sale of products grown on the premises, safe and adequate access and parking.

##### Adult Bookstore/Adult Motion Picture Theater

SPGA - Board of Appeals; Industrial District

A. Adult bookstores and motion picture theaters may not be located within one thousand (1,000) feet of each other and five hundred (500) feet of the nearest lot lines of:

1. A residential district
2. Any establishment licensed under the provisions of Section 12 of Chapter 138 of the General Laws.

B. Adult bookstores, motion picture theaters and all advertising signs shall not be located within fifty (50) feet of a public or private way and must be set back a minimum of fifty (50) feet from all property lines.

C. The application must include the following information:

1. Name and address of the legal owner of the bookstore or theater;
2. Name and address of all persons having lawful, equity or security interests in the bookstore or theater;
3. Name and address of the manager;
4. The number of employees;
5. Proposed security precautions; and

6. The physical layout of the premises.
- D. Special permits for adult bookstores/adult motion picture theaters shall not be granted to any person convicted of violating the provisions of Mass. General Laws Chapter 119, Section 63 or Chapter 272, Section 28.
  - E. Special permits for adult bookstores/adult motion picture theaters shall only be issued following public hearings held within 65 days after filing an application with the special permit granting authority, a copy of which the applicant shall give to the Town Clerk simultaneously.
  - F. A special permit for adult bookstores/adult motion picture theaters shall lapse within one year, including the time required to pursue or await the determination of an appeal filed pursuant to Mass. General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause. (Adopted June 17, 1996; approved by Attorney General September 10, 1996)

Alterations, otherwise prohibited, of a dwelling in existence as of January 1, 1978 for two (2) families

SPGA - Board of Appeals; Residential, Business Districts  
Dwelling in existence as of January 1, 1978; the dimensions and appearance of a single family dwelling will be preserved; separate sanitary and kitchen facilities and adequate privacy provided; not incompatible with adjacent non-residential uses if in a Business or Industrial district.

Animal Kennel or Hospital

SPGA - Board of Appeals; Business District  
Subject to applicable General Laws and local By-Laws. Must not create nuisance to adjacent properties.

Auto or Boat sales, rentals or service

SPGA - Board of Appeals; Industrial Districts  
Must be compatible with the surrounding areas, subject to site plan review by the Planning Board. (Adopted June 16, 1997; approved by Attorney General August 11, 1997)

Bus or railroad terminal or passenger station

SPGA - Planning Board; Business District  
Requires submission of site plan as described in Section 6.7 Adequate

provisions must be made for access and parking. Location shall be suitable for traffic generated. Must be compatible with the character of the district.

#### Car Wash

SPGA - Board of Appeals; Business District  
Subject to a site plan review by the Planning Board, which site plan shall be incorporated into the Special Permit. Drainage must be contained on-site. Suitable provisions shall be made for proper discharge of water into the ground so as not to pollute groundwater.

#### Cemetery

SPGA - Board of Appeals; All Districts  
Subject to a site plan review by the Planning Board and to approval by the Board of Health and conforming to applicable General Laws. Site plan shall be incorporated into the Special Permit by reference.

#### Commercial Parking Facility

SPGA - Planning Board; Business, Industrial Districts  
Requires submission of site plan as described in Section 6.7. Adequate provision shall be made for access.

#### Conversion of seasonal home or non-residential building for year-round residence

SPGA - Board of Appeals; Residential, Business Districts  
Subject to Board of Health approval; must demonstrate adequacy of water supply, sewage disposal, and indoor and outdoor space without overloading the capacity of land or endangering water quality. Lot size, as well as soils and topography, shall be considered, and engineering analysis may be required. Conditions and limitations may be imposed on the number of occupants and other use characteristics for the protection of the residents, the neighborhood and the environments.  
(Adopted May 12, 1980)

#### Drive - through facility

**SPGA – Board of Appeals; Business District**  
**A Drive through facility shall be subject to site plan Approval by the Planning Board as a condition of Approval from the Zoning Board of Appeals.**

The petitioner shall demonstrate the need for the following conditions or findings:

- 1). Evidence of reasonable public need not adequately met by existing facilities within 1.5 miles of the proposed location.
- 2) That the proposed facility will cause no traffic hazard, congestion or interference with the flow of traffic especially at and near intersections.
- 3) That the number of vehicles served will be limited to those specified in the permit as governed by the rules and regulations of the Board of Appeals and the Planning Board as may be adopted regulating such facilities. (Adopted at Town Meeting 6/11/07; approved by Attorney General 9/12/07)

#### **Fast Food Restaurant**

**SPGA – Board of Appeals; Business District**

**A Fast Food Restaurant shall be subject to Site Plan Approval by the Planning Board as a condition of Approval from the Zoning Board of Appeals.**

The petitioner shall meet the following conditions and findings:

- 1) Fast Food Restaurants shall only be allowed in areas served by a municipal water supply.
- 2) Evidence of reasonable public need not adequately met by existing facilities within 1.5 miles of the proposed location.
- 3) That the proposed facility will cause no traffic hazard, congestion or interference with the flow of traffic especially at and near intersections.
- 4) That the number of vehicles served will be limited to those specified in the permit as governed by the rules and regulations as may be adopted regulating such facilities.
- 5) A detailed traffic impact analysis shall be submitted, done by a registered professional engineer qualified in traffic engineering. (Adopted at ATM 6/11/07; approved by Attorney General 9/12/07)

#### **Filling or service station or automotive repair garage**

**SPGA - Board of Appeals; All Districts**

An automotive repair garage shall be subject to an annual license by the Board of Selectmen and shall be found to be compatible with nearby uses, and shall include provisions for parking and screening. A gasoline service station shall be subject to an annual license or permit by the

Board of Selectmen and to the following conditions or findings. 1) Evidence of reasonable public need not adequately met by existing service stations within 1 mile of the proposed location. 2) That the proposed service station will cause no traffic hazard, congestion or interference with the flow of traffic especially at and near intersections. 3) That adequate provisions will be made to minimize pollution due to oil, gasoline and other chemical spills, fumes and particulates. 4) That the numbers of vehicles served will be limited to those specified in the permit. 5) That there will be no outdoor storage of materials except as provided by the Special Permit and no parking of unregistered or wrecked vehicles.

#### Funeral Home, Mortuary or Crematory

SPGA - Board of Appeals; Business District  
Subject to site plan review by the Planning Board, which site plan shall be incorporated into the Special Permit. Adequate provision shall be made for access. Location shall be suitable for traffic generated.

#### Golf Course

SPGA - Board of Appeals; All Districts  
Subject to site plan review by the Planning Board, which site plan shall be incorporated into the Special Permit by reference; adequate parking; no inappropriate commercial accessory use shall be permitted; no driving or pitch-and-putt ranges, so-called, to be deemed a golf course.

#### Home for the elderly, residential care facility, charitable institution or use

SPGA - Board of Appeals; Residential District  
Subject to site plan review by the Planning Board, which site plan shall be incorporated into the Special Permit by reference; approval of the Board of Health and Fire Chief required, as provided by General Laws.

#### Hospital, convalescent, or nursing home

SPGA - Board of Appeals; Residential District  
Subject to site plan review by the Planning Board, which site plan shall be incorporated into the Special Permit by reference; approval of the Board of Health and Fire Chief required, as provided by General Laws.

#### Launderette

SPGA - Board of Appeals; Business District  
Requires connection to public water supply.

#### Mobile home or house trailer parks

SPGA - Board of Appeals; Residential, Business Districts

Subject to site plan approval by the Planning Board, which site plan shall be incorporated by reference into the building permit; subject to Board of Health approval and annual license renewal, subject to finding that such park will serve an existing need and will not be detrimental to the neighborhood, including limitations on size and provisions for screening.

Mobile home or house trailers

**(This section deleted - see new Sec. 8.7.1 and 8.7.2)**

(Amended June 8, 1998; approved by Attorney General August 24, 1998)

Non-conforming use, Changes to

SPGA - Board of Appeals; All Districts

Proposed use is no more objectionable to the neighborhood than the existing use.

Non-conforming use, extension or alteration

SPGA - Board of Appeals; All Districts

Such extension or alteration must not be substantially more detrimental than the existing non-conforming use.

Parking, mixed uses reduction

SPGA - Board of Appeals; Industrial District

Must be demonstrated that the need for parking occurs at different time and that adequate spaces will exist to handle the requirements for each use.

Plumbing, electrical or carpentry shop or other similar service or repair establishment

SPGA - Board of Appeals; Business District

The use must be consistent with the character of the district.

Private Club not conducted for profit

SPGA - Board of Appeals; All Districts

Shall not contain sleeping quarters for more than four persons; conditional on obtaining the required local and other licenses.

Recreational or sports facilities primarily for participatory, rather than spectator, sports, including day or seasonal camps for boys and girls

SPGA - Board of Appeals; All Districts

Camps must be for recreational purposes; subject to site plan review by the Planning Board, which site plan shall be incorporated by reference into the Special Permit; also subject to limitation to a specified capacity and to an annual Board of Health permit.

### Research Laboratory

SPGA - Board of Appeals; Industrial District

Shall not create any dangerous, noxious, injurious or otherwise objectionable hazard, noise or vibration, smoke dust, odor or other form of environmental pollution and shall not adversely affect the surrounding environment.

Retail business, service or public utility not involving manufacture on the premises except of products the major portion of which is to be sold at retail by the manufacturer to the consumer and provided further that not more than ten (10) operators shall be employed in such manufacture

SPGA - Board of Appeals; Industrial District

The use must not be inconsistent with or detrimental to the character of the district.

### Riding stable or riding school

SPGA - Board of Appeals; All Districts

Subject to annual Board of Health certification as required by General Laws; adequate buffers and fencing from adjacent properties; number of horses stabled shall be limited by the Special Permit.

### Signs, larger, higher or a greater number than specified

SPGA - Board of Appeals; All Districts

Requires a business to have unusual requirements or a long name requiring a larger sign and the Special Permit will not be detrimental to the character of the neighborhood of the Town, unduly distracting, blocking visibility of traffic or other business or scenic views.

### Signs, off-premise

SPGA - Board of Appeals; All Districts

Applies to signs not exempt from local regulation by Chapter 93 of General Laws and not advertising the premises on which located or the occupant thereof or the goods and services available thereon; must advertise a business commodity or service available in Lakeville; shall not exceed 12 square feet in area; must be found to be appropriate for the location; Special Permit to be limited to a time period of not less than 3 years and subject to renewal.

### Single-family detached dwelling

SPGA - Board of Appeals; Business District

Dwelling must be set back at least sixty (60) feet from property lines. Must be compatible with adjacent uses.

SPGA - Board of Appeals; Industrial-B

Dwelling must be set back at least sixty (60) feet from property lines. Minimum three (3) acres with two hundred (200) feet frontage. Must be compatible with adjacent uses. Maximum lot coverage 10%. (Adopted June 16, 1997; approved by Attorney General August 11,1997)

Dwelling with apartment must be set back at least sixty (60) feet from the property lines and have a minimum of three (3) acres with two hundred (200) feet of frontage, and must be compatible with adjacent uses.(Adopted June 21,1999; approved by Attorney General Aug 23, 1999)

Steam laundry or dry cleaning plant

SPGA - Board of Appeals; Business, Industrial District

Suitable provision must be made to ensure that operation will not create excessive noise or other nuisance and for proper discharge of water into ground so as not to pollute groundwater. Must conform to applicable General Laws.

Storage of junk for commercial purposes

SPGA - Board of Appeals; Business, Industrial Districts

Must be enclosed with a building or adequately screened by a solid fence or dense planting not less than six feet high; shall be located not less than 300 feet from any street, park, bathing beach, playground, school, church or cemetery, or such greater distance as the Board of Appeals may prescribe, and not in view therefrom; subject to an annual license by the Board of Selectmen, if so required by General By-Laws.

Tattoo or Body Art Establishments

SPGA – Board of Selectmen; Business Districts, Industrial Districts

Must be in a building not used for dwelling purposes or within any interior space or unit shared with another business. A public hearing as well as Board of Health approval will be required. Must be compatible with surrounding areas.

(Adopted Special Town Meeting June 11, 2001, approved by Attorney General September 19, 2001)

Theater (seating capacity of less than 300)

SPGA - Board of Appeals; Industrial District

Subject to site plan review by the Planning Board, which site plan shall be incorporated into the Special Permit. Adequate provision shall be made for access and parking. Proposed use must be compatible with the character of the district. Must conform to applicable General Laws.

### Water Resource Protection

SPGA - Planning Board; All Districts

The Planning Board as Special Permit Granting Authority as authorized in Section 7.2, shall adopt rules and regulations relative to the issuance of Special Permits. Such rules shall include but need not be limited to requirements for: 1) Site plan showing the extent of impervious areas, water supply, drainage and layout and design of disposal facilities. 2) Provisions and conditions designed to prevent or correct conditions detrimental to water resources, health, safety and welfare. 3) Provisions and conditions to control cause of pollution to ground and surface waters. The rules and regulations of the Planning Board relative to the issuance of Special Permits shall provide for notice to and review by the following local boards: Board of Selectmen, Board of Health and Conservation Commission. (Adopted May 10, 1982)

### Water towers or reservoirs

SPGA - Board of Appeals; Industrial District & Business District  
Must not be detrimental to character of district.

## **7.5 Mixed Use Development District Regulations – Article 5\_ - adopted at Lakeville Special Town Meeting June 16, 2003; approved by Attorney General September 9, 2003**

### **7.5.1 Title and Purpose**

The purpose of the Mixed Use Development District is to encourage and to authorize the mixed use development of large land areas by means of an association of a variety of building types and uses, with conditions and safeguards to prevent detrimental effects and impacts upon neighboring land uses and upon the Town of Lakeville generally. No land shall be re-zoned to be within the Mixed Use Development District unless it contains an aggregate land area of at least 25 acres.

### **7.5.2 District Designation**

The Mixed Use Development District shall overlay the land shown as Lot 1 on Assessor's Map 60 (with the balance shown on Assessor's Map 62), which land is more specifically described as follows:

The land with the buildings thereon situated in Lakeville, Plymouth County, Commonwealth of Massachusetts, on the westerly side of Main Street (Route 105) comprising about seventy-three (73) acres of land, more or less, and now or formerly known as the Lakeville State Hospital and formerly as Lakeville State Sanatorium and bounded and described as follows:

Beginning at the most northerly corner of the premises to be described at land now or formerly of Richmond Family Trust and on the southerly sideline of Rhode Island Road;

Thence S 34° 56' 40" E, a distance of 1005.56 feet by land of said Richmond Family Trust and by land now or formerly of Stillman K. Leonard to a point;

Thence N 88° 54' 05" E, a distance of 294.36 feet by land of said Leonard to a point on the westerly sideline of Main Street (Route 105);

Thence the following eight courses by the westerly and northerly sidelines of Main Street:

Southerly on a curve to the right with a radius of 1970.00 feet for an arc distance of 111.70 feet to a Massachusetts Highway Bound;

S 13° 16' 05" W, a distance of 116.78 feet to a Massachusetts Highway Bound;

Southerly on a curve to the right with a radius of 1970.00 feet for an arc distance of 243.55 feet to Massachusetts Highway Bound;

S 20° 21' 05" W, a distance of 71.44 feet to a Massachusetts Highway Bound;

Southerly on a curve to the right with a radius of 1000.00 feet for an arc distance of 458.37 feet to a Massachusetts Highway Bound;

S 46° 36' 50" W, a distance of 241.93 feet to a Massachusetts Highway Bound;

S 46° 59' 20" W, a distance of 512.93 feet to a Massachusetts Highway Bound;

S 46° 08' 49" W, a distance of 6.17 feet to a point at land now or formerly of Bruce A. Benoit;

Thence N 43° 04' 23" W, a distance of 2634.80 feet by various owners as shown on the aforementioned plan to a point on the southerly sideline of Rhode Island Road;

Thence the following six courses by the southerly sideline of Rhode Island Road:

N 68° 16' 47" E, a distance of 78.74 feet to a concrete bound;

Easterly on a curve to the right with a radius of 2238.25 feet for an arc distance of 678.64 feet to a concrete bound;

N 85° 39' 07" E, a distance of 202.14 feet to a concrete bound;

Easterly on a curve to the right with a radius of 1560.18 feet for an arc distance of 353.92 feet to a concrete bound;

Easterly on a curve to the left with a radius of 838.52 feet for an arc distance of 609.30 feet to a concrete bound;

Easterly on a curve to the right with a radius of 1564.50 feet for an arc distance of 12.89 feet to the point of beginning.

The above described premises contain 73.3 acres more or less.

The Mixed Use Development District is an overlay district superimposed over the underlying district(s). The provisions of the underlying zoning district(s), **and the provisions of this By-Law generally, each as in effect as of June 16, 2003**, including bulk and dimensional requirements, will apply within the Mixed Use Development District, except if inconsistent with the Mixed Use Development District regulations set forth below, in which case the provisions of this Section 7.5 will govern over any conflicting zoning requirements of the underlying zoning district(s). This Section 7.5 shall not prohibit uses permitted as of right or by Special Permit in the underlying zoning districts.

Text in bold adopted at Lakeville Town Meeting June 13, 2005; approved by the Attorney General on November 2, 2005.

### 7.5.3 Permitted Uses as Principal Activities in the Mixed Use Development District

Those uses permitted in the respective underlying zoning district(s), as well as the following uses, shall be permitted within the Mixed Use Development District:

- 1) Office Buildings.
- 2) Medical Facilities, including Medical or Dental Offices.
- 3) Research and Development (R&D) Facilities, provided that, in the absence of municipal sewerage, laboratory operations associated with such facilities are limited to so-called "dry" operations for developing and testing certain electronic and other "hi tech" products, along with prototype production. In a case where the R&D use is served by a municipal sewerage, so-called "wet" laboratory operations, in conjunction with biotech and other similar uses, shall be permitted.
- 4) Age-Qualified Housing, in which each Dwelling Unit contains, at the commencement of occupancy, at least one occupant who is at least fifty-five years of age. Age-Qualified Housing shall provide a minimum of one

parking space per Dwelling Unit.

- 5) Supermarket, as a retail business use, but only if a retail business use is permitted in the underlying zoning district.

All permitted uses are subject to Section 7.5.5, "General Regulations in the Mixed Use Development District".

#### 7.5.4 Accessory Uses

The following uses shall be allowable as accessory to the above principal activities:

- 1) Restaurant or Cafeteria.
- 2) Warehouse and Distribution, as accessory to Office or Research and Development uses.
- 3) Parking and Access Drives for all permitted uses in the Mixed Use Development District, as well as any and all utilities necessary to support such permitted uses, whether or not on the same lot as the principal use.

#### 7.5.5 General Regulations in the Mixed Use Development District – Applicable to Uses Permitted.

7.5.5.1 Minimum lot area - shall not be less than three acres.

7.5.5.2 Buffer Zones - The provisions of Section 5.2.4 of this By-Law shall not apply to zoning boundaries internal to the Mixed Use Development District.

7.5.5.3 Lot Coverage for Office and R&D Uses – For all office and R&D uses located outside of the Business District, a maximum of 60% of the upland area of the lot may be covered by structures, parking, and paved areas.

7.5.5.4 Parking Lot Access – The restrictions set forth in Section 6.5.1 regarding the maximum number of entry/exit points for a parking area shall be understood as applying to individual lots within the Mixed Use Development District, and shall apply only to entry/exit points along a public way.

7.5.5.5 Shared Parking/Reduced Size Parking Spaces – Parking spaces serving a principal or accessory use need not be located on the same lot as such use. When determining parking requirements for a shared parking arrangement, the Planning Board, during site plan review, may reduce the applicable requirements upon determining that the multiple uses, whether due to differing peak hours of operation or otherwise, will generate a “staggered” demand for parking, so that the parking proposed by the applicant is sufficient to

meet the anticipated need. The Planning Board may, during site plan review, reduce the depth of required parking spaces from 9' x 20' to 9' x 18' to facilitate internal landscaping of parking areas.

7.5.5.6 Multiple Buildings on a Lot – Within the Mixed Use Development District, multiple principal structures may be constructed within a single lot.

7.5.5.7 Site Plan Approval – For the purposes of determining compliance with provisions of the Mixed Use Development District the applicant shall submit a site plan to the Planning Board of the Town of Lakeville, which site plan shall be prepared in accordance with the requirements set forth in Section 6.7 of this By-Law.

When filing the site plan with the Planning Board, the applicant also shall be required to submit the site plan for review by various boards and officers within the Town of Lakeville, as set forth in Section 6.7.2 of this By-Law.

7.5.5.8 Site Plan review for a project within the Mixed Use Development District shall be conducted as a public hearing, and notice of the hearing shall be given to abutters.

7.5.5.9 In connection with Site Plan approval for any project within the Mixed Use Development District, the Planning Board may incorporate, as a condition to such approval, site and building design requirements that previously have been accepted by both the applicant and the Planning Board and expressed in the form of a written contract or covenant between the applicant and the Planning Board . **A building height of up to 45 feet is permitted within the Mixed Use Development District, provided that appropriate restrictions and buffering requirements are set forth in a Development Agreement between the applicant and the Planning Board.**

Text in bold adopted at Lakeville Town Meeting June 13, 2005; approved by Attorney General November 2, 2005.

**7.6 LARGE-SCALE “BIG BOX” Design Standards**

Large-scale retail buildings that occupy 35,000 or more square feet and smaller retail stores within such buildings are subject to the following requirements.

**7.6.1 Procedure**

The following standards shall apply to all developments requesting a density bonus pursuant to Section 5.1.4, and to all retail buildings of 35,000 or more square feet. A site plan complying with the requirements of Sections 6.7.1.1 and 6.7.2 must be submitted to the Planning Board showing compliance with the Building Design and Site Design Standards set out below. **During site plan**

**review, the Planning Board shall have the authority to waive requirements of this Section 7.6 based upon its determination that the specific development plan proposed by the applicant contains architectural and site elements that effectively screen the use, soften the building facade, and generally promote visual interest and pedestrian accessibility, thereby meeting the intent of this Section 7.6.**

Text in bold adopted at Lakeville Town Meeting June 13, 2005; approved by Attorney General November 2, 2005

## **7.6.2 Definitions**

**Arcade:** an area contiguous to a public or private right of way or plaza that is open and unobstructed, and that is accessible to the public at all times. Arcades may include features such as building columns, landscaping, statuary and fountains. Arcades do not include off-street loading/unloading areas, driveways or parking areas.

**Articulate:** to give emphasis to or distinctly identify a particular element. An articulated facade gives emphasis to various elements, by means of changes in setback, materials, roof pitch or height.

**Berm:** an earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining uses.

**Breezeway:** a structure for the principal purpose of connecting a main building or structure on a property with other buildings.

**Buffer:** see also "screen". An area provided to reduce the conflict between two different land uses by mitigating undesired views, noise and glare and providing greater privacy to neighboring land uses. Buffers may consist of, but are not limited to, plant materials, walls, fences and/or buffer strips of sufficient land area to separate the uses.

**Buffer Strip:** a portion of a lot or property used to visually separate one use from another through the use of vegetation, distance or other approved method.

**Building Mass:** the building's volume or bulk and is typically used in reference to structures of considerable size.

**Dormer:** a window set vertically in a gable projecting from a sloping roof.

**Facade:** the portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

**Front Yard:** the portion of the lot extending the full width of the lot and measured between the front lot line and a parallel line across a building face.

Corner and double lots shall adhere to the front yard setback(s) for each

frontage.

**Gable:** a triangular wall section at the end of a pitched roof, bounded by the two roof slopes.

**Hip Roof:** roof with sloping ends and sides.

**Mansard Roof:** roof with two (2) slopes on each of the four (4) sides, the lower steeper than the upper.

**Parapet:** the portion of a wall that extends above the roofline.

**Pedestrian Walkway:** a surfaced walkway, separate from the traveled portion of a public or private right-of-way or parking lot/driving aisle.

**Portico:** a porch or walkway with a roof supported by columns, often leading to an entrance to a building.

**Public or Private Right-of-Way:** any public or private road or access easement providing public access to any development, but excluding any service road or internal driving aisle (i.e., within parking lots).

**Screen:** see also "buffer". A device, the purpose of which is, to block views. A screen shall be constructed of opaque materials and be of a height sufficient to effectively obstruct view.

**Streetscape:** all elements of a development or area that are in view from other points along a public or private right-of-way.

### **7.6.3 Required Building Design Standards**

#### **7.6.3.1 Facades and Exterior Walls**

Buildings with a facade of 100 feet or more in length shall incorporate wall projections or recesses of a minimum of 3 feet in depth for a minimum of 20 contiguous feet within each 100 feet of facade length, and shall extend over 20 percent of the facade. Buildings shall use features such as arcades, display windows, entry areas, or awnings along at least 60 percent of the facade.

#### **7.6.3.2 Smaller Retail Stores**

The following standard shall apply to separate stores contained within a larger building, where each smaller retail store occupies less than 35,000 square feet of gross floor area, and has its own separate, exterior customer entrance(s):

- a) Windows shall be projected or recessed at least 4 inches and must include visually prominent sills, shutters, or other such forms of framing

for at least 60% of the length of the building facade of each store.

### **7.6.3.3 Detail Features**

Building facades shall include a repeating pattern that incorporates at least three of the elements listed below, one of which shall repeat horizontally. All pattern elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.

- 1) Color change
- 2) Texture change
- 3) Material module change
- 4) Expression of architectural or structural bay through a change in plane no less than 12 inches in width, such as an offset, reveal, or projecting rib.

### **7.6.3.4 Roofs.**

Roof lines shall be varied with a change in height every 100 feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view. Alternative lengths and designs may be allowed as determined by the Planning Board.

### **7.6.3.5 Materials and Colors**

Exterior building materials and colors shall be aesthetically pleasing and compatible with materials and colors used in adjoining neighborhoods.

- 1) Predominant exterior building materials shall be, without limitation as follows:
  - a) Brick
  - b) Wood (White cedar, red cedar, or other natural material manufactured into shingles, clapboard, or solid wood siding)
  - c) Sandstone
  - d) Native stone
  - e) Tinted, textured, concrete masonry units
- 2) Facade colors shall be low reflectiveness and of subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
- 3) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be used for building trim or accent areas.
- 4) The following are prohibited as predominant or accent exterior materials:
  - a) Smooth-faced concrete block
  - b) Tilt-up concrete panels

c) Pre-fabricated steel panels

### **7.6.3.6 Entryways**

Each building on a site shall have clearly defined, highly visible customer entrances incorporating no fewer than three of the following features:

- 1) canopies or porticos
- 2) overhangs
- 3) recesses/projections
- 4) arcades
- 5) raised corniced parapets over the door
- 6) peaked roof forms
- 7) arches
- 8) outdoor patios
- 9) display windows
- 10) architectural details such as tile work and moldings which are integrated into the building structure and design
- 11) integral planters or wing walls that incorporate landscaped areas and/or places for sitting

## **7.6.4 Required SITE DESIGN Standards**

### **7.6.4.1 Entrances**

All sides of a building that directly face an abutting public or private right-of-way shall feature at least one customer entrance. Where a building directly faces more than two abutting public or private rights-of-way, this requirement shall apply only to two sides of the building as determined by the Planning Board.

Where additional stores will be located in the building, each such store shall have at least one exterior customer entrance, which shall conform to the above requirements for entryways.

### **7.6.4.2 Parking Lot Orientation**

No more than 60 percent of the parking area for the entire development shall be located between any facade and the primary external abutting public or private right-of-way unless the parking area is screened from view by perimeter structures and/or landscaping.

### **7.6.4.3 Building Back and Sides**

Any back or side building facade visible from a public or private right of way shall be built in accordance with Section 7.6.3 Design Standards.

Notwithstanding the provisions of Section 5.1, the minimum front and rear setback distance in Business, Industrial and Industrial B districts shall be 60 feet. Where a facade faces adjacent residential uses, an earthen berm shall be installed, of at least 6 feet in height and containing, at a minimum, a double row of evergreen or deciduous trees planted at intervals of 15 feet on center. Additional landscaping may be required by the Planning Board to effectively buffer adjacent land uses as it deems appropriate.

#### **7.6.4.4 Outdoor Storage, Trash Collection, and Loading Areas**

- 1) Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall be screened so as to not be visible from public or private rights-of-way.
- 2) No areas for outdoor storage, trash collection or compaction, loading, or other similar uses shall be located within 20 feet of any public or private right-of-way, public sidewalk, or internal pedestrian walkway.
- 3) Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and screened from view from adjacent properties and public or private rights- of-way. Screening materials shall be equal to and consistent in quality, color and design with the predominant materials of the building and landscape.
- 4) Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently sited and screened with walls, fencing and/or covering materials that are equal to and consistent in quality, color and design with the predominant materials of the building and landscape.
- 5) Temporary sales/displays, such as Christmas trees, landscape materials, shall conform to all requirements of the zoning district.

#### **7.6.4.5 Pedestrian Flows**

- 1) Pedestrian walkways of at least 6 feet in width shall be provided along all sides of the lot that abut a public or private right-of-way, excluding State and Federal roads or highways, unless the Planning Board determines that one or more of such walkways are not necessary for safety or convenience.
- 2) Continuous internal pedestrian walkways, no less than 5 feet in width, shall be provided from any external public sidewalk

and from the nearest public or private right-of-way to the principal customer entrance to each building on the site. At a minimum, such walkways shall connect major points of pedestrian activity including but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of walkway length.

3) Sidewalks of at least 5 feet in width shall be provided along the full length of each building facade that contains a customer entrance, and along any facade abutting a public parking area. Such sidewalks shall be located at least six (6) feet from the facade of the building in order to provide space for foundation landscaping, except where architectural features such as arcades or entryways are part of the facade.

4) Internal pedestrian walkways required by Subsection b above, shall provide weather protection features such as awnings or arcades for each customer entrance and shall not extend into any driving aisle or parking area.

5) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of appropriate signage and distinctive and durable, low maintenance surface materials such as pavers, bricks, or scored concrete applied in a manner that enhances pedestrian safety and comfort and the attractive appearance of the walkways.

#### **7.6.4.6 Central Features and Community Spaces**

Each retail establishment subject to these standards shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:

- 1) patio/seating area,
- 2) pedestrian plaza with benches,
- 3) transportation center,
- 4) window shopping walkways,
- 5) outdoor play area,
- 6) kiosk area,
- 7) water feature,
- 8) clock tower,
- 9) steeple,

or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the Planning Board, adequately enhances such community and public spaces. Such areas shall have direct access to the public sidewalk network and shall be

constructed of materials that are equal in quality to the predominant materials of the building and landscape.

Although Lakeville does not currently maintain a public bus system, areas should be provided or designed to accommodate possible (future) bus service and the growing number of private bus services (i.e., nursing home/assisted living, Housing Authority, etc.)

## **7.7 THE RESIDENCES AT LAKEVILLE STATION SMART GROWTH OVERLAY DISTRICT**

### **7.7.1 Purpose**

The purpose of this Section 7.7 is to establish The Residences at Lakeville Station Smart Growth Overlay District, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R.

Other objectives of this section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Provide for a range of housing not presently available in the Town that would provide housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning;
7. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G.L. c.40R; 760 CMR 59.06.

### **7.7.2 Definitions**

For purposes of this Section 7.7, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 7.7.2, or as set forth in

the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 7.7.2 or the PAA Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

**Administering Agency:** the local housing authority or other qualified housing entity designated by the Plan Approval Authority (“PAA”) pursuant to Section 7.6.2 to review and implement the Affordability requirements affecting Projects under Section 7.6.

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

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

**Affordable Housing Restriction:** a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 7.7.5 of this Bylaw.

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

**Applicant:** the individual or entity that submits a Project for Plan Approval.

**As-of-right:** a use allowed under Section 7.7.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 7.7.9 through 7.7.13 shall be considered an As-of-right Project.

**Department or DHCD:** the Massachusetts Department of Housing and Community Development.

**Developable Land:** all land within the SGOD that can feasibly be developed into residential or mixed-use development. This does not include: 1) Future Open Space; 2) rights-of-way of existing public streets, ways, and transit lines; 3) land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or 4) areas exceeding one-half acre of contiguous land that are (a) protected wetland resources under federal, state, or local laws, (b) rare species habitat designated under federal or state law; or (c) characterized by steep slopes with an average gradient of at least 15%.

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

**Enabling Laws:** G.L. Chapter 40R and 760 CMR 59.00.

**Future Open Space:** those areas within this SGOD that the Town of Lakeville may designate or require to be identified and designated to be set aside in the future as dedicated perpetual Open Space through the use of a conservation restriction (as defined in M.G.L. c. 184 Section 31 or other effective means), consistent with the Town's Open Space Plan. Such Future Open Space shall not exceed ten percent (10%) of Developable Land area.

**PAA Regulations:** the rules and regulations of the PAA adopted pursuant to Section 7.7.9.3.

**Plan Approval:** standards and procedures which Projects in the SGOD must meet pursuant to Sections 7.7.9 through 7.7.13 and the Enabling Laws.

**Plan Approval Authority (PAA):** The local approval authority authorized under Section 7.7.9.2 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

**Project:** a Residential Project Development Project undertaken within the SGOD in accordance with the requirements of this Section 7.7.

**Public Open Space:** open space that is accessible to and available to the public on a regular basis, whether owned by the Town of Lakeville or other public or private entity.

**Residential Project:** - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 7.7.5.1.

**SGOD:** the Smart Growth Overlay District established in accordance with this Section 7.7.

### **7.7.3 Overlay District**

#### **7.7.3.1 Establishment**

The Residences at Lakeville Station Smart Growth Overlay District, hereinafter referred to as the "SGOD," is an overlay district having a land area of approximately 11 acres in size, being Assessor's Parcels 62-3-7A, 62-3-7B, 62-3-7G, 62-3-10I, and 62-3-10J, that is superimposed over the underlying zoning district and is shown on the Zoning Map as set forth on the map entitled "Town of Lakeville Smart Growth Zoning Overlay District (C.40R)", dated August 7, 2006, prepared by Southeastern Regional Planning and Economic Development District (SRPEDD). This map is hereby made a part of the Zoning By-law and is

on file in the Office of the Town Clerk.

### **7.7.3.2 Underlying Zoning**

The SGOD is an overlay district superimposed on the underlying zoning districts. Upon the issuance of a building permit for any Project approved in accordance with Section 7.7, the provisions of the underlying district shall no longer be applicable to the land shown on the site plan submitted for such Project pursuant to Section 7.7.10.

## **7.7.4 APPLICABILITY OF SGOD**

### **7.7.4.1 Applicability of SGOD**

An applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Enabling Laws and this Section 7.7, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

### **7.7.4.2 Administration, Enforcement, and Appeals**

The provisions of this Section 7.7 shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 7.7.9 through 7.7.13 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section 7.7 shall be governed by the applicable provisions of G. L. Chapter 40A.

## **7.7.5 Permitted Uses**

The following uses are permitted as-of-right by Plan Approval for Projects within the SGOD.

### **7.7.5.1 Residential Projects**

A Residential Project within the SGOD may include:

- a) Two-family, Three-family, Multi-family Residential use(s);
- b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
- c)

Accessory uses customarily incidental to any of the above permitted uses.

### **7.7.5.2 Other Uses**

Any of the following non-residential uses may be permitted by special permit:

- (a) **Neighborhood Businesses** Small-scale (a maximum of 20,000 square feet of gross floor area per building) retail, service, and office uses that are compatible with residential uses and are intended to serve commuters and local residential populations within the SGOD. Examples include, but are not limited to: news stand, grocery or specialty food store, bakery, delicatessen, coffee shop, restaurant, bank, hairdresser, barber shop, laundrette or dry cleaners (dry cleaning performed off-site), tailor, health club or exercise facility, video/DVD rentals and sales, shoe repair, drug store, florist, liquor store, gift shop or specialty retail, hardware store, home goods and furnishings, personal care items, medical/professional/ small business offices (up to ten (10) employees), and home occupations.
  
- (b) **Future Open Space**

### **7.7.5.4 Prohibited Uses**

Filling Stations

## **7.7.6 HOUSING AND HOUSING AFFORDABILITY**

### **7.7.6.1 Number of Affordable Housing Units**

For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. Twenty –five (25%) of rental dwelling units constructed in a rental Project must be Affordable Rental Units. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

### **7.7.6.2 Administering Agency**

An administering agency which may be the local housing authority or other qualified housing entity (the “Administering Agency”) shall be designated by the PAA (the “designating official”). In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Administering Agency shall ensure the

following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

- a) prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b) income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c) the housing marketing and resident selection plan conform to all requirements and are properly administered;
- d) sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- e) Affordable Housing Restrictions meeting the requirements of this section are recorded with the Plymouth County Registry of Deeds.

#### **7.7.6.3 Submission Requirements**

As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 7.7.9 through 7.7.13, the Applicant must submit the following documents to the PAA and the Administering Agency:

- a) a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly;
- b) evidence that the Project complies with the cost and eligibility requirements of Section 7.7.6.4;
- c) Project plans that demonstrate compliance with the requirements of this Section 7.7.6.3 and Section 7.7.6.5; and
- d) a form of Affordable Housing Restriction that satisfies the requirements of Section 7.7.6.6.

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

#### **7.7.6.4 Cost and Eligibility Requirements**

Affordable Housing shall comply with the following requirements:

- a). Affordable Housing required to be offered for rent or sale shall be rented

or sold to and occupied only by Eligible Households.

- b) For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- c) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
- d). Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Lakeville.

#### **7.7.6.5 Design and Construction**

Units of Affordable Housing shall be finished housing units and shall be distributed throughout the Project of which they are a part. Units of Affordable Housing shall be indistinguishable from the market rate units on the exterior and shall contain comparable base fixtures. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

#### **7.7.6.6 Affordable Housing Restriction**

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

- a) specification of the term of the affordable housing restriction which shall be the maximum period allowed by law but no less than thirty (30) years;
- b) the name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction;
- c) a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification;
- d) reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
- e) a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- f) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
- g) designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
- h) a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Administering Agency;
- i) provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency;

- j) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
- k) provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and the Town, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- l) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and
- m) a requirement that residents in Affordable Housing provide such information as the Administering Agency may reasonably request in order to ensure affordability.

#### **7.7.6.7 Costs of Housing Marketing and Selection Plan**

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

#### **7.7.6.8 Age Restrictions**

Nothing in this Section 7.7 shall permit the imposition of restrictions on age upon all Projects throughout the entire SGOD. However, the Administering Agency may, in its review of a submission under Section 7.7.6.3, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

#### **7.7.6.9 Phasing**

For any Project that is approved and developed in phases in accordance with Section 7.7.9.4, the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h)) shall be consistent across all phases.

**7.7.6.10 No Waiver**

Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7.7.6. shall not be waived.

**7.7.7 Density and Dimensional Requirements**

**7.7.7.1 Densities**

Notwithstanding anything to the contrary in this Zoning Bylaw, the density requirements applicable in the SGOD are as follows:

- (a) For single-family residential: at least 8 dwelling units per acre of Developable Land;
- (b) For two-family and/or three-family residential: at least 12 dwelling units per acre of Developable Land;
- (c) For multi-family residential: at least 20 units per acre of Developable Land.

Where a Project involves an entire block or multiple contiguous blocks, minimum densities shall be calculated on the development of the area as a whole.

**7.7.7.2 Dimensional Requirements**

**Minimum Lot Area:**

Single Family Residential	5,000 sq.ft.
Two/Three Family Residential	7,000 sq.ft.
Multi Family Residential Use	40,000 sq.ft.
Neighborhood Business	40,000 sq.ft.

**Minimum Lot Frontage:**

Single Family Residential	50 feet
Two/Three Family Residential	50 feet
Multi Family Residential Use	100 feet
Neighborhood Business	100 feet

**Building Height:**

Minimum	All Uses: 1.5 stories (18 ft.)
Maximum	All Uses: 3 stories (55 ft.)

Minimum Setbacks:

Front Yard	Residential: 20 ft. Neighborhood Business: 0 ft.
Side Yard	Residential: 20 ft. Neighborhood Business: 0 ft.
Rear Yard	All Uses: 20 ft.

Maximum Setbacks:

Front Yard	All Uses: 40 ft.
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Maximum Lot Coverage:

Single Family Residential:	30 %;
Two/Three Family Residential	40 %
Multi Family Residential	50 %
Neighborhood Business:	75 %

**7.7.7.3 Notes for Dimensional Requirements**

a) Building Height

Height shall be measured from average grade to the cornice line of the roof. Accessory Rooftop Elements shall not be included in the calculation of height, but shall be restricted as to their location on the roof and may need to be screened so as to limit their visual impact. Accessory structures in side or rear yards, are permitted to be only one (1) story in height.

b) Front Yard Setbacks

Front yard setbacks shall be measured from the street frontage line to the primary façade, excluding front steps or stoops, porches, bay windows, enclosed main entrances, or other projecting elements. (Note, however, that no projecting element on any building may extend over a property line to intrude onto a public sidewalk.) Where a Neighborhood Business building is located at an intersection and may be considered to have more than one primary façade, then each primary facade may utilize a front yard setback.

c) Side Yard Setbacks

The 5-foot minimum side yard setback may only be applied to detached residential buildings with three (3) or fewer units, and is intended to encourage the off-center siting of a house within its lot, resulting in substantial outdoor space where a porch and/or landscaped yard may be

provided (in addition to a driveway); and also resulting in a visually varied streetscape.

d) **Accessory Uses**

Uses accessory to a permitted principal use are permitted on the same premises, provided that no accessory building may be located in a required front, side, or rear yard setback area.

1. Front yards may not be used for parking, regardless of the principal use of the building.
2. Front, side, or rear yards of Neighborhood Business buildings may be used as seasonal outdoor seating areas for businesses, provided that such areas are regularly cleaned and maintained, with trash removed on a daily basis. Seasonal outdoor seating areas may be installed during warm weather months. All related temporary furnishings and fixtures, including but not limited to tables, chairs, umbrellas, light fixtures, freestanding signs and menu boards, etc., shall be stored indoors off season; however any fencing, bollards, planters, or other means of delineating the boundaries of such outdoor seating areas may remain in place permanently.
3. All accessory buildings, including storage sheds, studios, greenhouses, workshops, etc., shall be located at the side or rear of a building, preferably out of view from the street.

**7.7.8 Parking Requirements**

The parking requirements applicable for Projects within the SGOD are as follows.

**7.7.8.1 Number of parking spaces**

Unless otherwise approved by the PAA, the following minimum numbers of off-street parking spaces shall be provided by use, either in surface parking, within garages or other structures, or on-street:

- a) Residential Uses: 1 to 2 spaces per dwelling unit.
- b) Non-Residential Uses: A 20% reduction in required spaces may be permitted when the applicant submits information on peak times by use, confirming that uses are compatible relative to parking demand. On street parking in front of a building may be utilized to help fulfill this requirement.

- c) **Barrier-Free Access:** For multi-family residential and non-residential uses, provide a minimum of one handicapped accessible parking space per establishment and/or use, up to a maximum of ten percent (10%), inclusive, of total parking required. Handicapped accessible spaces may be located on-street or off-street, and in any case shall be located no further than 50 feet from any accessible entrance and be clearly marked, with a safe and accessible means of access/egress.
- d) **On-Street Parking:** On-street parking is not generally available in the SGOD.
- e) **Off-Street Parking:** Off-street parking as an accessory use shall only be provided at the sides or the rear of a building. Residential parking should be clearly marked or separated from non-residential parking. Surface parking lots and/or private garages may be provided for all uses. For multi-family and non-residential uses, pedestrian connections shall be provided from all side or rear parking facilities to the front of the building. Where a parking facility is located behind and serves multiple adjacent buildings, pedestrian connections to the street shall be provided at regular (maximum 400 foot) intervals between buildings.

The PAA may allow for additional visitor parking spaces beyond the two (2) maximum spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided in Sections 7.7.8.2 and 7.7.8.3 below.

#### **7.7.8.2 Shared Parking**

Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

#### **7.7.8.3 Reduction in parking requirements**

Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process, if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- a) the availability of surplus off street parking in the vicinity of the use being

- b) served and/or the proximity of a bus stop or transit station;
- b) the availability of public or commercial parking facilities in the vicinity of the use being served;
- c) shared use of off-street parking spaces serving other uses having peak user demands at different times;
- d) age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
- f) such other factors as may be considered by the PAA.

#### **7.7.8.4 Location of Parking**

Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

### **7.7.9 Plan Approval of Projects: General Provisions**

#### **7.7.9.1 Plan Approval**

An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 7.7.9 through 7.7.13. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

#### **7.7.9.2 Plan Approval Authority (PAA)**

The Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD.

#### **7.7.9.3 PAA Regulations**

The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

#### **7.7.9.4 Project Phasing**

An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the

provisions of Section 7.7.6.9.

## **7.7.10 Plan Approval Procedures**

### **7.7.10.1 Pre-application**

Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

- a) Overall building envelope areas;
- b) Open space and natural resource areas; and
- c) General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the requirements of the SGOD.

### **7.7.10.2 Required Submittals**

An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 7.7.6, the application shall be accompanied by all materials required under Section 7.7.6.3. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.

### **7.7.10.3 Filing**

An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

### **7.7.10.4 Circulation to Other Boards**

Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Board of Appeals, Building Commissioner, Board of Health, Conservation Commission, Fire Department,

Police Department, Highway Department, the Administering Agency (for any Project subject to the Affordability requirements of Section 7.7.6), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

#### **7.7.10.5 Hearing**

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

#### **7.7.10.6 Peer Review**

The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review shall be returned to the applicant forthwith.

### **7.7.11 Plan Approval Decisions**

#### **7.7.11.1 Plan Approval**

Plan Approval shall be granted where the PAA finds that:

- a) the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and
- b) the Project as described in the application meets all of the requirements and standards set forth in this Section 7.7 and the PAA Regulations, or a waiver has been granted therefrom; and
- c) any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 7.7.6., compliance with condition (2) above shall include written confirmation by the Administering Agency that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 7.7, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

#### **7.7.11.2 Plan Disapproval**

A Plan Approval application may be disapproved only where the PAA finds that:

- a) the Applicant has not submitted the required fees and information as set forth in the Regulations; or
- b) the Project as described in the application does not meet all of the requirements and standards set forth in this Section 7.7 and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
- c) it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

#### **7.7.11.3 Waivers**

Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 7.7.7.2 in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the SGOD, or if it finds that such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 7.7.

#### **7.7.11.4 Project Phasing**

The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

#### **7.7.11.5 Form of Decision**

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

#### **7.7.11.6 Validity of Decision**

A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two (2) years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

## **7.7.12 Change in Plans After Approval by PAA**

### **7.7.12.1 Minor Change**

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

### **7.7.12.2 Major Change**

Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 7.7.9 - through 7.7.13.

### **7.7.12.3 As-Built Plans**

Prior to the issuance of any occupancy permits, the Applicant shall submit “as built” plans to the PAA, the PAA’s consulting engineer and the Lakeville Building Commissioner to confirm that the Project has been constructed in substantial conformity with the prior approved plan and that the Applicant has complied with the conditions stated in this Section and in the Plan Approval.

## **7.7.13 Severability**

If any provision of this Section 7.7 is found to be invalid by a court of competent jurisdiction, the remainder of Section 7 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 7.7 shall not affect the validity of the remainder of the Town’s Zoning Bylaw. (Adopted at Special Town

Meeting October 10, 2006; approved by Attorney General November 6, 2006)

## 8.0 **ADMINISTRATION**

### 8.1 **Enforcement**

This By-Law shall be enforced by the Building Commissioner appointed by the Board of Selectmen, and upon any well founded information as to a violation, immediate steps to enforce this By-Law in any manner provided by law shall be taken. If the Building Commissioner declines to act upon a written request to proceed against an alleged violation, he shall notify in writing the party making such request of the reasons for non-action within fourteen days of the receipt of such request.

### 8.2 **Board of Appeals**

1) The Board of Appeals shall consist of five citizens of the Town appointed by the Selectmen. 2) The length of terms shall be such that the term of one member expires each year. 3) The Board of Appeals must elect a chairman from within its own membership and a clerk each year. 4) A member can only be removed for cause by the appointing authority and only after written charges have been made and a public hearing has been held. 5) Vacancies shall be filled in the same manner as appointments. The Board of Selectmen shall also appoint in like manner two or more associate members of the Board of Appeals. An associate member shall be designated by the Chairman of the Board of Appeals to sit on the Board in case of absence, inability to act or conflict of interest on part of any member or in the event of a vacancy until it is filled.

No member shall act in any case in which he may have a personal or financial interest.

The Board of Appeals shall be the Permit Granting Authority and the Special Permit Granting Authority, except as may be otherwise specifically provided by this By-Law, with the powers and duties as defined herein and in Chapter 40A of General Laws.

#### 8.2.1 **Method of Appeal**

Any person aggrieved because of an inability to obtain a permit or enforcement action from any administrative office or Board may appeal from such decision to the Board of Appeals.

#### 8.2.2 **Variances**

The Board of Appeals shall have the power to authorize with respect to a particular building or parcel of land a Variance from any of the terms of this By-Law, where, owing to circumstances relating to the soil conditions, shape or topography and especially affecting said building or parcel, but

not affecting generally the district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship to the petitioner and where desirable relief may be granted without substantial detriment to the public good and without substantial derogation from the intent or purpose of this By-Law, as provided in Section 10 of Chapter 40A of General Laws.

### 8.2.3 Public Hearing and Notice

In the case of every appeal made to said Board and of every application for a Special Permit or Variance made to it under the provisions of this By-Law, the Board of Appeals shall hold a public hearing to consider the appeal or application in question and shall cause a notice thereof to be published in a newspaper of general circulation in the town and posted on the Bulletin Board in the Town Office Building not less than fourteen days before the date set for said hearing and shall cause a copy of the notice to be sent postage prepaid to parties in interest as outlined in Section II, Chapter 40A.

- 8.3 Any construction of operation under a Special Permit or building permit shall conform to subsequent zoning amendments, unless such construction or operation is commenced within six months after the issuance of such permit or permits and, if construction, continues to completion as expeditiously as is reasonable. If construction or substantial use under a Special Permit has not commenced within two years after the issuance of such permit, except for a good cause and including any time needed to await the determination of any court appeal, the special permit shall lapse and become void.
- 8.4 Any person aggrieved by the decision of the Board of Appeals or other special permit granting authority may appeal to the Superior Court or Land Court as provided by Chapter 40A of the General Laws within twenty days after such decision has been filed with the Town Clerk.
- 8.5 Any person violating any provisions of this By-Law, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals may be fined not more than \$50.00 for each offense. Each day that such violation continues shall constitute a separate offense.

When enforced in accordance with the provisions of G.L.c40, sec. 21D, the penalty shall be as follows: first offense \$100.00; second offense \$200.00; and third offense \$300.00.

(Adopted June 5, 2000; approved by Attorney General July 5, 2000)

### 8.6 Legal Aspects

- 8.6.1 The invalidity of any section or provision of this By-Law shall not affect the validity of any other provision thereof.

8.6.2 This By-Law may be amended by a two-thirds vote of any Town meeting following the procedure provided by Chapter 40A, including a duly advertised public hearing by the Planning Board.

8.6.3 Amendments shall take effect upon being voted by the Town Meeting, provided they are subsequently approved by the Attorney General or ninety (90) days elapses after referral to the Attorney General without such approval, and provided further that such amendments are published or posted as provided in General Laws, Chapter 40, Section 32. In the event an amendment is disapproved by the Attorney General, the provisions of this By-Law in effect prior to such amendment shall be deemed to have been and remain in force.

## 8.7 **TEMPORARY LICENSES**

Notwithstanding the other provisions of this by-law, the owner and occupier of a residence which has been destroyed by fire or other natural holocaust, or the owner of a conforming lot under these by-laws and permitted for building a single family residence, may apply for a license from the Board of Selectmen to place a mobile home as defined herein and to reside in such home for a period not to exceed twelve months while the residence is being build or rebuilt. Any such mobile home shall be subject to the provisions of the State Sanitary Code.

Such a license may be issued for a period of six (6) months and may be reserved by written request thirty (30) days prior to expiration for an additional six (6) months due to unforeseen circumstances or other unavoidable delays. (Adopted June 16, 2003; approved by Attorney General September 9, 2003)

8.7.1 Upon application from the owner of a parcel of land, the Board of Selectmen may issue a temporary license to place a mobile home as defined herein, on such land of the applicant for a temporary residence of transient non-paying guests for a period not to exceed three months. Such license shall be non-renewable. Any such mobile home shall be subject to the provisions of the State Sanitary Code. (Adopted June 16, 2003; approved by Attorney General September 9, 2003)

8.7.2 Upon application from the owner of a parcel of land, the Board of Selectmen may issue a temporary license to place an unoccupied mobile home as defined herein, for storage on such lot for a period not to exceed one year, but may be renewed annually. (Adopted June 16, 2003; approved by Attorney General September 9, 2003)

8.7.3 Upon application from the owner of a parcel of land, the Board of Selectmen may issue a Temporary License to place a storage box, as defined herein, on the subject property to be used for storage of vehicles or other personal property for a period not to exceed one year and may be renewed annually

subject to review by the Board. (Adopted June 14, 2004; approved by Attorney General September 16, 2004)

## 9.0 **WIRELESS COMMUNICATIONS FACILITY**

### 9.1 Purpose and Intent

The purpose of the Zoning By-law is to minimize adverse impacts of communication structures, monopoles, buildings and appurtenances on adjacent properties and residential neighborhoods; and to protect, to the maximum extent practicable, the rural character and aesthetic qualities of the Town of Lakeville, the property values of the community and safety of the citizens. This By-Law is promulgated under the authority of G.L. c.40A, the Home Rule Amendment of the Massachusetts Constitution and the 1996 Telecommunications Act, 47 U.S.C. sec. 332(c)(7)(A). A wireless communication facility shall not be placed, constructed, or modified except in accordance with the provisions of this Zoning By-Law.

### 9.2 Definitions

Wireless Communications Facility: A wireless communications facility ("WCF") shall mean a facility used for the purpose of commercial or public wireless communications uses, such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 704 of the Federal Telecommunications Act of 1996, as amended. Such facilities shall include towers, antennae, antennae support structures, panels, dishes, communication building, communication structure and accessory structures. For the purposes of this By-Law, a WCF shall not include the following accessory uses or structures: antennae or dishes used solely for residential household television and radio reception; dishes used for commercial or public purposes measuring two (2) meters or less in diameter; nor amateur radio facilities, including towers less than forty-five (45) feet above ground, in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission (FCC), provided that the tower is not used or licensed for any commercial use.

Communication Building: Any building utilized primarily for the installation and operation of equipment for generating or receiving electromagnetic radiation and which is accessory to a communication structure.

Communication Structure: Any structure intended to support equipment used for the transmission and/or reception of electromagnetic radiation, including communication monopoles, antennas, wiring or other devices attached thereto. Such a structure shall not include a lattice or guy-wire type tower.

Communication Monopole: Any cylindrical pole intended to support equipment used for the transmission and reception of electromagnetic radiation including antennas, wiring or other devices attached thereto.

### 9.3 General Requirements

- A. No WCF shall be placed, constructed or modified except in compliance with this Zoning By-Law.
- B. All new wireless communications facilities shall be co-located, to the maximum extent practicable and technologically feasible, with one or more existing wireless communication facilities, monopoles, buildings or other structure whose height, location and characteristics meet the needs of the proposed facility. An applicant shall demonstrate to the Zoning Board of Appeals that it has made a good faith effort to co-locate its facility upon an existing structure or facility.
- C. All new wireless communication monopoles or support structures shall be designed, to the maximum extent practicable with existing technology and with height limits set forth in this chapter, for co-location of antennas and other necessary facilities for at least three (3) other wireless communication providers, and shall offer space to all other providers at market rates. Any Special Permit granted for a new facility under this section shall be conditioned upon the written agreement of the facility operator to allow the co-location of at least three other wireless communication providers on commercially reasonable terms. If co-location facilities are not installed at the time of construction of the WCF, then, at the time of any addition of a co-located facility, the holder of the special permit and the new provider shall notify the Zoning Board and the Building Inspector that the installation has occurred and certify that the installation has been performed in accordance with the special permit for the WCF.
- D. In descending order of zoning district preference, a WCF shall be located in Industrial (including Industrial B); Business and Residential.
- E. Any applicant proposing not to co-locate their facility or proposing to locate their facility in an Industrial District shall provide written evidence and documentation demonstrating why it is not feasible for their facility to be co-located with existing facilities or to be located in an Industrial District, or any other District having preference over the proposed location.
- F. In no event shall any WCF be located closer than one mile to any other such WCF, unless the applicant can show that there is no existing space on one of the existing facilities which can be leased or procured.

- G. The height of the monopole, measured from the mean finished ground level at the base of the facility, shall not exceed 125 feet in an Industrial District and shall not exceed 75 feet in Business or Residential Districts. The Zoning Board may allow a greater height if such modification provides adequate safety, promotes co-location or improves the design, and will not significantly impact the character and appearance of the neighborhood.
- H. In all areas zoned business, industrial and industrial B the set backs for the WCF shall be: a minimum of one and a half (1 1/2) times or 150 % the height of the monopole and 500 feet from the lot line of the nearest residential use. Said distance shall be measured from the base of the WCF to the lot line of the nearest residential use. The Zoning Board may allow a lesser setback if such modification provides adequate safety, promotes co-location or improves the design, and will not significantly impact the character and appearance of the neighborhood.
- I. In residential districts the setbacks shall be a minimum four times the height of the tower, but not less than 500 feet. Said distance shall be measured from the base of the WCF to the nearest residential structure. The Zoning Board may allow a lesser setback if such modification provides adequate safety, promotes co-location or improves the design, and will not significantly impact the character and appearance of the neighborhood.
- J. All structures associated with a WCF shall be removed within one (1) year of the cessation of said use.
- K. Certification, by an independent test consultant, stipulating the WCF is in compliance with the FCC shall be conducted within ten (10) days of completion of construction of the facility and once a year after that date. The monitoring shall be based on Cobbs Test Protocol or such comparable test standards as approved by the Zoning Board.
- L. As a condition of the special permit for the placement, construction or modification of a WCF, a carrier shall provide a bond of not less than \$250,000, in a form acceptable to the Town, or shall place into escrow a sum of money sufficient to cover the costs of removing the WCF from the subject property and, furthermore, said funds shall be held by the Town Treasurer or an independent escrow agent to be appointed by the carrier and the Zoning Board. The amount of the surety shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. The carrier shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the WCF when the WCF has been abandoned or discontinued.

A WCF shall be deemed to be abandoned or discontinued if it has not been used for the purpose for which it was constructed for a period of one year or more. Once abandonment or discontinuance has occurred, the carrier shall remove the WCF from the subject property within ninety days. In the event that the carrier fails to remove the WCF, the Town shall give notice to the carrier and, if appropriate, the independent escrow agent that the facility shall be removed forthwith and the Town or the escrow agent, after affording written notice seven days in advance to the carrier, shall remove the WCF.

The special permit shall further state that, in the event the amount of surety is insufficient to cover the costs of removal, the Town may place a lien upon the property to cover the difference in cost.

- M. The applicant shall provide to the Zoning Board a contact for emergencies and said contact person and phone number and the owner of the facility and phone number shall be posted on the fence surrounding the wireless communication facility.
- N. A WCF shall be setback a minimum of 1,000 feet from any school, said distance shall be measured from the property line for the WCF to the nearest property for the school.
- O. Any proposed extension in height, addition of cells, antennas or panels, construction of a new facility or other modifications, shall be subject to a new application for an amendment to the special permit.

#### 9.4 Design Provisions

Design provisions for such facilities shall include, but are not limited to:

- A. No new WCF shall be placed or constructed that uses a lattice-type construction which requires three or more legs or guy wire supports or both without a special permit from the Zoning Board of Appeals.
- B. No monopole or other facility structure shall contain any sign or other devices for the purpose of advertisement.
- C. All monopoles, antennae, antennae support structures, and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures of the surrounding environment. Such structures shall be constructed out of non-reflective materials.
- D. All building mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that match and/or blend with those of the building.

- E. The related unmanned equipment and/or building(s) shall not contain more than 400 square feet of gross floor area or be more than ten (10) feet in height.
- F. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.
- G. All wireless communications facilities shall be protected against unauthorized climbing or other access by the public. The fencing shall be compatible with the scenic character of the surrounding area and shall not be constructed of barbed wire or razor wire.
- H. No wireless communications facility shall be constructed to a height that requires aircraft lighting or special painting to enhance visibility. No tower shall be artificially lighted.
- I. Applicants shall submit eight (8) view lines showing a one (1) mile radius from the site, beginning at true North and continuing clock-wise at forty-five (45) degree intervals. Said view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five (5) feet above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing said view lines with the facility in place.
- J. Landscape plans submitted with the application shall identify all existing vegetation, shall indicate which vegetation is to be removed or altered, and shall show all proposed new vegetation and other landscape treatments.
- K. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible.
- L. Satellite dishes and/or antenna shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets, if feasible. Free standing dishes or antenna shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.

## 9.5 Environmental Standards

- A. No hazardous waste shall be discharged on the site of any WCF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- B. Ground-mounted equipment for a WCF shall not generate noise in excess of 50 dB at the property line. Roof-mounted or side-mounted equipment for WCF shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

## 9.6 Application Process

- A. All Special Permit applications for wireless communications facilities shall be made and filed on the applicable application form available from the Lakeville Zoning Board of Appeals.
- B. Applications for Special Permits may be approved or approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Zoning Board and upon finding the Zoning Board that: (1) the proposed use will be in harmony with the general purpose and intent of the Zoning By-Law; (2) the specific site is an appropriate location for such use; (3) the use as developed will not adversely affect the neighborhood; (4) there will be no nuisance or serious hazard associated with the use; and (5) adequate appropriate facilities will be provided for proper operation of the proposed use.
- C. When considering an application for a WCF, the Zoning Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. new facilities shall only be considered after finding that existing (or previously approved) facilities cannot accommodate the proposed user(s).
- D. A locus plan at a scale of 1"=40' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within five hundred (500) feet of the facility.
- E. The following information shall be prepared by one or more professional engineers:
  - 1. A description, including illustrations and photographs, of the monopole and the technical, economic and other reasons for the proposed location, height and design.
  - 2. Confirmation that the monopole complies with, or is exempt from all

applicable Federal and State standards.

3. A description of the capacity of the monopole including the number and type of panels, antennae and/or transmitter receivers that it can accommodate and the basis for these calculations.
- F. Material describing a specific plan for a balloon or similar test, including the date and time, as well as rain date and time. The Zoning Board shall approve the plan and specify the manner by which Applicant shall give notice to the public.
- G. In addition to the filing fees, the applicant shall pay any reasonable additional cost of retaining professional services if such services are deemed necessary by the Zoning Board.
- H. Any Special Permit granted under this section shall lapse within two years of the date of the grant, not including the time required to pursue or await the termination of an appeal referred to in MGL Chapter 40A Section 17, if substantial use thereof has not sooner commenced except for good cause, or in the case of permit for construction, if construction has not begun within two years of the date of grant, except for good cause.

## 9.7 Exemptions

The following are types of WCF are exempt from this chapter:

- A. A television antenna or satellite dish which is accessory to a use permitted as of right in a business or residential district, provided such use does not include the provision of wireless communications services for a fee. Such antenna or dish must be: (1) less than 2 meters in diameter; and (2) not visible from any neighboring property or public way;
- B. A WCF installed wholly within and not protruding from the interior space of an existing building or structure, excluding building used for residential use.
- C. A WCF installed on the roof of an existing building, providing no part of the facility extends more than 10 feet above the existing roof and the roof of such building is at a higher elevation than any other structure within 1000 feet.
- D. Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the FCC provided that:
  1. The tower is not used or licensed for any commercial purpose.
- E. Towers and antennas erected by the Town of Lakeville for public safety

communication purposes.

9.8 Severability

- G. If any section of this By-Law is ruled invalid by a court contempt jurisdiction, such ruling will not affect the validity of the remainder of the By-Law. (Adopted March 3, 1999; approved by Attorney General March 8, 1999.