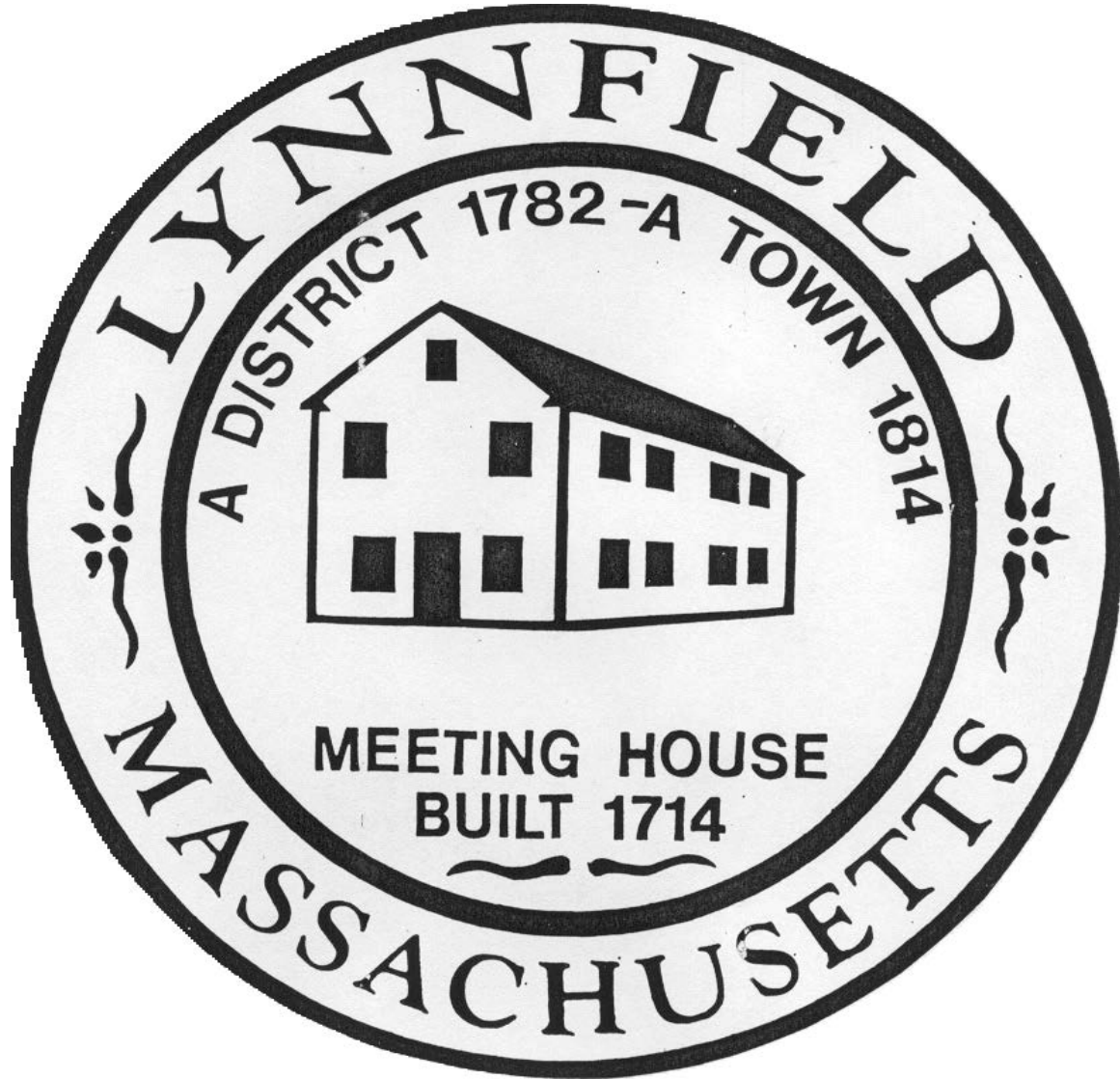


# ZONING BYLAWS

Effective beginning February 23, 1954 with amendments by subsequent town meetings



OCTOBER 17, 2016

Price \$15.00



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## 1. SCOPE

The following Bylaw is Chapter 6, “Planning and Zoning” of the Town of Lynnfield’s “Bylaws, Adopted by the Town”

### 1.1 *Title*

The title of the following Bylaw shall be: “Zoning Bylaws, Town of Lynnfield”.

### 1.2 *Authority*

The Zoning Bylaws are adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended to date.

### 1.3 *Purpose*

The purpose of the Zoning Bylaw includes, but is not limited to, the following: - to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town, and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include but are not limited to restricting, prohibiting, permitting or regulating:

1. uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;
2. size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of sections twenty-nine through thirty-three, inclusive, of chapter ninety-three, and to chapter ninety-three D;
3. uses of bodies of water, including water courses;
4. noxious uses;
5. areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;
6. density of population and intensity of use;

7. accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and

8. the development of the natural, scenic and aesthetic qualities of the community.

S.T.M. October 21, 1996

**2. DEFINITIONS**

In this bylaw, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings:

**2.1 TENSE & CONSTRUCTION** *S.T.M. October 20, 2015*

Words used in the present tense include the future; the singular includes the plural, and the plural the singular; the words “holding”, “structure”, “what”, “land”, or “premises” shall be construed as thought followed by the words “or any portion thereof”, and the Would “shall” is always mandatory and not merely discretionary.

**2.2 PRECEDENCE** *S.T.M. October 20, 2015*

Those definitions that are set forth in a subsection outside this Section 2 shall take precedence only in that subsection; otherwise those listed in this section shall be used.

**2.3 SPECIFIC DEFINITIONS** *S.T.M. October 20, 2015*

In this Zoning Bylaw each term shall have the meaning given herein, unless a contrary meaning is required by the context.

**2.4 MISSING DEFINITIONS** *S.T.M. October 20, 2015*

Words not defined herein shall have the meaning as defined in the Commonwealth of Massachusetts Building Code in effect on April 1, 2015.

**2.5 INDIVIDUAL MEANINGS** *A.T.M. April 25, 2016*

**Adult Bookstore** *S.T.M. October 19, 1998*

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

**Adult Club** *S.T.M. October 19, 1998*

An establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in Massachusetts General Laws Chapter 272, Section 31; also, an establishment offering activities or goods or providing services where employees, entertainers or patrons are engaging in nudity, sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

**Adult Motion Picture Theater** *S.T.M. October 19, 1998*

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 Massachusetts General Laws Chapter 272, Section 31.

**Adult Paraphernalia Store** *S.T.M. October 19, 1998*

An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

**Adult Video Store** *S.T.M. October 19, 1998*

An establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

**Amateur Radio Service** *S.T.M. October 19, 2015*

That category of Radio Telecommunication that is regulated under 47 CFR §97 as defined in §97.3(a)(4): “A radio communication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary

**Antenna** *S.T.M. October 20, 2014*

A device that includes conductive surfaces that transmit and/or receive Radio Telecommunications. Examples of Antenna types include dish, panel, vertical (e.g. “whip” and “collinear”), horizontal (e.g. “beam,” “yagi” and “log-periodic”).

**Antenna Tower** *S.T.M. October 20, 2014*

A Tower that is constructed for the primary purpose of supporting one or more Antennas.

**Aquifer** *S.T.M. October 18, 1993*

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

**Area of a Sign** *A.T.M. March 3, 1967*

The area of the minimum rectangle in the plane of the sign necessary to totally enclose all parts of it.

**A.T.M or ATM** *A.T.M. April 25, 2016*

Annual Town Meeting as called for in the Town Charter, in the spring.

**Building**

Any structure having a roof supported by columns or by a wall (not to include trailers) for the shelter, housing, or enclosure of person's animals, chattels, or property of any kind.

**Co-location, collocation** *S.T.M. October 20, 2014*

The mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes. (Source: Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, FCC et al, 2001).

**Concealed Antenna Monopole** *S.T.M. October 20, 2014*

A Monopole that fully contains Antennae and cables concealed within its tubular outer surface.

**Constructed**

The word "constructed" shall include the words "built", "erected", "reconstructed", "altered", "enlarged", "moved", "placed".

**Dwelling**

Any building used in whole or in part as a habitation for one or more persons.

**Earth Station** *S.T.M. October 20, 2014*

An RTF that communicates using man-made or natural satellites by transmitting and/or receiving Radio Telecommunication with the aid of such satellites, provided that any RTF that may otherwise qualify as both an Earth Station and either an Amateur Radio Service or a Subscriber Antenna, shall not be regulated as an Earth Station under the Bylaw.

**Eligible Facilities Request** *S.T.M. October 20, 2014*

Any request for modification of and existing PWSF that involves on or more of the following;

1. colocation of new transmission equipment,
2. removal of transmission equipment,
3. replacement of transmission equipment provided that such modification does not substantially change the physical dimensions of the PWSF.

**Essential Services** *S.T.M. October 20, 2014*

Services provided by a public service corporation, as defined in G.L. c. 40A, s. 3, or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead, but not including PWSFs. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith. Specifically excluded from the definition are buildings and overhead transmission towers. A PWSF shall not be construed as an essential service.

**Family**

Any number of persons living and cooking together on the premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel.

**Fixed Wireless Signals** S.T.M. October 20, 2014

“Any commercial non-broadcast communications signals transmitted via wireless technology to and/or from a fixed customer location. Fixed wireless signals do not include, among other things, AM radio, FM radio, amateur (“Ham”) radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.” (47 CFR 1.4000 in effect as of February 10, 2011)

**Groundwater Protection District** S.T.M. October 18, 1993

The zoning district defined to overlay other zoning districts in the Town of Lynnfield. The Groundwater Protection District may include specifically designated recharge areas.

**House, one-family detached**

A detached dwelling designed for and occupied by one family.

**Housing for the Elderly**

Multifamily dwellings which contain two or more independent dwelling units consisting of a room or suite of rooms, its own bath and toilet facilities, and its own kitchen facility. Each such building may also include central kitchen and dining facilities for providing meals to residents thereof and their guests but not to the public and may also provide lounge rooms for the common use of residents and their guests. In one of such buildings, a unit may be included for occupancy by the manager of the project and his immediate family, one room of which may be used as an office, and except for the unit to be occupied and used as aforesaid by the manager, no unit in such building shall be occupied unless at least one of the tenants is a person who is fifty-five years of age or over. No Housing for the Elderly development shall contain more than 136 independent dwelling units. Children under the age of eighteen (18) years of age are prohibited from occupying or residing in any of the Elderly Housing dwelling units on a permanent basis. S.T.M. April 29, 1982; A.T.M. April 24, 2006; S.T.M. March 2, 2009

**Impervious surface** S.T.M. October 17, 1992

Materials or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**Indoor RTF** S.T.M. October 20, 2014

RTFs that are all of the following: indoors, essentially not visible to persons off the parcel, and require no modification of structure or exterior surfaces to be installed and operate

**Lot**

A single tract of land held in identical ownership throughout and defined by metes, bounds or lot lines in a deed or conveyance or shown on a duly recorded plan.

**Marijuana or Marihuana** A.T.M. April 17, 2014

Means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

**Marijuana - Infused Product (MIP)** A.T.M. April 17, 2014

Means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures.

**Medical Marijuana** A.T.M. April 17, 2014

Means any marijuana intended for medical use which meets all requirements for medical marijuana contained in this bylaw, the general laws of the Commonwealth of Massachusetts, and the Code of Massachusetts Regulations (CMR).

**Medical Marijuana Treatment Center** A.T.M. April 17, 2014

Shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.”

**Mining** S.T.M. October 17, 1992

The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

**Monopole** S.T.M. October 20, 2014.

A Tower that is a self-supporting vertical pole, with no guy wires, that supports Antennae and through the interior of which Antennae and control cables are routed to maintain an uncluttered continuous exterior surface. Antennae are mounted to Monopoles in several fashions, including those mounted on wide frames or platforms extending from the Monopole surface, surface-mounted to the pole exterior (sometimes called “flush mounts”), concealed within the pole’s surface (see Concealed Antenna Monopole) or disguised by materials such as those emulating natural vegetation.

**Movement or Moving** A.T.M. April 25, 2016

As applied to signs, any visual elements that either change or alter in appearance whatsoever.

**Other Radio Service** S.T.M. October 20, 2014

Those Radio Telecommunications that are not Personal Wireless Services or Amateur Radio Services.

**Person**

Means any individual, any entity, or any combination of individuals, entities, or both individuals and entities.

**Personal Wireless Service (PWS)** S.T.M. October 20, 2014

That category of Radio Telecommunication that is subject to the National Wireless Telecommunications Siting Policy (Section 704 of the Telecommunications Act of 1996 and codified in 47 USC §332(c) (7)).

**Personal Wireless Service Facility (PWSF)** S.T.M. October 20, 2014

An RFT that provides Personal Wireless Services to subscriber.

1. Consumer-grade PWS devices that are authorized by the carrier and installed by the subscriber to reinforce local service;
2. PWS devices and networks that are installed inside a building to serve the occupants of the building.

Note it is important to distinguish between a structure that may be part of a PWSF and the PWSF itself: A Tower is not a PWSF, although it may be a component of one or more PWSFs at a site.

**PWSF Site-Sharing** S.T.M. October 20, 2014

The placement of a PWSF at a tower, building or structure that already has one or more PWSFs installed on such building, tower or structure. Site-Sharing is one form of collocation.

Radio Frequency (RF): That portion of the electromagnetic spectrum regulated by the Federal Communications Commission.

**Premise**

A lot, together with all buildings, structures, and uses thereon.

**Premises** A.T.M. APRIL 17, 2014

Means a single lot as well as a single building.

**Radio Frequency (RF)** S.T.M. October 19, 2015

That portion of the electromagnetic spectrum regulated by the Federal Communications Commission.

**Radio Telecommunication** S.T.M. October 20, 2014

The transmission and/or reception of information, including but not limited to voice, video, data or radio location signals, by means of RF transmissions through the atmosphere.

**Radio Telecommunication Facility (RTF)** S.T.M. October 20, 2014

Any installation for the purpose of Radio Telecommunication.



**Recharge Area**

Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, or Zone III.

**References** in this bylaw to any other bylaw, regulation, or law shall be construed to refer to such bylaw, regulation, or law as in effect at the date of adoption of this bylaw.

**Registered Marijuana Dispensary (RMD) S.T.M. October 20, 2015**

Means a not - for - profit entity registered under the Code of Massachusetts Regulations, that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

**Resident**

An adult who resides in an assisted living residence and who receives housing and personal services and, when the context requires or permits, such individual's legal representative.

**S.T.M. or STM A.T.M. April 25, 2016**

Special Town Meeting as called for or permitted in the Town Charter, including but not limited to the regular town meeting scheduled for the fall.

**Sign S.T.M. October 19, 2015**

Any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, corrected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors including any of the foregoing which may be visible in any manner for the outdoors.

**Street**

A way which is over twenty-four (24) feet in right-of-way width which is dedicated or devoted to public use by legal mapping or by any other lawful procedure. A "Street" includes, 1) all public ways, 2) a way which the town clerk certifies is maintained and used as a public way, 3) a way shown on a plan approved and endorsed in accordance with the Rules and Regulation Governing Subdivision of Land in Lynnfield, Massachusetts, or 4) a way having in the opinion of the Lynnfield Planning Board sufficient paved width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed uses of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. S.T.M. October 17, 1994

**Structure**

A combination of materials assembled at a fixed location to give support or shelter or for other purposes, including buildings, frameworks, tents, platforms, signs, flagpoles, masts for antenna, and the like, but expressly excluding basketball courts. S.T.M. October 21, 1991

**Subscriber Antenna** S.T.M. October 20, 2014

Pursuant to 47 CFR 1.4000, an antenna that is both:

- a. located on property within the exclusive use or control of the Antenna user where the user has a direct or indirect ownership or leasehold interest in the property; and
- b. that is one meter (3.28± feet) or less in diameter that is used to receive (and transmit, as applicable):
  1. direct broadcast satellite service, including direct-to-home satellite service,
  2. fixed wireless signals, whether via satellite or not;
  3. video programming services via multipoint distribution services, including:
    - i. multichannel multipoint distribution services,
    - ii. instructional television fixed services,
    - iii. local multipoint distribution services, or
    - iv. fixed wireless signals other than via satellite, and
    - v. an antenna that is used to receive television broadcast signals.

**Tower** S.T.M. October 19, 2015

Any structure that is not habitable has proportions of which the height is substantially greater than the largest dimension of its horizontal cross-section, is greater than 12 feet in height when attached to a building or other structure, and/or exceeds the height limit of the district within which it is constructed, whether or not attached to another structure. Examples of Tower types include “lattice” (open frame, truss-type construction) and “monopole” (tubular construction, defined herein).

**Toxic or Hazardous Material** S.T.M. October 17, 1992

Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazards to human health if such substance or mixture were discharged to land or water of the Town of Lynnfield. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metal, radioactive or infectious wastes, acids and alkalis and all substances defined as toxic or hazardous under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30.00 and also include such products as solvents and thinners in quantities greater than normal household use.

**Violation of any Law or Violated any Law** means a plea or finding of a violation of any law in a criminal, civil, or administrative proceeding, whether part of a plea agreement, settlement agreement or determination by an arbitrator, board, hearing officer, court, or jury.

### 3. DISTRICTS

#### 3.1 *Establishment of Districts*

For the purpose of this bylaw, the Town of Lynnfield is hereby divided into districts, designated as:

- |   |   |
|---|---|
| 1. Single Residence A Districts         | S.T.M. 10/18/71                                     |
| 2. Single Residence B Districts         | S.T.M. 10/16/78                                     |
| 3. Single Residence C Districts         |   |
| 4. Single Residence D Districts         |   |
| 5. Limited Business Districts           | S.T.M. 10/18/71                                     |
| 6. General Business Districts           |   |
| 7. Commercial Districts                 | A.T.M. 4/29/74, S.T.M. 10/16/78                     |
| 8. Limited Industrial Districts         | A.T.M. 3/12/62, S.T.M. 10/2003                      |
| 9. Flood Plain Districts                | A.T.M. 3/8/65, A.T.M.4/29/74, A.T.M. 10/15/79       |
| 10. Green Belt Zoning                   | A.T.M. 6/12/72, A.T.M. 4/29/74                      |
| 11. Housing for the Elderly District.   | S.T.M. 4/29/82                                      |
| 12. Office Park District                | A.T.M. 4/2427/89                                    |
| 13. Groundwater Protection District     | S.T.M. 10/18/93, S.T.M. 10/21/96, S.T.M. 04/26/2010 |
| 14. Wetland Buffer Zone                 | A.T.M. 4/24 & 25/89, S.T.M. 10/17/94                |
| 15 Planned Village Development District | A.T.M. 04/30/07                                     |
| 16. Municipal District                  | A.T.M. 04/26/2010                                   |

#### 3.2 *Location of Districts*

Said districts referred to are located and bounded as shown on a map entitled, “Zoning District Map of the Town of Lynnfield, Massachusetts, December 1953”, together with all duly adopted amendments and revisions, and filed in the office of the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this bylaw. The Groundwater Protection District is located as shown on separate maps entitled “Lynnfield Groundwater Protection District Zones 1, 2 and 3” dated September 1, 1993 and August 8, 1996 which are on file in the office of the Town Clerk.

S.T.M. 6/22/61; A.T.M. 3/8/65; A.T.M. 3/8/71; A.T.M. 10/18/71; A.T.M. 6/12/72; A.T.M. 4/29/74; S.T.M. 4/29/82; A.T.M. 10/17/83; S.T.M. 11/17/86; A.T.M. 4/30/90; A.T.M. 4/27/92; S.T.M. 10/22/92; S.T.M. 10/18/93; S.T.M. 10/17/94

The Planned Village Development District (PVDD) is located as shown on a separate map entitled: “Plan of Land Showing Proposed Zoning Overlay District Entitled: Planned Village Development District ‘PVDD’ and Sub-Districts”, dated March 7, 2007. A.T.M. April 30, 2007

#### 3.3 *Location of Boundaries*

The location of the boundary lines of the districts shown upon the Zoning Map shall be determined as follows:

1. Where a boundary is shown as following a public way, private way, railroad, or utility transmission line, the boundary shall be the center line thereof unless otherwise indicated.
2. Where a boundary is shown outside of a public way, private way, railroad, or utility transmission line and approximately parallel thereto, it shall be deemed parallel to the nearest exterior line thereof; and a figure placed on the Zoning Map between the boundary and the way, railroad, or utility transmission line is the distance in feet of such boundary from such exterior line, said distance being measured at a right angle thereto unless otherwise indicated.
3. In any cases not covered by the other provisions of this paragraph, the location of a boundary line shall be determined by the distance in feet, if given, from other lines upon the Zoning Map, or, if distances are not given, then by the scale of said map. S.T.M. June 22, 1961

#### 3.4 ***Lots in Two Districts***

Where a single residence A, B, C, or D district boundary line divides a lot the entire area of which lies in a Residence District, the regulations applicable to the less restricted portion of such lot may extend not more than thirty (30) feet into the more restricted portion, provided that such lot has required frontage on a public or private way in the less restricted district; otherwise, there shall be no extension. A.T.M. March 8, 1965

## 4. USE REGULATIONS

No building or structure, and no alteration, enlargement or extension of an existing building or structure shall be designed, arranged or constructed, and no land, building, structure or part thereof shall be used for any purpose or in any manner other than for one or more of the uses specifically permitted herein.

### 4.1 *Single Residence District Uses*

In a Single Residence A, B, C, and D District, the following uses are permitted:

1. Residential use of one family detached house, with not more than one such house located on any lot, provided that no such property shall be leased or rented for a period of thirty (30) days or less unless specifically authorized by the Board of Appeals under Section 4.1.1.3, below. *s.t.m. October 17, 2016*
2. Church, parish house, rectory or convent.
3. Religious, sectarian, or denominational educational use.
4. Public school or private school offering general educational courses.
5. Public or non-profit library, museum, art gallery or civic center.
6. Governmental administration building, fire or police station.
7. Municipal recreation or public water supply use.
8. Orchard, truck garden, nursery or similar open use of the land for the raising of agricultural or horticultural crops.
9. Sign, as hereinafter permitted.
10. Accessory use as hereinafter limited and defined.

#### 4.1.1 **Uses Authorized by Board of Appeals**

Any of the following additional uses, if authorized by the Board of Appeals:

1. The alteration of a single family dwelling existing on the effective date of this bylaw to accommodate two families if located on a lot having an area not less than twice that required for the erection of a single family dwelling in the same district, provided that no exterior change is made which alters the single family character of the dwelling.

2. Nursery school or other agency for day care of children, or private organized camp.
3. Intentionally omitted.
4. Cemetery, hospital, sanatorium, philanthropic or charitable institution (but not including a correctional institution).
5. Any governmental use (but including a public utility or communication use) not hereinbefore specifically listed, which is necessary for the service of the vicinity or which requires a location within the district for reasons of space or function.
6. Commercial golf course (but not including a golf driving range or miniature golf course).
7. Salesroom or stand for the display and sale of agricultural or horticultural products the major portion of which are grown on the premises, provided that any display, whether open or enclosed, is not less than fifty (50) feet from side and rear lot lines and not nearer the exterior line of any public or private way than the front yard depth required for a building in the district in which said salesroom or stand is located. Except that temporary portable stands, not exceeding four feet in area may be placed nearer the exterior line of any public or private way than the required front yard depth required in said district, but in no case less than five feet from the exterior line of said way.
8. Country Club, lodge building, or other non-profit social, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business). A.T.M. March 14, 1960
9. Assisted Living Residence in Single Residence A, B, C, and D Districts, which is authorized under the Special Permit Subsection, entitled Assisted Living Residence. S.T.M. October 19, 1998

#### 4.2 **Limited Business District Uses**

In a Limited Business District, the following uses are permitted:

1. Any of the uses permitted without Board of Appeals authorization in a single Residence A, B, C, and D Districts, subject to the same conditions as therein specified.
2. Any of the following retail businesses: book, stationery or news store, cigar store, drug store, delicatessen, dry goods or variety store, florist or gift shop, fruit or grocery store, hardware store, jewelry store, meat market or wearing apparel store.
3. Any of the following personal or consumer service establishments: barber or beauty shop, collection station for laundry or dry cleaning, frozen food locker, hand or self-service laundry, photographic studio, shoe or hat repair shop, shop for custom work by a dressmaker, milliner or tailor.

4. Restaurant or other place for the serving of food or beverages only to persons seated at tables or counters, provided that no dancing and no mechanical or live entertainment is furnished except for private gatherings.
5. Business or professional office, or bank, provided that not more than five (5) persons are regularly employed therein.
6. Sign, as hereinafter permitted.
7. Accessory use as hereinafter limited and defined.

**4.2.1 Uses Authorized by Board of Appeals**

Any of the following additional uses, if authorized by the Board of Appeals:

1. Any of the uses, which the Board of Appeals may authorize in Single Residence A, B, C and D Districts as set out in “Single Residence District Uses” subsection “Uses Authorized by Board of Appeals” and subject to the same conditions as therein specified.
2. Automobile service station. *S.T.M. June 26, 1967*
3. Any other retail business or service establishment supplying commodities or performing personal or consumer services primarily for residents of the surrounding neighborhood, provided that such use is similar to the uses hereinbefore listed in general character, extent of business hours, number of persons or cars to be attracted, and in effect on adjacent property and improvements (but not including any use specifically listed herein in a less restricted district, nor any use whose stock in trade consists primarily of large bulky objects not normally subject to being carried away by the customer on his person or in his automobile).  
*A.T.M. April 29, 1991*
4. Business or professional office, or bank, where more than five (5) persons are regularly employed. *A.T.M. April 25, 2016*

**4.3 General Business District Uses**

In a General Business District, the following uses are permitted:

1. Any of the uses permitted without Board of Appeals authorization, in Single Residence A, B, C, and D Districts and Limited Business Districts, except dwellings, subject to the same conditions as therein specified. *A.T.M. October 18, 1971*
2. Store for the conduct of a retail business.



3. Drive-in retail establishment serving food or beverages or dispensing merchandise from inside a building to persons standing outside or seated in their automobiles.
4. Showroom for building supplies, including plumbing, heating and ventilating equipment, with storage limited to floor samples only.
  5. Salesroom for boats, trailers, trucks, farm implements, or machinery, with no repair services.
6. Salesroom for automobiles, automobile repair garage, or automobile service station.
7. Wholesale office or showroom, with storage limited to floor samples only.
8. Any of the following consumer, professional or commercial service establishments: bicycle repair shop, blueprinting establishment, business or trade school, clothing rental establishment, dancing or music school, funeral home, television or household appliance repair shop, typewriter repair shop.
9. Shop of a carpenter, cabinetmaker, electrician, painter, paperhanger, plumber, sign painter, or upholsterer, with not more than five thousand (5,000) square feet of floor area per establishment used for work and storage.
10. Office building, bank or other monetary institution.
11. Bowling alley with not more than twenty thousand (20,000) square feet of floor area per establishment, dance hall with not more than five thousand (5,000) square feet of floor area per establishment, indoor theater, billiard parlor, or pool hall. A.T.M. March 13, 1961
12. Printing or publishing establishment, with not more than five thousand (5,000) square feet of floor area per establishment used for production.
13. Rest home, convalescent or nursing home. S.T.M. November 17, 1986
14. Sign, as hereinafter permitted.

#### **4.3.1 Uses Authorized by Board of Appeals**

Any of the following additional uses if authorized by the Board of Appeals.

1. Any of the uses permitted with Board of Appeals authorization in Single Residence A, B, C, and D Districts, subject to the same conditions as therein specified.
2. Any other retail business or service establishment similar to the uses hereinbefore listed in general character and in effect or adjacent property and improvements (but not including any use specifically listed herein in a less restricted district).

#### 4.4 **Commercial District Uses**

In a Commercial District, the following uses are permitted: *A.T.M. April 26, 1999*

1. Any of the uses permitted without Board of Appeals authorization in General Business Districts, but not subject to any limitation on floor area therein specified.
2. Commercial farm, kennel, stable, or greenhouse, animal or veterinary hospital, or riding academy.
3. Place of amusement or assembly if conducted within a completely enclosed building including, but not limited to, the amusements listed in subsection 4 below of this “Commercial District Uses” Section. *A.T.M. 04/29/74*
4. Any of the following open-air amusements: golf driving range, miniature golf course, pony ring, or ice skating rink.
5. Storage, if conducted within a completely enclosed building, or warehouse for, lumber and other building supplies, contractors’ equipment, cotton or wool, livestock feed, fertilizer, food, furniture, hardware, metal, paint, and paint supplies, pipe, rubber, shop supplies, tobacco, tools, wood, or any products of manufacturing activities hereinafter listed.  
*A.T.M. 04/29/74*
6. Power laundry, dry cleaning or dyeing works, carpet or rug cleaning plant.
7. Research, experimental or testing laboratory as permitted under “Limited Industrial District Uses” Section, subsection 2. *A.T.M. 04/29/74*
8. Bottling plant for beverages.
9. Plant for light metal fabrication or finishing (excluding heavy punch presses and drop hammers).
10. Plant for manufacturing of electrical or electronic devices, appliances, apparatus or supplies.
11. Plant for manufacturing of medical, dental or drafting instruments, optical goods, watches or other precision instruments.
12. Plant for manufacturing of advertising displays, awnings, or shades, bakery products, beverages (non-alcoholic), brushes, books, candy, clothing, or other textile products, cosmetics, jewelry, ice, leather goods, or toys.
13. Sign, as hereinafter permitted.
14. Accessory use, as hereinafter defined.

#### **4.4.1 Uses Authorized by Board of Appeals**

If authorized by the Board of Appeals, any other lawful business, service, storage or light manufacturing use or adult use, provided that such use is not dangerous to the neighborhood through fire, explosion, emission of wastes or other cause, and provided further that such use is not likely to create more noise, vibration, dust, heat, smoke, fumes, odor or glare than the minimum amount normally resulting from any of the uses specifically listed hereinbefore. S.T.M. 10/19/98 If authorized by the Board of Appeals under the Special Permit Subsection entitled Assisted Living Residence, an Assisted Living Residence may be allowed in a Commercial District. S.T.M. 10/20/03

#### **4.5 Limited Industrial District Uses**

In a Limited Industrial District, the following uses are permitted.

1. Any of the uses permitted without Board of Appeals authorization in Single Residence A, B, C and D Districts except dwellings (other than accessory quarters as hereinafter authorized).
2. Laboratory engaged in research, experimental or testing activities (but not including any laboratory the conduct of which is dangerous to the vicinity through fire, explosion, emission of wastes or other causes, or detrimental to adjacent property by reason of noise, vibration, dust, heat, smoke, fumes, odor, glare or other effects observable at the lot lines).
3. Office for administrative, executive or professional purposes.
4. Printing or publishing establishment.
5. Plant for light metal fabrication or finishing (but not including heavy punch presses or drop hammers).
6. Plant for manufacturing of electrical or electronic devices, appliances, apparatus or supplies.
7. Plant for manufacturing of medical, dental or drafting instruments, optical goods, watches or other precision instruments.
8. Plant for manufacturing or advertising displays, awnings or shades, brushes, books, clothing or other textile products, cosmetics, jewelry, ice, leather goods, or toys.
9. Storage warehouse for: lumber and other building supplies, contractor's equipment, cotton or wool, furniture, hardware, metal, pipe, shop supplies, tobacco, tools, wood, or any products of manufacturing activities specifically listed hereinbefore in this District.
10. Sign, as hereinafter permitted.

11. Accessory use as hereinafter limited and defined.

**4.5.1 Uses Authorized by Board of Appeals**

Any of the following additional uses if authorized by the Board of Appeals:

- 1. Any other lawful storage or light manufacturing use (including packaging, processing and related uses), provided that such use is not dangerous to the vicinity through fire, explosion, emission of wastes or other causes, and provided further that such use is not likely to create more noise, vibration, dust, heat, smoke, fumes, odor or glare than the minimum amount normally resulting from any of the uses specifically listed hereinbefore as permitted in this District.
- 2. Planned shopping center provided that the buildings in such center are designed as an architectural unit, that it contains only such uses as are specifically listed hereinbefore as permitted in a General Business District, and that at least fifty (50) per cent of the total floor area is devoted to retail store use (in contradistinction to use as a consumer service establishment, restaurant, office, or amusement).
- 3. Public utility or communications use, or any governmental use not specifically permitted in this District, provided such use is necessary for the service of the vicinity or requires a location within the District for reasons of space or function. *A.T.M. March 12, 1962*

**4.6 Housing for the Elderly District**

In Housing for the Elderly District, no building or land shall be used and no buildings shall be erected or converted except for the purpose of providing elderly housing. *S.T.M. March 2, 2009*

**4.6.1 Uses Authorized by Board of Appeals**

Any of the uses permitted without Board of Appeals authorization in a Single Residence A District. *S.T.M. April 29, 1982*

**4.7 Office Park District Uses**

In an Office Park District, the following uses are permitted:

- 1. Business or professional office building or buildings (excluding retail, wholesale and manufacturing use). *A.T.M. April 24 & 27, 1989*
- 2. Sign as hereinafter permitted. *A.T.M. April 24 & 27, 1989*
- 3. Accessory use, as hereinafter defined. *A.T.M. April 24, 1989*

**4.8 Municipal District Uses** *A.T.M. April 26, 2010*

In a Municipal District, the following uses are permitted:

1. Public school or private school offering general educational courses.
2. Public or non-profit library, museum, art gallery or civic center.
3. Governmental building: federal, state, municipal.
4. Municipal recreation.
5. Public water supply.
6. Any governmental use which is necessary for the service of the vicinity or which requires a location within the district for reasons of space or function.
7. Public golf course but not including a golf driving range or miniature golf course.
8. Any uses allowed in Section 8.8 Siting of Radio Telecommunication Facilities.
9. Sign, as hereinafter permitted.
10. Accessory use as hereinafter limited and defined.

For these permitted uses all the requirements and specifications of a Single Residence A District shall apply unless specifically excluded.

## 5. ACCESSORY USES

An “accessory use”, within the meaning of this bylaw, is either a subordinate use of a building, other structure or tract of land, or a subordinate building or other structure:

1. Whose use is customary in connection with the principal building, other structure or use of land, and
2. Whose use is clearly incidental to the use of the principal building, other structure or use of land, and
3. Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot, if in the same ownership, and
4. Which does not constitute, in effect a conversion of the principal use of the premises to one not permitted.

### 5.1 *Accessory Uses in Residence Districts*

In Single Residence A, B, C, and D Districts, the following uses are hereby specifically declared to be customary “accessory uses” within the meaning of this bylaw:

1. Private garage space for not more than four (4) automobiles one of which may be a commercial vehicle if not exceeding two and one-half (2 ½) tons in gross weight. **S.T.M. 10/18/82**
2. Private greenhouse, stable, tool shed, playhouse, family swimming pool, tennis court, basketball court, or other similar building or structure for domestic storage or use. **S.T.M. 10/21/91; S.T.M. 10/21/96**
3. The keeping of animals, livestock or poultry principally for personal enjoyment or household use.
4. Removal of sod, loam, sand, gravel or other earth products in connection with the construction of a building to be erected on the premises for which a permit has been issued, provided that the amount of such material removed does not exceed the amount contained, before construction, in the particular space to be occupied by the foundation of said building.
5. The regular renting of rooms or the furnishing of table board in a dwelling by prearrangement to not more than five (5) persons, provided that no such renting shall be for a period of thirty (30) days or less. **S.T.M. October 17, 2016**

### **5.1.1 Home Occupation**

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

1. Such use is clearly incidental and secondary to the use of the premises for dwelling purposes, and
2. Not more than one non-professional person other than residents of the premises is regularly employed thereon in connection with such use, A.T.M. 04/29/91 and
3. No stock in trade is regularly maintained, and
4. No offensive noise, vibration, smoke, dust, odor, heat or glare is produced, and
5. There is no exterior display and no exterior sign, except as hereinafter permitted, and
6. There is no exterior storage of material or equipment (including the exterior parking of commercial vehicles) and no other exterior indication of such use or variation from the residential character of the premises.

### **5.1.2 Accessory Apartments in Residence Districts**

#### *5.1.2.1 Purpose and Intent*

It is the specific purpose and intent of allowing accessory apartments within one-family properties, except where enforceable deed covenants prohibit the same, in all one-family residence districts to meet the special housing needs of elderly parents of families presently living in the Town of Lynnfield. To help achieve these goals and to promote the other objectives of this ordinance and of the town development plan, specific standards are set forth below for such accessory apartment uses.

#### *5.1.2.2 District Location*

Accessory apartments may be created only within single-family dwellings, which are located on lots meeting the minimum lot area and width requirements of the applicable zone.

#### *5.1.2.3 Owner Occupancy Requirement*

The owner(s) of the one-family lot upon which the accessory apartment is located shall occupy at least one (1) of the dwelling units on the premises. The special permit shall be issued to the owner of the property. Should there be a change in ownership, a change in the residence of the owner, or the death of the surviving parent, the special permit use and the certificate of occupancy for the accessory apartment shall become null and void. Within ninety (90) days of the death of the surviving parent or prior to a change in ownership or residence the second kitchen shall be removed and the house shall revert to a single-family status. Should the new owner decide to live

in the structure and desire to continue the use of the second dwelling unit, he shall apply to the Zoning Board of Appeals for a special permit. The owner applicant shall be required to file on the subject property a declaration of covenants prior to the issuance of a special permit for an accessory apartment. This declaration shall be in favor of the Town of Lynnfield and state that:

1. The special permit for an accessory apartment or any renewal of said special permit shall terminate upon the death of the undersigned and the spouse of the undersigned or upon the transfer of title to said premises or upon the undersigned no longer occupying the premises as their principal residence.
2. The new owner of the premises shall have to apply to the Zoning Board of Appeals for a special permit to continue the accessory apartment.

#### *5.1.2.4 Yearly Renewal*

The special permit shall be issued on a year-to-year basis and the Board of Appeals shall not renew any such permit where the need for such accessory use no longer exists. The Board shall require bond or surety to insure that any improvements made shall be removed at the expiration of such special permit or the sale of premise whichever occurs first. All yearly renewals of a special permit granted under this subsection may, but need not, be granted as an administrative matter by the Board of Appeals without the necessity of public notices or hearings upon receipt by the Board of Appeals of:

1. a report from the Director of the Zoning Enforcement and Inspection that the owner and occupant of the premises are in compliance with all provisions of this subsection and that the need for such accessory use still exists and
2. a renewal of the surety bond referred to in the preceding sentence for the term of the renewed permit. A.T.M. 04/24&27/89

#### *5.1.2.5 Apartment Location*

An accessory apartment must be located in the principal dwelling provided that such principal dwelling conforms to the other requirements of this ordinance unless a variance therefore shall have been granted by the Zoning Board of Appeals.

#### *5.1.2.6 Apartment Size*

The minimum floor size for an accessory apartment within a principal dwelling building shall be three hundred (300) square feet but in no case shall it exceed twenty-five percent (25%) of the habitable area of the dwelling in which it is located, unless in the opinion of the Zoning Board of Appeals a greater or lesser amount of floor area is warranted by the specific circumstances of the particular building.



#### *5.1.2.7 Dwelling Size*

The accessory apartment shall not involve the extension or enlargement of the principal dwelling, except to provide access or egress nor shall it change the single-family characteristics of the dwelling.

#### *5.1.2.8 Limited Units*

There shall be no more than one (1) accessory apartment for a total of two (2) dwelling units permitted per lot.

#### *5.1.2.9 Approval*

Applications for accessory apartments shall be subject to approval solely by the Board of Appeals.

#### *5.1.2.10 Required Information*

Applications need only contain such information to determine compliance with the regulations set forth herein. A.T.M. 10/17/83

### **5.2 Accessory Uses in Limited Business Districts**

See “Accessory Uses in General Business Districts”

### **5.3 Accessory Uses in General Business Districts**

In a Limited Business and General Business District, permitted accessory uses include:

1. Such industry or light manufacturing (including processing, assembly, and repairs) as is usual in connection with a permitted principal use, provided that it does not occupy an area exceeding fifty (50) percent of the total floor area occupied by the principal use, that the major portion of any products manufactured are to be sold at retail on the premises, and that not more than five (5) operatives are regularly employed in such accessory use.

### **5.4 Accessory Uses in Commercial Districts**

### **5.5 Accessory Uses in Limited Industrial Districts**

### **5.6 Accessory Uses in Housing for the Elderly Districts.**

In Housing for the Elderly District permitted accessory uses shall include:

1. One separate building, not exceeding one story in height, to house snow removal and mowing machines, garden and other tools, and other equipment required to maintain and service Housing for the Elderly. Signs shall not be acceptable as an accessory use.
2. One building which may be used as a common building by the residents of the District, which building may include central kitchen and dining facilities providing meals to residents thereof and their guests and may also provide lounge and meeting rooms for the common use of residents and their guests. S.T.M. 04/29/82

3. Private garage parking space for not more than two (2) vehicles per dwelling unit. Such garage space, if accessory to a townhouse-style unit shall consist of garages attached to the dwelling units to which they are accessory and, if accessory to apartment-style multifamily dwellings, shall consist of a common garage situated beneath the multi-unit residential building to which it is accessory. The storage of boats, trailers, and motor homes in the Housing for the Elderly District is prohibited. A.T.M. 04/30/07

**5.7 Accessory Use in Office Park Districts**

In an Office Park District, the following uses declared to be “Accessory Uses”, a Day Care Center, Health Club and/or Restaurant designed as to accommodate Office Park use, provided same is not housed in a separate building and further provided, that the business or professional office use is the principal activity conducted on the premises and that said accessory uses shall not comprise more than ten percent of the gross floor area of any building. A.T.M. 04/24&27/89

## 6. SIGN REGULATIONS

### 6.1 *Signs in Single Residence Districts*

In a Single Residence A, B, C, and D District, the following exterior signs are permitted:

1. One sign for each dwelling unit on the premises indicating the owner or occupant or pertaining to a permitted home occupation provided that such sign does not exceed 6 inches in width and 24 inches in length. Such sign may be white lighted but shall not be flashing. S.T.M 10/17/94
2. One sign not over 9 square feet in area pertaining only to permitted uses and buildings on the premises as listed in “Single Residential District Uses” Section of the Lynnfield Zoning By-laws but specifically not including number 1, 9, and 10 of that “Single Residential District Uses” Section. A.T.M. 04/29/91 Provided that no such sign is located within 20 feet of any exterior way line or lot line. Such sign may be white lighted but shall not be flashing. S.T.M. 10/17/94
3. One temporary unlighted sign not over 9 square feet in area pertaining to the sale or lease of the premises provided that no such sign is located within 10 feet of any exterior way line or lot line.

### 6.2 *Signs in Limited Business Districts*

In a Limited Business, Limited Industrial and Office Park District, two exterior signs pertaining to permitted buildings, structures and uses existing at the time on the premises is permitted, provided that: A.T.M. 03/9/70

1. One sign attached flat against a wall of the building and fronting on the principal way, a parking space in the rear, or, in the case of a building on a corner lot, on that portion of the side of the wall within fifty (50) feet of the exterior line of the principal way. In no case shall such sign project above the roof line. Such sign may be white lighted but shall not be flashing. S.T.M. 10/17/94 Such sign may not exceed in total area 2 square feet for each linear foot of store front. In any case, such sign may not exceed 75 square feet. S.T.M. 10/17/94
2. A directory-type sign for identification of the several tenants or occupants in the area may be placed in a prominent place for the benefit of foot vehicular traffic. Each tenant will be allotted for his identification on the sign an area not in excess of 24” horizontally and 6” vertically (144 square inches) and the total area of the sign shall not exceed 10 square feet. Other ornaments may not protrude from the sign more than 4 inches in any direction with the exception of hardware necessary to attach the sign to a post. Such a sign should be in good taste and maybe white lighted indirectly, but may not be lighted by flashing or intermittent lights. Said sign shall be placed in a safe location at the normal entrance to the area in which the tenants or occupants are located and also be

located so as not to obstruct the normal vision of traffic. Said sign shall not be suspended or placed so as to overhang a public or private way and will be no higher at its lower extremity than 3 feet above the ground. Permission for the installation of any directory sign not attached to a building will be in writing from the fee holder of title and accompany any request for a permit or variance. Said request to include a scale drawing of the proposed sign and said permit, when issued, shall indicate that the permit for said sign may be revoked by the Building Inspector if it is not properly maintained. A.T.M. 3/9/70, S.T.M. 10/17/94

**6.3 Signs in General Business Districts**

In a General Business and Commercial District, exterior signs pertaining to permitted buildings, structures and uses existing at the time on the premises are permitted, provided that:

1. One sign is attached flat against a wall of the building and fronts on the principal way, a parking space in the rear, or in the case of a building on a corner lot, on that portion of the side of the wall within 50 feet of the exterior line of the principal way. Such sign may not exceed in total area 3 square feet for each linear foot of store front, and in no case may exceed 100 square feet.
2. One additional sign not attached to the building, which may be double faced. Each face may not exceed the lesser of one square foot for each 2 linear feet of lot frontage or one square foot for each 100 square feet of ground floor area in the building or buildings located on the premises. In no case is this sign to be larger than 150 square feet per side nor to exceed 15 feet in height including standard. A.T.M. 03/12/62

**6.4 Signs in Commercial Districts**

See “Signs in General Business Districts”

**6.5 Signs in Limited Industrial Districts**

See “Signs in Limited Business Districts”.

**6.6 Signs in Housing for the Elderly Districts**

1. One sign at each vehicular entrance to the District provided that such sign does not exceed 6 inches in width and 24 inches in length. Such sign may be non-flashing white lighted.
2. One sign attached flat against the wall of one building and fronting on the principal way. Such sign shall not exceed 9 square feet and may be non-flashing white lighted. S.T.M. 04/29/82

**6.7 Signs in Office Park Districts**

See “Signs in Limited Business Districts”.

6.8 ***Standards Applicable in all Districts*** *A.T.M. October 19, 2015*

The sections on sign regulations are intended to ensure that all signs are located, designed, sized, constructed, installed, and maintained in a way that protects and promotes safety, health, aesthetics, and the public welfare including impact upon residential property value while allowing adequate communication.

Signs shall neither contain moving elements nor convey the appearance of movement, whether by changing pixilation or any other physical or electronic representation of movement.

**7. SPECIAL PROVISIONS IN ALL DISTRICTS**

**7.1 Enclosure and Screening**

The District’s respective uses (whether or not requiring Board of Appeals authorization), and all uses accessory thereto, shall be conducted wholly within a completely enclosed building, except the following:

**7.1.1 Residential Districts**

- 1. All those uses permitted in Residence A, B, C and D Districts unless specified elsewhere

**7.1.2 Limited Business District**

- 1. All those uses listed in “Residential Districts”.
- 2. Accessory outdoor dining areas.
- 3. Plants growing in the soil.
- 4. Parking lots for passenger automobiles.
- 5. Exterior signs, as hereinafter permitted.
- 6. Exterior lights installed in compliance with subsection 7.6, entitled ‘Lighting Provisions’”.  
A.T.M. 04/26/99
- 7. The dispensing of fuels, lubricants or fluids at automobile service stations. S.T.M. 06/26/67

**7.1.3 General Business District**

- 1. All those uses listed in “Limited Business District”.
- 2. The service of food or beverages or the dispensing of merchandise from a completely enclosed building to persons outside at drive-in establishments.

**7.1.4 Commercial District**

In a Commercial District all open storage of junk, scrap metal, rags, waste paper, and similar used materials shall be completely screened from view at normal eye level from any public or private way or from any premises. Any other use conducted outside a completely enclosed building, except an open use permitted in General Business Districts, shall, if visible at normal eye level from any point within a Single Residence A, B, C and D District and less than two hundred (200) feet distant, be completely screened from such view, unless separated from said District by a railroad or by a public or private way having a width of forty (40) feet or more. Screening required under this

paragraph shall be by an evergreen planting, fence, or other attractive suitable visual barrier. *A.T.M. March 12, 1962*

### **7.1.5 Limited Industrial District**

The open storage of goods, products, materials or equipment, where accessory to a permitted main use conducted in a completely enclosed building on the same premises, subject to the condition that the total ground area devoted to such open use does not exceed twenty-five (25) per cent of the ground area covered by said building and that this open use does not come nearer than one hundred (100) feet from the boundary of a Single Residence A, B, C or D District. *A.T.M. 03/12/62*

In a Limited Industrial District all open storage of junk, scrap metal, rags, waste paper, and similar used materials shall be completely screened from view at normal eye level from any public or private way or from any premises. Any other use conducted outside a completely enclosed building, except an open use permitted in General Business Districts, shall, if visible at normal eye level from any point within a Single Residence A, B, C and D District and less than two hundred (200) feet distant, be completely screened from such view, unless separated from said District by a railroad or by a public or private way having a width of forty (40) feet or more. Screening required under this paragraph shall be by an evergreen planting, fence, or other attractive suitable visual barrier. *A.T.M. March 03/12/62*

### **7.1.6 Housing for the Elderly Districts**

None, unless specified elsewhere in the Zoning Bylaw

### **7.1.7 Office Park Districts**

None unless specified elsewhere in the Zoning Bylaw

There shall be provided a landscaped buffer strip of 50 feet on all sides of the property, except where the development adjoins existing development within a single residence A, B, C or D District, such buffer strip shall be increased to 100 feet. A landscaped buffer shall consist of existing natural vegetation or new plantings, or combinations thereof, which will form a year-round dense screen at least six feet high within three years. *A.T.M. 04/24&27/89*

## **7.2 Off-Street Parking**

In all Districts, except Elderly Housing District, no business or commercial building shall be constructed or externally enlarged, and no business or commercial use shall be established or expanded in ground area, unless there is provided on the lot or land associated therewith and within three hundred (300) feet of such building or use, off-street automobile parking space on the basis of the following minimum requirements: *S.T.M. 10/17/94*

1. Retail stores, showrooms or salesrooms, wholesale showrooms, consumer, professional or commercial service establishments, offices or banks - at least one off-street parking space for

each one hundred and eighty (180) square feet of ground floor area of the building plus one additional space for each three hundred and sixty (360) square feet of floor area in all stories above the first story.

2. Restaurants and other places for the serving of food or beverages and theaters and other places of amusement or assembly - at least one off-street parking space for each one hundred and eighty (180) square feet of ground floor area of the building plus one additional space for each three hundred and sixty (360) square feet of floor area in all stories above the first story, or at least one off-street parking space for each three (3) seats provided for patron use, whichever requires the greater number of parking spaces.

3. Tourist homes, boarding and lodging houses - at least one off-street parking space for each guest bedroom.

4. Shops of the building trades, printing and publishing establishments, and all storage, manufacturing or other uses first specifically listed herein in a Commercial or Limited Industrial District - at least one off-street parking space for each two (2) persons employed or anticipated being employed, on the largest shift. A.T.M. 3/12/62

5. Automobile service stations, drive-in establishments, open-air retail businesses (including open-air amusements) - sufficient off-street parking spaces to accommodate the automobiles of customers, patrons and employees. (Frequent parking of such automobiles within a public or private way adjacent to the premises will be considered as evidence of the inadequacy of the off-street spaces provided in connection therewith.)

For the purposes of this paragraph, "Off-Street Parking", a space of one hundred and eighty (180) square feet of appropriate dimensions for the parking of an automobile, exclusive of access drives or aisles, shall be considered as one (1) off-street parking space. In the case of mixed uses in the same building or on the same lot, or the joint use of spaces by two (2) or more separate buildings or uses, the total requirements for off-street parking space shall be the sum of the requirements of the various buildings and uses computed separately. Required parking spaces shall be located, graded, drained and otherwise constructed in accordance with the site plan hereinafter required, shall be provided and maintained with a dust-free surface, and shall be permanently available for use by the customers, patrons, and employees of the establishment with which connected.

In an Elderly Housing District, no housing shall be constructed unless there is provided on the lot or land associated therewith off street parking totaling at least four parking spaces as above defined for each three units contained in such residence buildings. S.T.M. 4/29/82

### 7.3 ***Vehicular Access***

All vehicular access to and from any lot on which a business or commercial building or use is located (including accessory off-street parking spaces) shall be through designated driveway openings having a width of not more than twenty (20) feet at the exterior line of the public or private way, and not more than one opening for entrance and one opening for exit [which may be



contiguous with a total width of forty (40) feet] shall be permitted along any way for each two hundred (200) feet of lot frontage on said way, if in a Limited Business District, or for each three hundred (300) feet of lot frontage on said way, if in a General Business, Commercial, Office Park or Limited Industrial District. In the case of a lot having less than the specified frontage along the exterior line of a way, a total of not more than two designated driveway openings shall be permitted (one of which shall be for entrance and the other for exit), provided that:

1. Said lot was laid out by deed or conveyance or shown on a duly recorded plan prior to the effective date of this bylaw, provided that on such date said lot did not adjoin other land of the same owner available for use in connection with said lot, or
2. Said driveway openings are used or to be used in common by two (2) or more lots having a total continuous frontage on the way of at least the amount specified for a single lot, or
3. Said driveway openings are at the exterior line of a private way whose primary function, in the opinion of the Board of Appeals, is to provide access to premises located in non-residential districts, and a variance from these requirements is accordingly authorized by said Board.

A.T.M. 03/12/62

In Housing for the Elderly District, driveways within each lot, including those for ingress and egress, shall be thirty (30) feet in width, with twenty (20) feet paved for the use of vehicles and with two (2) sidewalks each five (5) feet in width. Adequate lighting shall be provided for driveways, and driveways and parking areas shall be suitably graded and provided and maintained with permanent dust-free surface, adequate drainage and bumper guards when needed for safety. Off street parking shall not be allowed between buildings and side lot lines. S.T.M. 04/29/82

#### **7.4 Site Plan Approval**

The site plan approval granting authority under this section shall be the Board of Appeals.

In Residential Districts no non-conforming business or commercial building shall be externally enlarged, changed and no use shall be expanded except in conformity with a site plan approval issued by the Board of Appeals. In all other Districts no business or commercial building shall be constructed, externally enlarged, or changed and no use shall be establish or expanded except in conformity with a site plan approval issued by the Board of Appeals.

All applications for a site plan approval must be filed by the applicant with the Town Clerk who shall certify the date and time of filing. The applicant must forthwith file the application and Town Clerk's certification with the Zoning Board of Appeals.

Said application shall include a site plan which shows all existing and proposed features, including as a minimum the following;

1. All landscaping features such as screening in the form of fences, walls, planting areas, walks, and other barriers.

2. Suitable landscaping adequate to screen parking and service areas from public and private ways and adjacent properties.
3. All outside uses.
4. Existing and proposed structures and buildings together with all set back distances, side line and rear yard depth.
5. Parking spaces with calculations showing the minimum number required under the Zoning Bylaw. All handy cap spaces shall be marked in conformity with State and Federal requirements.
6. Loading, service, refuse and trash disposal areas.
7. Proposed and existing ways, driveways and driveway openings.
8. All facilities for sewage and waste disposal and their type.
9. All outside lighting including the direction and intensity of said lighting.
10. Any land thereon which lies within the "Wetland Buffer Zone".
11. The addition of 600 square feet or more of impervious area shall require the applicant to specify a means to prevent an increase in the rate of rainfall runoff for the site resulting from the proposed alteration. Computations prepared by a registered professional engineer in support of the design of these preventive means shall be provided with the application. No increase of the peak rate of runoff for the 210, and 100 year storms based upon the methodologies set forth in the U. S. Soil Conservation Service Technical Release No. 55 as amended shall be allowed. Said means, such as holding ponds, dry wells, or other equivalent permanent methods shall be shown including the location of all structures and piping with their invert elevations.

The Board of Appeals' rules and regulations as promulgated shall prescribe the procedure of an application for, submission and approval of, a site plan approval. Said rules and regulations shall specify the size, form, contents, style, and number or copies of plans, specifications, and other associated information required to be submitted with the application. The requirements of said rules and regulations shall be in addition to and not in lieu of, the requirements set forth in this section.

Upon receipt of an application the Board of Appeals shall, within 5 working days, transmit one copy to the Planning Board, Board of Health, Conservation Commission, and Department of Public Works for their written recommendations in accordance with the provisions of M.G.L. Chapter 40A, Section 11. Upon written request by one of the aforementioned town agencies to the remainder of said agencies, a joint review may be conducted to provide information which may be used in the recommendation to the Board of Appeals.

The Board of Appeals shall hold a public hearing in accordance with M.G.L. Chapter 40A, Section 11. Any extension to the time limit for holding the public hearing or taking final action may be extended by written mutual agreement between the petitioner and the Board of Appeals, provided that said agreement is signed by both parties and filed within 5 days with the Town Clerk.

In considering the application the Board of Appeals shall take into account to a degree consistent with a reasonable use of the site only for the purposes permitted by the use regulations applicable to the zoning district in which the land is located at least, but not limited to the following factors:

1. Protection of adjoining premises against seriously detrimental or offensive uses on the site.
2. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways and land.
3. Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted on the site, and the methods of drainage for surface water.
4. Adequacy of provisions for the off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment or use.
5. Sufficiency of spaces for the off-street parking of automobiles of customers, patrons and employees where the provision of this Chapter 6 does not require a specific number.

The Board of Appeals shall have the right to impose conditions, safeguards and limitations on time or use when granting the permit. The Board of Appeals shall have the power to modify or amend a site plan approval upon application of the person owning or leasing the premises, or upon its own motion in the event of changes in physical conditions of the site sufficient to justify such action. All of the provisions hereof applicable to approval shall, where apt, be applicable to such modification or amendment.

No site plan approval, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk is recorded in the Essex County South District Registry of Deeds. The responsibility for recording or registering such upon the owner's certificate of title is that of the owner or applicant.

No building, septic, roadway opening, electrical, or similar permits shall granted be until proof of said recording or registering of the site plan approval has been presented to the appropriate permit issuing authority. S.T.M. 10/21/96; S.T.M. 10/19/98

**7.4.1 Additional Requirements for PWSF** *S.T.M. October 20, 2014*

When reviewing the construction, erection, installation and/or placement of a PWSF the SPGA, in addition to the requirements of 7.4 “Site Plan Approval” shall also be based upon the following visual guidelines.

**Concealment.** To the maximum extent practicable, PWSF’s shall conceal equipment, cables, and antennas within architectural surfaces that are ordinary and consistent with the context of the PWSFs Lynnfield environs, such as steeples, concealed-antenna monopoles, flagpoles, smokestacks, faux chimneys and cupolas.

**Screening, Camouflage and Landscaping:** Wherever possible, PWSF shall be sited so as to minimize the visibility of such devices from adjacent property and shall be screened from abutters in residential neighborhoods. Where elements of a PWSF will be visible to residential parcels and public or private ways, PWSFs shall employ screening and/or camouflage methods that are consistent with the context of the surrounding area such as fencing, vegetation, and paint color or patterns to match underlying surfaces in order to mitigate any undesirable visual bulk and distraction. Installation of free-standing PWSF shall minimize the removal of trees and other existing vegetation.

**Scale.** The visual characteristics of a PWSF shall be minimized with respect to scale, such as a dominant or looming visual experience, disproportion to the site and its surroundings, or undesirable shadowing impacts.

**Color:** Free-standing, wall mounted and roof-mounted devices may be required to be painted or otherwise colored or finished in a manner which aesthetically minimizes the visual bulk of the devices to the surrounding landscape or on the building or structure to which they are attached.

**Signs.** There shall be no advertising permitted on or in the vicinity of PWSF. There shall only be a sign not exceeding four square feet in area at each PWSF which shall display a phone number where the person responsible for the maintenance of the PWSF may be reached on a 24 hour basis.

**Lighting.** Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration or other State or Federal agencies having jurisdiction of the same. Outdoor lighting of PWSFs shall be limited to that which is necessary for security and temporary maintenance at the discretion of the SPGA.

**Maintenance.** The visual characteristics of a PWSF shall be maintained, repaired and replaced as necessary and as an ongoing condition of compliance to retain the characteristics approved by issuance of a special permit.

**Parking.** 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.

**Prohibitions.** The following are specifically prohibited:

Lattice style Antenna Towers and facilities requiring three or more legs and/or guy wires for support; and  
 Fences utilizing razor wire or barbed wire or similar wire types.

Every provision of the section is intended to be severable, and the invalidity or illegality of any portion of said section shall not affect the validity or legality of the remainder hereof but shall remain in full force.

### **7.5 *Applicability of Parking, Access, and Site Plan Requirements***

For the purpose of this Section, the following uses shall be considered as business or commercial uses, and all buildings designed, arranged or constructed for, or occupied by, one or more of such uses shall be considered as business or commercial buildings:

1. Any of the uses permitted in Limited Business, General Business, Commercial, Office Park or Limited Industrial Districts but not permitted in Single Residence A, B, C and D Districts (with or without Board of Appeals authorization).
2. Any of the following Single Residence District uses, where permitted, in a Limited Business, General Business, Commercial or Limited Industrial District:
  - a. Nursery school or other agency for day care of children, or private organized camp.
  - b. Tourist home, boarding or lodging house.
  - c. Rest home, convalescent or nursing home.
  - d. Commercial golf course.
  - e. Salesroom or stand for the display and sale of agricultural or horticultural products.  
A.T.M. 3/12/62

### **7.6 *Lighting Provisions*** A.T.M. April 26, 1999

For reasons of safety and the reduction of light trespass, glare and light pollution, all outdoor lighting fixtures except those installed for municipal purposes, and with the further exception of lighting regulated by the sign regulations of this Bylaw, whether ground, pole, or wall-mounted, shall be subject to the following:

#### **7.6.1 Definitions**

1. Lighting fixture types, for purposes of this section are defined as follows:

Type I - No light cutoff

Type II - Luminaire shielded such that peak candlepower is at an angle of seventy-five (75) degrees or less from the vertical, and essentially no light is emitted above the horizontal.

Type III - Luminaire shielded such that total cutoff is at less than ninety (90) degrees from the vertical, and no light sources (lamp or brightness of reflective surfaces) is in direct view from five or more feet above the ground at any point off the premises.

2. Glare - Direct light emitted by a luminaire at strength and at a direction that it creates a visual nuisance or a hazard by reason of reduced vision or momentary blindness.

**7.6.2 Residential District (Including Housing for the Elderly District)**

Residential lighting shall be steady, stationary, and when necessary shielded so as to avoid causing glare for motorists, pedestrians, or neighboring premises. The marginal increase in light, as measured at a property line other than a street line, shall not exceed 0.5 foot-candle.

**7.6.3 All Other Districts (excluding overlay districts)**

*7.6.3.1 Height Limitations*

The following limitations on height shall be observed by all uses except illuminations for public recreation on public land.

Maximum luminaire mounting height (to Bottom of luminaire)

	LB District	All other Districts
Fixture Type I	15 Feet	-
Fixture Type II	20 Feet	20 Feet
Fixture Type III	25 Feet	30 Feet

*7.6.3.2 Overspill Limitations*

The following limitations on illumination overspill shall be observed by all uses except illuminations for public recreation on public land.

Maximum Off-site overspill (foot candles, FC)

LB District	All Other Districts
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Fixture Type I	0.2 FC	-
Fixture Type II	0.5 FC	0.5 FC
Fixture Type III	0.5 FC	1.0 FC

**7.6.4 Maximum Light**

In all non-residential districts (except Housing for the Elderly and overlay districts) the amount of light under any fixture shall not exceed 20-foot candles.





## 8. SPECIAL PERMITS

### 8.1 *Time Lapse*

Any special permit granted by the Board of Appeals under any provisions of this By-Law, any General Law and any Special Law shall lapse if a substantial use thereof has not commenced within two (2) years from the grant thereof, except for good cause or, in the case of a permit for construction, such special permit shall lapse if construction has not begun within two (2) years from the grant thereof, except for good cause. Good cause shall be determined by the Board of Appeals after written application for a time extension filed and heard in the same manner as initially required for the issuance of the Special Permit. A.T.M. 04/25/77

### 8.2 *Scientific Use*

The Board of Appeals may grant a Special Permit for uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, PROVIDED that the Board of Appeals makes specific findings that the proposed accessory use does not derogate from the public good. A.T.M. 04/25/77

### 8.3 *Earth Removal*

The removal, for sale or otherwise, from the Town, or from one lot to another in the Town, of sod, loam, clay, sand, gravel or quarried stone forming a part of the real estate in the Town, except when necessarily incidental to or in connection with the construction, at the site of removal, of a building for which a permit has been issued, or for grading or otherwise improving the premises of which such building is a part, shall be permitted only if a Special Permit from the Board of Appeals be first obtained. S.T.M. 10/17/94 Any person desiring to obtain the permission of said Board for such purpose shall make written application therefore, and the said Board shall hold a public hearing thereon, of which public notice shall be given, and render a decision. The applicant shall show, to the satisfaction of said Board, that such use of the premises for which such application is made shall not constitute a nuisance because of noise, vibration, smoke, gas fumes, odor, dust or other objectionable features, shall not be hazardous because of fire or explosion, shall not adversely affect the economic status of the Town, shall not tend to impair the beauty of the Town or of the District most immediately affected, and shall not be dangerous to the public health. When in the opinion of the Board, such a permit may be granted if accompanied by conditions especially designed to safeguard the district and the Town, including protection against permanent and temporary situations which may be left or arise after operations are completed or because of the methods of handling such material at the site, or transporting such material through the Town, it shall impose such conditions and make them a part of the permit. The Board may, after a hearing and proof of violation of such conditions or any of the terms of the permit, withdraw the permit, after which the use shall be discontinued.

## 8.4 *Green Belt Zoning*

### 8.4.1 Purpose

For the purpose of promoting the more efficient use of land in harmony with its natural features and with the general intent of the Zoning By-Law, and to protect and promote the health, safety, convenience and general welfare of the inhabitants of the town, an owner or owners of a tract of land situated within Single Residence Districts, or a duly authorized agent thereof, may, in connection with the submission of a subdivision plan for Planning Board approval under the Subdivision Control Law or, if no such approval is required, after consultation with the Planning Board, make application to the Board of Appeals for a Special Permit excepting his plan from the lot area, side yard and frontage requirements of the Town Zoning By-Law pertaining to Single Residence Districts. A.T.M. 04/29/74

### 8.4.2 Hearing

After notice and public hearing and after due consideration of the report and recommendations of the Planning Board (See “Planning Board Report”, below), the Board of Appeals may grant such a Special Permit provided that:

1. It finds that the proposed plan is in harmony with the purpose and intent of this By-Law and that it will promote the purposes of this section.
2. The area of the tract of land to be subdivided is not less than 25 acres.
3. Each lot shall contain not less than 26,700 square feet of land in Residence A, B and C Districts, and not less than 40,000 square feet of land in Residence D Districts. A.T.M. 04/29/74
4. Each lot shall have frontage on a way of not less than 30 feet and in no instance shall 4 contiguous lots have less than a total of 300 feet frontage and the total frontage of all lots in the tract shall in no instance be less than the product of 100 feet multiplied by the total number of lots. Each lot shall be so configured as to accommodate within it a circle having a diameter of not less than 120 feet.
5. The required front yard and rear yard depths of the district in which each lot is situated shall be met, and the side yard width shall not be less than 20 feet.
6. The number of lots permitted within the perimeter (total area) of the subdivision shall be determined on the following basis:
  - a. Residence A, B and C Districts, not more than 1 lot per 40,000 square feet, exclusive of the area set apart for ways and exclusive of area within a Flood Plain District or a Wetland as defined in G.L. Chapter 131, S40, as amended. A.T.M. 4/29/74, S.T.M. 10/17/88

- b. Residence D District, not more than 1 lot per 60,000 square feet, exclusive of the area set apart for ways and exclusive of area within a Flood Plain District or a Wetland as defined in G.L. Chapter 131, S40, as amended. S.T.M. 10/17/88
  - c. In tracts located partly in more than one Residential District, not more than the total number of lots which would be permitted by the preceding Paragraphs a and b allowing fractional lots to be added together, exclusive of the area set apart for ways. Such area set apart for ways may be deducted from the total area of land in any District or partly from each. A.T.M. 4/29/74
7. There shall be an area or areas, but not more than two such areas, of “Green Belt Land” within the tract which shall equal or exceed the sum of the area by which any individual lots are reduced below the minimum lot area normally required by other sections of the Town’s Bylaws in their districts and shall comprise at least 20% of the total area of the tract.
- a. Provision shall be made that the “Green Belt Land” shall be owned by a trust, corporation or other entity or organization which is owned or controlled by the owners of the individual lots in the subdivision. Said land shall be subjected to a perpetual Conservation Restriction and Easement in favor of the Town of Lynnfield under the provisions of General Laws Chapter 40 Sec. 8c and Chapter 184 Section 31 as the same may be from time to time amended, and shall be available for use only by its owners for conservation purposes, as specified in said sections of the General Laws as the same may be from time to time amended, and shall contain no paved areas or structures except such as may be used for as accessory to such purposes. The Town shall be given an adequate permanent easement of access for its agents to inspect the use of the “Green Belt Land” to see that it is not used in violation of the Conservation Easement and Restriction. Construction and use of the tennis courts on an area not in excess of ten (10%) percent of the total “Green Belt Land” as defined herein shall be permitted in “Green Belt Land”. Dredging of brooks and ponds shall be permitted in “Green Belt Land” so long as the same shall be done in accordance with applicable law.
  - b. The foregoing provisions shall not preclude such “Green Belt Land” being given by voluntary act of the owners to the Town, should the Board of Selectman, at some future time vote to accept the same, but in such case the Town shall not use any such land or make improvements thereon for any purposes other than those enumerated in this Paragraph. Nothing herein shall be constructed to require any owner to donate land to the Town, nor to affect the right of the Town to take such land by eminent domain. S.T.M. 10/16/78
  - c. No land within a Flood Plain District shall be included in determining the required area of “Green Belt Land”.
  - d. Reasonably unobstructed access and egress by a way at least 30 feet wide shall be provided to each area of “Green Belt Land” from one or more ways.

8. The utilities proposed for said subdivision will adequately provide for water, sewerage and drainage, and the proposed streets and street accesses and egresses will adequately provide for traffic convenience and safety.
9. The location and site design are compatible with the Master Plan of the Town adopted in 1954, as amended and as the same may be amended from time to time, the existing neighborhood and future development of the environs.
10. The plan provides for efficient allocation and distribution of the “Green Belt Land”.
11. The land use is harmonious with the natural features of the tract.

### **8.4.3 Conditions**

The Board of Appeals may, in appropriate cases, impose further restrictions upon the tract, or parts thereof, as a condition to granting the Special Permit.

#### *8.4.3.1 Planning Board Report*

In connection with an application for a Special Permit from the Board of Appeals under this Section, the Planning Board shall submit, in writing, prior to the hearing, its recommendation and report to the Board of Appeals. The Planning Board may supplement its report after the hearing. The report of the Planning Board shall include as a minimum:

1. A determination of the area of the tract usable for residential construction.
2. A determination of the number of lots upon which dwellings could be constructed without regard to this section.
3. A general description of the neighborhood in which the tract lies and the effect of the plan on the area.
4. The relation of the plan to the Master Plan of the town adopted in 1954, as amended, and as the same may be amended from time to time.
5. The extent to which the plan is designed to take advantage of the natural terrain of the tract.
6. The extent to which the proposed “Green Belt Land” has reasonable size and shape and has adequate access and egress.
7. The Planning Board’s opinion as to the overall design of the plan.

8. The Planning Board's recommendations as to the advisability of granting the Special Permit, and as to any restrictions which should be imposed upon the tract as a condition of such Permit.

#### **8.4.4 Response to Planning Board**

The Board of Appeals shall give due consideration to the report of the Planning Board and, where its decision differs from the recommendations of the Planning Board, shall state the reasons therefore in writing.

#### **8.4.5 Required Compliance**

No provision hereof shall exempt a proposed subdivision from compliance with the Rules and Regulations of the Planning Board, nor shall it affect the right of the Board of Health to make reports and recommendations and of the Planning Board to approve, with or without conditions or modifications, or disapprove, a Subdivision Plan in accordance with the provisions of such Rules and Regulations and of the Subdivision Control Law.

#### **8.4.6 Other Provisions**

All dwellings and accessory buildings erected under the provisions of this section shall conform to all other provisions of the Zoning Bylaws, which shall not be varied except by the Board of Appeals as permitted by law.

#### **8.4.7 Procedure**

1. The procedure set forth herein for making application for a Special Permit for Green Belt Zoning is meant to be complementary and supplementary to the Rules of the Board of Appeals and the following should be interpreted to render the same harmonious with said Rules.
2. In single Residence Districts, Green Belt Zoning shall be allowed with a Special Permit issued by the Board of Appeals. *A.T.M. 4/29/74*
3. Thirty (30) days or more prior to application to the Board of Appeals for a Special Permit for Green Belt Zoning under this Section the applicant shall submit the subdivision plan referred to in the "Purpose" Section to the Lynnfield Planning Board by filing the same with the Clerk of the Planning Board, together with an application to obtain its approval with reference to the layout, construction and installation of streets, utilities and drainage facilities together with all other subjects within the proper jurisdiction of the Planning Board. Said approval shall not be given by the Planning Board unless and until the applicant has furnished the Town with such adequate security for performance of the applicant's obligations under the said plan and application as the Planning Board may require under its Regulations, as the same may from time to time exist. The Planning Board shall file a report concerning the Site Plan (hereinafter referred to) together with its recommendations as required by this Section with the Clerk of the Board of Appeals within forty-five (45) days from the date of application to said Planning Board, and shall send a copy of same to

applicant. The Planning Board shall make such report and recommendation in or within forty-five (45) days from the date of application to the Planning Board; the failure of the Planning Board to make such report on said Plan within said period of time shall permit the Board of Appeals to act upon an application hereunder for a Special Permit without such report of the Planning Board.

4. In addition to three (3) copies of the Subdivision Plan, each application for a Special Permit to the Board of Appeals for Green Belt Zoning shall be accompanied by a Site Plan on one (1) or more sheets, in triplicate, of the entire tract under consideration prepared in accordance with the Rules of the Board of Appeals and, without limiting the generality of the foregoing, shall show all existing and proposed buildings, structures, ways, driveway openings, driveways, and all major landscape features such as screening in the form of fences, walls, planting areas and other barriers, the existing topography at a suitable scale and contour interval, proposed grading, location of all Green Belt Areas, educational active or passive recreational and cultural uses, if any, and the location of any proposed easements. Said Plan shall be subject to such rules relating to scale, dimensions, legend, form and preparation as may from time to time be promulgated by the Board of Appeals.

5. Each application for a Special Permit shall be accompanied by four (4) copies of the following proposed documents;

- a. Perpetual easements to the Town to enable it to maintain and repair the Green Belt Areas and the drainage system, although clearly placing the primary responsibility upon the owner for the same. Also, contracts indemnifying and holding the town harmless for any expense incurred by the town in performing any of these tasks; said contracts shall be in a form binding upon the successors and assigns of the owner of the Green Belt areas.
- b. Performance bonds securing the Town against default by the owner, whether it be an association, corporation, corporation or trust, which owns the Green Belt Areas, in performing the required repair and maintenance services; said bonds shall be in a form binding upon the successors and assigns of the owner.

#### **8.4.8 Non Severability of Green Belt Zoning Section**

Notwithstanding any other provisions of the Town's Bylaws, it is hereby declared that none of the provisions of this Section can be given effect in the event any of the provisions of this Section or the application thereof to any persons or circumstances shall be held invalid and to this end the provisions of this Section are declared to be non-severable. *S.T.M. 6/12/72*

#### **8.4.9 Changes**

No changes in a Special Permit granted hereunder, or in any plan or other document executed or submitted in connection with the application for such Special Permit, shall be made except under the authority of a decision of the Board of Appeals upon application and hearing as provided under the "Hearing" Section of the "Green Belt Zoning". *A.T.M. 4/29/74*

Prior to such hearing, the Planning Board shall submit to the Board of Appeals in writing recommendations as to the advisability of granting the requested changes relating to a Special Permit granted hereunder, and as to any restrictions which should be imposed as a condition of approval by the Board of Appeals. *A.T.M. 10/17/77*

### **8.5 Adult Uses. S.T.M. October 19, 1998**

This section regulates adult uses and adult entertainment facilities within the Town of Lynnfield.

#### **8.5.1 Purpose and Intent**

The purpose and intent of this section is to address and mitigate the secondary effects of the adult uses and businesses referenced herein. The provisions of this section are not intended to impose a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Also, the provisions of this section are not intended to restrict or deny access by adults to adult uses and to sexually oriented matter or material protected by the Constitution of the United States of America and of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute, or exhibit such matter or materials. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

#### **8.5.2 Definitions**

Substantial or Significant Portion: The term “substantial or significant portion” as used in this section shall mean twenty-five percent (25%) or more of any one or more of the following: business inventory or stock of merchandise for sale, rental, distribution, or exhibition during any period of time; annual number of gross sales, rentals, or other business transactions; annual gross business revenue; hours during which the establishment is open.

#### **8.5.3 Special Permit**

##### **8.5.3.1 Authority**

No adult use shall be allowed except by a Special Permit granted by the Board of Appeals. Said Board may impose such conditions as it deems appropriate for the protection of public health, safety, and welfare in any district permitting such use. Said Special Permit shall only be issued following a public hearing held within sixty-five (65) days after filing of an application with the Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant.

##### **8.5.3.2 Location A.T.M. October 20, 2014**

An adult use may be located only within the Commercial District within the Town.

An adult use may not be located within four hundred (400) feet of (a) a boundary line of a residential zoning district, (b) any other adult bookstore or adult motion picture theater, or (c) any establishment licensed under the provisions of Chapter 138, Section 12. **S.T.M. October 20, 2014**

##### **8.5.3.3 Application**

The application for a Special Permit for an Adult Use shall include the following information: name and address of the legal owner of the proposed establishment; name and address of all persons having a lawful ownership, equity or security interest in the proposed establishment; a



sworn statement that neither the applicant, owner, nor any person having a lawful ownership, equity or security interest in the proposed establishment has been convicted of violating the provisions of Massachusetts General Laws Chapter 119, Section 63 or Chapter 272, Section 28; name and address of the manager of the proposed establishment; proposed provisions for security; number of employees; and proposed physical layout of the interior of the proposed establishment.

#### *8.5.3.4 Signage*

All signs must meet the requirements of Section Sign Regulations, of the Zoning Bylaws of the Town of Lynnfield. In addition, no advertisement, display or other promotional material which contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public way including, but not limited to, sidewalks, pedestrian walkways or highways.

#### *8.5.3.5 Zoning Bylaw Requirements*

The proposed Adult Use shall comply with all requirements of the Zoning Bylaws of the Town of Lynnfield for the district proposed for location of such Adult Use.

## 8.6 Assisted Living Residence *s.T.M. October 19, 1998*

### 8.6.1 Purpose and Intent.

The purpose of this section is to promote the availability of services for elderly or disabled persons in a residential environment and to recognize that assisted living residences are an important part of the spectrum of living alternatives for the elderly. Assisted living residences must be operated and regulated as residential environments with supportive services and not as medical or nursing facilities. Assisted living residences are certified by the Commonwealth of Massachusetts Executive Office of Elder Affairs under the provisions and requirements of MGL Chapter 19D (Chapter 354 of the Acts of 1994).

### 8.6.2 Definitions

Assisted Living A special combination of housing, personalized supportive services, and health care designed to respond to the individual needs of those who need help in activities of daily living. Care is provided in a way that promotes maximum independence and dignity for each resident and encourages the involvement of a resident's family, neighbors and friends. It is intended as an alternative to unnecessary and costly institutionalization for those elders who cannot or choose not to live alone but do not need the skilled medical care provided by a nursing home. Facilities shall provide a range of supportive services including, but not limited to, 3 meals a day, housekeeping services, laundry, 24-hour security and staffing, maintenance and repairs, utilities, emergency call systems in each living unit, health, exercise and recreational programs, medication management, transportation, assistance with activities of daily living such as eating, bathing, dressing, grooming and walking.

An Assisted Living Residence Any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria: (1) provides room and board; and (2) provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their care provided; and (3) collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same. This definition shall be in accordance with MGL Chapter 19D.

### 8.6.3 Special Permit

#### 8.6.3.1 Authority

No assisted living residence shall be allowed except by a Special Permit granted by the Board of Appeals in accordance with the requirements of Site Plan Approval of the Zoning Bylaws. Said Board may impose such conditions as it deems appropriate for the protection of public health, safety, and welfare in any district permitting such use.

### 8.6.3.2 *Number of Residents*

Said Special Permit may be granted for an Assisted Living Residence which shall provide for a maximum of twelve (12) residents on contiguous land located within any residential zone or a maximum of one hundred (100) residents on contiguous land located within the Commercial District. S.T.M. 10/20/03

### 8.6.3.3 *Location*

- (a) By Special Permit, an Assisted Living Residence may be located within any of the residential zones (RA, RB, RC, or RD) provided that said Residence shall comply with all of the following conditions:

1. All side yard, rear yard, and setback provisions shall apply for the particular zone.

2. The Residence shall be situated on contiguous land. In Single Residence Districts A, B, C, and D, and in tracts of land which otherwise qualify for "Green Belt Zoning" under the Bylaw, land which lies within a Flood Plain District or a Wetlands as defined in G. L. C. 131 S40, as amended, shall not be used to meet the minimum area required for lots in each of such districts. The minimum area required shall be the sum of (a) 10,000 square feet for each unit (including staff or caretaker unit), (b) 2,500 square feet per unit for parking and accessory needs, and (c) ten percent (10%) of the sum of (a) and (b).

- (b) By Special Permit an Assisting Living Residence may be located within the Commercial District provided that such Residence shall comply with all of the following conditions:

a. All side yard, rear yard, and setback provisions shall apply for that zone.

b. The Residence shall be situated on contiguous land. The minimum area required for such Residence in a Commercial District shall be the sum of (a) 1,000 square feet for each unit (including staff or caretaker unit); (b) 250 square feet per unit for parking and accessory needs and (c) ten percent (10%) of the sum of (a) and (b)."

S.T.M. 10/20/03

At its discretion, the Board of Appeals shall have the authority to review and approve all aspects of the site plan presented, including, but not limited to, parking, traffic, signage, landscaping, structural design, septic system, drainage, and maintenance of the integrity of abutting properties. All approvals shall be granted in a manner calculated to maintain a residential environment which will blend comfortably with the surrounding area.

**8.7 MEDICAL MARIJUANA A.T.M. APRIL 28, 2014**

This bylaw applies to Registered Marijuana in Dispensaries within the Town of Lynnfield including all like or related businesses and facilities.

**8.7.1 Purpose and Intent Special Permit**

The Town adopts this bylaw to apply to all Registered Marijuana Dispensaries and like or related operations in the Town as permitted under the laws of the Commonwealth of Massachusetts. The purpose of this bylaw is to protect the health, safety, and welfare of the residents, businesses, and property owners in the Town. Further, the purpose of this bylaw is to provide areas within the Town for the cultivation, production, and distribution of marijuana so that persons permitted to obtain, possess, and use marijuana for medical purposes may do so. Nothing in this bylaw is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law.

**8.7.2 Location**

8.7.2.1 By Special Permit, a Registered Marijuana Dispensary may be located within the Commercial District within the Town, and only within the Commercial District.

8.7.2.2 A separate Special Permit shall be required for each premise from which a Registered Marijuana Dispensary is operated. No two or more different Registered Marijuana Dispensaries may be treated as one premises nor may they be co-located on a single premises

8.7.2.3 A Registered Marijuana Dispensary shall not be located within 1000 feet of any school, church, licensed childcare center, playground, place of worship, or any other Registered Marijuana Dispensary.

8.7.2.4 No Registered Marijuana Dispensary shall be located within the same premises as any medical doctor's office or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.

8.7.2.5 Any and all cultivation, production, storage, display, sales, or other distribution of marijuana shall be located so as to occur only within the Restricted Area of a Registered Marijuana Dispensary and shall not be visible from the exterior of the business.

**8.7. 3 Definitions**

Special Permit Granting Authority means the Town of Lynnfield Planning Board.

#### 8.7.4 Special Permit

##### 8.7.4.1 Authority

No operation of a Registered Marijuana Dispensary within the Town shall be allowed without a Special Permit granted by the Planning Board.

#### 8.7.5 Approval Requirements

8.7.5.1 The Planning Board may issue a Special Permit for a Registered Marijuana Dispensary if the information available to the Planning Board verifies that the applicant has submitted a full and complete application, has planned improvements to the business location consistent with the application, is prepared to operate the business as set forth in the application and in accordance with Town Bylaws and has submitted the required fees as required. The Planning Board shall deny any application for a Special Permit where the applicant does not meet the requirements of Town Bylaws or any other applicable law, rule, or regulation or in the event that such application contains any false or incomplete information. The Planning Board may impose such conditions as it deems appropriate for the protection of public health, safety, and welfare in any district permitting such use. Said Special permit shall only be issued following a public hearing within sixty-five (65) days after the filing of an application and payment of the filing fees with the Planning Board, a copy of such application shall forthwith be given to the Town Clerk by the applicant.

8.7.5.2 A Special Permit for a Registered Marijuana Dispensary is not transferable or assignable, including, without limitation, not transferable or assignable to a different premises, to a different type of business (including another RMD), or to a different owner or licensee. A Registered Marijuana Dispensary Special Permit is valid only for the owner(s) named thereon, the type of business disclosed on the application for the license, and the location for which the license is issued.

#### 8.7.6 Application

8.7.6.1 An application for a Special Permit for a Registered Marijuana Dispensary shall be made to the Planning Board with an application fee of One Thousand Five Hundred (\$1,500.00) Dollars. The Board may provide forms to applicants for that purpose. The application shall provide such information relative to the public health, safety, and welfare as may be required by the Planning Board including, but not limited to such matters as:

- (a) the identity of all investors, owners, officers, and employees of the applicant;
- (b) the applicant's past history and experience operating Registered Marijuana Dispensaries, including history of license or permit denials;
- (c) a description of all products and services to be provided;

- (d) an operating plan and a site plan for the proposed facility, including building layout, lighting, and security;
- (e) a ventilation plan for the elimination of marijuana odors off premises;
- (f) a written plan for wastewater disposal accompanied by a site plan describing the treatment of wastewater so as to prevent environmental harm;
- (g) a plan for the storage and disposal of all toxic substances on the premises;
- (h) a plan for the exclusion of minors from the premises if unaccompanied by an adult;
- (i) a statement as to the amount of the projected daily average and peak electric load anticipated and certification by a qualified engineer that the premises are equipped to provide such electric loads.
- (j) a plan by a Registered Land Surveyor to show within a radius of one thousand (1,000) feet from the boundaries of the property upon which the Registered Marijuana Dispensary is located, the proximity of the property to any school, church, licensed child care center, playground, place of worship, every other Registered Marijuana Dispensary, every residential zone district, and other facility identified in this bylaw, or to a mixed -use development containing one or more residences.
- (k) a copy of the applicant's completed state RMD registration application in its entirety and a copy of the applicant's state RMD registration.
- (l) proof of ownership or legal possession of the restricted area for a Registered Marijuana Dispensary for the term of the proposed license. The applicant shall provide on a form approved by the Town, written authorization to the Town of the owner and the applicant to enter the property for inspection of the premises.

#### 8.7.7 Exclusions

8.7.7.1 The permitting requirement set forth in this bylaw shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, a retail sales and use tax license, a retail food establishment license, or any applicable zoning or building permit.

8.7.7.2 A Special Permit granted under this bylaw Does Not Provide any Exception, Defense, or Immunity from Other Laws. The issuance of any Special Permit pursuant to this bylaw does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, or possession of marijuana.

8.7.7.3 Compliance with the requirements of this bylaw shall not provide an exception, immunity, or defense to criminal prosecution under any applicable law, except for a violation of this bylaw.

#### 8.7.8 Annual Renewal

8.7.8.1 A Registered Marijuana Dispensary Special Permit shall be valid for one year. The Special Permit shall expire on the date stated on the license unless otherwise provided by the Planning Board. The Planning Board may extend the term of the license for no more than six months to facilitate the administration by the Planning Board of renewals and coordinate with the date for renewal of the state license of such licensee.

8.7.8.2 The Special Permit must be renewed annually by application on a form provided by the Planning Board requiring the Special Permit holder to confirm the status of information provided in its original application and all renewals thereof.

8.7.8.3 The application for renewal need not be considered unless the renewal application fee of One Thousand Five Hundred (\$1,500.00) Dollars has been paid in full.

8.7.8.4 The licensee shall apply for renewal of the medical marijuana business license at least ninety (90) days before the expiration of the license. The licensee shall apply for renewal using forms provided by the Planning Board.

8.7.8.5 In the event there has been a change to any information provided in the immediately prior application and if there has been any change to any of the plans identified in the license application which were submitted to and approved by the Planning Board with the application or an earlier renewal, the renewal application shall include specifics of such changes or proposed changes.

8.7.8.6 The renewal application shall include a copy of the applicant's current and valid state registration, a summary report for the previous twelve months showing the amount of marijuana purchased; the amount of marijuana sold, the forms in which marijuana was sold; the police report numbers or case numbers of all police calls to the RMD and its related facilities; and, for calls resulting in a charge of a violation of any law, the charge, case number, and disposition of any of the charges.

8.7.8.7 In the event there have been allegations of violations of this bylaw or any other law on the part of the Special Permit holder or the person submitting a renewal application, the Planning Board may hold a hearing prior to approving the renewal application. The hearing shall be to determine whether the application complies with this bylaw and whether the operation of the business has been in compliance with law. If the Planning Board does not hold a hearing and the application and the applicant(s) does not meet the requirements of all applicable rules, regulations, bylaws, and laws, or the business has been operated in the past in violation of any applicable rules, regulations, bylaws and laws, the renewal application may be denied or issued with conditions.

#### 8.7.9 Severability

The provisions of this bylaw are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining shall not be affected.



## 8.8 SITING OF RADIO TELECOMMUNICATIONS FACILITIES *S.T.M. Oct. 20, 2014*

### 8.8.1 Preface

Although not a regulating part of the Section the preface serves to illustrate the limitations that the Town must operate under when reviewing an application.

The Federal Telecommunications Act of 1996, 47 U.S.C. § 332 (the "TCA") significantly limits the ability of state and local authority to apply zoning regulations to wireless telecommunications.

Under the TCA, the power of local governmental authorities to regulate the placement, construction and modification of personal wireless services is tempered by the proviso that such regulation shall neither discriminate among providers of personal wireless service nor prohibit, or have the effect of prohibiting, the provision of personal wireless service. For example the denial of an individual permit could amount to a prohibition of service if the service could only be provided from a particular site.

The TCA does grant local authorities the first say in determining where and how to construct personal wireless services provided that said review is acted upon "within a reasonable period of time" 47 U.S.C. § 332(7)(B)(ii). However, if a local authority's actions violate the provisions of the TCA or denies a request the court has the authority to grant the wireless provider its original request, 47 U.S.C. § 332(7) (B) (iii).

The TCA closed the door on any Radio Frequency emissions arguments; no local government may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC regulations, 47 U.S.C. § 332(7)(B)(iv).

The Middle Class Tax Relief and Job Creation Act of 2012, section 6409, states that local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

### 8.8.2 Purpose

The purpose of the Bylaw is to establish general guidelines for the siting of Radio Telecommunication Facilities, (RTF). The goal of the Bylaw is,

1. To enable RTFs to benefit the people of Lynnfield.
2. To minimize the total number of RTF towers throughout the community.
3. To ensure that the benefits of RTFs outweigh potential detrimental impacts on the Town's scenic and historic assets, safety, health, environment, general welfare, values and quality of life.
4. To make all RTF locations available for local municipal agencies use where feasible.

- 5. To encourage the location of Personal Wireless Service Facility (PWSF) towers on municipal, general business, commercial, or limited industrial zoned land.
- 6. To encourage owners of PWSF towers to locate them, to the extent possible, in areas where the adverse impacts on adjacent properties of the community is minimal.
- 7. To require, when technically possible, the co-location of new and existing PWSFs.

8.8.3 Scope of Authority:

Pursuant to the purposes stated in the Zoning Bylaw the Town will exercise its bylaw authority within the following scope:

To ensure that RTF’s comply with local, state and federal regulations.

To ensure that the location, height and design of RTFs are subject to a public review process.

8.8.4 Special Permit Granting Authority (SPGA)

The Special Permit Granting Authority (SPGA) shall be the Zoning Board of Appeals (the "Board").

8.8.4.1 Location

The Siting of RTF’s is applicable to all zoning districts throughout the Town.

8.8.5 Personal Wireless Service Facilities (PWSFs)

8.8.5.1 Applicability

A PWSF may be erected, installed or modified upon issuance of a special permit in compliance with the provisions of the bylaw, whether the PWSF is considered a principal use or an accessory use.

8.8.5.2 Exemptions

- 1. A PWSF is exempt from the special permit requirement if it is an Indoor RTF, including but not limited to internet-connected “femtocells,” distributed antenna systems, and bi-directional amplification systems.
- 2. An Eligible Facilities Request for a modification is exempt, however an updated Site Plan shall be required by the SPGA
- 3. Antennae and directly related facilities used exclusively for communication for the purpose of federally licensed amateur radio operators shall be exempt.

8.8.5.3 PWSF Preference Installation Types

The following list of PWSF Installation Types is presented in order of preference hence forming a hierarchy structure.

8.8.5.3.1 First Preference Type (highest)

PWSF located on existing conforming structures, as permitted in the underlying districts. Provided however that said structure appears to be what it would be if not PWSF installation. Panels, antennae and associated equipment may be approved as accessory uses. The intent of the First Preference Type is to allow such facilities to be located in or on structures appropriately screened and/or camouflaged pursuant to this Section 8.8. When possible the facility shall be mounted inside an existing structure, modification of a structure may be permitted.

For example, but not limited to, a church steeple with is 20 feet in height then rises 50 feet as a thin spiral tube (antenna), would be considered an acceptable permitted structure, it is an attempt to skirt around the Section.

#### 8.8.5.3.2 Second Preference Type

The following PWSF Installation Types are of equal preference to one another, and collectively are subordinate to the First Preference:

**Collocation:** A PWSF may employ Site-Sharing with an existing PWSF or Collocate on an existing structure, to the extent that such is found by the SPGA to be consistent with the purposes and standards established in the bylaw.

**Existing Utility Infrastructure:** A PWSF may collocate on existing utility infrastructure such as transmission lines, utility poles or streetlights using unobtrusive architectures such as Distributed Antenna Systems (DAS). With respect to the use of utility poles, collocation on existing utility poles (and replacements thereof) is preferred above the installation of new utility poles in public ways. In neighborhoods with underground utilities, pole-mounted PWSF on existing utility infrastructure are discouraged in favor of less visually obtrusive alternatives, such as placing a small antenna installation on existing utility poles on a nearby street.

**Other Implementations:** A PWSF may be located using innovative alternatives that are in keeping with the purpose and intent of the Bylaw provided the SPGA determines that such is an acceptable second preference and does not rise to a Third Preference.

#### 8.8.5.3.3 Third Preference Type:

**Antenna Tower:** A PWSF which requires the construction of a new Antenna Tower are least on the order of preference. When nothing else meets the needs specified by the Telecommunications Act of 1996 only free standing monopoles, with associated antennae and/or panels, shall be allowed as specified below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed.

#### 8.8.5.3.4 Waiver of Preferences

The SPGA may waive the preference orders designated for siting and types of PWSF pursuant to Other Implementations upon a written finding that the siting at a location of lesser preference, or the installation of a PWSF type of lesser preference, would achieve a similar coverage result consistent with the purposes of the bylaw.

#### 8.8.5.4 *General*

##### 8.8.5.4.1 Use.

PWSFs shall only be employed for the purpose of delivering PWS to subscriber devices or supporting public safety communications, and shall not be used for storage, office, manufacturing, repair, or other activities, unless separately permitted in the underlying district.

PWSF which includes, but are not limited to, monopoles, satellite dish (es) over three (3) feet in diameter or antenna, shall only be erected or installed if in compliance with the provisions as set forth herein.

Whenever possible, PWSF shall be located in non-residential zoning districts and shall be suitably screened from abutting and residential neighborhoods.

Any proposed construction of a replacement PWSF facility that substantially changes the physical dimensions, such as but not limited to an extension in the height, shall be subject to a new application for a permit.

An undertaking shall be required, secured by a BOND appropriate in form and amount for removal of the PWSF within 6 months of cessation of operation of said facility or such other activity which may be appropriate to prevent the structures from becoming a nuisance or aesthetic blight.

##### 8.8.5.4.2 Demonstration of Need.

Needs are relative to the Town of Lynnfield's geographic area and 0.25 miles outside the Town limits, "Coverage Area".

**Need for Service.** The Applicant must demonstrate the service objectives in Lynnfield that the proposed PWSF will address in whole or in part. Such demonstration shall include:

- a. written evidence including technical documentation demonstrating that there is a substantial deficiency in the Applicant's provision of service to Lynnfield, a coverage gap.
- b. detailed information about all existing and pending PWSFs and their associated coverage maps;
- c. information about terrain, vegetation and land use within the proposed coverage area that results in the deficiency;
- d. network performance factors; and
- e. other information relevant to the Applicant's service objectives, or as may be required by the SPGA.

**Need for Location.** The Applicant must provide substantial written evidence including documentation showing how the improved service could not be substantially provided by

utilizing one or more locations of higher preference as described in Section “PWSF Installation Types” or, alternatively, as described in Section “PWSF Installation Types - Waiver of Preferences”

Additionally for a “Third Preference Type” the following information shall be prepared by one or more professional engineers for the Coverage Area.

(a) Describe the capacity of the facility, the number and type of panels, antenna and/or transmitter /receivers that it can accommodate and the basis for these calculations. The applicant shall provide information concerning the foreseeable industry growth needs for the facility's use for the succeeding ten (10) years.

(b) Demonstrate that no existing facility can accommodate the applicants proposed facility. Evidence submitted to demonstrate such shall consist of the following:

(i) No existing facility is located within the coverage area, which can meet the applicant's engineering requirements.

(ii) Existing facilities are not of sufficient height to meet the applicant's engineering requirements.

(iii) Existing facilities do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

(iv) Fees, costs, or contractual provisions required by an owner in order to share an existing facility or to adapt an existing facility for sharing are determined to be unreasonable. The total cost to construct a new independent facility, which meets the requirements of the section, is presumed to be unreasonable.

(v) Other limiting factors that render existing facilities unsuitable.

(c) Provide an alternative analysis that considers the tradeoffs between Preference Types, location, height, capacity, number, separations, and economic factors of the proposed facility.

(e) Provide an inventory of existing facilities that are within the coverage area. Said inventory shall include information about the location, height, design, and capacity of each facility.

(f) Co-location PWSF shall be designed to accommodate the maximum number of providers technologically practical and such maximum number specified. The intent of the requirement is to reduce the number of antennas, which will be required to be located within the coverage area.

#### **8.8.5.4.3 Availability of Alternatives**

The SPGA may require the Applicant to consider specific potential alternatives at any level of the hierarchy in Section “PWSF Installation Types” if the SPGA determines that such locations may better achieve the purposes established in the bylaw.

**8.8.5.4.4 Height and Setbacks**

Height of an Antenna Tower & Antenna shall be measured from ground level at the base of that item regardless of location of base.

**PWSF Non-Residential.**

PWSFs in PWSF Non-Residential locations may exceed the height limit of the underlying district, whether attached to existing structures or mounted on new Antenna Towers, subject to the following criteria:

**Non Residential Height.**

1. New Antenna Towers in PWSF Non-Residential locations are limited to the minimum height necessary to accommodate the anticipated and future use but in no case above 100 feet in height.
2. Subject to the following findings, and such findings as required for issuance of a waiver pursuant to Section PWSF Preference Installation Types - Waiver of Preferences, the SPGA may approve a PWSF Antenna Tower at a height up to 150 feet in height upon a written finding that:

Such greater height is more consistent with the purposes established by the bylaw than lesser height;

The PWSF Antenna Tower is at least 1.5 times its height from the nearest residential property line;

The PWSF Antenna Tower is at least 1.0 times its height from the property line of the parcel it resides upon; and

The PWSF is screened from view to residential buildings, public or private ways, and public or private conservation land by existing terrain, vegetation, camouflage and/or development.

**Non-Residential Setbacks.**

1. PWSFs must satisfy the property line setbacks of the underlying district.
2. PWSF Antenna Towers that are greater than the height limit of the underlying district shall be set back from all parcels in residential districts by a minimum of 1.5 times the height, including appurtenances.
3. On existing structures, PWSF Antenna Towers that are greater than 15 feet above the height of the structure shall be set back from all parcels in residential districts by a factor of 1.5 times the height, including appurtenances.

**PWSF Residential:**

PWSFs in PWSF Residential locations may exceed the height limit of the underlying district, whether attached to existing structures or mounted on new Antenna Towers, subject to the following criteria:

**Residential Height.**

1. New Antenna Towers in PWSF Residential locations are limited to:  
Sixty feet above ground in areas where there is no significant tree cover; or  
Ten feet above the average existing tree cover within a 150 foot radius; or  
such lesser height that the SPGA finds is appropriate for the site of the PWSF based on the purposes and standards established in the bylaw.
2. Subject to the following findings, and such findings as required for issuance of a waiver pursuant to Section PWSF Preference Installation Types - Waiver of Preferences, the SPGA may approve a PWSF Antenna Tower at a height of between 60 feet and 150 feet upon a finding that:  
The location of the Antenna Tower is visually remote from surrounding residential uses; and  
such height increase is consistent with the purposes and standards established in the bylaw.

**Residential Setbacks.**

1. PWSFs must satisfy the property line setbacks of the underlying district.
2. PWSF Antenna Towers that are greater than the height limit of the underlying district shall be set back from all parcels in residential districts by a factor of 1.5 times the height above ground of the Antenna Tower, including appurtenances.
3. On existing structures, PWSF Antenna Towers that are greater than 12 feet above the height of the structure shall be set back from all parcels in residential districts by a factor of 1.5 times the height above ground of the tower, including appurtenances.

**Additional Required Setbacks.**

In all districts, PWSFs shall be placed no closer than 3 times the height of the Antenna Tower to an existing Dwelling, School, Child Care Facility, Nursing or Convalescent Home, or an Assisted Living Facility.

**8.8.5.4.5 Special Permits Criteria.**

In addition to the standards of this Section the SPGA shall review the Special Permit application for compliance with the Zoning Bylaw Section "Site Plan Approval" which is part of the required application material.

**8.8.5.5 Application Procedures.**

The Application Phase of the process begins with the receipt by the SPGA of a complete application including all material required by the Zoning Bylaw and any applicable regulations.

**Timing.**

The application procedures for a Special Permit or for those only requiring a Site Plan shall follow the procedures as specified in MGL c40A s9

**Completeness Review.**

Within 30 days of receipt, the SPGA or its designee shall review the application for consistency and completeness with respect to the Application Requirements in the bylaw and any applicable the regulations and shall notify the Applicant in writing of any deficiency in the completeness of the application.

**Final Action.**

The SPGA shall take regulatory notice of the Federal Communications Commission (FCC) presumption that the final action of the SPGA on a new Antenna Tower should take no more than 150 days from the date of receipt of the completed application, and that final action on a Collocation or Site Sharing application should take no more than 90 days from the date of receipt of the completed application except upon written extension of these timelines by mutual agreement between the SPGA and the Applicant.

**Modification to Existing PWSF.**

A modification of an existing Special Permit and/or a new Special Permit is required for any change in the facility that would be visible from an adjacent property boundary, including but not limited to an increase in height, bulk, surface area presented to one or more viewpoints, size or quantity of any exterior elements of an individually permitted PWSF, including without limitation, additions or changes to outdoor equipment or antennas. Said modifications are exclusive of those classified under an Eligible Facilities Request.

**Site Plan Review**

Nothing in this section is intended to exempt PWSF from the requirement to receive Site Plan Approval as described elsewhere in the Zoning Bylaw.

**Consultant Review**

When considering an application, new or modification, for a PWSF, the SPGA may determine the need for the assistance of a consultant expert in matters involving the placement (which includes coverage area), construction, and/or modification of PWSFs to review applicants compliance with ALL requirements of the Zoning Bylaw and the Telecommunications Act of 1996, at the Applicant's expense pursuant to G.L. c. 44 s. 53G. To make the most productive use of the limited time authorized by the FCC to hear the application, the SPGA may at its discretion engage a consultant immediately upon receipt of an application.

**8.8.5.6 Decision**

The Decision along with the applicable site plan shall be in writing and dated. A copy of all material shall also be filed with the Zoning Enforcement Officer.

The Special Permit shall lapse within two (2) years unless substantial use or construction has commenced as specified in MGL c40A s9.



**8.8.5.6.1 Required Findings.**

To approve a Special Permit for a PWSF, the SPGA must make the following findings:

Note; some findings may require certification by an appropriate engineer with verification from the SPGA' Consultant.

1. That the Applicant or co-Applicant has:
  - a. demonstrated that it has sufficient leasehold or other legal interest in the proposed site to construct the PWSF;
  - b. provided a written assent to the Town that the Applicant will allow Site-Sharing, to the extent reasonably practicable in a nondiscriminatory manner;
2. That the proposed PWSF (with conditions, if applicable):
  - a. is compatible with Lynnfield's character and is designed and screened in a manner that is sensitive to the surrounding neighborhood as well as the community at large;
  - b. protects adjacent properties from unreasonable risks of PWSFs, to the extent permitted by law, including without limitation excessive noise levels, falling objects, fuel spills, and attractive nuisance;
  - c. if the proposed PWSF will Site-Share with an existing PWSF(s), that such Site Sharing is found by the SPGA to be consistent with the purposes established in this bylaw;
  - d. conforms with the PWSF Location and PWSF Installation preferences of Section "PWSF Preference Installation Types" to conform with the purposes established in the bylaw;
  - e. if proposed as a new Antenna Tower, the Applicant has documented that no combination of one or more alternative Collocations and/or Site Sharing can:
    1. substantially satisfy the Applicant's coverage objectives; and
    2. present a substantially less detrimental impact on Lynnfield;and documented that a higher Preference Type can not satisfy the Applicant's coverage.
  - f. satisfies the Purposes established by the Zoning Bylaw and, without limitation, the specific requirements and guidelines established in the bylaw; and if applicable, that:
    1. Existing vegetation will be preserved or improved, and disturbance of the existing topography has been minimized; or

2. Proposed manipulation of vegetation and disturbance of topography results in a lesser visual impact.

#### 8.8.5.6.2 Form of Decision

The SPGA may approve, approve with conditions, or deny an application. The Decision of the SPGA shall be timely, in writing, and based upon substantial evidence in the written record.

##### Approval

Any approved Special Permit shall authorize specific PWS provider(s) and specific wireless service(s) to be operated by the Applicant(s) at the Antenna height(s) or positions specified in the application or approval document.

##### Approval with Conditions

The SPGA may impose conditions as deemed necessary to protect the interests of the neighborhood in which a PWSF is located.

Every Permit shall be conditioned upon a requirement that the PWSF owner shall make available to a number of other telecommunications companies use of the facility equal to the number determined to be the maximum number technologically practical under Section “Co-location” on commercially reasonable rates and terms, which take into consideration the cost of the facility. The proposed rates and terms shall show plainly all requisite detail fully to explain the basis of such charges and terms; in the event of disagreement between the Permit holder and the proposed lessee, the matter shall be submitted for resolution to the Massachusetts Department of Energy and Telecommunications ("DTE") pursuant to 220 CMR 5.00, as amended, and any other applicable law and compliance with the decision of the DTE shall be compliance with this provision of this Bylaw.

For any condition that the SPGA establishes with reporting or monitoring requirements, including without limitation noise or radio frequency emissions, the SPGA shall seek the advice of an expert in the relevant field pursuant to Section “Consultant Review” to identify the least burdensome protocol that is consistent with a legitimate public purpose identified by the SPGA.

##### Denial

Any denial shall be in writing and supported by substantial evidence

A denial if the petitioner does not fulfill or address the requirements of these regulations to the satisfaction of the Board may also be cause.

#### 8.8.5.6.3 Waivers

The SPGA may at its discretion authorize waivers in the Special Permit Approval with respect to the order of “Preference Types” and any dimensional or other requirements of Section “Height and Setbacks” upon a written finding that such waiver will achieve better results consistent with the purposes and standards established in this Section “Personal Wireless Service Facilities (PWSFs)”

#### 8.8.5.6.4 Removal of Abandoned Antenna Towers and PWSFs.

Any PWSF Antenna Tower, PWSF Communications Device, or PWSF, that is not operated for a continuous period of six (6) months shall be considered abandoned.

The owner of said Antenna Tower, Communications Device, or PWSF shall remove same within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. If such Antenna Tower, Communications Device, or PWSF is not removed within said ninety (90) days, the Town may cause such to be removed at the joint and several expense of the owner and the owner of the lot on which such structure is located.

For a site with two or more users said removal is limited to the user(s) that are considered abandoned. Additionally for these multi user sites the height may be reduced to that required by the remaining user(s). If the permit holder for the tower ceases operation, the remaining users may be required to apply for a new Special Permit.

#### 8.8.6 Severability

Every provision of the section is intended to be severable, and the invalidity or illegality of any portion of said section shall not affect the validity or legality of the remainder hereof but shall remain in full force.

**9. OVERLAY DISTRICTS**

**9.1 FLOOD PLAIN DISTRICT**

**9.1.1 Purpose**

The purpose of this section, in addition to the purposes enumerated in the preamble to these zoning bylaws, is to provide that lands in the Town of Lynnfield subject to seasonal or periodic flooding as described herein shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof.

**9.1.2 Location** April 30, 2012

The Flood Plain District includes all special flood hazard areas within the Town of Lynnfield designated as Zone A and Zone AE on the Essex County Flood Insurance Rate Map ('FIRM') issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of Lynnfield are panel numbers:

- 25009C0383F,
- 25009C0387F,
- 25009C0389F,
- 25009C0391F,
- 25009C0392F,
- 25009C0393F,
- 25009C0394F, and
- 25009C0413F

dated July 3, 2012. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study ('FIS') report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

**9.1.3 Relationship to Other Districts**

All lands within the Flood Plain Districts are included in one or more of the other districts defined by this By-law. The permitted uses specified in "Permitted Uses in Flood Plain Districts" take precedence in areas so classified. If, however, an exception under "Uses Allowed by the Board of Appeals" is granted by the Board of Appeals then the permitted uses of the underlying zoning district shall govern.

**9.1.4 Permitted Uses in Flood Plain Districts**

In a Flood Plain District no building shall be erected, altered or used, and no premises shall be used except for one or more of the following uses:

- 1. Municipal recreation, public water supply, drainage or flood control use, orchard, truck garden, nursery, or similar open use of the land for raising of agricultural or horticultural

crops: and if authorized by the Board of Appeals, commercial golf course, or non-profit social, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business): and buildings and sheds accessory to any of the above uses, as long as such use is permitted in the underlying district in which the land is classified, but no dumping, filling, or earth transfer or relocation operation except for utility trenches, driveways, landscaping, accessory building foundations, or municipal or public facilities enumerated above.

2. Dwellings lawfully existing prior to the adoption of these provisions, but which shall not thereafter be enlarged or extended.

### **9.1.5** Uses Allowed by the Board of Appeals

If any land shown on the Zoning Map or defined in this By-Law as being in a Flood Plain District is proven by a Letter of Map Amendment issued by the Federal Emergency Management Agency (FEMA) to be in fact not subject to flooding or not unsuitable for human occupancy because of drainage and topographic conditions, and if the use of such land will not be detrimental to the public health, safety and welfare, the Board of Appeals may permit buildings for human occupancy on such land in accordance with the requirements of the underlying district after the necessary proof has been presented to and reported on by the Planning Board and the Board of Health.

A.T.M. 03/8/65; S.T.M. 10/17/93

### **9.1.6** Restrictions A.T.M. April 30, 2012

Notwithstanding any other provision of these Zoning Bylaws to the contrary, no building or structure shall be constructed and no dumping or filling shall be permitted in a floodway as shown on the FIRM except that new structures may be constructed or existing structures may be altered or repaired provided that such activities will improve the flood capacity of the floodway and provided that a special permit therefor is issued by the Board of Appeals. Under no circumstances shall any such special permit be issued, nor any construction or activity allowed anywhere in the District, that would be in violation of Paragraph 60.3(d) of the National Flood Insurance Program regulations, 44 CFR 60.3. The said paragraph is incorporated herein by reference, and a copy of it is on file with the Town Clerk.

**9.2 WETLAND BUFFER ZONE DISTRICT** A.T.M. April 24 & 27, 1989**9.2.1 Purpose**

The purpose of this section, in addition to the purposes enumerated in the preamble to these Zoning Bylaws, is to provide that lands in the Town of Lynnfield which are defined as a Wetland Buffer Zone herein shall not be used for residence for other purposes in such manner as to endanger the health and safety of the citizens of Lynnfield, public and/or private water supplies and ground water supplies, to prevent pollution and to preserve wetlands.

**9.2.2 Location**

The location of each Wetland Buffer Zone shall be (1) any area within the Town of Lynnfield defined as a “buffer zone” in the Commonwealth’s Wetland Protection Act as set forth in 310 CMR 10.00 as the same may be amended from time to time, together with (2) any area within the Town which is defined as a buffer zone in any Lynnfield Bylaw, as amended from time to time. The Wetland Buffer Zone shall be limited to the area of land extending 50 feet horizontally outward.

**9.2.3 Relationship to Districts**

All Wetland Buffer Zones are included in one or more of the other districts defined in this Bylaw. The permitted uses specified in “Permitted Uses in a Buffer Zone” take precedence in areas so classified. If, however, an exception under “Uses Allowed by the Board of Appeals” is granted by the Board of Appeals, then the permitted uses of the underlying zoning district shall govern.

**9.2.4 Permitted Uses In A Buffer Zone**

In a Wetland Buffer Zone, no building shall be erected, altered or used, and no premises shall be used except for one or more of the following uses:

1. Municipal recreation, public or private water supply, drainage or flood control uses, orchard, truck garden nursery, or similar open use of the land for raising of agricultural or horticultural crops, commercial golf course, residential garages and sheds, as long as such use is permitted in the underlying district in which the land is classified, and if authorized by the Board of Appeals, non-profit social, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business), but no dumping, filling or earth transfer, or relocation operation except for utility trenches, driveways, landscaping, accessory building foundations, or municipal or public facilities enumerated above.
2. Dwellings, or dwellings under construction, lawfully existing prior to the adoption of these provisions, shall be allowed to be enlarged or extended, and Accessory Uses permitted by the underlying Zoning District shall be allowed in conformity to the Section of this Zoning Bylaw entitled “Non-Conforming and Temporary Use.” S.T.M. 10/21/91

**9.2.5 Uses Allowed By the Board of Appeals**

If any land in the Town defined in this Bylaw as a Wetland Buffer Zone is proven, by reason of drainage or topographic conditions, to be in fact not detrimental to the purposes of this section, the Board of Appeals may permit buildings for human occupancy on such land in accordance with the requirements of the underlying district after the necessary proof has been presented by the petitioner to the Board of Health, the Planning Board, and the Conservation Commission, and their recommendations are received by the Board of Appeals. A.T.M. 04/24&27/89

### 9.3 GROUNDWATER PROTECTION DISTRICT *S.T.M. October 18, 1993*

#### 9.3.1 Purpose

1. to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Lynnfield:
2. to preserve and protect existing and potential sources of drinking water supplies:
3. to conserve the natural resources of the town and
4. to prevent temporary and permanent contamination of the environment.

#### 9.3.2 Scope of Authority

The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities or uses which fall within the Groundwater Protection District must comply with the requirements of this district as well as with the underlying zoning. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

#### 9.3.3 Definitions

For the purpose of this section the following words and phrases shall have the following meanings:

##### Acre

For the purposed of this section of the Bylaw relating to Groundwater Protection only, an acre shall be considered to be 40,000 square feet. *S.T.M. October 19, 2015*

#### 9.3.4 Establishment and Delineations of Groundwater Protection District

For the purpose of this district, there are hereby established within the Town certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on three maps. These maps are Entitled “Lynnfield Groundwater Protection District Zones 1, 2, 3 September 1, 1993”, “Lynnfield Groundwater Protection District Zones 1, 2, 3 Aug. 8, 1996” and “Additional Groundwater Protection District Lynnfield, MA August 25, 2009.” These maps are hereby incorporated by reference into the Town of Lynnfield Zoning Map. *S.T.M. October 12, 1996; S.T.M. October 19, 2009*

#### 9.3.5 District Boundary Disputes

If the location of a District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit Granting Authority (Zoning Board of Appeals). Any application for a special permit for this purpose shall be accompanied by adequate documentation. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. The ZBA may engage a professional



engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

### **9.3.6 Use Regulations**

In the Groundwater Protection District the following shall apply:

#### *9.3.6.1 Permitted Uses*

The following uses are permitted within the Groundwater Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

1. Conservation of soil, water, plants, and wildlife:
2. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted:
3. Foot, bicycle and/or horse paths, and bridges:
4. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, and conservation devices:
5. Maintenance, repair, and enlargement of any existing structure, subject to “Prohibited Uses” Section and “Special Permitted Uses” Section:
6. Residential development, subject to “Prohibited Uses” Sections and “Special Permitted Uses” Section:
7. Farming, gardening, nursery, conservation, forestry, and grazing, subject to “Prohibited Uses” Section and “Special Permitted Uses” Section:
8. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks related to these activities are not categorically permitted.

#### *9.3.6.2 Prohibited Uses*

The following uses are prohibited:

1. landfills and open dumps as defined in 310 CMR 19.006:
2. storage of liquid petroleum products, except the following:
  - a. normal household use, outdoor maintenance, and heating of a structure:
  - b. waste oil retention facilities required by statute, rule, or regulation:

- c. emergency generators required by statute, rule, or regulation:
  - d. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters:  
provided that storage of the petroleum product required for the uses listed under “a” through “d” above, is in a free standing container, above ground with secondary containment adequate to contain a spill equal to the capacity of the container plus 10%. The secondary containment must be covered and satisfactorily protected against intrusion by the elements.
3. land filling of sludge and septage as defined in 310 CMR 32.05:
  4. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31:
  5. individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design:
  6. storage of deicing chemicals, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate:
  7. storage of animal manure unless covered or contained:
  8. earth removal, consisting of the removal of soil, sand, gravel, or any other earth material (including mining activities) within 10 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works:
  9. facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00, except the following:
    - a. very small quantity of generators as defined under 310 CMR 30.00:
    - b. household hazardous waste collection centers and events under 310 CMR 30.390:
    - c. waste oil retention facilities required by MGL C. 21, S. 52A:
    - d. water rendition treatment works approved under 314 CMR 5.00
  10. automobile graveyards and junkyard, as defined in MGL C. 140B, S.1:

11. treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except the following:
  - a. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works:
  - b. the replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s):
  - c. treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater:
12. storage of liquid hazardous materials, as defined in MGL C. 21E, unless in a free standing container, above ground, with secondary containment adequate to contain a spill equal to the capacity of the container plus 10%. The secondary containment must be covered and satisfactorily protected against intrusion by the elements.
13. industrial and commercial uses which discharge process wastewater on-site:
14. stocking and disposal of snow and ice containing deicing chemicals if brought in from outside the district:
15. storage of commercial fertilizer and soil conditioners, as defined in MGL C. 128, S.64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate:
16. the use of septic system cleaners which contain toxic or hazardous chemicals:

#### *9.3.6.3 Uses and Activities Requiring a Special Permit*

The following uses and activities are permitted only upon the issuance of a Special Permit under such conditions as the Special Granting Authority may require:

1. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under "Prohibited Uses" Section). Such activities shall require a special permit to prevent contamination of groundwater:
2. any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate

removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

### 9.3.7 Procedures for Issuance of Special Permit

1. The Special Permit Granting Authority under this “Groundwater Protection District” shall be the Zoning Board of Appeals (“ZBA”). Such special permit shall be granted if ZBA determines, in conjunction with the Board of Health, the Conservation Commission, Department of Public Works, and Planning Board that the intent of this Bylaw, as well as its specific criteria, are met. The ZBA shall not grant a special permit under this section unless the petitioner’s application materials include, in detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The ZBA shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.
2. Upon receipt of the special permit application, the ZBA shall, within 5 working days, transmit one copy to the Planning Board, Board of Health, the Conservation Commission, and the Department of Public Works for their written recommendations. Failure to respond within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.
3. The ZBA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 6 of this Bylaw, and any regulations or guidelines adopted by the ZBA. The proposed use must:
  - a. in no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District, and
  - b. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water related natural characteristics of the site to be developed.
4. The ZBA may adopt regulations to govern design features of the projects. Such regulations shall be consistent with subdivision regulations adopted by the Town.
5. The applicant shall file 6 copies of the site plan and attachments. The site plan shall be drawn at a proper scale as determined by the ZBA and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
  - a. a complete list of chemicals, pesticides, herbicides, fertilizer, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;

- b. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
    - i. provisions to protect against the discharge of hazardous materials or wastes to environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean up procedures:
    - ii. provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces:
    - iii. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00 including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
  - c. proposed down-gradient location(s) for groundwater monitoring well(s), should the ZBA deem the activity a potential groundwater threat.
6. The ZBA shall hold a hearing, in conformity with the provisions of MGL C. 40A, S.9, within 65 days after filing of application.

Notice of the public hearing shall be given by publication and posting and by first-class mailings to “parties of interest” as defined in MGL C. 40, S.11. The decision of the ZBA and any extension, modification, or renewal thereof shall be filed with the ZBA and Town Clerk within 90 days following the closing of the public hearing. Failure of the ZBA to act within 90 days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by said S.11. The Town Clerk shall forward copies of all filings received from the ZBA forthwith to the Planning Board, Conservation Commission, and the Board of Health.

7. Written notice of any violations of Section 3C shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Department of Public Works, and The Lynnfield Center Water District or its successor. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Town of Lynnfield, the Building Inspector, the Board of

Health, or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Lynnfield, the Board of Health, or any of their agents, if authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

### **9.3.8 Severability**

A determination that any portion or provisions of this overlay protection district is invalid shall not invalidate any other portioner provision thereof, nor shall it invalidate any special permit previously issued thereunder. S.T.M. 10/18/93

## 9.4

9.5 PLANNED VILLAGE DEVELOPMENT DISTRICT (the "PVDD") (APRIL 30, 2007)

## 9.5.1 Purposes

The purposes of the PVDD are:

- (a) To implement the objectives of the Lynnfield Master Plan (2002), which identified the area within the PVDD for mixed-use development.
- (b) To promote mixed-use and economic development in a form that is safe, pedestrian friendly and meets the objectives of "smart growth" pursuant to Mass. Gen. Laws Ch. 40R.
- (c) To preserve significant open space for recreational use as identified in the Lynnfield Master Plan (2002).
- (d) To ensure high quality site planning, architecture and landscape design that enhances the distinct visual character and identity of Lynnfield and provides an environment with safety, convenience and appropriate amenities.
- (e) To provide for a diversified housing stock within Lynnfield, including affordable housing and housing types that meet the needs of the Town's population, all as identified in the Lynnfield Master Plan (2002) and the Lynnfield Affordable Housing Plan (2006).
- (f) To generate positive tax revenue, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.

## 9.5.2 Authority and Applicability

The PVDD is established pursuant to the authority of Mass. Gen. Laws Ch. 40R and 760 CMR 59.00. At the option of the Applicant, development of land within the PVDD may be undertaken by means of a Site Plan Approval pursuant to the zoning controls set forth in this Section 9.5, or by complying with all applicable Underlying Zoning controls set forth in the Zoning Bylaw of the Town of Lynnfield. Notwithstanding anything to the contrary in the Zoning Bylaw, Development Projects proceeding under this Section 9.5 shall be governed solely by the provisions of this Section 9.5 and the standards and/or procedures of the Underlying Zoning shall not apply. Development Projects proposed pursuant to this Section 9.5 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.

#### 9.5.3 Establishment and Delineation of PVDD and Sub-Districts

The PVDD is an overlay district that is superimposed over the underlying zoning district. Within the PVDD, there are two Sub-Districts identified as (1) Multi-Family Residential Sub-District, and (2) the Traditional Neighborhood Village Sub-District. The boundaries of the PVDD and the Sub-Districts are delineated as the “Planned Village Development District ‘PVDD’ and Sub-Districts” on the Zoning District Map of the Town of Lynnfield on file in the office of the Town Clerk, said map hereby made a part of the Zoning Bylaw.

#### 9.5.4 Definitions

As used in this Section 9.5, the following terms shall have the meanings set forth below:

**ADMINISTERING AGENCY** – An organization designated by the Lynnfield Board of Selectmen, which may be the Lynnfield Housing Authority or other qualified housing entity, with the power to monitor and to enforce compliance with the provisions of this Bylaw related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the PVDD.

**AFFORDABLE UNIT** - An Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household.

**AFFORDABLE HOUSING RESTRICTION** – A deed restriction of an Affordable Homeownership Unit meeting statutory requirements in Mass. Gen. Laws Ch.184 § 31 and the requirements of Section 9.5.11 of this Bylaw.

**AFFORDABLE RENTAL UNIT** – A Dwelling Unit required to be rented to an Eligible Household in accordance with the requirements of Section 9.5.11 of this Bylaw.

**AFFORDABLE HOMEOWNERSHIP UNIT** – A Dwelling Unit required to be sold to an Eligible Household in accordance with the requirements of Section 9.5.11 of this Bylaw.

**APPLICANT** – A landowner or other petitioner who files a site plan for a Development Project subject to the provisions of this Bylaw.

**APPLICATION** – A petition for Site Plan Approval filed with the Approving Authority by an Applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to Section 9.5.12.



**APPROVING AUTHORITY** – The Planning Board of the Town of Lynnfield acting as the authority designated to review projects and issue approvals under this Section 9.5.

**AS-OF-RIGHT DEVELOPMENT** - A Development Project allowable under this Section 9.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this Section 9.5 shall be considered an As-of-Right Development.

**BASEMENT** - The lowest floor level of a building which is either fully or partially below grade, whether or not fully enclosed.

**CINEMA** - A theater designed and constructed for the primary intended purpose of showing films or movies for a fee.

**CONSERVATION USE** - Any woodland, grassland, wetland, agricultural or horticultural use of land, any use of land for the construction and use of ponds or storm water management facilities.

**DEPARTMENT** – The Massachusetts Department of Housing and Community Development (DHCD) or any successor agency.

**DESIGN STANDARDS** – The document entitled Lynnfield 40R Planned Village Development District Design Standards, as amended, approved by DHCD on April 19, 2007, pursuant to M.G.L. Chapter 40R, Section 10. The Design Standards are applicable to all Development Projects within the PVDD that are subject to Site Plan Review by the Approving Authority.

**DEVELOPABLE LAND** – All land within the PVDD that can be feasibly developed into Development Projects. Developable Land shall not include: the rights-of-way of existing public streets and ways; or areas that are: (1) protected wetland resources (including buffer zones) under federal, state, or local laws; (2) land located within the FP Flood Plain Zoning District in the Town of Lynnfield and subject to seasonal or periodic flooding; or (3) rare species habitat designated under federal or state law. The foregoing definition shall be for purposes of calculating density under Section 9.5.7.2 and shall not limit development activities in such excluded areas if otherwise allowed by applicable law.

**DEVELOPMENT LOT** – One or more lots which are designated as a Development Lot on a site plan for a development proposed within the PVDD and for which Site Plan Approval is required under the provisions of this Section 9.5. The lots comprising a Development Lot need not be in the same ownership. Where the Development Lot consists of more than a single lot, the lots, in combination, shall be treated as the Development Lot, may be contiguous or non-contiguous and shall be considered as one lot for the purpose of calculating parking requirements and Dwelling Units per acre. Any development undertaken on a Development Lot is subject to the Design Standards established under Section 9.5.9 of this Bylaw.

**DEVELOPMENT PROJECT** – A residential or commercial development undertaken under this Section 9.5. A Development Project shall be identified on the Site Plan which is submitted to the Approving Authority for Site Plan Review.

**DWELLING UNIT** — One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit. The following types of Dwelling Units are specifically defined:

**MULTI-FAMILY DWELLING UNITS** – A residential building containing four or more Dwelling Units designed for occupancy by the same number of families as the number of Dwelling Units; and

**TWO-THREE FAMILY UNITS** – A residential building containing two or three Dwelling Units and where the individual Dwelling Units are not located on separate lots.

**ELIGIBLE HOUSEHOLD** – An individual or household whose annual income is at or below eighty percent (80%) 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.

**FAMILY** – Any number of persons living and cooking together on the premises as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel.

**GROSS FLOOR AREA** – The floor area of space on all floors inclusive of heated basements, hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.

**GROSS LEASABLE FLOOR AREA** – The area of a building exclusive of hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant.

**HEIGHT** – The distance between average finished grade adjacent to the building (exclusive of basements) and the ceiling of the upper-most heated space in the building in the case of flat roofs and, in the case of buildings with pitched roofs, at the point at which such ceiling intersects with the exterior portion of the building. The calculation of building height shall not apply to roof tanks and their supports, roof decks, ventilating, air conditioning and similar building service equipment, chimneys, railings, skylights and other similar features of buildings which are in no way designed or used for living purposes nor the portion of the pitched roof above the intersection of the ceiling of the upper-most heated space and the exterior of the building.

**HOUSEHOLD INCOME, MEDIAN** – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

**INFRASTRUCTURE LETTERS** - The letters issued on behalf of the Town in fulfillment of M.G.L. C. 40R, § 6(a)(11) and 760 CMR 59.04(1)(h) identifying infrastructure improvements to be made incident to the construction of one or more Development Projects in the Planned Village Development District.

**LOT** – A single tract of land held in common ownership throughout and defined by metes, bounds or lot lines in a deed or conveyance on a duly recorded plan.

**OFFICE** – A place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

**PLANNED VILLAGE DEVELOPMENT DISTRICT** – An overlay zoning district adopted pursuant to Mass. Gen. Laws Ch. 40R, in accordance with the procedures for zoning adoption and amendment as set forth in Mass. Gen. Laws Ch. 40A and approved by the Department of Housing and Community Development pursuant to Mass. Gen. Laws Ch. 40R and 760 CMR 59.00.

**RECREATIONAL ACCESSORY USE** – A use subordinate to a Principal Residential Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Residential Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the PVDD. Recreational Accessory Uses may include, but are not limited to greenhouse, tool shed, clubhouse, swimming pool, tennis court, basketball court, and playground.

**RECREATIONAL USE** – The principal use or intended principal use of land or structures for relaxation, entertainment, amusement, sports, or the like, whether on a fee or non-fee basis, but not including a cinema.

**RESTAURANT** – Any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises provided, however, that drive through windows are not allowed.

**RETAIL USE** – Business establishments selling goods and/or services to customer's on-site, generally for end use personal, business or household consumption. A reasonable amount of storage of said goods shall also be assumed to be an integral part of retail use.

**SHARED PARKING FACILITIES** – Parking facilities designed and intended to serve more than a single use as shown on a Site Plan.

**SITE PLAN** – A plan depicting a proposed Development Project for all or a portion of the PVDD and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of Section 9.5.12 of this Bylaw.

**SITE PLAN APPROVAL** – The Approving Authority’s authorization for a proposed Development Project based on a finding of compliance with this Section 9.5 of the Bylaw and Design Standards after the conduct of a Site Plan Review.

**SITE PLAN REVIEW** – The review procedure established by this Section 9.5 and administered by the Planning Board of the Town of Lynnfield as the Approving Authority.

**SUB-DISTRICT** – A specific and defined area of land within the PVDD that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the PVDD. The boundaries and the names of the Sub-Districts are referred to in Section 9.5.3 of this Bylaw.

**UNDERLYING ZONING** – The zoning requirements adopted pursuant to Mass. Gen. Laws Ch. 40A that are otherwise applicable to the geographic area in which the PVDD is located, as said requirements may be amended from time to time.

**UNDULY RESTRICT** – A provision of a Planned Village Development District or a Design Standard adopted pursuant to Mass. Gen. Laws Ch. 40R and 760 CMR 59.00 that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development Project in a Planned Village Development District.

**UNRESTRICTED UNIT** – A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.

**USE, ACCESSORY** – A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the PVDD. Except where otherwise noted, Accessory Uses are permitted or prohibited in the PVDD to the same extent as if such uses were Principal Uses.

**USE, PRINCIPAL** – The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section 9.5. More than one Principal Use is permitted as-of-right on a lot or within a Development Project.

9.5.5 Permitted uses

(a)The following principal uses shall be permitted in the following Sub-Districts As-of-Right upon Site Plan Approval pursuant to the provisions of this Section 9.5.:

	Multi-Family Dwelling Unit	Two and Three Family Dwelling Units	Retail and Restaurant	Office	Conservation	Recreational Use, Principal
Multi-Family Residential Sub-District	Yes	Yes	No	No	Yes	No
Traditional Neighborhood Village Sub-District	No	No	Yes	Yes	Yes	Yes

(b) Parking accessory to any of the above permitted uses, including surface parking, parking under buildings, and above and below grade structured parking, subject to the dimensional requirements of this Section 9.5.

(c)In addition to the foregoing Principal Uses, Recreational Accessory Uses shall be permitted as accessory to the residential uses within the Multi-Family Residential Sub-District.

9.5.6 Prohibited Uses or Activities in the PVDD

All uses not expressly allowed are prohibited. The following uses are expressly prohibited:

1. Landfills, open dumps, or the disposal of solid wastes, other than brush or stumps.
2. Storage of liquid petroleum products, except for the following:
  - (a) Normal household use, outdoor maintenance and heating of a structure;
  - (b) Waste oil retention facilities required by statute, rule or regulation;
  - (c) Emergency generators; fuel (including ultra low sulfur diesel fuel) stored where feasible;
  - (d) Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that storage listed in items (a) through (c) above is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container’s total storage capacity; and

- (e) Sales to consumers in enclosed containers.
- 
- 3. The construction or operation of a commercial, industrial or business property that involves in any way the burning or use of diesel fuel or involves the regular use and operation of vehicles using or burning diesel fuel (“diesel burning site”).
  - 4. The disposal of liquid or leachable wastes, except for normal sanitary wastes for allowed uses and a wastewater treatment plant approved under applicable law.
  - 5. The land filling or storage of sludge or septage. Except where storage of sludge or septage is incidental to an allowed use, in which case sludge or septage must be contained in water-tight containers at least 4 feet above the historical high groundwater table elevation.
  - 6. The use of septic system cleaners which contain toxic organic chemicals.
  - 7. Commercial or industrial uses which discharge process wastewater on-site which contains contaminants other than normal organic wastes.
  - 8. The mining of land except as incidental to an allowed use.
  - 9. Facilities that generate, treat, store or dispose of hazardous waste subject to G.L., c. 21C and 310 CMR 30.00, except the following:
    - (a) Very small quantity generators as defined under 310CMR 30.00;
    - (b) Household hazardous waste collection centers and events under 310 CMR 30.390;
    - (c) Waste oil retention facilities required by G.L., c. 21, Section 52A;
    - (d) Water remediation treatment works approved under 314 CMR 5.00.
  - 10. Storage of liquid hazardous materials as defined in G.L., c. 21E unless in a free-standing container within a building or above ground with secondary containment adequate to contain a spill the size of the container’s total storage capacity.
  - 11. Automotive service and repair shops, automobile graveyards, junk and salvage yards; small engine repair, repair of boats.
  - 12. The storage of animal manure, unless such storage is covered or contained.
  - 13. The storage of commercial fertilizers, soil conditioners, herbicides, or pesticides unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
  - 14. Cinema.

15. Adult uses as defined in Section Adult Uses Definitions *A.T.M. APRIL 25, 2016*

16. Medical Marijuana facilities as defined in Section Medical Marijuana Definitions.  
*A.T.M. APRIL 25, 2016*

#### 9.5.7 Dimensional and other requirements

1. Buildings and Development Lots within the PVDD shall be subject to the dimensional and other requirements set forth in this Section 9.5.7.
2. Density. Subject to the limit on Maximum Residential Development in Section 9.5.7.8 below, Residential Uses shall be permitted As-of-Right at the following densities:
  - (a) Multi-family residential uses shall be permitted As-of-Right at a density of at least twenty-five (25) Dwelling Units per acre of Developable Land.
  - (b) Two- and Three-family residential uses shall be permitted As-of-Right at a density of at least twelve (12) Dwelling Units per acre of Developable Land.
3. Minimum area and setbacks. There shall be no minimum lot area or setback requirements within the PVDD except for the Residential Buffer described herein.
4. Height.
  - (a) In the Multi-Family Residential Sub-District, the maximum height for a Development Project shall be four stories or fifty (50) feet, whichever is taller.
  - (b) In the Traditional Neighborhood Village Sub-District, the maximum height of a one story building shall be thirty (30) feet, the maximum height of a two story building shall be forty-five (45) feet, provided further that an architectural feature of a building located at a corner or at the end of a streetscape may be permitted up to sixty (60) feet in height at locations designated in the Design Standards provided that the portion of the architectural feature above forty-five (45) feet is not occupied.
5. Buffer from adjacent existing residential development. Within the Traditional Neighborhood Village Sub-District, the overall site design shall incorporate a Residential Buffer of two hundred (200) feet in width along the easterly boundary of the PVDD, measured from the westerly sideline of the Walnut Street right-of-way or from the westerly property line of adjacent residential lots situated outside the PVDD in existence on the date of adoption of this Section 9.5, whichever is further west. No vertical construction or pavement shall be allowed within the Residential Buffer, provided that the following activities shall be permitted within the Residential Buffer: pedestrian paths and sidewalks provided said paths and sidewalks are limited to a single pedestrian access point to the District through a point of

intersection with Walnut Street within fifty (50) linear feet of the primary vehicular access drive; a single vehicular access point to the District through a point of intersection with Walnut Street; cart paths to serve adjacent recreational uses; such emergency access and egress as may be required by the Town of Lynnfield; drainage facilities; utilities and related easements but not including a wastewater treatment facility; landscaping and plantings; and signage and lighting approved by the Approving Authority pursuant to this Section 9.5.

6. **Non-Frontage Development.** In the PVDD and on parcels that are contiguous to the PVDD, a lot lacking frontage may be developed and used without regard to the lack of frontage, provided that the Non-Frontage Development has permanent access to a private or public way that is located within the PVDD through easements recorded with the Southern Essex District Registry of Deeds and appropriate provisions are made for parking, drainage and utilities. The development and use of such Non-Frontage Development located entirely within the PVDD shall be consistent with the requirements of this Section 9.5. Such Non-Frontage Development may be subdivided and sold or transferred, provided that each lot so subdivided retains or is granted such cross access, drainage and utility easements to serve such Non-Frontage Development. Should such transfer occur after an approval hereunder, in addition to the easements referenced above, the transferee shall demonstrate to the Approving Authority that the Non-Frontage Development shall remain in compliance with any conditions of Site Plan Approval and, for parcels that are contiguous to the PVDD, with applicable zoning requirements.
7. **Number of buildings on a lot.** In the PVDD, more than one principal building may be erected on a lot.
8. **Maximum Residential Development.** The aggregate number of Dwelling Units that may be permitted pursuant to this Section 9.5 shall be one hundred and eighty (180). All Dwelling Units permitted and constructed pursuant to this Section 9.5 shall be located within the Multi-Family Residential Sub-District.
9. **Total allowable non-residential uses.** The total non-residential uses within the PVDD, including retail, restaurant, office, and recreational uses, but excluding the 55,000 square feet of Gross Leasable Floor Area of the fitness facility in existence on the date of adoption of this Section 9.5, shall not exceed a total of 475,000 square feet of Gross Leasable Floor Area; provided, however, that this total shall include 50,000 square feet of Gross Leasable Floor Area that is located solely on the second floor of a building; and provided further that, for retail portions of a Development Project, the difference between Gross Leasable Floor Area and the Gross Floor Area of all retail spaces shall not exceed five percent (5%). Nothing in this section shall limit the right of the Applicant to propose that greater than 50,000 square feet of Gross Leasable Floor Area be located on the second floor of a building, subject to compliance with the Dimensional Standards in this Section 9.5.7.
10. **Projects within the Traditional Neighborhood Village Sub-District shall have a mix of retail uses and sizes of stores in order to create a vibrant and economically strong retail environment. Retail uses shall be restricted as follows:**



- (a) No more than one (1) retail unit may be greater than 80,000 square feet of Gross Leasable Floor Area provided that such use shall not be greater than 25% of the total allowable non-residential uses set forth in Section 9.5.7.9 above, and provided further that the total area of the building shall be divided between two floors such that the total Gross Leasable Floor Area of the first floor of the building shall not exceed 80,000 square feet.
  - (b) In addition to the allowable retail unit referenced in Section (a) above, no more than two (2) retail units may be greater than 50,000 square feet of Gross Leasable Floor Area, provided that each such retail unit shall be less than 80,000 square feet of Gross Leasable Floor Area.
  - (c) At least 25% of the total permitted retail building area of the project shall be composed of retail units of 12,500 square feet of Gross Leasable Floor Area or less.
11. 9.5.(2) shall be governed by this Section and by Design Standards as adopted pursuant Section 9.5.7, and subject to the following limitations:
  12. Structured parking. Structured parking allowable pursuant to Section 9.5.5(2) shall be governed by this Section 9.5 and by Design Standards as adopted pursuant Section 9.5.9., and subject to the following limitations:
  13. Structured parking in the Traditional Neighborhood Village Sub-District shall not exceed forty-five (45) feet in height and shall be approved as to capacity and location by the Approving Authority.
  14. Structured parking in the Multi-Family Residential Sub-District shall only be permitted if located exclusively within a ground level or a sub-grade level of a residential Development Project, and provided further that said structured parking shall not result in a maximum building height in excess of the maximum allowable height in this Section 9.5.7.

9.5.8 Parking

1. Parking shall be provided in order to meet or exceed the following minimum requirements:

Table 9.5.8-1	
Use	Minimum Required Parking
Retail	1 space per 250 square feet of Gross Leasable Floor Area
Office	1 space per 333 square feet of Gross Leasable Floor Area

Medical or Dental Office or Clinic	3 spaces for each individual office or suite, plus 3 spaces for each additional doctor or dentist within a single office or suite
Restaurant or Recreational	1 space per 200 square feet of Gross Leasable Floor Area
Residential Use	1.5 spaces per Dwelling Unit

When application of the requirements set forth above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.

2. Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the Approving Authority through the Site Plan Approval process, if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that a lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- (a) The availability of public or commercial parking facilities in the vicinity of the use being served;
- (b) For uses in the Traditional Neighborhood Village Sub-District only , shared use of parking spaces serving other uses having peak user demands at different times;
- (c) Age or other occupancy restrictions which are likely to resulting a lower level of auto usage;
- (d) Such other factors, including the availability of valet parking as maybe considered by the Approving Authority. Where such reduction is authorized, the Approving Authority may impose conditions of use or occupancy appropriate to such reductions.
- (e) Parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act (ADA).

9.5.9 Design Standards

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Lynnfield in adopting this Bylaw, the Planning Board shall adopt the Design Standards governing the issuance of Site Plan Approvals for Development Projects within the PVDD and shall file a copy with the Town Clerk. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the PVDD shall comply with such Design Standards. In the event of any conflict between this Bylaw and the Design Standards, this Bylaw shall govern and prevail.

#### 9.5.10 Transportation Network

1. Design and location.

The overall site design shall include a cohesive transportation network providing for vehicular and pedestrian circulation to and within the PVDD. Design and construction shall incorporate sound engineering and construction standards including adequate provisions for drainage.

2. Ownership and maintenance.

The plans and documentation submitted to the Approving Authority shall include a description of proposed private ownership and maintenance of all traveled ways, including vehicular ways and sidewalks, and all proposed public spaces or facilities. As a condition of Site Plan Approval, the Approving Authority may require provision of an operations and maintenance plan for traveled ways and drainage facilities associated with the traveled ways. If applicable, a homeowners' association, a condominium association or a business association may be established to ensure that all traveled ways and associated drainage facilities shall be properly maintained by a private party, and that the Town of Lynnfield shall incur no expense related to such operations and maintenance.

3. Plans.

The plans and any necessary supporting documents submitted with an application for Site Plan Approval within the PVDD shall show the general location, size, character, and general area of traveled ways and public spaces or facilities.

#### 9.5.11 Affordable Housing

1. Number of affordable units. Twenty percent (20%) of all Dwelling Units constructed in a Development Project shall be maintained as Affordable Units. Twenty-five percent (25%) of all rental Dwelling Units in a Development Project shall be Affordable Units. In Development Projects in which all of the Dwelling Units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the Dwelling Units shall be Affordable Units, whether the Dwelling Units are rental or ownership units.
2. Fractional Units. When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.
3. Affordable Units shall comply with the following requirements:

- (a) The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) 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 DHCD shall apply;
- (b) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) 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; and
- (c) Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

#### 4. Design and construction.

- (a) Design. Affordable Units must be dispersed throughout a Development Project and be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. Affordable Units shall be finished housing units; and
- (b) Timing. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units and, for Development Projects that are constructed in phases, Affordable Units must be constructed and occupied in proportion to the number of units in each phase of the Development Project.

5. Unit mix. The total number of bedrooms in the Affordable Units shall, insofar as practicable, be in the same proportion to the total number of bedrooms in the Unrestricted Units.

6. Affordable housing restriction. Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Southern Essex District Registry of Deeds or the Southern Essex Registry District of the Land Court. The Affordable Housing Restriction shall provide for the implementation of the requirements of this Section 9.5. All Affordable Housing Restrictions must include, at minimum, the following:

- (a) Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied;
- (b) 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.

- (c) The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- (d) The name and address of an Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- (e) Reference to a housing marketing and resident selection plan, to which the Affordable Unit 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 shall provide for local preferences in resident selection to the maximum extent permitted under applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size;
- (f) 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;
- (g) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;
- (h) A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household shall be given to the Administering Agency;
- (i) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;
- (j) Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Lynnfield, 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/or the municipality, 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 provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;

- (m) A requirement that residents in Affordable Units provide such information as the Administering Agency may reasonably request in order to ensure affordability; and
- (n) Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

7. Administration.

(a) Administering Agency. An Administering Agency for Affordable Units, which may be the Lynnfield Housing Authority or other qualified housing entity shall be designated by the Lynnfield Board of Selectmen and shall ensure the following:

- i. Prices  
of Affordable Homeownership Units are properly computed;  
rental amounts of Affordable Rental Units are properly computed;
- ii. Income eligibility of households applying for Affordable Units is properly and reliably determined;
- iii. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
- iv. 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
- v. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Southern Essex District Registry of Deeds or the Southern Essex Registry District of the Land Court.

(b) 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.

(c) Failure of the Administering Agency. In the case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board of Selectmen or, in the absence of such designation, by an entity designated by the Department of Housing and Community Development.

### 9.5.12. Site Plan Review

The Planning Board shall be the Approving Authority for Site Plan Approvals in the PVDD, and shall adopt and file with the Town Clerk administrative rules relative to the application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto must be approved by the Department of Housing and Community Development. The Site Plan Review process encompasses the following:

#### 1. Pre-application Review.

The Applicant is encouraged to participate in a pre-application review at a regular meeting of the Planning Board. The purpose of the pre-application review is to minimize the Applicant's cost of engineering and other technical experts, and to obtain the advice and direction of the Planning Board prior to filing the application. At the pre-application review, the Applicant shall outline the proposal and seek preliminary feedback from the Planning Board, other municipal review entities, and members of the public. The Applicant is also encouraged to request a site visit by the Planning Board and/or its designee in order to facilitate pre-application review.

#### 2. Application Procedures.

- (a) The Applicant shall file an original of the application with the Town Clerk for certification of the date and time of filing. Said filing shall include any required forms provided by the Planning Board. A copy of the application, including the date and time of filing certified by the Town Clerk, as well as the required number of copies of the application, shall be filed forthwith by the Applicant with the Planning Board and Building Inspector. As part of any application for Site Plan Approval for a Development Project, the Applicant must submit the following documents to the Approving Authority and the Administering Agency:
  - (1) evidence that the Development Project complies with the cost and eligibility requirements of Section 9.5.11;
  - (2) Development Project plans that demonstrate compliance with the design and construction standards of Section 9.5.11; and
  - (3) a form of Affordable Housing Restriction that satisfies the requirements of Section 9.5.11.
- (b) Review fees. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Planning Board. Such fees shall be held by the Town of Lynnfield in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Planning Board in reviewing the Site Plan application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith;

- (c) Upon receipt by the Planning Board, applications shall be distributed to the Building Inspector, Fire Chief, Police Chief, Board of Health, Conservation Commission, the Board of Selectmen and the Department of Public Works. Any reports from these parties shall be submitted to the Planning Board within sixty (60) days of filing of the application; and
- (d) Within thirty (30) days of filing of an application with the Planning Board, the Planning Board or its designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the Applicant certifying the completeness of the application. The Planning Board or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.

### 3. Public Hearing.

The Planning Board shall hold a public hearing and review all applications according to the procedure specified in Mass. Gen. Laws Ch. 40R § 11 and 760 CMR 59.04(1)(f).

### 4. Site Plan Approval decision.

- (a) The Planning Board shall make a decision on the Site Plan application, and shall file said decision with the Town Clerk, within one hundred twenty (120) days of the date the application was received by the Town Clerk. The time limit for public hearings and taking of action by the Planning Board may be extended by written agreement between the Applicant and the Planning Board. A copy of such agreement shall be filed with the Town Clerk;
- (b) Failure of the Planning Board to take action within one hundred twenty (120) days or extended time, if applicable, shall be deemed to be an approval of the application;
- (c) An Applicant who seeks approval because of the Planning Board's failure to act on an application within the one hundred twenty (120) days or extended time, if applicable, must notify the Town Clerk in writing of such approval, within fourteen (14) days from the expiration of said time limit for a decision, and that a copy of that notice has been sent by the Applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Mass. Gen. Laws Ch. 40R and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the Applicant that the Planning Board failed to act within the time prescribed;
- (d) The Planning Board's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the application for Site Plan Approval. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. The written decision shall certify that a copy of the decision has been filed with



the Town Clerk and that all plans referred to in the decision are on file with the Planning Board;

- (e) The decision of the Planning Board, together with the detailed reasons therefor, shall be filed with the Town Clerk, the Board of Appeals and the Building Inspector. A certified copy of the decision shall be mailed to the owner and to the Applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing; and
  - (f) Effective date. 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 the application is approved by reason of the failure of the Planning Board to timely act, the Town Clerk shall make such certification on a copy of the notice of application. A copy of the decision or notice of application shall be recorded with the title of the land in question in the Southern Essex District Registry of Deeds, 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 responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question or the Applicant.
5. Criteria for approval. The Planning Board shall approve the Development Project upon the following findings:
- (a) The Applicant has submitted the required fees and information as set forth in applicable regulations;
  - (b) The proposed Development Project as described in the application meets all of the requirements and standards set forth in this Section 9.5 and applicable Design Standards, or a waiver has been granted therefrom; and
  - (c) Any extraordinary adverse potential impacts of the Development Project on nearby properties have been adequately mitigated.

For a Development Project subject to the Affordability requirements of Section 9.5.11, compliance with condition (b) above shall include written confirmation by the Approving Authority that all requirements of that Section have been satisfied. Prior to the granting of 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 Lynnfield.

- (d) Criteria for conditional approval. The Planning Board may impose conditions on a Development Project as necessary to ensure compliance with the PVDD requirements of this Section 9.5 and applicable Design Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are

compliant with the provisions of Mass. Gen. Laws Ch. 40R and applicable regulations and do not Unduly Restrict opportunities for development.

- (e) Criteria for denial. The Planning Board may deny an application for Site Plan Approval pursuant to this Section 9.5 of the Bylaw only if the Planning Board finds one or more of the following:
- (f) The Development Project does not meet the requirements and standards set forth in this Section 9.5 and applicable Design Standards;
  - (g) The Applicant failed to submit information and fees required by this Section 9.5 and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts; or
  - (h) It is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions.
  - (i) Time limit. A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project.
  - (j) Appeals. Pursuant to Mass. Gen. Laws Ch. 40R, § 11, any person aggrieved by a decision of the Planning Board may appeal to the Superior Court, the Land Court, or other court of competent jurisdiction within twenty (20) days after the Site Plan decision has been filed in the office of the Town Clerk.

#### 9.5.13. Waivers

The Approving Authority may not waive provisions of this Bylaw. The Approving Authority may waive specific requirements of applicable Design Standards upon a finding that such waiver will allow the Development Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section 9.5.

#### 9.5.14. Project Phasing

The Approving Authority, as a condition of any Site Plan Approval, may allow a Development Project to be phased for the purpose of coordinating the Development Project with any mitigation required to address any extraordinary adverse Development Project impacts on nearby properties and with the implementation of the infrastructure improvements by the party designated as responsible under the Infrastructure Letters.

#### 9.5.15 Change in Plans after Approval by Approving Authority

1. **Minor Change.** After Site Plan Approval, an Applicant may apply to make minor changes in a Development Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out 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 Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority 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.
2. **Major Change.** Those changes deemed by the Approving Authority to constitute a major change in a Development 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 Approving Authority as a new application for Site Plan Approval pursuant to this Section 9.5.

#### 9.5.16 Fair Housing Requirement

All Development Projects within the PVDD shall comply with applicable federal, state and local fair housing laws.

#### 9.5.17 Annual Update

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (DHCD) in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Lynnfield shall maintain a copy of all updates transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

#### 9.5.18 Notification of Issuance of Building Permits

Upon issuance of a residential building permit within the PVDD, the Building Inspector of the Town of Lynnfield shall cause to be filed an application to the Department of Housing and Community Development (DHCD), in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to Mass. Gen. Laws Ch. 40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Lynnfield shall maintain a copy of all such

applications transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

#### 9.5.19 Date of Effect

The effective date of this Bylaw shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of Mass. Gen. Laws Ch. 40A § 5 and Mass. Gen. Laws Ch. 40R; provided, however, that an Applicant may not proceed with construction pursuant to this Bylaw prior to the receipt of final approval of this Bylaw and accompanying Zoning Map by both the Department of Housing and Community Development and the Office of the Massachusetts Attorney General.

#### 9.5.20 Severability

If any provision of this Section 9.5 is found to be invalid by a court of competent jurisdiction, the remainder of Section 9.5 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 9.5 shall not affect the validity of the remainder of the Zoning Bylaws of the Town of Lynnfield.”

## 10. DIMENSIONAL REGULATIONS

### 10.1 *Building Heights*

In all districts, no building shall be constructed to exceed more than three (3) stories or forty (40) feet in height, the height in each case to be measured vertically from the average finished grade of the ground adjoining such building to the highest point of the roof for flat roofs, to the deck line for mansard roofs, and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Provided, however, in a Commercial District and in a Limited Industrial District, the height of a building may exceed forty (40) feet by one foot for each additional foot by which:

1. the front yard depth exceeds the depth hereinafter required, or
2. the narrower side yard exceeds the side yard width hereinafter required, or
3. the rear yard exceeds the rear yard depth hereinafter required, whichever of the three additional distances is the smallest.

A building thus permitted to exceed forty (40) feet in height may be constructed to contain more than three (3) stories, but no such building shall in any case have a height greater than fifty (50) feet. A.T.M. 3/12/62

### 10.2 *Height Projections*

Chimneys, spires, towers, and other projections not used for human occupancy, whether constituting separate structures or attached to buildings, may be constructed above the height limitations hereinbefore established, but no such structure or projection shall be constructed in any district to a height greater than fifty (50) feet without authorization of the Board of Appeals.

10.3 *Lot Area and Frontage*

In all Single Residence Districts, except as herein provided, no dwelling shall be constructed on a lot having less area than the “Required Lot Area”, or having less frontage on a public or private way to which said lot has actual physical and legal access, than the “Lot Frontage Required” specified in the following table for the district in which said lot is located:

<u>District</u>	<u>Lot Area Required</u>	<u>Lot Frontage Required</u>
Single Residence A	15,000 sq. ft.	110 ft.
Single Residence B	30,000 sq. ft.	150 ft.
Single Residence C	40,000 sq. ft.	180 ft.
Single Residence D	60,000 sq. ft.	210 ft.
Elderly Housing District	4 acres	200 ft. S.T.M. 04/29/82; S.T.M. 3/7/05
Office Park District	3 Acres	200 ft on a Public Way or 50 ft on a Private Way or right of way that:
		a) has been determined to be adequate and appropriate for access by the Planning Board;
		b) has been constructed in accordance with the Planning Board Regulations then applicable to construction of public ways;
		c) has been specifically designed for Office Park use; and
		d) will be privately maintained by the owner of the Office Park Site.

A.T.M. 04/24&27/89

In all districts, the required frontage shall be measured along a straight line connecting the points of intersection of the side lot lines with the exterior line of the frontage way.

Alternatively, in Single Residence Districts, frontage or a portion thereof may be measured along a curve, provided that only 75% of the distance along a curve may be used to compute the required frontage. A.T.M. 10/17/77

In all Limited Business, General Business and Commercial Districts, except as herein provided, no dwelling shall be constructed on a lot having less area or having less frontage on a public or private way than the area and frontage, respectively, required for the least restricted Single Residence District adjacent thereto.

In a Limited Industrial District, no building shall be constructed on a lot having an area of less than three (3) acres or having a frontage of less than three hundred (300) feet on a public or private way, except that where the way is shown as an industrial service street on a definitive subdivision plan duly approved by the Lynnfield Planning Board, the frontage need not exceed fifty (50) feet.

A.T.M. 03/5/56; A.T.M. 03/12/62

In Single Residence Districts A, B, C, and D, and in tracts of land which otherwise qualify for “Green Belt Zoning” under the Bylaw, land which lies within a Flood Plain District or a Wetlands as defined in G.L. C. 131 S40, as amended, shall not be used to meet the minimum area required for lots in each of such districts; provided however, that nothing contained in this paragraph of this “Dimensional Regulations” Section shall prevent such land from being used for such purpose in Elderly Housing Districts. S.T.M. 10/17/88

In Elderly Housing District, the “Lot Frontage Required” may be met upon a way situated within an adjoining 40R District (i.e. an overlay district adopted by the Town pursuant to General Laws, c. 40R) provided that:

- (a) the lot in the Elderly Housing District has vested rights in said way over the entire frontage and to a public way, for all purposes for which ways may be used in the Town of Lynnfield and for the installation of utilities,
- (b) the way has been approved by the Planning Board as part of a Plan Approval for a Development Project within said 40R District, and
- (c) the way will be privately maintained by the owner of such Development Project within said 40R District.” A.T.M. 04/30/07

#### 10.4 *Lot Width*

In all districts, except as herein provided, no dwelling shall be constructed on a lot having a width at any point between the frontage way and that part of the dwelling nearest thereto of less than eighty (80) percent of the frontage distance required for the district in which said lot is located. The required lot width shall be measured parallel to the line along which the required frontage is to be measured, as hereinbefore specified.

Any lot shown on a plan duly recorded or registered on or before March 12, 1962 and any dwelling then existing or thereafter built thereon, shall be exempt from the Section 10.4 Lot Width.

S.T.M. 10/16/06

#### 10.5 *Lot Shape*

Lot side lines shall not vary more than 20 degrees from being perpendicular to the street boundary, or a tangent thereto, for a distance of at least 30% of the District frontage requirement. The same shall apply to the intersection of side lot lines with the rear boundary. A.T.M. 10/17/77; S.T.M. 11/17/86

#### 10.6 *Lot Size Exceptions*

In all districts, except a Limited Industrial District, a one family detached house may be constructed on a lot having less than the required lot area, frontage and width, provided that all other requirements of this bylaw are complied with, and provided that:

1. Said lot was laid out by deed or conveyance or shown on a duly recorded plan prior to the effective date of this bylaw, and provided further that:

- a. said lot conformed with the lot size provisions applicable to the construction of a dwelling on said lot within the restrictions set forth in the Zoning Bylaws of the Town immediately prior to the adoption of this revision, and
- b. said lot, on the effective date of this bylaw did not adjoin other land of the same owner available for use in connection with said lot, or

2. Said lot was shown on a final or definitive subdivision plan duly approved by the Lynnfield Planning Board prior to the effective date of this bylaw, or

3. Said lot was shown on a preliminary subdivision plan that had been submitted to the Planning Board prior to September 28, 1953 and prepared by a competent surveyor or civil engineer, provided further that:

- a. said lot conformed with the lot size provisions applicable to the construction of a dwelling on said lot immediately prior to the Special Town Meeting of December 4, 1953, and
- b. said lot did not, on September 28, 1953, have frontage on a public way, and
- c. said lot is subsequently shown on a final or definitive subdivision plan duly approved by the Lynnfield Planning Board prior to the sale of said lot or the construction of a dwelling thereon. In a Limited Industrial District, a building may be constructed on an existing lot having less than the required area and/or frontage if said lot is expressly exempted from such requirements by statute, provided all other requirements of this bylaw are complied with, and said building may be used for any purpose permitted in said District by the regulations thereof except a hotel, motel, or a planned shopping center (for which the full required lot area and frontage shall be considered as conditions precedent to the particular uses). A.T.M. 3/12/62

10.7 Lot Coverage

In all districts, no building shall be constructed to cover, together with all other buildings on the lot, a larger portion of the lot area than the "Permitted Lot Coverage" specified in the following table for the district in which said lot is located:

District	Permitted Lot Coverage
Single Residence A, B, C and D	35 percent
Limited Business	35 percent
General Business and Commercial	50 percent



Limited Industrial	30 percent	A.T.M. 3/12/62
Elderly Housing	25 percent	S.T.M. 4/29/82
Office Park District	30 percent	A.T.M. 4/2427/89

10.8 *Set Backs and Yards*

In all districts, except as herein provided, no building, swimming pool, tennis court(s), or other structure shall be constructed or placed nearer to the center line of any public or private way than the “Required Set Back Distance from Street Center Line”, or nearer to the exterior line of any public or private way than the “Required Front Yard Depth”, whichever is greater, or nearer to the side lines of its lot than the “Required Side Yard Width”, or nearer to the rear line of its lot than the “Required Rear Yard Depth”, specified in the following table for the district in which said lot is located: A.T.M. 10/17/77

District	Required Set Back Distance From Street Center Line	Required Front Yard Depth	Required Side Yard Width	Required Rear Yard Depth
Single Res. A	50 ft.	30 ft.	15 ft.	20 ft.
Single Res. B	60 ft.	40 ft.	20 ft.	20 ft.
Single Res. C	60 ft.	40 ft.	25 ft.	20 ft.
Single Res. D	60 ft.	40 ft.	30 ft.	20 ft.
Limited Business dwellings;	60 ft.	40 ft.	15 ft. for dwellings;	20 ft. for
General Business	60 ft.	40 ft.	15 ft. for other	20 ft. for all other
Commercial	60 ft.	40 ft.	buildings, unless having a party wall on the same lot line.	buildings.
Limited Industrial	100 ft.	100 ft.	100 ft. where the lot line forms the side Boundary of a Single Residence A, B, C, or D District, or 100 ft. from such a Boundary where not co-incident with the lot line; other wise 40 ft.	
Elderly Housing S.T.M. 04/29/82, S.T.M. 03/07/05	70 ft.	50 ft.	25ft.	30 ft.
Office Park A.T.M. 04/24&27/89	75 ft.	50 ft.	50 ft.	50 ft.

No open display or other open use, where permitted, and no sign or other structure, shall be located nearer to the exterior line of any public or private way than thirty (30) feet in a Limited Business, General Business or Commercial District, or eighty (80) feet in a Limited Industrial or Office Park District, except the following:

1. Utility pole or mail box.
2. Plants growing in the soil, if not obstructing the view of cars entering and leaving the premises.
3. Parking lot for passenger automobiles.
4. Sign attached to a building if extending not more than three (3) feet in front of said building, and only above a height of ten (10) feet.

#### 10.9 *Set Back and Yard Exceptions*

In all districts except Elderly Housing Districts, no building need be further from either the exterior or the center line of any public or private way than the average distance from each such line, respectively, of the dwellings or other principal buildings located on the adjoining side lots. S.T.M. 4/29/82 In determining such average, a vacant side lot shall be considered as though occupied by a building having the required set back and front yard. The side yard and rear yard requirements hereof may be varied by the Board of Appeals in the specific case of an irregular, narrow, or shallow lot or a lot unusual either in shape or topography, provided that the spirit and intent of this bylaw with regard to yards and other open spaces is preserved.

Nothing herein shall prevent the projection of cornices or eaves not exceeding eighteen inches in width, or of uncovered steps, or window sills into any required yard or other open space.

In all residence districts, no private tool shed used exclusively by the occupants of the residence located on the lot on which the shed is located need be further from the side line of said lot than ten (10) feet nor further from the rear line of said lot than five (5) feet, provided that said tool shed has a floor area of no more than one hundred fifty (150) square feet and a height of no more than twelve (12) feet. A.T.M. 10/18/82

#### 10.10 *Reduction of Occupied Lots*

No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, width, coverage, set back or yard provisions of this Section, without the approval of the Board of Appeals. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose. A.T.M. 3/12/62

## 11. NON-CONFORMING AND TEMPORARY USES AND BUILDINGS

### 11.1 *Buildings and Uses Already in Existence*

Any lawful building or structure, or use of a building, structure or land existing at the time of this bylaw or any amendment thereto takes effect may be continued although not conforming to the provisions thereof, unless and until abandoned for a period of two years. A.T.M. 04/25/77

### 11.2 *Existing Buildings*

1. Nothing herein shall require any change in plans, construction or intended use of a building, structure or premises, either now lawfully under construction or for which an unexpired permit has heretofore been issued, and the lawful construction of which shall be completed according to such permit within one year after the date of this bylaw goes into effect.

2. Nothing herein shall prevent the substantial restoration and continued use of a building damaged or destroyed by fire or other casualty provided that such restoration shall be completed and use resumed within two years from the date of such fire or other casualty. The new or restored building may exceed in cubic contents the building damaged or destroyed, but within the limits and subject to the conditions set forth within this Section.

A.T.M. 04/25/77

### 11.3 *Change of Non-Conforming Use.*

The Board of Appeals may authorize a non-conforming use to be changed to a more restricted use or to a specified use not substantially different in character, or more detrimental or injurious to persons, property or improvements in the vicinity.

### 11.4 *Extension of Non-Conforming Use.*

The Board of Appeals may authorize a non-conforming use to be extended or a non-conforming building to be structurally altered or enlarged, provided that such extension, alteration or enlargement will not cause the building or use to be more detrimental or injurious to persons, property or improvements in the vicinity. A.T.M. 03/10/58

Upon receipt of an application for an extension of a non-conforming use or a structural alteration of a non-conforming building the Board of Appeals shall, within 5 working days, transmit one copy of the application and all material submitted to the Planning Board for their written recommendations in accordance with the provisions of M.G.L. Chapter 40A, Section 11. Said application shall include a site plan as specified by the Board of Appeals Rules and Regulations.

S.T.M. 10/21/96

The Planning Board shall file a report concerning said application together with its recommendations with the Board of Appeals within thirty-five (35) days from the date of receipt of the application by the Planning Board. The failure of the Planning Board to make such report on said application within such period of time shall permit the Board of Appeals to act upon the application for such extension without such report of the Planning Board.

Any grant by the Board of Appeals of an extension of a non-conforming use may be limited in time either to (1) a certain number of years, or (2) the period of ownership of the affected land by the applicant. S.T.M. 10/16/78

With the exception of extensions or alterations to single family residential structures subject to the provisions of "Section 9.3 Groundwater Protection District" of this Zoning Bylaw, preexisting single family residential; structures may be extended or altered without the necessity of a public hearing, provided that it is determined that no such extension or alteration shall increase the non-conforming nature of said structure. Such determination shall be made by the Board of Appeals, or, if delegated by the Board of Appeals, by the Zoning Administrator. In the event that such extension or alteration increases the nonconformity of said structure, no extension or alteration shall be permitted unless there is a finding by the Board of Appeals pursuant to a public hearing that such change shall not be substantially more detrimental than the existing nonconformity to the neighborhood. A.T.M. 04/26/99

### 11.5 *Temporary Uses*

The Board of Appeals may authorize a temporary building, structure, or use not in conformity with the provisions of this bylaw, if necessary and incidental to the development of a permitted use. In such cases, the applicant shall file with the Town Clerk a bond, with adequate security, in such sum as may be required by the Board of Appeals, together with bill of sale to the Town, effective in case any building or structure is not removed prior to the expiration of the permit

## 12. INSTALLATION OF UTILITIES

No utility as defined in M.G.L. c. 166, s. 22A, as amended, shall install or construct, except by associated overhead structures upon, along or across any public way within the entirety of the Town of Lynnfield, and any such poles, overhead wiring and/or associated overhead structures installed or constructed in violation of this section shall be immediately removed by the utility so installing or constructing the same. Wires or cables forming service connections from existing overhead wires shall not be construed as a violation of this section. A.T.M. 10/20/75

### 12.1 *Fines*

Any person as defined in G.L. c. 166, s. 22A, as amended, who installs or constructs any poles and overhead wires and associated overhead structures in violation of this bylaw shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars. Any person or utility who fails to remove immediately any poles and overhead wires and associated overhead structures in violation of this bylaw shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars for each consecutive fifteen (15) day period during which such failure continues. A.T.M. 10/18/71



## 13. ADMINISTRATION AND ENFORCEMENT

### 13.1 *Enforcement Authority*

Except as otherwise provided, this bylaw shall be enforced by the Director of Zoning Enforcement and Inspection. He shall approve no applications of any kind or plans or specifications or intended use which are not in all respects in conformity with this bylaw. A.T.M. 04/25/77

### 13.2 *Zoning Administrator*

The Board of Appeals, in accordance with Chapter 40A, Section 13, of the Massachusetts General Laws as amended may appoint, subject to confirmation by the Board of Selectmen, a Zoning Administrator, to serve at the pleasure of the Board of Appeals, who may but need not be the Director of Zoning Enforcement & Inspection or the Building Inspector. The Board of Appeals may delegate by unanimous vote to the Zoning Administrator some of its powers and duties. Any person aggrieved by a decision or order of the Zoning Administrator may appeal to the Board of Appeals in accordance with MGL Chapter 40A, Section 14. A.T.M. 04/27/98

### 13.3 *Occupancy Permit*

No building erected, altered, or in any way changed as to construction or use, under a permit or otherwise, shall be occupied or used without an occupancy permit, signed by the Director of Zoning Enforcement and Inspection, which permit shall not be issued until the building and its uses, and the uses incident thereto, comply in all respects with this bylaw. A.T.M. 04/25/77

### 13.4 *Appeal Procedure*

An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative official under the provisions of this bylaw by the regional planning agency in whose area the town is situated, by any officer or board of the Town or of an abutting city or town, or by any person aggrieved by any order or decision of the administrative officials in violation of any provisions of the Zoning Bylaw, under the provisions of Chapter 40A of the General Laws as amended by Chapter 808 of the Acts of 1975 and as amended from time to time thereafter. The appeal shall be taken within thirty (30) days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk, who shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to members of the Board of Appeals. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken. The Board of Appeals shall fix a reasonable time for the hearing of any appeal or other matter but always within 65 days from the transmittal to the Board of the appeal or other matter by the Town Clerk, and shall cause notice of the time and place of such hearing and of its subject matter to be given in the manner set forth in Chapter 40A, Sections 11 and 15 of the General Laws (as amended by Chapter 808 of the Acts of 1975 and as amended from time to time thereafter). The decision of the Board of Appeals shall be made within seventy-five (75) days after the date of the filing of an appeal, application or petition except in regard to



special permits, when the decision shall be made within ninety days following the date of public hearing. A.T.M. 04/25/77

### 13.5 *Board of Appeals Provision*

#### 13.5.1 Construct

There shall be a Board of Appeals consisting of three persons, inhabitants of the Town. The members shall be appointed by the Board of Selectmen. They shall hold office for a term of three years, except that, when the Board is first established hereunder, one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; and one member shall be appointed for a term of three years.

The Board of Selectmen shall also appoint three persons, inhabitants of the Town, associate members of said Board of Appeals, who shall hold office for a term of three years, except that, when associate members are first appointed hereunder, one shall be appointed for a term of one year; one shall be appointed for a term of two years; and one shall be appointed for a term of three years. In case of vacancy, inability to act, or interest on the part of any member of the Board of Appeals, his place shall be taken by an associate member.

#### 13.5.2 Authority

The Board established hereunder shall act as the Board of Appeals under the local building and zoning bylaws respectively, and under General Laws, Chapter 41, Section 81.

The Board of Appeals shall have all of the powers and perform all of the duties conferred or imposed upon it under the applicable provisions of the General Laws of the Commonwealth of Massachusetts, and of these bylaws. The Board of Appeals shall, in acting on all matters within its jurisdiction, authorize no use detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

#### 13.5.3 Permit Issuance

Where authorization by the Board of Appeals is required under this bylaw, the Director of Zoning Enforcement and Inspection shall issue no permit until so directed in writing by the Board. When, in the opinion of the Board, authorization may be granted if accompanied by conditions specially designed to safeguard persons, property, or improvements in the vicinity, it shall impose such conditions and make them a part of the authorization. A.T.M. 04/25/77

#### 13.5.4 Repeal

All provisions of the building bylaws and the zoning bylaws for the establishment of a Board of Appeals, the number of members thereof, their terms of office, and their powers and duties so far as the same are inconsistent herewith are hereby repealed and this bylaw is established in place thereof and in substitution therefor.

13.6 Fines *S.T.M. October 17, 2016*

Any violation of these Zoning Bylaws shall be punishable by a fine of Three Hundred Dollars (\$300), and in the sole discretion of the Building Inspector may be made the subject of non-criminal disposition pursuant to G.L.c.40, § 21D. Each day such violation continues shall constitute a separate offense. Such fines shall be recovered as provided by law and shall enure to the Town of Lynnfield.

#### 14. APPLICATION: VALIDITY

1. This bylaw shall not interfere with or annul any bylaw, rule or regulation, or permit, except that, where this bylaw imposes a greater restriction upon the use of buildings, structures or premises than is imposed by existing provisions of law or bylaws, this bylaw shall control.
2. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision.



## 15. AMENDMENTS

This bylaw or any part thereof may be modified or repealed as provided by law at a town meeting duly called.

