



# **ZONING BY-LAW**

## **Town of Lakeville**

**1994 REVISION**

**(WITH AMENDMENTS THROUGH NOVEMBER 14, 2022)**

## TABLE OF CONTENTS

<b>1.0</b>	<b>PURPOSE AND SCOPE.....</b>	<b>2</b>
<b>2.0</b>	<b>DEFINITIONS.....</b>	<b>3</b>
<b>3.0</b>	<b>ESTABLISHMENT OF DISTRICTS.....</b>	<b>10</b>
<b>4.0</b>	<b>USE REGULATIONS.....</b>	<b>13</b>
<b>5.0</b>	<b>INTENSITY REGULATIONS.....</b>	<b>16</b>
	5.1.4 Density Bonus.....	17
<b>6.0</b>	<b>GENERAL REGULATIONS.....</b>	<b>20</b>
	6.4 Home Occupations.....	22
	6.5 Access, Parking and Loading.....	25
	6.6 Sign Regulations.....	28
	6.7 Site Plan Review.....	34
	6.8 Hazardous Wastes.....	43
	6.9 Expedited Permitting.....	43
<b>7.0</b>	<b>SPECIAL REGULATIONS.....</b>	<b>44</b>
	7.1 Flood Plain District Regulations.....	44
	7.2 Water Resource Protection District Regulations.....	55
	7.3 Planned Special Purpose District Regulations.....	56
	7.4 Special Permits.....	58
	7.5 Mixed Use Development District Regulations.....	72
	7.6 Large-Scale “BIG BOX” Design Standards.....	77
	7.7 Smart Growth Overlay District.....	85
	7.8 Accessory Apartment.....	104
<b>8.0</b>	<b>ADMINISTRATION.....</b>	<b>105</b>
	8.7 Temporary Licenses.....	108
<b>9.0</b>	<b>WIRELESS COMMUNICATIONS FACILITY.....</b>	<b>110</b>
<b>10.0</b>	<b>LARGE-SCALE GROUND MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS OVERLAY DISTRICT.....</b>	<b>118</b>
<b>11.0</b>	<b>WIND ENERGY FACILITIES.....</b>	<b>127</b>

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

**NOTE: Footnote changes made at: 2022 Special Town Meeting-last page**

## PROTECTIVE BY- LAWS

### **1.0 PURPOSE AND SCOPE**

#### 1.1 Purpose of Zoning By-Law

This By-Law, which shall be known and cited as the Lakeville, Massachusetts Zoning By-Law, is hereby adopted for the purpose of promoting health, safety, convenience, morals and/or welfare of the inhabitants of the Town of Lakeville, for lessening the dangers of congestion and fire, to conserve the value of the land and buildings, to encourage the most appropriate use of land and for other purposes stated in Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended from time to time. (Underlined-Adopted June 6, 2016; approved by Attorney General July 21, 2016)

#### 1.2 Applicability of Zoning By-Law

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

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

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

#### 1.4 Severability

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

## 2.0 DEFINITIONS

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

**Accessory Apartment:**

An independent living unit containing a kitchen, bathroom, living area and independent means of egress, built into or attached to an existing single-family dwelling (referred to herein as the "principal dwelling") and subordinate in size to the principal dwelling. *(Adopted June 15, 2009; approved by Attorney General August 18, 2009)*

**Accessory Building or Use:**

A building and/or use customarily incidental or subordinate to and located on the same lot with the principal building or use.

**Adult Bookstore:**

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

**Adult Motion Picture Theater:**

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

**Adult Use Marijuana Retailer:** an entity licensed to purchase and transport cannabis or marijuana product from an Adult Use Marijuana Establishment and to sell or otherwise transfer this product to Adult Use Marijuana Establishments and to consumers. *(Adopted June 4, 2018; approved by Attorney General July 2, 2018)*

**Adult Use Marijuana Establishment:** a Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, as such uses are or may be defined in 935 CMR 500.02. For purposes of this By-Law, Adult Use Marijuana Establishment shall not include a Marijuana Retailer or a Registered Marijuana Dispensary. *(Adopted June 4, 2018; approved by Attorney General July 2, 2018)*

**Alterations:**

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

**Auto or boat sales, rental or service:**

**An establishment involving auto or boat sales, rentals or service including but not limited to; a body or paint shop, auto or boat dealership, and repair/service garage.**

*(Underlined: Adopted STM April 30, 2018; approved by AG. June 8, 2018)*

**Awnings:**

An awning with lettering or logo advertising the name of the business shall constitute a sign. All such awnings over doorways and windows shall only count as one (1) sign. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Building:**

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

**Building, Half Story:**

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

**Building, Story:**

That part of the building above the basement or cellar and between the top of any tier of floor beams and the top of the tier of floor or roof beams next above.

**Building, Height:**

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

**Changeable Copy Signs:**

Signs with letters which can be manually or mechanically moved in order to change the message or wording of the sign. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Common Directory Sign:**

Where more than one (1) business or use is located in a building only one (1) freestanding sign may be erected, which shall serve all of the businesses or uses at that location. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Directional Signs:**

Shall be solely for pedestrian or vehicular traffic. Directional signs shall indicate parking entrances, exits, drive-thru's, etc. They shall not include any other information, advertising, or logos. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Drive - Through Facility:**

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

**Dwelling:**

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

**Dwelling, Single-Family:**

A building occupied by a single family and having no party wall or walls in common with an adjacent structure.

**Dwelling Unit:**

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

**Electronic Message Boards:**

Electronically controlled signs that display lighted messages that change at intermittent intervals. Images which refresh must be displayed for at least twenty (20) seconds and may refresh or change, no more than three (3) times in one (1) minute. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Electronic Outdoor Advertising:**

A use whereby an outdoor sign or billboard, whether double-faced, back-to-back, or V-shaped, with a screen(s) that serves to advertise, direct or call attention to any business, article, substance, or service, or anything that is digitally or electronically projected, on or by a structure of any kind

on real property or upon the ground itself, and that advertises services, products or commodities that are not available on said real property or parcel. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Facility:**

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

**Family:**

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

**Farm:**

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

**Filling Station:**

**An establishment involving on-site distribution of fuel to be sold retail and primarily used to power vehicles for transportation purposes.** *(Adopted STM April 30, 2018; approved by AG June 8, 2018)*

**Forebay:**

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

**Freestanding Sign:**

Any sign supported by a structure permanently anchored to the ground which is independent from any building. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Frontage:**

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

**Hall:**

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

**Hazardous Waste:**

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

**Home Occupation:**

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

**Internally Illuminated Sign:**

A sign which is illuminated by means of a light source completely enclosed by the sign's panels. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Junk:**

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

**Lot:**

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

**Lot Coverage:**

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

**Mobile Home:**

Same as house trailer, meaning a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities, designed and intended to be moved as a unit to a fixed location and installed on a

permanent or a temporary foundation or support for use as stationary living quarters. This definition shall not include a travel or camping trailer which is a vehicle designed to travel on highways on rubber-tired wheels and used as living quarters for a period not to exceed several weeks at any one location.

**Place for Manufacturing, Assembling, or Packaging of Goods:**

Those used primarily for heavy or light industry or the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and packaging. *(Adopted June 13, 2011; Approved by Attorney General September 14, 2011)*

**Portable Signs:**

A sign or advertising display that is not permanent, affixed to a building, structure or the ground. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Projections:**

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

**Public Events:**

An entertainment event open to the general public such as outdoor concerts, winter carnivals, parades, etc. *(Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022)*

**Registered Marijuana Dispensary (RMD):**

A Medical Marijuana Treatment Center as defined in **935 CMR 501.002** and regulated in **935 CMR 501.001 et seq.** *(Adopted June 9, 2014; Approved by Attorney General July 1, 2014. **Bolded Text**- adopted June 3, 2019; approved by Attorney General September 13, 2019)*

**Renewable and Alternative Energy Research and Development Facilities:**

Those facilities used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials or products. This can include the design, development, and testing of biological, chemical, electrical, magnetic, mechanical, and/or optical components in advance of product manufacturing. The accessory development, fabrication, and light manufacturing of prototypes, or specialized machinery and devices integral to research or testing may be associated with these uses. *(Adopted June 13, 2011; Approved by Attorney General Sept. 14, 2011)*

**Seasonal/Summer Residence:**

A dwelling with a sub-standard septic design not meeting minimum Title V requirements for a year-round residence.

**Setback:**

The distance between the lot boundary line and the building or structure line, measured for the front, rear and side yards. (Underlined- Adopted Adjourned ATM June 19, 2017; Approve by Attorney General September 19, 2017)

**Sign:**

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

**Sign Area:**

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

**Street:**

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

**Street Line:**

The dividing line between the street right-of-way and abutting property.

**Storage Boxes, Trailers:**

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

**Structure:**

Any combination of materials attached to or requiring a fixed location on or in the ground. For the purposes of location on a lot, the following shall not be deemed to be structures prohibited within a setback required in the

Zoning By-Law: boundary walls and fences, **under 7' in height**, utility poles, support posts not over 4 feet in height for mailboxes and name signs and parking lots. (*Underlined-Adopted Adjourned ATM, June 19, 2017; approved by Attorney General September 19, 2017*)

**Tattoo or Body Art Establishment:**

Commonly referred to as tattoo parlors where puncturing of the skin with needles and various colored compounds create a design. (*Adopted June 11, 2001, approved by General Attorney September 19, 2001*)

**Towers:**

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

**Wall Sign:**

A sign attached parallel to or painted on the wall of a building. (*Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022*)

**Window sign:**

A permanent or temporary sign applied to, attached to, or inside a window or door which is visible from the exterior. (*Adopted ATM May 16, 2022; approved by Attorney General October 19, 2022*)

**Wireless Communications Facility:**

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

## **3.0 ESTABLISHMENT OF DISTRICTS**

3.1 Zoning Districts

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

3.1.1 Residential

3.1.2 Business

3.1.3 Industrial

3.1.4 Flood Plain Protection (Overlay)

3.1.5 Water Resource Protection (Overlay)

3.1.6 Planned Special Purpose (Overlay)

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

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

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

**3.1.10 Marijuana Overly District** *(**Bold Text**- Adopted at STM June 23, 2020; approved by Attorney General Sept 18, 2020)*

3.2 Location of Districts

3.2.1 The Residential, Business and Industrial Districts shall be shown on a map entitled "Map of the Town of Lakeville, Massachusetts, to accompany Protective By-Law" dated March 10, 1958, as adopted and amended by vote of the Town. Said map, identified as to the date of adoption and the dates of adoption of any amendments and certified by the town seal and signature of the Town Clerk, together with any other maps which may be adopted as parts thereof by vote of the Town, shall be a part of this By-Law.

3.2.2 The original of said map shall be kept in the custody of the Town Clerk, who may cause to be made and, if necessary, certify as to correctness copies thereof for use by the Town or for sale.

3.2.3 “The **Floodplain Protection District** is herein established as an overlay district. The District includes all special flood hazard areas within Town of Lakeville designated as Zone A, AE, AH, AO, A99, V, or VE on the Plymouth County Flood Insurance Rate Map (FIRM) dated July 6, 2021 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission.

*(Underlined-Adopted at ATM May 10, 2021; Approved by Attorney General August 16, 2021)*

3.2.4 The Water Resource Protection District shall be considered to be superimposed over the entire Town.

3.2.5 The Planned Special Purpose District shall be bounded as follows:

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

### Westerly by Cross Street

- 3.2.6 Industrial-B. Any area rezoned Industrial, which at the time of acceptance of this zone, having one-third or more of all existing road frontage through the zone currently in lesser use.

To change any currently zoned land to Industrial-B shall require the use of all rules and regulations as presently established by the Lakeville Zoning By-Laws. *(Adopted June 16, 1997; approved by Attorney General August 11, 1997)*

- 3.2.7 Mixed Use Development District (Lakeville Hospital) *(Adopted June 16, 2003; approved by Attorney General September 9, 2003)*

Refer to 7.5.1 for District Designation

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

- 3.2.9 The Marijuana Overly District shall be comprised of parcels located within the Town’s Industrial District as shown on the Town’s Zoning Map. *(Bold text- Adopted at STM June 23, 2020; approved by Attorney General Sept. 18, 2020)***

### 3.3 District Boundaries

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

## 4.0 USE REGULATIONS

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

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

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

### LAKEVILLE ZONING DISTRICTS

*(I-B and allowed uses as shown, Adopted June 16, 1997; Approved by Attorney General August 11, 1997)*

4.1.1 <u>Residential Uses</u>	R	B	I	I-B
Accessory Apartment <i>(Adopted 6/15/2009, approved by Attorney General 8/18/2009)</i>	Y	SP	N	SP
Single-family, detached dwellings	Y	SP	N	SP
Farm, garden, greenhouse or nursery, including the display and sale of natural products; when involving the raising and keeping of livestock other than for the private use of the residents, allowed only on parcels of five (5) acres or larger.	Y	Y	Y	Y
Stand for the sale of agricultural products less than 5 acres	SP	SP	SP	SP
Religious, educational, or use by the Town of Lakeville	Y	Y	Y	Y
Mobile Home <b>other than allowed in 8.7.1 and 8.7.2</b> <i>*(Adopted 6/13/2005; approved by Attorney General 9/30/2005 (Underlined-Adopted adjourned ATM 6/19/2017; approved by Attorney General 9/19/2017)</i>	N*	N*	N	N
Alterations, otherwise prohibited, of a dwelling in existence as of January 1, 1978 for two (2) families	SP	SP	N	N
Conversion of a seasonal home or non-residential building for year-round residential occupancy, subject to Board of Health approval and to conditions and limitations on the occupancy and use	SP	SP	N	N
Hospital, convalescent or nursing home	SP	Y	N	N

Home for the elderly, residential care facility, charitable institution or use	SP	Y	N	N
Cemetery	SP	SP	SP	SP
Golf Course	SP	SP	SP	SP
Riding Stable	SP	SP	SP	SP
Private Club not conducted for profit and not containing sleeping quarters for more than four (4) persons	SP	SP	SP	SP
Recreational or sports facilities primarily for participatory, rather than spectator sports, including day or seasonal camp for boys and girls	SP	SP	SP	SP

<b>4.1.2 Business Uses</b>	<b>R</b>	<b>B</b>	<b>I</b>	<b>I-B</b>
Large –scale retail building with 35,000 or more square feet of gross floor area and smaller retail stores within such building, subject to Section 7.6 (Adopted 6/ 14/2004; approved by Attorney General 9/16/ 2004) *(Adopted 6/13/2005; approved by Attorney General 9/30/2005)	N	SP*	Y	Y
Retail business, service or public utility not involving manufacture on the premises except of products the major portion of which is to be sold at retail by the manufacturer to the consumer and provided further that not more than ten (10) operators shall be employed in such manufacture	N	Y	SP	SP
Newspaper or job printing	N	Y	Y	Y
Business or professional office or bank	N	Y	Y	Y
Restaurant	N	Y	Y	Y
Theater (seating capacity of less than 300), bowling alley or other commercial amusement, provided all business is conducted within the structure	N	Y	SP	Y
Museum	SP	Y	Y	Y
Hotel or Motel	N	Y	Y	N
Wholesale office or showroom with no on-site storage	N	Y	Y	Y
Launderette	N	SP	N	N
<b>Funeral Home, Mortuary or Crematory</b> (Adopted adjourned ATM 6/19/2017; approved by Attorney General 9/19/2017)	N	Y	N	N
Animal kennel or hospital	N	SP	N	N
Radio or television studio	N	Y	Y	Y
Bus or railroad terminal or passenger station	N	SP	SP	SP
Commercial parking facility	N	SP	SP	SP
Auto or boat sales, rentals or service (Underlined: Adopted STM 4/30/18; approved by AG June 8, 2018)	N	<b><u>SP</u></b>	<b><u>N</u></b>	N
Car Wash	N	SP	N	N
Filling <u>Station</u> allowed only in areas served by municipal water (Adopted 5/8/2006; approved by Attorney General 6/14/2006) (Underlined: Adopted STM 11/13/18; approved by AG January 7,2019)	N	SP	<b><u>N</u></b>	N
Storage of junk for commercial purposes	N	SP	SP	N

Drive through facility <i>(Underlined: Adopted STM 4/30/18; approved by Attorney General 6/8/2018)</i>	N	SP	<b>SP</b>	N
Licensed junk dealers (Pursuant to the Town of Lakeville General Bylaws) <i>(Adopted STM 11/14/2022; approved by Attorney General 2/24/2023)</i>	N	Y	N	N

#### 4.1.3 **Industrial Uses**

	<b>R</b>	<b>B</b>	<b>I</b>	<b>I-B</b>
Warehouse, offices or facilities for distributing merchandise	N	N	Y	Y
Warehouse, offices or facilities for distributing merchandise 100,000 Sq. Ft <i>(Adopted STM 11/14/2022; approved by Attorney General 2/24/2023)</i>	N	N	SP	SP
Plant for manufacturing, processing, fabricating or assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke gas, sewerage, refuse, noise, excessive vibration or danger of explosion or fire	N	N	Y	SP
Research laboratory ...Dry-excluding genetic or biological research ...Wet-including genetic or biological research <i>*(Adopted 6/13/2005; approved by Attorney General 9/30/2005)</i>	N N*	N N*	SP N*	SP N*
Renewable and Alternative Energy Research <i>(Adopted 6/13/2011; approved Attorney General 9/14/2011)</i>	N	N	Y	Y
Sale of new or used construction or materials handling equipment	N	Y	Y	N
Farm implements and machinery wholesaling	N	N	Y	SP
Lumber, feed or ice establishment wholesaling	N	N	Y	SP
Plumbing, electrical or carpentry shop or other similar service or repair establishment	N	SP	Y	Y
Water towers or reservoirs	N	SP	SP	SP
Steam laundry or dry-cleaning plant	N	SP	SP	SP
Fuel establishment involving storage and distribution to be sold wholesale to suppliers. <i>(Adopted STM 4/30/18; approved by Attorney General June 8, 2018)</i>	N	N	SP	SP
Uses accessory to permitted (Dry-excluding genetic or biological research) scientific research and development, whether or not located on the same lot as the permitted use <i>(*Adopted 6/13/2005; approved by Attorney General 9/30/2005)</i>	N*	N*	SP	SP
Uses accessory to permitted (Wet-including genetic or biological research) scientific research and development, whether or not located on the same lot as the permitted use <i>(*Adopted 6/13/2005; approved by Attorney General 9/30/2005)</i>	N*	N*	N*	N*
Collection, treatment, storage, burial, incineration or disposal of hazardous waste	N	N	N	N
Adult Bookstore/Adult Motion Picture Theater <i>(Adopted 6/1/1996; approved by Attorney General 9/10/1996)</i>	N	N	SP	N
Wireless Communications Facility <i>(Adopted 3/3/1999; approved by Attorney General 3/8/1999)</i>	SP	SP	SP	SP
Tattoo or Body Art Establishments <i>(Adopted STM 6/11/2001, approved by Attorney General 9/19/2001)</i>	N	SP	SP	N
Towers over 45 feet <i>(Adopted 3/3/1999; approved by Attorney General 3/8/1999)</i>	SP	SP	SP	SP

Land Based Wind Energy Facilities (Adopted 6/9/2014; approved by Attorney General 7/1/2014)	N	N	SP	SP
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## 5.0 INTENSITY REGULATIONS

Except as provided otherwise in this By-Law, no structure hereafter erected, altered, or placed in any district shall be located on a lot having less than the minimum requirements set forth in the table below (see 5.1), **no more than one (1) principal structure shall be built upon any lot**, and no existing lot shall be changed as to size or shape so as to violate the requirements set forth below.

*(Add Industrial-B with requirements as shown - Adopted by ATM June 16, 1997; approved by Attorney General August 11, 1997) (Removed the word such from the phrase in bold above – Adopted by ATM June 11, 2007; approved by Attorney General September 12, 2007)*

### 5.1

Requirements	Residential	Business	Industrial	Industrial-B
Minimum Lot Dimension	70,000 sf. (52,500 Area in square feet in of contiguous non-wetland as Defined by MGL Ch.131, Sec 40)	Same as Residential	Same as Business	3 Acres <i>(Adopted 6/14/2004 approved by A.G.9/16/2004)</i>
Frontage in feet	175	175	175	200
Minimum Lot Area for Single-Family Dwelling <i>*(Adopted June 21, 1999; approved by Attorney General August 23, 1999)</i>				3 acres*
Minimum Setback Dimension				
Front yard in feet	40	40	40	60
Side yard in feet	20	40	40	40
Rear yard in feet	20	40	40	40
Maximum Height of Buildings				
Number of stories	2.5	3	3	3
Height in feet	35	35	35	35
Maximum Percentage of Land Covered by Structures Parking and Paved Areas	25%	50%	50%	50% <i>(Adopted 6/14/2004 approved by A.G. 9/16/2004)</i>
Maximum Height of Towers	35'	35'	45'	45'
<i>(Adopted June 17, 1996; approved by Attorney General September 16, 1996)</i>				

#### 5.1.2 **Front Yard Circle**

No dwelling, building or structure having permitted use in any district shall be erected on a lot unless the lot has an area within its bounds which encompasses a **front yard circle** with a minimum diameter of 160 feet and within which the frontage, or frontage at the required set back must pass.  
*(Underlined: Adopted STM April 30, 2018; approved by AG June 8, 2018)*

## **Exclusive Use Easements**

**Exclusive Use Easements where the exclusive use of a portion of a lot has been granted to someone other than the owner of the lot shall not be included in the required frontage or lot area. Exclusive use shall be when someone other than the owner of a lot has the sole right to use a portion of the lot, to the exclusion of the owner of the lot.**

*(Underlined Adopted Adjourned ATM June 19, 2017; approved by Attorney General September 19, 2017)*

### **5.1.4 Density Bonus**

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

## **5.2 Footnotes to Intensity Requirements**

### **5.2.1 Reserved (for future use)**

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

**5.2.2 Any portion of a lot which is less than fifty (50) feet in width or depth when measured from any point on a property sideline to any other point on an opposite sideline shall not be included in the determination of the required minimum area and/or frontage. (Adopted STM June 11, 2001, approved by Attorney General September 19, 2001) (Underlined-Adopted June 5, 2016, approved by Attorney General July 21, 2016.)**

**5.2.2.1 any portion of a lot which falls within a wetland as defined by Massachusetts General Laws Chapter 131 Section 40 or any portion of a lot which will be**

used for drainage structures including detention ponds, retention ponds, forebays, and drainage swales, shall not be included in the determination of the maximum percentage of land covered by structures, parking and paved areas (section 5.1) *(Adopted June 14, 2004; Approved by Attorney General September 16, 2004)*

- 5.2.3 Corner Clearance - Within the area formed by lines by intersecting ways and a line joining points on such lines fifteen feet distant from their point of intersection, or in the case of a rounded corner, the point of intersection of their tangents, no structure and no foliage shall be maintained between a height of two feet and eight feet above the plane through their curb grades.
- 5.2.4 In Business Districts adjacent to the boundary of a Residential District, there shall be provided, other than along a street, either:
  - 5.2.4.1 a buffer strip no less than forty (40) feet wide. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen, and may contain fences, ornamental and acoustic walls, driveways and walks, wells or septic systems, but no part of any building, structure or paved space intended or used as a parking area shall be located within such buffer strip, or;
  - 5.2.4.2 a buffer strip no less than twenty (20) feet wide with an acoustical wall to prevent the sound level from increasing by more than 10db above ambient as defined in the Commonwealth of Massachusetts Division of Air Quality Control Policy regarding noise regulation. Such a wall must be located at least 10 feet from the property line between the Business and Residential property. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen. Positioning of lights should be such that it is not offensive to any adjacent abutter.
- 5.2.5 In Industrial Districts adjacent to the boundary of a Residential District, other than along a street, there shall be provided either:

- 5.2.5.1 a buffer strip not less than one hundred (100) feet wide. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen, and may contain fences, ornamental and acoustic walls, driveways and walks, wells or septic systems, but no part of any building, structure or paved space intended or used as a parking area shall be located within such buffer strip, or;
- 5.2.5.2 a buffer strip no less than fifty (50) feet wide with an acoustical wall to prevent the sound level from increasing by more than 10db above ambient as defined in the Commonwealth of Massachusetts Division of Air Quality Control Policy regarding noise regulation. Such a wall must be located at least 10 feet from the property line between the Industrial and the Residential property. Such buffer strip shall be landscaped and planted with grass, shrubs, trees or other plants which provide a visual and acoustic screen. Positioning of lights should be such that it is not offensive to any adjacent abutter.
- 5.2.6 A buffer strip could be created on Residential Property abutting business or industrial zones provided said area be restricted by a deed covenant to use as a buffer area only for the abutting business or industrial property.
- 5.2.7 Projections - Nothing herein shall prevent the projection of steps, stoops not exceeding thirty (30) square feet in area, eaves, cornices, window sills, or belt courses into any required yard.
- 5.2.8 In the Business District one side or rear yard setback, on a non-conforming lot abutting another businesses district property, may be reduced by 50% by a Special Permit issued by the Planning Board. This may be only Granted if the applicant can show to the satisfaction of the Board that the reduced setbacks are necessary to allow for the most desirable and efficient site design due to the nonconformity of the lot.**  
*(Bold: Adopted Special Town Meeting, November 14, 2022; approved by Attorney General September February 24, 2023)*

## 6.0 GENERAL REGULATIONS

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

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

6.1.1 Abandonment/Non-Use-A non-conforming use, building or structure, other than single and two-family residential structures, which has been abandoned or not used for a period of two (2) years, shall lose its protected status and any future use shall conform with the By-Law, except in the case of land used for agriculture, horticulture, or floriculture, where such non-use shall have existed for a period of five (5) years; provided, however, that by the issuance of a Special Permit, the Zoning Board of Appeals may reestablish the protected nonconforming status of such use, building or structure.

A single or two-family residential structure, which has been abandoned for a period of two (2) years, shall lose its protected status and any future use shall conform with the By-Law; provided, however, that by the issuance of a Special Permit, the Zoning Board of Appeals may reestablish the protected non-conforming status of such use, building or structure. (Underlined- Adopted June 6, 2016; approved by Attorney General July 21, 2016)

6.1.2 Limitation on Restoration- A non-conforming **structure** which has been unintentionally destroyed may be **reconstructed**. **The reconstructed structure** shall either be placed no nearer to any property line than the **structure** which it replaces, or **the reconstructed structure may be extended up to the limits of the Intensity Regulations of Section 5.0 of the current By-Law. Wherever possible, the reconstructed structure** shall conform to the **Intensity Regulations of Section 5.0** of the current By-Law.  
(**Bold text**- Adopted June 4, 2012; approved by Attorney General July 18, 2012) (Underlined-Adopted June 6, 2016; approved by Attorney General July 21, 2016)

6.1.3 Extension- Pre-existing non-conforming structures or uses may be changed, extended or altered by Special Permit from

the Board of Appeals, finding that such change, extension or alteration is not substantially more detrimental than the existing non-conforming structures or uses. (*Underlined- Adopted June 6, 2016; approved by Attorney General July 21, 2016.*)

a. **Changes, extensions or alterations to pre-existing non-conforming structures on lots zoned residential of 15,000 square feet or more shall be exempt from the Special Permit requirement, except where the Building Commissioner determines that the proposed change, extension or alteration will intensify the nonconformity.**

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

*(**Bold text-** Adopted June 4, 2012; approved by Attorney General July 18, 2012)*

6.1.4 Changes-Once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. On Special Permit from the Board of Appeals, the use of premises may be changed from one non-conforming use to another which is no more detrimental to the neighborhood.

6.1.5 The construction of a building or operation of land use under a building permit or a Special Permit shall conform to any subsequent amendment to the By-Law adopted after the issuance of the permit, unless such construction or operation commences within a six-month period beginning with the issuance of the building or Special Permit and is substantially and continuously constructed until completion.

6.1.6 No lot having 20,000 square feet or more of area may be considered to be non-conforming for accessory use to a permitted principal use on the same premises, provided lot coverage and setback requirements are not violated. Detailed plans showing buildings, wells, disposal areas, and other details may be required before a permit is issued by the Building Commissioner. (*Approved by Attorney General*

August 20, 1993)

6.1.7 Any pre-existing dwelling in a Business or Industrial zoned area shall be allowed all rights of use as if in a Residential District without special permit so long as all residential district regulations are met. *(Adopted June 17, 1996; approved by Attorney General September 10, 1996) (Underlined-Adopted Adjourned ATM, June 19, 2017; approved by Attorney General September 19, 2017)*

6.2 **General Prohibitions**

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

6.3 **Accessory Uses**

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

6.3.2 No accessory building or structure shall be located within the required front, side or rear setback unless a Special Permit is granted by the Zoning Board of Appeals. Where a Special Permit is sought under Section 7.4.6 for an accessory building or structure within the setback on a lawfully pre-existing, nonconforming lot, the Zoning Board of Appeals shall additionally make a finding that the accessory building or structure shall not be substantially more detrimental to the neighborhood than the existing nonconformity.

*(Underlined- Adopted at STM November 13, 2017; approved by Attorney General February 9, 2018)*

6.4 **Home Occupation**

A home occupation is defined and regulated as follows:

6.4.1 Home occupation is the use of a room or rooms in a dwelling and/or accessory building on the premises for a business activity carried on by the person or persons who live in that dwelling. A home occupation is a profession, trade, craft, activity, or other legal use conducted for financial gain. Such use must be clearly incidental and subordinate to the primary residential use of the premises. The purpose of these

standards is to strictly limit the size, type, and intensity of a proposed home occupation so that the residences and residential properties do not become retail, commercial, or industrial in appearance or character.

6.4.2 A home occupation is permitted, upon the property owner filing an application with the Building Department for and receiving a home occupation permit reflecting the change of use, provided that the home occupation conforms to the following standards and requirements:

6.4.2.a the activities of the home occupation are primarily interior to the principal residential dwelling and/or accessory building, and do not substantially alter the residential appearance of the property.

6.4.2.b The home occupation shall be accommodated within an existing dwelling and/or accessory building and said dwelling and/or accessory building shall not be expanded to accommodate the occupation. Any accessory structure associated with the business use, such as a garage or shed, must be only for the storage of supplies, materials, tools, equipment, and/or vehicles. Building of a garage, shed, or any structure specifically for use in or by the home occupation is not permitted.

6.4.2.c No more than twenty-five percent of the total useable floor area of the residence and accessory building shall be used for the home occupation, which includes useable basement floor area.

6.4.2.d No more than three people who are not residents of the dwelling shall be employed on the premises in the home occupation. All primary business activities connected with the home occupation shall occur inside the dwelling and/or accessory building or off the premises.

For the purposes of this bylaw, any person who works at a business activity shall be considered as and counted as an employee of the home occupation. This includes, but is not

limited to, a sub-contractor, a fee-for-service contractor or professional, and/or a person who rents business space within the home occupation.

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

6.4.2.f No offensive noise, smoke, vibration, dust, odors, heat, light, or glare shall be produced by the home occupation. There shall be no exterior announcement or display of the home occupation except for a single unlighted sign on the premises. This sign shall not exceed two (2) square feet in area, as provided in Section 6.6.4.3. The sign shall conform in all other ways to the relevant portions of the Town bylaws.

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

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

- 6.4.2.h Acceptable off-street parking must be provided for employees and customers. No on-street parking is permitted for vehicles associated with a home occupation, including customers' or clients' vehicles.
- 6.4.2.i All structures used for home occupations must comply with all applicable federal, state and local laws and regulations.
- 6.4.2.k The owner of a home occupation will register said home occupation with the Town Clerk. Said registration does not constitute a business license, business permit, or business certificate. *(Adopted June 14, 2004; approved by Attorney General September 16, 2004)*

6.5 **Access, Parking and Loading**

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

6.5.2 Driveways and parking areas shall be adequately lighted during business hours.

6.5.3 Parking space shall conform to the following standards:

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

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

6.5.3.3 Parking Space Schedule:

Land Use, Category	Minimum Number of Off-Street Parking Spaces

<b>Handicapped Spaces</b>	One per establishment and/or use, with a maximum of 10%, inclusive, of total parking required. These spaces shall be a maximum distance of 50 feet from any accessible entrance, suitably displayed, with a safe means of access/egress. This is in addition to the land uses and their required spaces within this section.
<b>Residential</b>	Two per dwelling unit.
<b>Hotel or Motel</b>	One per guest room, plus one for each employee.
<b>Place of Assembly, Church, Meeting Hall or Room, Club, Lodge, and Country Club</b>	One per each four seats of total seating capacity, or one per 400 square feet of gross floor area, whichever is greater, plus one for each employee.
<b>Restaurant</b> <i>(Underlined: Adopted STM 4/30/18; approved by AG 6/8/2018)</i>	<b><u>One (1) per each two (2) occupants based on the designed occupant load, plus one (1) for each employee.</u></b>
<b>Stadium, Gymnasium, Arena, Auditorium</b> <i>(Underlined: Adopted STM 4/30/18; approved by AG 6/8/2018)</i>	One <b>(1)</b> per each three <b>(3)</b> seats of total seating capacity, plus one <b>(1)</b> for each employee.
<b>Theatre</b>	One per each two seats of total seating capacity, plus one for each employee
<b>Bank</b>	One per each 150 square feet of gross floor area or fraction thereof, plus one for each employee.
<b>Commercial Establishments serving the general public</b>	One (1) per each 300 square feet of gross floor area or fraction thereof, plus one (1) for each employee.
<b>Wholesale, Warehouse, or Storage Establishment</b>	One per each employee on the largest shift.
<b>Medical or Dental Clinic or Office Hospital</b>	Three per each doctor, plus one for each employee. Two per bed at design capacity, plus one for each employee on the largest shift.
<b>Nursing Home</b>	One per two beds.
<b>Business, Trade, or Industrial School or College</b>	One per each 200 square feet of gross floor area in classrooms and other teaching stations, plus one for each employee
<b>School or College Dormitory Facilities</b>	One space per person or ultimate dormitory resident capacity
<b>Other Schools</b>	Two per classroom in an elementary and junior high school; four per classroom in a senior high school, plus any other "mixed use" requirements, plus one for each employee.

<b>Office</b>	One per 300 square feet of gross floor area, or one per each employee, whichever is greater.
<b>Golf Course</b>	Two per green, plus one for each employee.
<b>Tennis Court</b>	One per four spectator capacity and two per court.
<b>Swimming Pool, Skating Rink</b>	One per four spectator capacity, plus one per each 100 square feet of gross floor area.
<b>Sports Field</b>	One per four spectator capacity.
<b>Amusement Park</b>	One per each 30 square feet of amusement area.
<b>Ranges (golf, batting, etc.)</b>	One and one-half per station.
<b>Campgrounds</b>	Two and one-half per campsite.
<b>Public Utility</b>	One for each 200 square feet of gross floor area.
<b>Manufacturing or Industrial working Establishments</b>	One per each employee in the largest shift.
<b>Any use permitted by these the bylaws not interpreted to be covered by this schedule.</b>	Closest similar use as determined by Building Commissioner.

6.5.3.4

Dimensions:

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

6.5.3.5

Aisle and Entrance Dimensions:

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

6.5.4 Driveways, parking areas, and storm drainage for business and Industrial uses shall be constructed and paved according to the Rules and Regulations of the Planning Board Governing the Subdivision of Land, adopted under the Subdivision Control Law. No such driveway or parking area will be allowed to shed water upon town ways.

6.5.5 Adequate loading areas shall be provided for all structures.

## **6.6 SIGN REGULATIONS**

### **6.6.1 Purpose**

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

### **6.6.2 Permit Required**

**6.6.2.1** No sign shall be erected, altered, or relocated without a permit issued by the Building Commissioner, except as otherwise provided herein.

**6.6.2.2** The applicant proposing to erect, alter or relocate a sign shall submit to the Building Commissioner a completed sign permit application, together with the required application fee and sketches of all proposed signs. The drawings shall specify the building and sign dimensions, colors, attachment methods, location of the signs, method of illumination and any other pertinent information which may be required.

**6.6.2.3** Sign permit fees shall be determined by the Selectboard.

### **6.6.3 General Sign Regulations**

**6.6.3.1** No sign shall be located closer than ten (10) feet from the street right-of-way, and no closer than thirty (30) feet from the side or rear property lines.

**6.6.3.2** Signs shall be limited to a maximum height of twenty (20) feet as measured from the crown of the road directly perpendicular to the sign.

**6.6.3.3** Signs shall be limited in number to two (2) signs for each business or industrial establishment or company. Business or industrial sites containing more than one (1) establishment (mill outlets, shopping centers, industrial parks, etc.) shall be limited to two (2) signs per establishment, one of which shall be attached to the structure to designate the establishment within the structure, and the other attached to or part of a central common directory sign. Business and Industrial subdivisions may have one (1) entrance sign, not being a directory sign, in addition to the above. Signs for this common directory sign and for the business and industrial subdivision entrance sign may be double-sided and a maximum of sixty-four (64) square feet in area.

**6.6.3.4** Unless permitted elsewhere in this By-Law, no sign may exceed thirty-two (32) square feet in area.

**6.6.3.5** Signs erected upon or attached to a building shall not project:

1. horizontally more than two (2) feet;
2. into or over any way;
3. above the highest part of the building, not exceeding twenty (20) feet from ground level.

**6.6.3.6** No free-standing sign shall project more than two (2) feet horizontally from its means of support.

**6.6.3.7** The colors red, green or yellow shall not be used in a manner that might confuse the meaning of stop signs, stop lights or other traffic signs.

**6.6.3.8** Freestanding signs shall have landscaping at the base.

**6.6.3.9** All Signs must be maintained, this includes awning material, lettering, lighting, and landscaping.

**6.6.3.10** Free Standing signs are permitted to have either a changeable copy sign or an electronic Message Board as part of its sign but not both.

**6.6.3.11** Wall signs shall not exceed fifteen (15%) of the area of the wall it is attached to or thirty-two (32) Square Feet whichever is less.

**6.6.3.12** Window signs shall not exceed thirty percent (30 %) of the total area of all windows and doors.

**6.6.3.13** One (1) Temporary subdivision sales sign not to exceed thirty-two (32) square feet. This sale sign shall be removed upon the issuance of occupancy permits for seventy-five percent (75%) of the subdivision.

#### **6.6.4 Exemptions**

**6.6.4.1** Flags or insignia of the United States or any political subdivision thereof or any other nation or country when not used for commercial promotion or display.

**6.6.4.2** Temporary posters, placards, or signs associated with a political campaign or current political issue associated with an election.

**6.6.4.3** Signs located on residential structures or driveways, for the primary purpose of indicating the name or names of the resident.

**6.6.4.4** For sale, lease, or rent signs on real property or the signs of real estate agents or brokers.

**6.6.4.5** Signs less than two (2) square feet designating entry and egress from parking areas, and other directional traffic control and safety-related signs.

**6.6.4.6** Normal highway control signs, hazard signs, and other State-approved highway safety signs.

**6.6.4.7** Permanent subdivision or residential development identification signs shall not exceed twelve (12) square feet. They may only be externally illuminated by spotlights and shall be set back ten (10) feet from property lines.

**6.6.4.8** One (1) sign not exceeding thirty-two (32) square feet on a building or project under construction, repair, or renovation identifying the contractor, architect, and/or owner. This sign shall be removed upon issuance of an occupancy permit for all or part of the building.

**6.6.4.9** Fuel pump information signs, only as required by State law, are allowed and shall not affect the computation of allowable number of signs or aggregate sign size on a property.

### **6.6.5 Temporary Signs**

**6.6.5.1** Temporary exterior signs or mobile sign displays are permitted to advertise the opening of a business at a new location or to advertise a special event at its intended location.

**6.6.5.2** Such signs shall not exceed thirty-two (32) square feet in area.

**6.6.5.3** Banners or portable signs may be allowed for special events but must be removed after the event has concluded.

**6.6.5.4** No two (2) or more of such signs shall be closer than five hundred (500) feet apart.

**6.6.5.5** The combined total number of days that one (1) or more temporary signs may be displayed on the premises shall not exceed ninety (90) days in each twelve (12) month period per establishment.

**6.6.5.6** Temporary signs shall be displayed in conformance with setback requirements for all signs.

**6.6.5.7** At the end of the ninety (90) day period, the sign shall be removed by the initiative of the company, organization, or individual or their agents as indicated by the display of information.

**6.6.5.8** All such temporary signs as herein described must meet the approval of the Building Commissioner regarding safety of construction, placement, mounting, and lighting. By written notice specifying the corrections needed, the Building Commissioner shall order the immediate action of the displayer to either correct the sign or have it removed.

### **6.6.6 Special Permits**

**6.6.6.1** Signs larger in area or higher than specified or a greater number of signs, may be granted by Special Permit of the Board of Appeals.

**6.6.6.2** A Special Permit may not be issued for signs prohibited by this by-law in Section 6.6.7.

**6.6.6.3** Changeable copy signs, electronic message board signs, and internally illuminated signs or the portion of a sign that is changeable copy, an electronic message board or internally illuminated shall require a Special Permit.

**6.6.6.4** Changeable copy signs and electronic message boards shall not exceed twelve (12) square feet. Only one (1) of these types of signs are permitted per property.

**6.6.6.5** Common Directory signs may be allowed to have one (1) additional internally illuminated panel per business not to exceed twelve (12) sq ft.

**6.6.6.6** Changeable copy signs, electronic message board signs and internally illuminated signs may not be illuminated during the overnight hours from 11:00 pm until 6:00 am, unless for a facility providing medical care or emergency services with hours of operation during these hours. In this case, the applicant can apply for a special permit to keep the sign illuminated.

#### **6.6.7 General Sign Prohibitions**

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

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

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

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

**6.6.7.5** No sign shall be located in such a way that it prevents the driver of a vehicle from having a clear and unobstructed view, from an adequate and safe distance, of any official sign or approaching traffic.

**6.6.7.6** Roof mounted signs that are taller than two (2) feet or extend over the peak of the roof.

**6.6.7.7** No sign shall be attached to utility poles, trees, or traffic control signs or devices, except for public event banners or flags.

**6.6.7.8** Portable Signs except for Temporary signs.

**6.6.7.9** Electronic message boards or the electronic message board portion of a sign that exceeds twelve (12) Square feet.

**6.6.7.10** Changeable copy signs or the portion of a sign that is changeable copy that exceeds twelve (12) square feet.

**6.6.7.11** Electronic Outdoor Advertising Signs.

**6.6.7.12** Internally illuminated signs greater than twenty-four (24) square feet.

**6.6.7.13** Free Standing signs exceeding thirty (30) feet in Height.

**6.6.7.14** Signs not located at the location of the business or off premise signs.

#### **6.6.8. Removal of signs**

**6.6.8.1** Any sign which is insecure, in danger of falling over, or is deemed unsafe by the Building Commissioner shall be removed.

**6.6.8.2** Abandoned signs shall be removed by the sign permit holder and/or the owner of the building or premises at which the abandoned sign is located within ninety (90) days from the date the sign became abandoned.

#### **6.6.9 Nonconforming Signs**

**6.6.9.1** A lawfully existing non-conforming sign may have its surface and support renewed or replaced with new material without applying for a new permit if the replacement or

renewal is for the same business and has the same dimensions, and same location of the existing sign.

**6.6.9.2** All non-conforming signs shall be removed or shall be altered so as to conform with the following provisions:

1. When the nature of the business changes and the sign is changed or modified in shape, size; or
2. When the name of the business changes and the sign is changed or modified in shape, or size.

**6.6.9.3** Any abandoned sign shall not be reestablished except in conformance with this bylaw.

#### **6.6.10 Administration, Violations, Appeals**

**6.6.10.1** It shall be the duty of the Building Commissioner to administer this By-Law.

**6.6.10.2** Violations of the Sign By-Law shall be enforced in accordance with Section 8.0 of these By-Laws.

**6.6.10.3** Appeals of any decision taken by the Building Commissioner shall be made in accordance with Section 8.0 of these By-Laws.

*(Adopted May 16, 2022; approved by Attorney General October 19, 2022)*

### **6.7 SITE PLAN REVIEW**

#### **6.7.1 Purpose**

The Purpose of this By-Law is to protect the public health, safety and welfare; to promote balanced growth; to protect property values; and to encourage development by providing the public and the Town with an opportunity to review and comment.

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

**6.7.2 Authority:** The Planning Board shall hear and decide all applications for site plan review in accordance with the provisions of this Section 6.7.

### **6.7.3 Applicability:**

Site Plan Review applies to the following:

- 1) New construction of a structure to be occupied by a business, or industrial use;
- 2) An addition to an existing structure occupied by a business or industrial use resulting in a floor area of over 1,500 square feet in the aggregate or a disturbance in lot coverage of over 1,500 square feet;
- 3) A change in occupancy of an existing structure occupied by a business or industrial use which increases the previously approved occupant load by 10%;
- 4) A change in use of an existing structure to a business or industrial use;
- 5) New multifamily building construction of three (3) or more units; and/or
- 6) New construction, modification, or addition to any residential structure which will disturb more than 43,560 square feet of ground.

### **6.7.4 Submittal Requirements**

- 1) locus plan;
- 2) location of structures within 200 feet of property lines;
- 3) existing and proposed buildings, showing setbacks from property lines;
- 4) floor plans, building elevations, siding types, roof materials, and colors;
- 5) parking areas, driveways, and facilities for pedestrian movement including parking calculations based on current regulations;
- 6) utilities and lighting;
- 7) landscaping, including trees to be removed and retained;
- 8) loading areas, service areas, and refuse removal locations;
- 9) drainage system design; drainage calculations and verification of soil types;
- 10) existing and projected traffic volumes from the site and effect on the local road network;
- 11) existing and proposed contour elevations in five (5) foot increments;
- 12) location of well or public drinking water supply;
- 13) location of septic system or sewer connection;
- 14) location of wetlands, flagged for approval by the Conservation Commission;

- 15) proposed and existing design and location of signs;
- 16) all information should pertain to existing and proposed;
- 17) Sediment and Erosion Control Plan detailing the location installation and maintenance of sediment and erosion controls during and after construction. The Plan shall adhere to the standards and specifications found in the Massachusetts Erosion and Sediment Control Guidelines dated March 1997 as amended;
- 18) other plans, studies, or reports requested by the Planning Board that may be necessary to determine compliance with the provisions of this By-Law.

#### **6.7.5. Review Procedure**

**6.7.5.1 Application:** Applicants for a building permit subject to Section 6.7.3 shall submit an application, abutters list, fees, and fourteen (14) copies of a site plan and an electronic copy as described herein to the Town Clerk for Planning Board approval. The Planning Department shall distribute the plans and application to the following departments for review and comment:

- Police Department
- Fire Department
- Board of Health
- Conservation Commission
  - DPW Director
- Building Department
  - Select Board

**6.7.5.2 Hearings:** The Planning Board shall give notice of a Public Hearing by publication of a notice in a newspaper of general circulation and by posting a notice at Town Hall at least seven (7) days before the hearing. Notice shall also be sent to all abutters at least seven (7) days prior to the hearing date. The Public Hearing shall be posted no later than twenty-one (21) days after the receipt of a complete application. At the request of the applicant, these time periods may be extended.

**6.7.5.3 Consultants:** The Planning Board may require that any plans, reports, or studies be reviewed by outside consultants at the applicant's expense in accordance with MG.L. c. 44, § 53G.

#### **6.7.6 Performance Standards**

**6.7.6.1. Purpose.** The following performance standards have been adopted in order to control the size, scale, and impacts of projects listed in Section 6.7.3. “The Planning Board shall consider the protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against light, sight, sound, dust and vibration, and preservation of light and air.” The Planning Board shall ensure that such standards are met during the review of any Planning Board site plan review application or those that also require a special permit.

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

**6.7.6.3. Off-street parking and loading.** The plan shall comply with Section 6.5 of these bylaws. Unless otherwise allowed by the Planning Board, construction materials and standards not specified within Section 6.5 shall be consistent with those found within the Lakeville Subdivision Regulations. Provisions shall be made to accommodate areas for snow storage.

**6.7.6.4. Circulation.** Driveways and internal circulation shall be safe, adequate and convenient for automotive as well as pedestrian and bicycle traffic. Sidewalks and parking lots shall meet Massachusetts Architectural Access Board Regulations and the American with Disabilities Act Design Standards. Site distances, driveway widths, grade, location, drainage, signage, islands, and other control structures, curb radii and intersection angles shall all be provided for review. The Planning Board reserves the right to require certain driveways to meet or exceed the road standards found in the Lakeville Subdivision Regulations.

**6.7.6.5. Site access.** The Planning Board shall evaluate the safety of motorists, bicyclists, and pedestrians utilizing the site and the roadways leading into the site. To ensure the public's safety, the Planning Board may require sidewalks or pedestrian paths within and between developments. The Planning Board may also require the connection of adjacent properties via the use of connector drives.

**6.7.6.6. Architectural requirements.** Consideration shall be given to ensure that buildings are appropriate in scale, massing, height, roofline, and building materials to ensure

that the architecture shall be in harmony with the surrounding neighborhood and the Town. Rooftop mechanical installation shall be hidden from view from the street or abutting properties. See Section 6.7.7 for specific standards.

**6.7.6.7. Screening, buffers and landscaping requirements.** Notwithstanding whether or not the project is adjacent to a Residential District the plan shall comply with Sections 5.2.4.1, 5.2.4.2, 5.2.5.1 or 5.2.5.2 of these bylaws. Plants should be indigenous to the area or be able to survive New England winters. Salt-tolerant varieties shall be planted along roadways and parking areas.

**6.7.6.8. Lighting.** Lighting shall be designed to enhance public safety and provide for adequate and appropriate outdoor lighting. The design shall not produce unwanted glare, light trespass on abutting properties or an over illumination of the site. Lighting shall be full cut off fixtures, dark sky compliant except for sign lighting.

**6.7.6.9. Service areas.** Service areas and delivery locations shall be located so that delivery vehicles are parked outside the street right-of-way or in on-site driveways. The Board shall ensure that these areas do not impede on-site vehicular circulation. The Board may require that specific areas adjacent to buildings or areas of the business' operations be specifically reserved for loading or delivery operations. These areas cannot be counted for parking or utilized for access aisles. All service areas, dumpster and trash receptacle locations, and other similar uses shall be screened from the street and from public view, through a variety of materials such as walls, fences, plantings or a combination of these materials.

**6.7.6.10. Utility service.** All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical, cable and telephone lines, shall, whenever practicable, be placed underground.

**6.7.6.11. Drainage.**

1. All efforts shall be made to design the drainage system to utilize low-impact development (LID) methods. Developments not incorporating any LID design elements shall prove to the Board that the use of these drainage systems is not feasible for the project due to unique site characteristics or its location.

2. Detailed drainage design and computations shall be provided in conformance with the Department of Environmental Protection, Massachusetts Stormwater Handbook (latest edition). Closed drainage systems shall be designed for a 25-year storm event. Culverts, detention basins, and infiltration systems shall be designed for 100-year events.
3. Post-development drainage rates shall not exceed pre-development levels. Within the Water Resource Protection District, special attention shall be made to ensure water quality is not degraded. Easements shall be shown on the plan. If they are to be granted to the Town, a written easement and a specific easement plan of such for recording purposes is necessary.

**6.7.6.12. Off-site improvements.** The Planning Board may require applicants to make offsite improvements to public roads or other community facilities, or to make payments for the reasonable costs associated with the impacts of the proposed development. Such improvements may include but are not limited to the widening of streets and improvement of intersections providing access to the site; the installation of curb and sidewalks along streets serving the site; and drainage improvements necessitated by the development of the site.

**6.7.6.13. Public safety.** Buildings and adjacent grounds shall permit reasonable access and operation by fire, police and other emergency personnel and equipment. The Board may require fire lanes at locations providing access to buildings to ensure that these areas are open for fire vehicle access.

**6.7.6.14. Construction standards.** All construction specifications shall comply with the standards in the Lakeville Subdivision Regulations. Where these regulations do not cover construction items, construction shall be in accordance with Commonwealth of Massachusetts, Department of Transportation, Standard Specifications for Highways and Bridges (latest edition) or standard engineering practices as determined by the Board or its designee.

### **6.7.7. ARCHITECTURAL STANDARDS:**

The following architectural requirements shall apply to all new structures. Additions or alterations to existing structures may be exempted from specific requirements at the reasonable discretion of the Planning Board, based on such factors as the cost, scope and extent of the work, the relative proportion of the existing structure to be added or altered, and the goal of harmony with the existing structure or structures.

**6.7.7.1 Facades:** For long front facades, vary the setback, height, and roof form of the building within the range provided by traditional buildings in the region to continue the established rhythm of facades on the street.

In most cases, long facades should be avoided, generally extending no more than 50 feet without a change in the wall plane. Setbacks and projections of several feet in depth are most effective at visually breaking up large facades. Smaller setbacks used in conjunction with larger setbacks can be effective. The bulk and mass of the building should be broken down to a scale that reflects the context of the surrounding neighborhood.

**6.7.7.2 Siding:** The following siding treatments most commonly found in New England shall be used: Clapboard, vertical board, brick, stone, and wood shingles. Natural materials are preferred.

The use of vinyl or aluminum is strongly discouraged in the Business District. Concrete block, stucco, adobe, or other non-traditional siding types are also discouraged. Sidings having a panelized or prefabricated appearance are unacceptable.

**6.7.7.3 Roofs:** Roofs shall be of various pitched varieties commonly found in New England.

Gable or Hip Roofs are most preferred. Shed and Gambrel style roofs are also acceptable. False mansard or other flat roofs are the least desirable. All roofs should have appropriate overhangs.

Flat roofs should not be completely eliminated from consideration, but should only be built where the size of the

building does not permit a pitched roof. When flat roofs are permissible, any roof top mechanicals should be hidden from the main viewpoints on ground level.

**6.7.7.4 Roof Materials:** Roofs shall be constructed of materials, which are commonly found in New England. Shingled roofs constructed of asphalt or wood shingles are preferred. Standing seam, copper, or other metal roofs are also acceptable. Multiple roof plain slopes are acceptable, as New England Architecture often includes a variety of roof styles and plains, however it should be limited. Roll roofing, built-up tar and gravel, plastic, or fiberglass roofing materials are not appropriate. On flat roofs that are not visible from public areas, other roof materials may be considered.

**6.7.7.5 Architectural Features and Details:** Balconies, decks, covered porches, decorative shingles, bracketed eaves, columns, balustrades, towers, turrets, skylights, and arches are among the details to be considered. All features and details should be in proportion with the building. Use of metal, fiberglass, or plastic awnings is not appropriate.

**6.7.7.6 Windows and Doors:** All windows and doors shall be of a New England character. Large plate glass windows are discouraged unless they are broken up with mullions or muttons. Mirrored glass or walls are not acceptable. Also, aluminum windows/wall systems with or without colored metal panels known as curtain wall systems are not acceptable. Windows and doorways should be encased with trim. Decorative trim is preferred.

**6.7.7.7 Lighting:** Lighting for new developments whether mounted on the building or on poles shall be designed so as not to spill onto adjacent properties. Shielded lights are preferred or exposed bulb fixtures, which are historic in character. Lighting elements shall be covered by globe or shielded. Low-level lighting is preferred over large high-level light fixtures. Lighting shall comply with the Town of Lakeville Outdoor Lighting By-Law.

**6.7.7.8 Equipment:** All roof, wall or ground mounted mechanical equipment, trash collection or dumpster locations, delivery or loading areas, and outdoor storage

areas shall be located outside primary visual corridors and screened from public view.

## **6.7.8 DECISION, INSPECTION, FEES, AND APPEALS.**

**6.7.8.1 Planning Board Action:** The Planning Board shall take final action on the Site Plan Review application within twenty-one (21) days of the close of the public hearing. Planning Board action shall be by majority vote. The Planning Board may attach reasonable conditions to mitigate any impact of the proposed development. Any disapproval shall state the reasons why the site plan does not meet the requirements of this By-Law.

**6.7.8.2 Appeals:** Any decision rendered by the Planning Board may be appealed by the applicant to a court of competent jurisdiction as set forth in MGL c. 40A, § 17, and no building permit specifically connected to the appeal may be issued until the appeal is resolved.

**6.7.8.3 Expiration of Site Plan Approval:** Any approval of a site plan which has been granted pursuant to this By-Law shall expire two (2) years from the date of final action, unless work in accordance with the Site Plan Approval has not sooner commenced, except for good cause.

**6.7.8.4 Extensions:** The Planning Board may extend approvals for an additional two-year period, such extension not to be reasonably denied. Thereafter, extensions may be granted on a year-to-year basis. A request for extension, accompanied by a schedule of completion, shall be completed by the applicant and filed with the Planning Board in advance of the Planning Board placing the extension request on an agenda of a regular or special Planning Board meeting. Extensions may not be granted for plans which no longer conform to the Town of Lakeville Zoning By-Law.

**6.7.8.5 Compliance:** No building permit shall be issued by the Building Commissioner for any development subject to this section and no construction or site preparation shall be started until the Planning Board decision has been filed with the Town Clerk and the plans have been endorsed by the Planning Board.

**6.7.8.6 On-site construction:** The Board shall require the inspection of site construction approved under this section. The applicant shall be responsible for the inspection fee. An

applicant may make limited on-site changes to an approved site plan. Said changes shall be based on unforeseen conditions, situations, or emergencies. The Town Planner or designee of the Planning Board shall review the request and may approve limited on-site changes that are generally consistent with the approved site plan. The Planning Board shall review changes that are of such a nature or magnitude that they would unreasonably compromise the basis of approval. The Planning Board may review any request for on-site construction changes under general business and may either approve, modify or deny the requested on-site changes. Said request shall not be unreasonably denied. An as built plan shall be submitted.

**6.7.8.7 Regulations:** The Planning Board may adopt and from time to time amend reasonable procedural regulations, application forms, standard construction detail drawings (as included in the Planning Board Subdivision Rules and Regulations), and specifications for the administration of this by-law, without requiring Town Meeting Approval.

**6.7.8.8 Fees:** The Planning Board may adopt reasonable application and administrative fees, technical review fees, and inspection fees for site plan review.

*(Adopted May 16, 2022; approved by Attorney General August 29, 2022)*

## 6.8 **HAZARDOUS WASTES**

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

## 6.9 **EXPEDITED PERMITTING**

Renewable or alternative energy research and development facilities and Renewable or alternative energy manufacturing facilities and/or Renewable Energy Generation Facilities as identified in Sections(s) 2.0, subject to Site Plan Review by the Planning Board, pursuant to Section 6.7 (Site Plan Approval) and subject to the dimensional requirements of Section 5.0 (Dimensional Regulations). Said Site Plan Approval shall be an “expedited” application and permitting process under which said facilities may be sited within one (1) year, from the date of initial application to the date of final approval by the Planning Board; unless mutually agreed upon by both parties to extend time of

approval. For the purposes of this section Renewable Energy shall be as defined in Section 2.0. (*Adopted ATM June 13, 2011; Approved by Attorney General September 14, 2011*)

## **7.0 SPECIAL REGULATIONS**

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

#### **7.1.1 Statement of Purpose**

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

#### **7.1.2 Existing Regulations**

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

- **780 CMR of the Massachusetts State Building Code which address floodplain and coastal high hazard areas**
- 310 CMR 10.00, Wetlands protection, Department of Environmental Protection
- **310 CMR 13.00**, Inland Wetlands Restriction, D.E.P.
- 310 CMR 15, Title 5, minimum requirements for the subsurface disposal of sanitary sewage, Department of Environmental Protection.

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

#### **7.1.3 Definitions**

**AREA OF SPECIAL FLOOD HAZARD** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year.

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**DISTRICT** means floodplain district.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM)** An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

**FLOOD INSURANCE RATE MAP (FIRM)** means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination flood-related erosion hazards.

**FLOODWAY** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

**LOWEST FLOOR** means the lowest floor of the lowest enclosed area (including basement or cellar). An

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

**MANUFACTURED HOME** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED HOME PARK OR SUBDIVISION** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**NEW CONSTRUCTION** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

**ONE-HUNDRED-YEAR FLOOD - see BASE FLOOD.**

**RECREATIONAL VEHICLE** means a vehicle which is:  
(a) Built on a single chassis;  
(b) 400 square feet or less when measured at the largest horizontal projection;  
(c) Designed to be self-propelled or permanently towable by a light duty truck; and  
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.  
[US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY - see FLOODWAY**

**SPECIAL FLOOD HAZARD AREA** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**START OF CONSTRUCTION** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

**STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

**STRUCTURE**, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

**SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would

equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**SUBSTANTIAL REPAIR OF A FOUNDATION** When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

**VARIANCE** means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

**VIOLATION** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

**ZONE A** means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

ZONE V means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)

ZONE V1-30 and ZONE VE (for new and revised maps) means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)

*(**Bold text** adopted June 4, 2012; approved by Attorney General July 18, 2012)*

*(Underlined, adopted ATM May 10, 2021, approved by Attorney General August 16, 2021)*

#### 7.1.4 Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment: 1) agricultural uses such as farming, grazing, truck farming, horticulture, etc.; 2) forestry and nursery uses; 3) outdoor recreational uses, including fishing, boating, play areas, etc.; 4) conservation of water, plants, wildlife; 5)

wildlife management areas, foot, bicycle, and/or horse paths; 6) temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; 7) buildings lawfully existing prior to the adoption of these provisions.

#### 7.1.5 Use Regulations

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

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

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

**7.1.5.4 In Zones AE along watercourses in the Town of Lakeville that have a regulatory floodway designated on the Plymouth County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.**

**7.1.5.5 In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any**

increase in flood levels within the community during the occurrence of the base flood discharge.

**7.1.5.6** Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A Zones.

**7.1.5.7** All subdivision proposals must be designed to assure that:

- a) such proposals minimize flood damage;
- b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- c) adequate drainage is provided to reduce exposure to flood hazards.

**7.1.6** Notification of Watercourse Alteration: In a riverine situation, the Conservation Commission shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- Bordering States (optional)
- NFIP State Coordinator
- Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

*(**Bolded text** Adopted June 4, 1012; approved by Attorney General July 18, 2012)*

#### 7.1.7 Administration

##### 7.1.7.1 Abrogation and greater restriction section

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

7.1.7.2 Disclaimer of liability

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

7.1.7.3 Designation of community Floodplain Administrator

The Town of Lakeville hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town of Lakeville.

7.1.7.4 Requirement to submit new technical data

If the Town/City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town/City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation, 251 Causeway  
Street, Boston, MA 02114

7.1.7.5 Variances to building code floodplain standards

The Town of Lakeville will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town of Lakeville shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

7.1.7.6 Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

7.1.7.7 Permits are required for all proposed development in the Floodplain Overlay District

The Town of Lakeville requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

7.1.7.8 Assure that all necessary permits are obtained

Town of Lakeville's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

7.1.7.9 Unnumbered A Zones

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

7.1.7.10 Recreational vehicles

In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be

elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

#### 7.1.7.11 Local Enforcement

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

When enforced in accordance with the provisions of G.L. c. 40, sec. 21D, the penalty shall be as follows: first offense \$100.00; second offense \$200.00; and third offense \$300.00.

*(Underlined, adopted ATM May 10, 2021, approved by Attorney General August 16, 2021)*

*(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)*

## 7.2 Water Resource Protection District Regulations

### 7.2.1 Purpose and Application

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

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

### 7.2.2 Use Regulations

Notwithstanding use regulations for a particular district, the

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

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

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

7.3 **Planned Special Purpose District Regulations**

7.3.1 Title and Purpose

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

7.3.2 District Designation:

The PSP district shall be bounded:

Northerly by Middleborough/Lakeville Town Line

Easterly by Route 18 - Bedford Street

Southerly by Taunton Street

Westerly by Cross Street

The PSP district is an overlay district superimposed over the underlying district. This section shall only apply to the

following uses on parcels of greater than twenty-five acres. This section shall not apply nor shall it prohibit uses permitted as of right or by Special Permit in the underlying use district.

7.3.3 Permitted Uses as Principal Activities in the PSP District:

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

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

7.3.4 Accessory Uses:

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

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

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

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

7.3.5.2 Buffer Zones - A buffer zone, not less than one hundred feet in depth shall be continuously maintained along all exterior boundary lines. Buffer zones defined for the purposes of this by-law as designated areas providing or designed to provide visual and special protection for adjoining land areas, shall have natural vegetation or grass, bushes and trees suitably landscaped. Driveways, roads or

walkways shall be allowable within 100 feet of existing streets for access purposes. No parking access shall be built within the buffer zone.

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

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

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

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

#### 7.4 **Special Permits**

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

*(Underlined-Adopted June 6, 2016; approved by Attorney General July 21, 2016.)*

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

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

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

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

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

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

#### 7.4.2 Application

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

site plans.

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

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

#### 7.4.3 Distribution of Plans

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

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

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

#### 7.4.4 Public Hearing

A public hearing will be held after the time allowed for review

by Town officials, and within sixty-five (65) days after submission of plans. Publication and notices of the public hearing to abutters and costs of conducting the hearing will be borne by the applicant.

7.4.4.1 Planning Board Associate Member

There shall be one Associate Member, recommended by the Planning Board and appointed annually by the Select Board for a one-year term. The Chair may designate the Associate Member to sit on the Board for purposes of acting on special permit applications in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.

*(Adopted Special Town Meeting November 14, 2022; approved by Attorney General February 24, 2023)*

7.4.5 Decisions

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

7.4.6 Specific Uses by Special Permit

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

Uses accessory to permitted scientific research or development

SPGA - Board of Appeals; All Districts

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

Stand for the sale of agricultural products

SPGA - Board of Appeals; All Districts

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

Adult Bookstore/Adult Motion Picture Theater

SPGA - Board of Appeals; Industrial District

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

1. A residential district

2. Any establishment licensed under the provisions of Section 12 of Chapter 138 of the General Laws.
- B. Adult bookstores, motion picture theaters and all advertising signs shall not be located within fifty (50) feet of a public or private way and must be set back a minimum of fifty (50) feet from all property lines.
  - C. The application must include the following information:
    1. Name and address of the legal owner of the bookstore or theater;
    2. Name and address of all persons having lawful, equity or security interests in the bookstore or theater;
    3. Name and address of the manager;
    4. The number of employees;
    5. Proposed security precautions; and
    6. The physical layout of the premises.
  - D. Special permits for adult bookstores/adult motion picture theaters shall not be granted to any person convicted of violating the provisions of Mass. General Laws Chapter 119, Section 63 or Chapter 272, Section 28.
  - E. Special permits for adult bookstores/adult motion picture theaters shall only be issued following public hearings held within 65 days after filing an application with the special permit granting authority, a copy of which the applicant shall give to the Town Clerk simultaneously.
  - F. A special permit for adult bookstores/adult motion picture theaters shall lapse within one year, including the time required to pursue or await the determination of an appeal filed pursuant to Mass. General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause. *(Adopted June 17, 1996; Approved by Attorney General September 10, 1996)*

**Marijuana Uses - Adult Use Marijuana Establishments, and Marijuana Retailers, and Registered Marijuana Dispensaries**  
 SPGA – Zoning Board of Appeals; **\*Marijuana Overlay District**

- A. **All Marijuana Uses, including** Adult Use Marijuana Establishments, Marijuana Retailers, **and Registered**

**Marijuana Dispensaries**, shall require a Special Permit from the **Zoning Board of Appeals**, **\*and shall only be permitted to locate within the Marijuana Overlay District, as shown on the Town's Zoning Map.** \*All allowed uses and special permit uses in the underlying district shall remain allowed by right or by special permit as designated in Section 4.1, Table of Use Regulations.

*(\***Bolded & \*Bolded Underline Text**- Adopted at Special Town Meeting June 23, 2020; approved by Attorney General September 18, 2020)*

*(\***Double Underline Text**- Adopted at Special Town Meeting November 8, 2021; approved by Attorney General February 24, 2022.)*

- B. **Marijuana Uses** shall not be located within 500 feet of a public or private school providing education in kindergarten or grades 1 through 12. The distance under this Section shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana **Use** is or will be located.
- C. **Adult use and medical** Cultivation and Manufacturing Establishments shall be separated from adjacent uses by a 50-foot buffer strip, unless the Applicant can demonstrate, and the **Zoning Board of Appeals** finds, that adequate buffering can be provided in a narrower buffer strip.
- D. **Marijuana Uses** shall be located only in a permanent building and not within any mobile facility, with the exception of the transporting of marijuana and marijuana products under a Marijuana Transporter license.
- E. The Application for **Marijuana Use** Special Permit shall include the following:
  - 1. A detailed floor plan of the proposed **Marijuana Use** that identifies the square footage available and describes the functional areas of the facility;
  - 2. Detailed Site Plans that include the following information:
    - a. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, signage and all other provisions of this By-Law;
    - b. Convenience and safety of vehicular and pedestrian movement on the site to provide

secure and safe access and egress to and from the site;

- c. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off-site can reasonably be expected to be substantially affected by on-site changes;
  - d. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises;
  - e. Site design such that it provides convenient, secure and safe access and egress for clients and employees arriving to and from the site.
  - f. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
  - g. Adequacy of water supply, surface and subsurface drainage and light.
3. A copy of the Written Operating Procedures as required by 935 **CMR 500.105** and/or **935 CMR 501.105**, which shall include, at a minimum, the following:
- a. Security measures in compliance with 935 **CMR 500.110** and/or **935 CMR 501.110**, to the extent such information may be made publicly available;
  - b. Employee security policies;
  - c. Proposed hours of operation and after-hours contact information;
  - d. Proposal for storage of marijuana;
  - e. Emergency procedures, including a disaster plan in case of fire or other emergencies;
  - f. Policies and procedures for preventing the diversion of marijuana to individuals younger than 21 years old;
  - g. Policies and procedures for energy efficiency and conservation in accordance with 935 **CMR 500.105**, and a plan for implementation of such policies;

A copy of proposed waste disposal procedures;

- F. The **Zoning Board of Appeals** may impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality and odor control, and significant environmental resources, preserve the character of the surrounding area, and ensure the **Marijuana Uses** are operating under best management practices for energy use, waste disposal and

environmental impact. In addition to any specific conditions applicable to the Applicant's **Marijuana Uses** imposed by the **Zoning Board of Appeals**, the following conditions shall apply to any Special Permit granted under this By-Law, unless otherwise stated by the **Zoning Board of Appeals**:

1. The **Zoning Board of Appeals** may set the hours of operation, but if none are specifically specified in the special permit, hours of operation shall be limited to 8:00 AM – 6:00 PM.
2. **Marijuana Uses** shall not generate outside odors from the cultivation, processing or manufacturing of marijuana or marijuana products.
3. The Security Plan and Emergency Procedures shall be approved by the Police Chief and Fire Chief prior to commencing operations. The Applicant shall be required to certify to Police Chief and Fire Chief on an annual basis that there are no changes to the Security Plan and Emergency Procedures for the **Marijuana Uses**.
4. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
5. **Marijuana Uses** may not operate, and the Special Permit will not take effect, until the Applicant has obtained all final license approvals **or final certificates of registration** from the Cannabis Control Commission.
6. **Marijuana Uses** may not operate, and the Special Permit will not be valid, unless the Applicant has entered into a Host Community Agreement with the Town relative to any Adult Use Marijuana Establishment, Marijuana Retailer **or RMD** permitted under this By-Law.
7. A Special Permit granted under this Section shall have a term limited to the duration of the Applicant's ownership and use of the premises **for the approved Marijuana Use**. A Special Permit may be transferred only with the approval of the **Zoning Board of Appeals** in the form of an amendment to the Special Permit.
8. The Special Permit shall lapse upon the expiration or termination of the Applicant's license by the Cannabis Control Commission.

G. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation, expiration or termination of the permit holder's license **or certificate of registration** with the Cannabis Control Commission **for any Marijuana Use** (Adopted June 4, 2018; approve by Attorney General July 2, 2018. **Bolded & Bolded Underline Text**- Approved June 3, 2019; approved by Attorney General September 13, 2019)

**Accessory building or structure located within the required front, side or rear setback**

SPGA-Board of Appeals; All Districts

The Board of Appeals may impose certain restrictions including but not limited to size, height and/or number of buildings or structures. (Adopted STM November 13, 2017; Approved by Attorney General February 9, 2018)

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

SPGA - Board of Appeals; Residential, Business Districts

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

**Animal Kennel or Hospital**

SPGA - Board of Appeals; Business District

Subject to applicable General Laws and local By-Laws. Must not create nuisance to adjacent properties.

**Auto or Boat sales, rentals or service**

SPGA - Board of Appeals; \*Business District (\*Adopted May 16, 2022; approved by Attorney General August 29, 2022)

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

**Bus or railroad terminal or passenger station**

SPGA - Planning Board; Business District

Requires submission of site plan as described in Section 6.7 Adequate provisions must be made for access and parking.

Location shall be suitable for traffic generated. Must be compatible with the character of the district.

### **Car Wash**

SPGA - Board of Appeals; Business District

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

### **Cemetery**

SPGA - Board of Appeals; All Districts

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

### **Commercial Parking Facility**

SPGA - Planning Board; Business, Industrial Districts

Requires submission of site plan as described in Section 6.7. Adequate provision shall be made for access.

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

SPGA - Board of Appeals; Residential, Business Districts

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

### **Drive - through facility**

SPGA – Board of Appeals; Business **Industrial** Districts

The petitioner shall demonstrate that the proposed facility will cause no traffic hazard, congestion, or interference with the flow of traffic especially at and near intersections **and that the proposed facility will have no detrimental effects on neighboring businesses or residences, as determined by the SPGA.**

*(Adopted at June 11, 2007; approved by Attorney General September 12, 2007. Underlined: Adopted at STM April 30, 2018; approved by Attorney General June 8, 2018)*

**Filling Station**

SPGA - Board of Appeals; Business District

**The petitioner shall demonstrate.** **1)** That the proposed **filling** station will cause no traffic hazard, congestion or interference with the flow of traffic especially at and near intersections; **2)** That adequate provisions will be made to minimize pollution due to oil, gasoline and other chemical spills, fumes and particulates; **and 3)** That there will be no outdoor storage of materials except as provided by the Special Permit and no parking of unregistered or wrecked vehicles. *(Underlined: Adopted at STM November 13, 2018; approved by Attorney General January 7, 2019)*

**Golf Course**

SPGA - Board of Appeals; All Districts

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

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

SPGA - Board of Appeals; Residential District

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

**Hospital, convalescent, or nursing home**

SPGA - Board of Appeals; Residential District

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

**Launderette**

SPGA - Board of Appeals; Business District

Requires connection to public water supply.

**Non-conforming use, Changes to**

SPGA - Board of Appeals; All Districts

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

**Non-conforming use, extension or alteration**

SPGA - Board of Appeals; All Districts

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

**Parking, mixed uses reduction**

SPGA - Board of Appeals; Industrial District

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

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

SPGA - Board of Appeals; Business District

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

**Private Club not conducted for profit**

SPGA - Board of Appeals; All Districts

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

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

SPGA - Board of Appeals; All Districts

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

**Research Laboratory**

SPGA - Board of Appeals; Industrial District

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

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

SPGA - Board of Appeals; Industrial District

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

**Riding stable or riding school**

SPGA - Board of Appeals; All Districts

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

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

SPGA - Board of Appeals; All Districts

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

**Single-family detached dwelling**

SPGA - Board of Appeals; Business District

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

**SPGA - Board of Appeals; Industrial-B**

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

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

**Steam laundry or dry-cleaning plant**

SPGA - Board of Appeals; Business, Industrial District

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

**Storage of junk for commercial purposes**

SPGA - Board of Appeals; Business, Industrial Districts

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

*(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)*

**Tattoo or Body Art Establishments**

SPGA – Select Board; Business Districts, Industrial Districts

Must be in a building not used for dwelling purposes or within any interior space or unit shared with another business. A public hearing as well as Board of Health approval will be required. Must be compatible with surrounding areas. *(Adopted STM June 11, 2001, approved by Attorney General September 19, 2001)*

*(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)*

**Theater** (seating capacity of less than 300)

SPGA - Board of Appeals; Industrial District

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

**Warehouse, offices or facilities for distributing merchandise over 100,000 Sq. Ft**

## SPGA – Planning Board

A single building or combination of buildings that exceed a total of 100,000 square feet, located on one lot, shall require a Special Permit from the Planning Board.

*(Adopted at STM November 14, 2022, approved by Attorney General February 24, 2023.)*

### **Water Resource Protection**

SPGA - Planning Board; All Districts

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

***(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)***

### **Water towers or reservoirs**

SPGA - Board of Appeals; Industrial District & Business District

Must not be detrimental to character of district.

## 7.5 **Mixed Use Development District Regulations**

*(Adopted June 16, 2003; Approved by Attorney General September 9, 2003)*

### 7.5.1 **Title and Purpose**

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

### District Designation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The above described premises contain 73.3 acres more or less.

The Mixed Use Development District is an overlay district superimposed over the underlying district(s). The provisions of the underlying zoning district(s), **and the provisions of this By-Law generally, each as in effect as of June 16, 2003**, including bulk and dimensional requirements, will apply within the Mixed Use Development District, except if inconsistent with the Mixed Use Development District regulations set forth below, in which case the provisions of this Section 7.5 will govern over any conflicting zoning requirements of the underlying zoning district(s). This Section 7.5 shall not prohibit uses permitted as of right or by Special Permit in the underlying zoning districts. *(Text in bold adopted June 13, 2005; Approved by the Attorney General on November 2, 2005)*

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

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

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

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

### 7.5.4 Accessory Uses

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

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

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

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

- 7.5.5.2 Buffer Zones - The provisions of Section 5.2.4 of this By-Law shall not apply to zoning boundaries internal to the Mixed Use Development District.
- 7.5.5.3 Lot Coverage for Office and R&D Uses – For all office and R&D uses located outside of the Business District, a maximum of 60% of the upland area of the lot may be covered by structures, parking, and paved areas.
- 7.5.5.4 Parking Lot Access – The restrictions set forth in Section 6.5.1 regarding the maximum number of entry/exit points for a parking area shall be understood as applying to individual lots within the Mixed Use Development District, and shall apply only to entry/exit points along a public way.
- 7.5.5.5 Shared Parking/Reduced Size Parking Spaces – Parking spaces serving a principal or accessory use need not be located on the same lot as such use. When determining parking requirements for a shared parking arrangement, the Planning Board, during site plan review, may reduce the applicable requirements upon determining that the multiple uses, whether due to differing peak hours of operation or otherwise, will generate a “staggered” demand for parking, so that the parking proposed by the applicant is sufficient to meet the anticipated need. The Planning Board may, during site plan review, reduce the depth of required parking spaces from 9’ x 20’ to 9’ x 18’ to facilitate internal landscaping of parking areas.
- 7.5.5.6 Multiple Buildings on a Lot – Within the Mixed Use Development District, multiple principal structures may be constructed within a single lot.
- 7.5.5.7 Site Plan Approval – For the purposes of determining compliance with provisions of the Mixed Use Development District the applicant shall submit a site plan to the Planning Board of the Town of Lakeville, which site plan shall be prepared in accordance with the requirements set forth in Section 6.7 of this By-Law.

When filing the site plan with the Planning Board, the applicant also shall be required to submit the site plan for review by various boards and

officers within the Town of Lakeville, as set forth in Section 6.7.2 of this By-Law.

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

7.5.5.9 In connection with Site Plan approval for any project within the Mixed Use Development District, the Planning Board may incorporate, as a condition to such approval, site and building design requirements that previously have been accepted by both the applicant and the Planning Board and expressed in the form of a written contract or covenant between the applicant and the Planning Board. **A building height of up to 45 feet is permitted within the Mixed Use Development District, provided that appropriate restrictions and buffering requirements are set forth in a Development Agreement between the applicant and the Planning Board.** *(Text in bold adopted June 13, 2005; approved by Attorney General November 2, 2005)*

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

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

### 7.6.1 Procedure

The following standards shall apply to all developments requesting a density bonus pursuant to Section 5.1.4, and to all retail buildings of 35,000 or more square feet. A site plan complying with the requirements of Sections 6.7.1.1 and 6.7.2 must be submitted to the Planning Board showing compliance with the Building Design and Site Design Standards set out below. **During site plan review, the Planning Board shall have the authority to waive requirements of this Section 7.6 based upon its determination that the specific development plan proposed by the applicant contains architectural and site elements that effectively screen the use, soften the building facade, and generally promote visual interest and pedestrian accessibility, thereby meeting the intent of this Section 7.6.** *(Text in bold adopted June 13, 2005; approved by Attorney General November 2, 2005)*

## 7.6.2 Definitions

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

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

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

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

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

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

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

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

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

**Front Yard:** the portion of the lot extending the full width of the lot and measured between the front lot line and a parallel line across a building face. Corner and double lots shall adhere to the front yard setback(s) for each frontage.

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

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

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

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

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

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

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

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

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

### 7.6.3 Required Building Design Standards

#### 7.6.3.1 Facades and Exterior Walls

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

#### 7.6.3.2 Smaller Retail Stores

The following standard shall apply to separate stores contained within a larger building, where

each smaller retail store occupies less than 35,000 square feet of gross floor area, and has its own separate, exterior customer entrance(s):

- a) Windows shall be projected or recessed at least 4 inches and must include visually prominent sills, shutters, or other such forms of framing for at least 60% of the length of the building facade of each store.

#### 7.6.3.3 Detail Features

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

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

#### 7.6.3.4 Roofs

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

#### 7.6.3.5 Materials and Colors

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

- 1) Predominant exterior building materials shall be, without limitation as follows:
  - a) Brick

- b) Wood (White cedar, red cedar, or other natural material manufactured into shingles, clapboard, or solid wood siding)
  - c) Sandstone
  - d) Native stone
  - e) Tinted, textured, concrete masonry units
- 2) Facade colors shall be low reflectiveness and of subtle, neutral, or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
  - 3) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be used for building trim or accent areas.
  - 4) The following are prohibited as predominant or accent exterior materials:
    - a) Smooth-faced concrete block
    - b) Tilt-up concrete panels
    - c) Pre-fabricated steel panels

#### 7.6.3.6 Entryways

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

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

#### 7.6.4 Required SITE DESIGN Standards

7.6.4.1 Entrances

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

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

7.6.4.2 Parking Lot Orientation

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

7.6.4.3 Building Back and Sides

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

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

7.6.4.4 Outdoor Storage, Trash Collection, and Loading Areas

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

#### 7.6.4.5 Pedestrian Flows

- 1) Pedestrian walkways of at least 6 feet in width shall be provided along all sides of the lot that abut a public or private right-of-way, excluding State and Federal roads or highways, unless the Planning Board determines that one or more of

such walkways are not necessary for safety or convenience.

- 2) Continuous internal pedestrian walkways, no less than 5 feet in width, shall be provided from any external public sidewalk and from the nearest public or private right-of-way to the principal customer entrance to each building on the site. At a minimum, such walkways shall connect major points of pedestrian activity including but not limited to, transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than 50 percent of walkway length.
- 3) Sidewalks of at least 5 feet in width shall be provided along the full length of each building facade that contains a customer entrance, and along any facade abutting a public parking area. Such sidewalks shall be located at least six (6) feet from the facade of the building in order to provide space for foundation landscaping, except where architectural features such as arcades or entryways are part of the facade.
- 4) Internal pedestrian walkways required by Subsection b above, shall provide weather protection features such as awnings or arcades for each customer entrance and shall not extend into any driving aisle or parking area.
- 5) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of appropriate signage and distinctive and durable, low maintenance surface materials such as pavers, bricks, or scored concrete applied in a manner that enhances pedestrian safety and comfort and the attractive appearance of the walkways.

#### 7.6.4.6 Central Features and Community Spaces

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

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

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

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

## **7.7 SMART GROWTH OVERLAY DISTRICTS (SGODs)**

1. **Purpose.** The purposes of this Section are:
  1. To establish Smart Growth Overlay Districts (SGODs) to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
  2. To promote the public health, safety, and welfare by encouraging diversity of housing opportunities
  3. To increase and provide for a range of housing not presently available in the Town that would provide housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
  4. To promote the economic health and vitality of the Town by encouraging the revitalization preservation, reuse, renovation, and repurposing of underutilized historic structures, where applicable, to benefit the general

- health and welfare of our residents and the region;
5. To maintain or increase the supply of affordable dwelling units;
  6. To encourage the creation of new multifamily and residential developments in appropriate locations at appropriate densities; and,
  7. To maintain a consistently high level of design quality; and
  8. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G.L. c.40R; 760 CMR 59.06.

**2. Definitions.** For purposes of SGODs, the following definitions shall apply. All capitalized terms shall have the meaning set forth below, which are intended to be in accordance with the definitions established under the Governing Laws, or, as applicable, as otherwise set forth in the Zoning Bylaw, or as set forth in the Plan Approval Authority (PAA) Regulations. To the extent that there is any conflict between the definitions set forth in this Section or the PAA Regulations and the Governing Laws, the terms of the Governing Laws shall govern.

**Accessory Rooftop Elements: building elements that would ordinarily be located on a rooftop including but not limited to railings, roof access hatches, mechanical equipment and elevator head houses.**

**Administering Agent or Monitoring Agent:** the local housing authority or other qualified housing entity designated by the PAA pursuant to this Section to review and implement the affordability requirements affecting Projects under this Section.

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

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

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

**Affordable Rental Unit:** an Affordable Housing unit required to be rented to an Eligible Household and that meets the requirements of this Section.

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

**As-of-right:** a use allowed in a SGOD without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to this Section shall be considered an as-of-right Project.

**Commercial Uses:** Non-residential. For purposes of this Section Commercial Uses are found in Mixed Use Developments and are uses that are accessory to the housing development, such as first floor retail or services.

**Department or DHCD:** the Massachusetts Department of Housing and Community Development, or any successor agency.

**Developable Land:** an area of land that does not include: 1) Substantially Developed Land, 2) Open Space, 3) Future Open Space; 4) rights-of-way of existing public streets, ways, and transit lines; 5) land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or 6) areas exceeding one-half acre of contiguous land that are (a) protected wetland resources under federal, state, or local laws, (b) rare species habitat designated under federal or state law; (c) characterized by steep slopes with an average gradient of at least 15%, or (d) subject to any other local ordinance, by-law, or regulation that would prevent the development of residential or Mixed-Use Development Projects at the As-of-right residential densities set forth in the Smart Growth Zoning.

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

**Future Open Space:** those areas within a SGOD that the Town of Lakeville may designate or require to be identified and designated to be set aside in the future as dedicated perpetual Open Space through the use of a conservation restriction (as defined in M.G.L. c. 184 Section 31 or other effective means), consistent with the Town's Open Space Plan. Such Future Open Space shall not exceed ten percent (10%) of Developable Land area where such land in a SGOD is less than 50 acres or twenty percent (20%) where such land in a SGOD is 50 acres or more.

**Governing Laws: G.L. Chapter 40R, and 760 CMR 59.00, as they may be amended from time to time, or applicable successor regulation.**

**Mixed-Use Development Project:** a Project containing a mix of residential uses and non-residential uses, as allowed by this Section, and subject to all applicable provisions of this Section.

**Multi-family residential use:** A residential building in which there are four (4) or more residential dwelling units.

**PAA Regulations:** the rules and regulations of the PAA adopted pursuant to subsection 7.7.9.2.

**Plan Approval:** standards and procedures which Projects utilizing the provisions of a SGOD must meet, pursuant to subsections 7.7.9 through 7.7.12 and the Governing Laws.

**Plan Approval Authority (PAA):** The local approval authority authorized under subsection 7.7.9 to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within SGODs.

**Project:** a Residential or Mixed-Use Development undertaken within SGODs in accordance with the requirements of this Section.

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

**Residential Project:** a Project that consists solely of residential, parking, and accessory uses.

**SGOD/SGODs:** One or more Smart Growth Overlay Districts established under this Section pursuant to G. L. Chapter 40R.

**Zoning Bylaw:** the current effective Zoning Bylaw of the Town of Lakeville.

3. **Establishment and Location.** The SGODs are overlay districts consisting of the land, respectively shown on the Zoning Map as set forth on the map entitled “Town of Lakeville Smart Growth Zoning Overlay District(s) (C.40)” dated August 7, 2006 prepared by Southeastern Regional Planning and Economic Development District (SRPEDD) and map entitled “Town of Lakeville Smart Growth Zoning Overlay District (A) (C.40R)”, dated January 18, 2018, prepared by Southeastern Regional Planning and Economic Development District (SRPEDD), and on file with the Town Clerk, and further defined as follows:

- 3.1. **Districts.** The SGODs shall include the following District(s) and Sub-Districts therein:

- A. **The Lakeville Station – Nemasket River Smart Growth Overlay District:**  
An overlay district containing two Sub-Districts with the Residences at Lakeville Station Sub-District (f.k.a. The Residences at Lakeville Station Smart Growth Overlay District) having a land area of approximately 11 acres in size, being Assessor's Parcels 62-3-7A, 62-3-7B, 62-3-7G, 62-3-101, and 62-3-10J, that is superimposed over the underlying zoning district and is shown on the Zoning Map as set forth on the map entitled "Town of Lakeville Smart Growth Zoning Overlay District (C.40R)", dated August 7, 2006, prepared by Southeastern Regional Planning and Economic Development District (SRPEDD); and the Nemasket River Sub-District having a land area of approximately 22 acres in size, being Assessor's Parcels 62 3-7F, 62 3-10A, 62 3-7H, 62 3-10E, 62 3-10K, 62 3-10D, 62 3-10B, and 62 3-10C, that is superimposed over the underlying zoning district and is shown on the Zoning Map as set forth on the map entitled “Town of Lakeville Smart Growth Zoning Overlay District (A) (C.40R)”, dated January 18, 2018, prepared by Southeastern Regional Planning and Economic Development District (SRPEDD). These maps are hereby made a part of the Zoning By-law and is on file in the Office of the Town Clerk.
- B. [any additional SGODs as may be approved from time to time by a future Town Meeting]

#### 4. **Applicability**

- 4.1. The SGODs are overlay districts superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for

those Projects undergoing development pursuant to this Section. Within the boundaries of a SGOD, a developer may elect either to develop a Project in accordance with the requirements of a SGOD, or to develop a project in accordance with the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) or other applicable overlay district(s). Where a Project proposed pursuant to this Section falls within a Flood Plain District or Water Quality Protection District as set forth in Sections 7.1 and 7.2 of the Zoning Bylaw, the Project shall comply with the applicable provisions of those Sections, including any special permit(s) as may be required.

4.2. An Applicant seeking to develop a Project located within a SGOD must submit an application for Plan Approval in accordance with the provisions of the Governing Laws and this Section. Notwithstanding anything to the contrary in the Zoning Bylaw, such Project 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.

5. **Permitted Uses.** The following uses are permitted: As-of-right for Projects seeking Plan Approval per the provisions of SGODs. Any other use of land or buildings in connection with a Project in SGODs is prohibited.

**5.1. The Residences at Lakeville Station Sub-District:**

- A. Residential uses which may include:
  - (1) two-family, three-family, Multi-Family residential use(s);
  - (2) parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and
  - (3) accessory uses customarily incidental to any of the above permitted uses.
- B. Neighborhood businesses small-scale (a maximum of 20,000 square feet of gross floor area per building) retail, service, and office uses that are **part of a Mixed-Use Development Project and** compatible with residential uses and are intended to serve commuters and local residential populations within the SGOD. Examples include, but are not limited to: news stand, grocery or specialty food store, bakery, delicatessen, coffee shop, restaurant, bank, hairdresser, barber shop, laundrette or dry cleaners (dry cleaning performed off-site), tailor, health club or exercise facility, shoe repair, drug store, florist, liquor store, gift shop or specialty retail, hardware store, home goods and furnishings, personal care items, medical/professional/ small business offices (up to ten (10) employees), and home occupations.
- C. Future Open Space.

**5.2. The Nemasket River Sub-District:**

- A. Residential uses which may include:
  - (1) two-family, three-family, Multi-Family residential use(s);
  - (2) parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages);

and

(3) accessory uses customarily incidental to any of the above permitted uses.

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

- 6. **Affordable Housing.** For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. Twenty-five (25%) of rental dwelling units constructed in a rental Project or rental portion of a Project must be Affordable Rental Units. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit. A Project shall not be segmented to evade the affordability threshold set forth above.

Affordable Housing shall be subject to the following requirements:

- 6.1. **Monitoring Agent.** A Monitoring Agent, which may be the local housing authority or other qualified housing entity, shall be designated by the PAA in its plan approval. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official/PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within a SGOD, and on a continuing basis thereafter, as the case may be:
  - a. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
  - b. income eligibility of households applying for Affordable Housing is properly and reliably determined;
  - c. the housing marketing and resident selection plan conforms to all applicable requirements, has been approved by DHCD specifically with regard to conformance with M.G.L. c.40R and 760 CMR 59.00, and is properly administered;
  - d. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
  - e. Affordable Housing Restrictions meeting the requirements of this Section are approved by DHCD, specifically with regard to conformance with

M.G.L. c.40R and 760 CMR 59.00, and recorded with the Plymouth County Registry of Deeds.

**6.2 Submission Requirements.** As part of an application for Plan Approval for a Project within a SGOD the Applicant must submit the following documents to the PAA and the Monitoring Agent:

- a. evidence that the Project complies with the cost and eligibility requirements of subsection 6.3;
- b. Project plans that demonstrate compliance with the requirements of subsection 6.4;
- c. a form of Affordable Housing Restriction that satisfies the requirements of subsection 6.5; and
- d. a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

These documents in combination shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

**6.3 Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

- a. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- b. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable housing program rent limits approved by the DHCD shall apply.
- c. For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowners' association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
- d. Prior to the granting of any Building Permit for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Lakeville.
- e. There shall be a local preference applied in the selection of residents for a Project to the extent allowable by applicable laws, regulations, and guidelines and to the extent it is approved by DHCD and any other applicable regulating authority(ies) for the Project.

**6.4 Design and Construction.** Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed proportionately throughout the Project of which they are a part, across all unit types and be comparable in initial construction quality and exterior design to the other housing units in the Project. The bedroom-per-unit average for the Affordable Housing

must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

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

- a. specification of the term of the Affordable Housing Restriction, which shall be perpetual;
- b. the name and address of the Monitoring Agent, with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- c. a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines.
- d. reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and resident selection plan may provide for local preferences in resident selection to the extent consistent with applicable laws, regulations, and guidelines and to the extent it is approved by DHCD and any other applicable regulating authority(ies) for the Project. The plan shall designate the household size appropriate for a unit with respect to the number of bedrooms and provide that a preference for such Unit shall be given to a household of the appropriate size;
- e. a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and resident selection plan;
- f. reference to the formula pursuant to which the maximum rent of a rental unit or the maximum resale price of a homeownership unit will be set;
- g. designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of an **Affordable** Homeownership Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders as reasonably determined by DHCD;
- h. a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;
- i. provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
- j. provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the Town, and/or a non-profit organization acceptable to both the Town and DHCD, in a form approved by

Town 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 Monitoring Agent and/or the Town, and/or a non-profit organization acceptable to both the Town and DHCD, in a form approved by Town Counsel, and shall limit rental and occupancy to an Eligible Household;
- l. provision that the owner or manager of Affordable Rental Units shall file an annual report to the Monitoring Agent, in a form specified by that agent, certifying compliance with the affordability provisions of this Section and containing such other information as may be reasonably requested in order to ensure affordability; and
- m. a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

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

**6.7 Age Restrictions.** Nothing in this subsection shall permit restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of an application for Plan Approval, allow a specific Project within a SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

**6.8 Twenty Percent Requirement.** Not less than twenty percent (20%) of all residential units constructed within a SGOD Project shall be reserved as Affordable Housing Units, and the PAA may require as a condition to approval of the Project for such housing development that recordable instruments be prepared and recorded to ensure that the total number of Affordable Housing Units constructed in the District equals not less than twenty percent (20%) of the total number of all units constructed as part of Projects within the SGOD.

**6.9 Segmentation.** The PAA may require that certificates of occupancy be withheld for any housing units if it believes that the development of housing Projects is being segmented to evade the size threshold for affordability.

**6.10 Phasing.** For any Project that is approved and developed in phases, the percentage of Affordable units in each phase shall be at least equal to the

minimum percentage of Affordable Housing required **for such Project** under subsection 6. Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under subsection 6 shall be applied proportionately to the Affordable Housing provided for in each respective phase.

**6.11 No Waiver.** Notwithstanding anything to the contrary herein, the affordability provisions in a SGOD shall not be waived without the express written approval of DHCD.

**7. Density and Dimensional Requirements:** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the SGODs are as follows:

**7.1. The Residences at Lakeville Station Sub-District:**

A. **Minimum** Densities:

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

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

B. Dimensional Requirements:

<b>Minimum Lot Area</b>	
Single Family Residential	5,000 square feet
Two/Three Family Residential	7,000 square feet
Multi-Family Residential	40,000 square feet
Neighborhood Business	40,000 square feet
<b>Minimum Lot Frontage</b>	
Single Family Residential	50 feet
Two/Three Family Residential	50 feet
Multi-Family Residential	100 feet
Neighborhood Business	100 feet
<b>Building Height</b>	
All Uses – Minimum	1.5 stories (18 feet)
All Uses – Maximum	3 stories (55 feet)
<b>Minimum Setbacks</b>	
All Residential Uses – Front Yard	20 feet
Neighborhood Business Uses – Front Yard	None
All Residential Uses – Side Yard	20 feet
Neighborhood Business Uses – Side Yard	None
All Uses – Rear Yard	20 feet
<b>Maximum Setbacks</b>	

All Uses – Front Yard	40 feet
<b>Maximum Lot Coverage</b>	
Single Family Residential	30%
Two/Three Family Residential	40%
Multi-Family Residential	50%
Neighborhood Business	75%

The PAA may waive these dimensional requirements in accordance with this Section where the PAA deems it appropriate to the Project and the neighborhood.

For the purposes of this subsection, frontage and front yard setbacks shall be determined with respect to public and private streets, as well as to private ways providing similar access.

Access: Individual buildings or parcels within a Project site shall have coordinated street access.

**In the Residences at Lakeville Station Sub-District, front yards may not be used for parking, regardless of the principal use of the building.**

**7.2. Nemasket River Smart Sub-District:**

A. **Maximum** Densities:

- (1) For single-family residential: up to 8 dwelling units per acre of Developable Land;
- (2) For two-family and/or three-family residential: up to 12 dwelling units per acre of Developable Land;
- (3) For multi-family residential: up to 25 units per acre of Developable Land.

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

B. Dimensional Requirements:

<b>Minimum Lot Area</b>	
Single Family Residential	5,000 square feet
Two/Three Family Residential	7,000 square feet
Multi-Family Residential	40,000 square feet
Neighborhood Business	40,000 square feet
<b>Minimum Lot Frontage</b>	
Single Family Residential	50 feet
Two/Three Family Residential	50 feet
Multi-Family Residential	100 feet
Neighborhood Business	100 feet
<b>Building Height</b>	
All Uses – Minimum	1.5 stories (18 feet)

All Uses - Maximum	4 stories (55 feet)
<b>Minimum Setbacks</b>	
All Residential Uses – Front Yard	10 feet
Neighborhood Business Uses – Front Yard	None
All Residential Uses – Side Yard	10 feet
Residential Detached	5 feet
Neighborhood Business Uses – Side Yard	None
All Uses – Rear Yard	20 feet
<b>Maximum Lot Coverage</b>	
Single Family Residential	30%
Two/Three Family Residential	40%
Multi-Family Residential	50%
Neighborhood Business	75%

The PAA may waive these dimensional requirements in accordance with this Section where the PAA deems it appropriate to the Project and the neighborhood.

For the purposes of this subsection, frontage and front yard setbacks shall be determined with respect to public and private streets, as well as to private ways providing similar access.

Access: Individual buildings or parcels within a Project site shall have coordinated street access.

**7.3. Notes for Dimensional Requirements for all SGODs** (unless otherwise noted):

- A. Building Height: Height shall be measured from average grade to the cornice line of the roof. Accessory Rooftop Elements shall not be included in the calculation of height, but shall be restricted as to their location on the roof and may need to be screened so as to limit their visual impact. Accessory structures in side or rear yards, are permitted to be only one (1) story in height.
- B. Front Yard Setbacks: Front yard setbacks shall be measured from the street frontage line to the primary façade, excluding front steps or stoops, porches, bay windows, enclosed main entrances, or other projecting elements. (Note, however, that no projecting element on any building may extend over a property line to intrude onto a public sidewalk.) Where a Neighborhood Business building is located at an intersection and may be considered to have more than one primary façade, then each primary facade may utilize a front yard setback.
- C. Side Yard Setbacks: The 5-foot minimum side yard setback may only be applied to detached residential buildings with three (3) or fewer units, and is intended to encourage the off-center siting of a house within its lot, resulting in substantial outdoor space where a porch and/or landscaped yard may be

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

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

(1) Front, side, or rear yards of Neighborhood Business buildings may be used as seasonal outdoor seating areas for businesses, provided that such areas are regularly cleaned and maintained, with trash removed on a daily basis. Seasonal outdoor seating areas may be installed during warm weather months. All related temporary furnishings and fixtures, including but not limited to tables, chairs, umbrellas, light fixtures, freestanding signs and menu boards, etc., shall be stored indoors off season; however, any fencing, bollards, planters, or other means of delineating the boundaries of such outdoor seating areas may remain in place permanently.

(2) All accessory buildings, including storage sheds, studios, greenhouses, workshops, etc., shall be located at the side or rear of a building, preferably out of view from the street.

8. **Parking and Loading Requirements:** The following requirements are applicable for Projects within a SGOD.

8.1. **Parking spaces.** Unless otherwise approved by the PAA, the following number of off-street parking spaces shall be **both the minimum and maximum** provided by use, either in surface parking, within garages or other structures, or, **as may be permitted below**, on-street. The following requirements shall apply:

A. Residential project: Two parking spaces per residential unit.

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

C. Barrier-Free Access: For multi-family residential and non-residential uses, provide a minimum of one handicapped accessible parking space per establishment and/or use, up to a maximum of ten percent (10%), inclusive, of total parking required. Handicapped accessible spaces may be located on-street or off-street, and in any case shall be located no further than 50 feet from any accessible entrance and be clearly marked, with a safe and accessible means of access/egress.

D. On-Street Parking: On-street parking is not generally available in the SGOD.

E. Off-Street Parking: Off-street parking as an accessory use shall only be provided at the sides or the rear of a building. Residential parking should be clearly marked or separated from non-residential parking. Surface parking lots and/or private garages may be provided for all uses. For multi-family and non-residential uses, pedestrian connections shall be provided from all side or rear parking facilities to the front of the

building. Where a parking facility is located behind and serves multiple adjacent buildings, pedestrian connections to the street shall be provided at regular (maximum 400 foot) intervals between buildings. The PAA may allow for additional visitor parking spaces beyond the two (2) **minimum** spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided in this Section.

**8.2 Shared Parking.** Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. **The** minimum parking requirements above may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that shared spaces will meet demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies identified in the PAA Regulations or the Governing Laws).

**8.3 Reduction in Parking Requirements.** Notwithstanding anything to the contrary herein, **the** required amount of parking or loading may be reduced by the PAA through the Plan Approval process if the applicant can demonstrate that the lesser amount of parking or loading 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 surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
- b. the availability of public or commercial parking or loading facilities in the vicinity of the use being served;
- c. shared use of off street parking or loading spaces serving other uses having peak user demands at different times;
- d. age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e. impact of the parking or loading requirement on the physical environment of the affected area of the Project or adjacent areas or lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
- f. such other factors as may be considered by the PAA.

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

## **9. Plan Approval of Projects: General Provisions**

**9.1. Plan Approval.** All Applicants for Projects proposed to be developed in accordance with this Section shall submit an application for Plan Approval to the PAA to be reviewed for consistency with the purpose and intent of the applicable SGOD. Such Plan Approval process shall be construed as an as-of-right review

and approval process as required by and in accordance with the Governing Laws.

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

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

**9.4 Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of subsection 6.10.

## **10. Plan Approval Procedures**

**10.1 Pre-application.** Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following: areas of developable and undevelopable land; overall building envelope areas; open space and natural resource areas; general site improvements, groupings of buildings, proposed land uses; and conceptual designs of any new construction, if available. The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the applicable SGOD.

**10.2 Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and accompanied by an application fee if required, which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the affordability requirements of subsection 6.0, the application shall be accompanied by all materials required under subsection 6.0. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA and must show the following:

- a) The perimeter dimensions of the lot(s) comprising the site locus; Assessors Map, lot and block numbers.

- b) All existing and proposed buildings, structures, building setbacks, parking spaces, driveway openings, distance between buildings, plan view exterior measurements of individual buildings, driveways, service areas and open areas.
- c) Internal roads, sidewalks and parking areas (width dimensions of paving and indication of number of parking spaces).
- d) All facilities for sewage, refuse and other waste disposal and for surface water drainage.
- e) All proposed landscaping features, such as fences, walls, planting areas and walks on the lot and tract.
- f) Existing major natural features, including streams, wetlands and all trees six inches (6") or larger in caliper (caliper is girth of the tree at approximately chest height).
- g) Scale and North arrow (minimum scale of one inch equals 40 feet (1" = 40')).
- h) Total site area in square footage and acres and area to be set aside as public open space, if appropriate.
- i) Percentage of lot coverage (including the percentage of the lot covered by buildings) and percentage of open space, if appropriate.
- j) The proposed residential density in terms of dwelling units per acre and types of proposed commercial uses in terms of the respective floor area, and recreation areas, and number of units proposed by type (number of one (1) bedroom units, two (2) bedroom units, etc.).
- k) Location sketch map (indicate surrounding streets and properties and any additional abutting lands owned by the Applicant).
- l) Representative elevation sketches of buildings (indicate height of building and construction material of the exterior facade).
- m) Typical unit floor plan for residential uses. (Floor plan should be indicated for each type of unit proposed. The area in square feet of each typical unit should be indicated.
- n) Developer's (or **authorized** representatives') name, address and phone number.
- o) Any other information which may include traffic, school, tax, or utility impacts in order to adequately evaluate the scope and potential impacts of the proposed project.

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

**10.4 Circulation to Other Boards.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Select Board, Board of Appeals, Building Commissioner, Board of Health, Conservation Commission, Fire Department, Police Department, Highway Department, the

Monitoring Agent (for any Project subject to the affordability requirements of subsection 6.0), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

*(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)*

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

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

## **11. Plan Approval Decisions**

**11.1. Plan Approval.** Plan Approval shall be granted where the PAA finds that:

1. the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and
2. the Project as described in the application meets all of the requirements and standards, including affordability requirements, and the PAA Regulations, or a waiver has been granted therefrom; and
3. any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the affordability requirements of subsection 6.0, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that subsection have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section and the PAA's approval, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

**11.2. Plan Disapproval.** A Plan Approval application may be disapproved only where the PAA finds that:

1. the Applicant has not submitted the required fees and information as set forth in the PAA Regulations; or
2. the Project as described in the application does not meet all of the

- requirements and standards set forth in this Section and the PAA Regulations, or that a requested waiver there from has not been granted; or
3. it is not possible to mitigate adequately significant adverse project impacts on nearby properties by means of suitable conditions.

**11.3. Waivers.** Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of this Section, subject to compliance with M.G.L. c. 40R and 760 CMR 59.00, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the applicable SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section. Waivers may not be granted for a reduction in allowable density and affordability requirements.

**11.4. Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases where the Project contains the minimum percentage of affordable units applicable under Section 6. Where the percentage of affordable units in a phased Project exceeds the minimum required under Section 6, each phase must at least contain the minimum percentage of affordable units proportionately applicable to that phase under Section 6.

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

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

construction, or as may be provided in a Plan Approval for a multi-phase Project.

## **12. Changes in Plans after Approval by PAA**

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

**12.2. Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to subsections 7.7.9 through 7.7.12.

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

**13. Administration, Enforcement, and Appeals.** The provisions of this Section shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under this Section shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. Chapter 40A.

**14. Severability** If any provision of this Section is found to be invalid by a court of competent jurisdiction, the remainder of the Section shall not be affected but shall remain in full force. The invalidity of any provision of this Section shall not affect the validity of the remainder of the Town of Lakeville Zoning Bylaw.

*(Underlined-Adopted Special Town Meeting April 30, 2018; approved by Attorney General June 8, 2018)*

## 7.8 **ACCESSORY APARTMENT**

### 7.8.1 Purpose and Intent

The purpose of this Section 7.8 is to: 1) Provide an opportunity for family members who choose to live in close proximity, but separate from other family members, to remain within that family environment; 2) Provide for the health and security concerns of elder or disabled homeowners who wish to remain in their homes; 3) Protect residential stability, property values and the single-family character of neighborhoods; and 4) Make it possible for the Town to supervise and monitor such additions for code compliance and safety.

7.8.2 Accessory apartments are allowed by right in Residential and by Special Permit in Business and Industrial B Districts when added within or attached to a pre-existing single-family dwelling in compliance with all the requirements of this Bylaw. In no case shall more than one accessory apartment be allowed on any lot.

7.8.3 The owner of a single-family dwelling may apply directly to the Building Commissioner for the construction and occupation of an accessory apartment. Applications shall meet the following requirements:

7.8.3.1 Only one (1) accessory apartment per lot shall be permitted.

7.8.3.2 The accessory apartment shall contain no more than 33 1/3% of the entire proposed structure and in any case not to exceed 1,000 square feet.

7.8.3.3 The accessory apartment shall be designed so that the appearance of the structure remains that of a single-family dwelling, subject further to the following conditions:

a) All additional stairways to second or third stories shall be enclosed within the exterior walls of the structure;

b) Any new entrance shall be located on the side or in the rear of the structure;

c) Where there are two (2) or more existing entrances on the front façade of the principal dwelling, if modifications are made to any entrance, the result shall be that one appears

to be the principal entrance and other entrances appear to be secondary.

- 7.8.3.4 The accessory apartment shall contain a kitchen, bathroom and living room area and a maximum of one (1) bedroom. It shall be constructed in a manner consistent with the appearance of the existing structure.
- 7.8.3.5 The accessory apartment shall not be used for commercial accommodations or seasonal rentals.
- 7.8.3.6 Sufficient and appropriate space for at least one (1) parking space shall be constructed to serve the accessory apartment. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the existing driveway.
- 7.8.3.7 The accessory apartment and the principal dwelling shall be serviced and monitored by common utilities.
- 7.8.3.8 A plot plan, prepared by a Registered Land Surveyor, of the existing dwelling unit and the proposed accessory apartment shall be submitted with the building permit application. The plan shall show the location of all structures on the lot along with septic system, well and drainage structures.

Prior to the issuance of an occupancy permit, the accessory apartment shall meet all building code requirements and shall have properly installed and maintained fire safety devices for the protection of all occupants in the entire structure.

*(Adopted at ATM June 15, 2009; approved by Attorney General August 18, 2009)*

## **8.0 ADMINISTRATION**

### **8.1 Enforcement**

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

fourteen days of the receipt of such request.

***(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)***

## 8.2. Board of Appeals

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

***(Name change from Board of Selectmen to Select Board Adopted at STM November 8, 2021, approved by Attorney General December 15, 2021.)***

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

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

### 8.2.1 Method of Appeal

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

### 8.2.2 Variances

The Board of Appeals shall have the power to authorize with respect to a particular building or parcel of land a Variance from any of the terms of this By-Law, where, owing to circumstances relating to the soil conditions, shape or topography and especially affecting said building or parcel, but not affecting generally the district in which it is located, a

literal enforcement of the provisions of this By-Law would involve substantial hardship to the petitioner and where desirable relief may be granted without substantial detriment to the public good and without substantial derogation from the intent or purpose of this By-Law, as provided in Section 10 of Chapter 40A of General Laws.

### 8.2.3 Public Hearing and Notice

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

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

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

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

8.6 Legal Aspects

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

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

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

8.7 **TEMPORARY LICENSES**

Notwithstanding the other provisions of this by-law, the owner and occupier of a residence which has been **unintentionally** destroyed or the owner of a conforming lot under these by-laws and permitted for building a single family residence, may apply for a license from the **Building Commissioner** to place a mobile home as defined herein and to reside in such home for a period not to exceed twelve months while the residence is being built or rebuilt. Any such mobile home shall be subject to the provisions of the State Sanitary Code. Such a license may be issued for a period of six (6) months and may be reserved by written request thirty (30) days prior to expiration for an additional six (6) months due to unforeseen circumstances or other unavoidable delays.

*(Adopted June 16, 2003; approved by Attorney General September 9, 2003. **Bold Text**- Adopted June 3, 2019; approved by Attorney General September 13, 2019)*

8.7.1 Upon application from the owner of a parcel of land, the **Building Commissioner** may issue a temporary license to place a mobile home as defined herein, on such land of the applicant for a temporary residence of transient non-paying guests for a period not to exceed three months. Such license shall be non-renewable. Any such mobile home shall be subject to the provisions of the State Sanitary Code.

*(Adopted June 16, 2003; approved by Attorney General September 9, 2003. **Bold Text-** Adopted June 3, 2019; approved by Attorney General September 13, 2019)*

8.7.2 Upon application from the owner of a parcel of land, the **Building Commissioner** may issue a temporary license to place an unoccupied mobile home as defined herein, for storage on such lot for a period not to exceed one year, but may be renewed annually. *(Adopted June 16, 2003; approved by Attorney General September 9, 2003. **Bold Text-** Adopted June 3, 2019; approved by Attorney General September 13, 2019)*

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

*(Adopted June 14, 2004; approved by Attorney General September 16, 2004. **Bold Text-** Approved June 3, 2019; approved by Attorney General September 13, 2019; **\*Bold Text-** Approved June 23, 2020; approved by Attorney General Sept. 18, 2020)*

**Mobile Home:** Same as house trailer, meaning a dwelling unit built on a chassis and containing complete electrical, plumbing and sanitary facilities, designed and intended to be moved as a unit to a fixed location and installed on a permanent or a temporary foundation or support for use as stationary living quarters. This definition shall not include a travel or camping trailer which is a vehicle designed to travel on highways on rubber-tired wheels and used as living quarters for a period not to exceed several weeks at any one location. ***Bold Text-** Approved June 23, 2020; approved by Attorney General September 18, 2020)*

**Storage Boxes, Trailers:** any trailer completely enclosed or covered in any way; shipping containers, also referred to as cargo boxes; and trailers which are or were part of a tractor trailer unit. This definition shall not include a travel or camping trailer which is a vehicle designed to travel on highways on rubber-tired wheels and used for recreational purposes. ***(Bold Text-** Approved June 23, 2020; approved by Attorney General September 18, 2020)*

## **9.0 WIRELESS COMMUNICATIONS FACILITY**

### **9.1 Purpose and Intent**

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

### **9.2 Definitions**

#### **Wireless Communications Facility:**

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

#### **Communication Building:**

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

#### **Communication Structure:**

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

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

### 9.3 General Requirements

- A. No WCF shall be placed, constructed or modified except in compliance with this Zoning By-Law.
- B. All new wireless communications facilities shall be co-located, to the maximum extent practicable and technologically feasible, with one or more existing wireless communication facilities, monopoles, buildings or other structure whose height, location and characteristics meet the needs of the proposed facility. An applicant shall demonstrate to the Zoning Board of Appeals that it has made a good faith effort to co-locate its facility upon an existing structure or facility.
- C. All new wireless communication monopoles or support structures shall be designed, to the maximum extent practicable with existing technology and with height limits set forth in this chapter, for co-location of antennas and other necessary facilities for at least three (3) other wireless communication providers, and shall offer space to all other providers at market rates. Any Special Permit granted for a new facility under this section shall be conditioned upon the written agreement of the facility operator to allow the co-location of at least three other wireless communication providers on commercially reasonable terms. If co-location facilities are not installed at the time of construction of the WCF, then, at the time of any addition of a co-located facility, the holder of the special permit and the new provider shall notify the Zoning Board and the Building Inspector that the installation has occurred and certify that the installation has been performed in accordance with the special permit for the WCF.

- D. In descending order of zoning district preference, a WCF shall be located in Industrial (including Industrial B); Business and Residential.
- E. Any applicant proposing not to co-locate their facility or proposing to locate their facility in an Industrial District shall provide written evidence and documentation demonstrating why it is not feasible for their facility to be co-located with existing facilities or to be located in an Industrial District, or any other District having preference over the proposed location.
- F. In no event shall any WCF be located closer than one mile to any other such WCF, unless the applicant can show that there is no existing space on one of the existing facilities which can be leased or procured.
- G. The height of the monopole, measured from the mean finished ground level at the base of the facility, shall not exceed 125 feet in an Industrial District and shall not exceed 75 feet in Business or Residential Districts. The Zoning Board may allow a greater height if such modification provides adequate safety, promotes co-location or improves the design, and will not significantly impact the character and appearance of the neighborhood.
- H. In all areas zoned business, industrial and industrial B the set backs for the WCF shall be: a minimum of one and a half (1 1/2) times or 150 % the height of the monopole and 500 feet from the lot line of the nearest residential use. Said distance shall be measured from the base of the WCF to the lot line of the nearest residential use. The Zoning Board may allow a lesser setback if such modification provides adequate safety, promotes co-location or improves the design, and will not significantly impact the character and appearance of the neighborhood.
- I. In residential districts the setbacks shall be a minimum four times the height of the tower, but not less than 500 feet. Said distance shall be measured from the base of the WCF to the nearest residential structure. The Zoning Board may allow a lesser setback if such modification provides adequate safety, promotes co-location or improves the design, and will not significantly impact the character and appearance of the neighborhood.
- J. All structures associated with a WCF shall be removed

within one (1) year of the cessation of said use.

- K. Certification, by an independent test consultant, stipulating the WCF is in compliance with the FCC shall be conducted within ten (10) days of completion of construction of the facility and once a year after that date. The monitoring shall be based on Cobbs Test Protocol or such comparable test standards as approved by the Zoning Board.
- L. As a condition of the special permit for the placement, construction or modification of a WCF, a carrier shall provide a bond of not less than \$250,000, in a form acceptable to the Town, or shall place into escrow a sum of money sufficient to cover the costs of removing the WCF from the subject property and, furthermore, said funds shall be held by the Town Treasurer or an independent escrow agent to be appointed by the carrier and the Zoning Board. The amount of the surety shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. The carrier shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the Town or the escrow agent to enter upon the subject property to remove the WCF when the WCF has been abandoned or discontinued.

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

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

- M. The applicant shall provide to the Zoning Board a contact for emergencies and said contact person and phone number and the owner of the facility and phone number shall be posted on the fence surrounding the wireless communication facility.

- N. A WCF shall be setback a minimum of 1,000 feet from any school, said distance shall be measured from the property line for the WCF to the nearest property for the school.
- O. Any proposed extension in height, addition of cells, antennas or panels, construction of a new facility or other modifications, shall be subject to a new application for an amendment to the special permit **unless the extension or modification does not substantially change the physical dimensions of the facility.** *(Adopted November 17, 2014 STM; approved by Attorney General February 23, 2015)*

#### 9.4 Design Provisions

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

- A. No new WCF shall be placed or constructed that uses a lattice-type construction which requires three or more legs or guy wire supports or both without a special permit from the Zoning Board of Appeals.
- B. No monopole or other facility structure shall contain any sign or other devices for the purpose of advertisement.
- C. All monopoles, antennae, antennae support structures, and similar facilities shall be of neutral colors that are harmonious with, and blend with, the natural features, buildings and structures of the surrounding environment. Such structures shall be constructed out of non-reflective materials.
- D. All building mounted facilities shall be designed and located so as to appear to be an integral part of the existing architecture of the building and shall be of colors that match and/or blend with those of the building.
- E. The related unmanned equipment and/or building(s) shall not contain more than 400 square feet of gross floor area or be more than ten (10) feet in height.
- F. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.
- G. All wireless communications facilities shall be protected against unauthorized climbing or other access by the public. The fencing shall be compatible with the scenic character of

the surrounding area and shall not be constructed of barbed wire or razor wire.

- H. No wireless communications facility shall be constructed to a height that requires aircraft lighting or special painting to enhance visibility. No tower shall be artificially lighted.
- I. Applicants shall submit eight (8) view lines showing a one (1) mile radius from the site, beginning at true North and continuing clock-wise at forty-five (45) degree intervals. Said view lines shall, to the extent feasible, be taken from existing vantage points commonly used by the public, such as public ways, buildings or facilities. The submittal shall include unaltered photographs taken from eye level, five (5) feet above grade, which show the existing condition of these view lines, as well as accurate scale perspective elevation drawings, computer-altered photographs or other accurate representations showing said view lines with the facility in place.
- J. Landscape plans submitted with the application shall identify all existing vegetation, shall indicate which vegetation is to be removed or altered, and shall show all proposed new vegetation and other landscape treatments.
- K. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighbors and other areas of Town shall be as limited as possible.
- L. Satellite dishes and/or antenna shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets, if feasible. Free standing dishes or antenna shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded and/or installed to blend into the structure and/or the landscape.

#### 9.5 Environmental Standards

- A. No hazardous waste shall be discharged on the site of any WCF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the

volume of the hazardous materials stored or used on the site.

- B. Ground-mounted equipment for a WCF shall not generate noise in excess of 50 dB at the property line. Roof-mounted or side-mounted equipment for WCF shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

#### 9.6 Application Process

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

exempt from all applicable Federal and State standards.

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

#### 9.7 Exemptions

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

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

1. The tower is not used or licensed for any commercial purpose.

E. Towers and antennas erected by the Town of Lakeville for public safety communication purposes.

9.8 Severability

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

<p><b>10.0 Large-Scale Ground-Mounted Solar Photovoltaic Installations Overlay District</b></p>
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10.1 Purpose

The purpose of this bylaw is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

10.1.1 Applicability

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

10.2 Definitions

10.2.1 As-of-Right Siting

As-of-Right Siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development **shall** be subject to site plan review to determine conformance with local zoning ordinances or bylaws. Projects cannot be prohibited, but can be reasonably regulated by the Planning Board through Site Plan Review.

- 10.2.2 **Building Inspector**  
The inspector of buildings, building commissioner, or local inspector, or person or board designated by local ordinance or bylaw charged with the enforcement of the zoning ordinance.
- 10.2.3 **Building Permit**  
A construction permit issued by an authorized building inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local zoning bylaws, including those governing ground-mounted large-scale solar photovoltaic installations. Building Permits will be issued after Site Plan Review by the Planning Board.
- 10.2.4 **Designated Location**  
The locations designated by Town Meeting, in accordance with Massachusetts General Laws Chapter 40A, section 5, where ground-mounted large scale solar photovoltaic installations may be sited as-of right. To include all I (Industrial Districts) as shown on the Lakeville Zoning Map (As Revised August 2009). This map is hereby made a part of this Zoning Bylaw and is on file in the Office of the Town Clerk.
- 10.2.5 **Large-Scale Ground-Mounted Solar Photovoltaic Installation**  
A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC.
- 10.2.6 **On-Site Solar Photovoltaic Installation**  
A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.
- 10.2.7 **Rated Nameplate Capacity**  
The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).
- 10.2.8 **Site Plan Review**  
Review by the Site Plan Review Authority to determine conformance with local zoning ordinances or bylaws.
- 10.2.9 **Site Plan Review Authority**  
For purposes of this bylaw, Site Plan Review Authority refers to the body of local government designated as such

by the municipality. ***The Planning Board is the Site Plan Review Authority.***

10.2.10 Solar Photovoltaic Array

An arrangement of solar photovoltaic panels.

10.2.11 Zoning Enforcement Authority

The person or board charged with enforcing the zoning ordinances or bylaws. The Building Commissioner is the Zoning Enforcement authority.

10.3 General Requirements for all Large Scale Solar Power Generation Installations.

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

10.3.1 Compliance with Laws, Ordinances and Regulations

The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

10.3.2 Building Permit and Building Inspection

No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

10.3.3 Fees

The application for a building permit for a large scale solar photovoltaic installation must be accompanied by the fee required for a building permit.

10.3.4 Renewable or Alternative Energy Research and Development Facilities, and Renewable or Alternative Energy Manufacturing Facilities Subject to Site Plan Review by the Planning Board, pursuant to Section 7.3 and 10.3.5 Site Plan Review and subject to the dimensional requirements of Section 10.3.9 Dimension and Density Requirements. Said Site Plan Approval shall be an "expedited" application and permitting process under which said facilities may be sited within one (1) year from the date of initial application to the date of final approval by the Planning Board.

### 10.3.5 Site Plan Review

Ground-mounted solar **photovoltaic installations shall undergo** site plan review by the Site Plan Review Authority prior to construction, installation or modification as provided in this section.

#### 10.3.5.1 General

All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.

#### 10.3.5.2 Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

**(A)** A site plan showing:

1. Property lines and physical features, including roads, for the project site;
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
3. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
4. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices;
5. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
6. Name, address, and contact information for proposed system installer;
7. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
8. The name, contact information and signature of any agents representing the project proponent; and

- a) Documentation of actual or prospective access and Control of the project site (see also Section 10.3.6);
- b) An operation and maintenance plan (see also Section 10.3.7);
- c) Zoning district designation for the parcel(s) of Land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);
- d) Proof of liability insurance; and
- e) Description of financial surety that satisfies Section 10.3.13.3

The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

#### 10.3.6 Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

#### 10.3.7 Operation & Maintenance Plan

The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

#### 10.3.8 Utility Notification

No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

#### 10.3.9 Dimension and Density Requirements

##### 10.3.9.1 Setbacks

For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- a) Front yard: The front yard depth shall be at least 40 feet
- b) Side yard: Each side yard shall have a depth at least 40 feet
- c) Rear yard: The rear yard depth shall be at least 40 feet
- d) Buffer Strips: As set forth in Section 5.2.5.1 & 5.2.5.2 when abuts a Residential District

10.3.9.2 Appurtenant Structures

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

10.3.10 Design Standards

10.3.10.1 Lighting

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. **All aspects of construction not specifically listed must comply with all municipal By-laws.** Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. **Lighting** of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

10.3.10.2 Signage

Signs on large-scale ground-mounted solar photovoltaic installations shall comply with a municipality's sign bylaw. A sign consistent with a municipality's sign bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation. All Signage must conform with Section 6.6

10.3.10.3 Utility Connections

All utility connections from the solar photovoltaic installation **shall be made underground**, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

10.3.10.4 Installation

All aspects of installation not specifically listed must conform with existing Town By-laws.

10.3.11 Safety and Environmental Standards

10.3.11.1 Emergency Services

The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

10.3.11.2 Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be **limited to construction**, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws. Unit of clearing must be shown on Site Plan and be accepted by the **Site Plan Review Authority**.

10.3.12 Monitoring and Maintenance

10.3.12.1 Solar Photovoltaic Installation Conditions

The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

#### 10.3.12.2 Modifications

All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

#### 10.3.13 Abandonment or Decommissioning

##### 10.3.13.1 Removal Requirements

Any large-scale ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Section 10.3.13.2 of this bylaw shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a) Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping

or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

10.3.13.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the large-scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

10.3.13.3 Financial Surety

Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form **determined by the** Site Plan Review Authority, but in no event to exceed more than 125 percent of the cost of removal, **disposal** and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally-or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal **and disposal**, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

*(Adopted June 13, 2011 at ATM; approved by Attorney General on September 14, 2011)*

## 11.0 Land Based Wind Energy Facilities

### A. Purpose

The purpose of this by-law is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such facilities.

The provisions set forth in this by-law shall take precedence over all other by-laws, when considering applications related to the construction, operation, and/or repair of land-based wind energy facilities.

### B. Applicability

This section applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this section. This section also pertains to physical modifications to existing wind facilities that materially alter the type, configuration, or size of such facilities or related equipment.

### C. Definitions

#### **Building Inspector:**

The inspector of buildings, building commissioner, or local inspector charged with the enforcement of the state building code.

#### **Building Permit:**

The permit issued in accordance with all applicable requirements of the Massachusetts State Building Code (780 CMR).

#### **Height:**

The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

#### **Rated Nameplate Capacity:**

The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

#### **Site Plan Review Authority:**

The Planning Board is hereby designated as the Site Plan Review Authority to review site plans.

"Special Permit Requirements: Development of all Land Based Wind Energy Facilities, except those within the definition of Renewable and Alternative Energy Research and Development Facilities in Section 2.0 of this Bylaw, shall require the issuance of a Special Permit and shall meet all requirements for Site Plan

Approval under Section 6.7 and Section 11.0.E.2. The Special Permit Granting Authority for Land Based Wind Energy Facilities shall be the Planning Board.

*(Adopted at ATM June 9, 2014; approved by Attorney General on July 1, 2014)*

**Utility-Scale Wind Energy Facility:**

A commercial wind energy facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**Wind Energy Facility:**

All of the equipment, machinery, and structures together utilized to convert wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads.

**Wind Monitoring or Meteorological Tower:**

A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate.

**Zoning Enforcement Authority:**

The building commissioner is the person or board charged with enforcing the zoning-by-laws within the Town of Lakeville.

D. General Requirements for all Wind Energy Facilities

The following requirements are common to all wind energy facilities to be sited in designated locations.

1. Compliance with Laws, Ordinances and Regulations

The construction and operation of all such proposed wind energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

2. Building Permit and Building Inspection

No wind energy system shall be erected, constructed, installed or modified as provided in this section without first obtaining a building permit.

3. Fees

The application for a building permit for a wind energy system shall be accompanied by the fee required for a building permit.

E. Site Plan Review

No wind energy facility shall be erected, constructed, installed or modified as provided in this section without first undergoing site plan review by the Site Plan Review Authority.

1. General

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

2. Required Documents

Pursuant to the site plan review process, the project proponent shall provide the following documents:

- a) A site plan showing:
  - i. All property lines, physical features, existing and proposed topography at two (2) foot contour intervals of the site parcel;
  - ii. A site plan at a scale of not greater than 1" = 40' and to include a north arrow and locus on the plan;
  - iii. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels where practical, within 500 feet of the site parcel, including distances from the wind facility to each building shown;
  - iv. Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment;
  - v. Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the site parcel;
  - vi. Any existing overhead utility lines;
  - vii. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured

- from the wind turbine foundation, of 1.5 times the height of the wind turbine;
- viii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;
  - ix. Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
  - x. Tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
  - xi. One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices;
  - xii. Documentation of the wind energy facility's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
  - xiii. Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;
  - xiv. The name, contact information and signature of any agents representing the applicant; and
  - xv. A maintenance plan for the wind energy facility;
- b) A locus map consisting of a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed *facility* site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; submission of a copy of a zoning map with the parcel identified is suitable for this purpose;
- c) Proof of liability insurance;

- d) Certification of height approval from the FAA;
- e) A statement that evidences the wind energy facility's conformance with Section 11.24, K, 6 listing ambient sound levels at the site and maximum projected sound levels from the wind energy facility; and
- f) Description of financial surety that satisfies Section 11.24, M, 3.

The Site Plan Review Authority may waive documentary requirements as it deems appropriate.

F. Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed wind energy facility. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

G. Operation & Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.

H. Utility Notification

No wind energy facility shall be installed until evidence has been given that the utility company that operates the electrical grid where the facility is to be located has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

I. Temporary Meteorological Towers (Met Towers)

A building permit shall be required for stand-alone temporary met towers. No site plan review shall be required for met towers.

J. Design Standards

1. Appearance, Color and Finish  
Color and appearance shall comply with Federal Aviation Administration (FAA) safety requirements.
2. Lighting  
Wind turbines shall be lighted only if required by the FAA. Lighting of other parts of the wind energy facility, such as appurtenant structures, shall be limited to that required for

safety and operational purposes, and shall be shielded from abutting properties. Except as required by the FAA, lighting of the wind energy facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3. Signage

Signs on wind energy facilities shall comply with the Town's sign by-law. The following signs shall be required:

- a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
- b) Educational signs providing information about the facility and the benefits of renewable energy.

Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

4. Utility Connections

Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the wind energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

5. Appurtenant Structures

All appurtenant structures to wind energy facilities shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking, and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

6. Height

The maximum height of wind energy facilities shall not exceed 225 feet in height.

K. Safety and Environmental Standards

## 1. Emergency Services

The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments, and/or the local emergency services entity designated by the local government. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the wind energy facility shall be clearly marked. The applicant or facility owner shall identify a responsible person for public inquires or complaints throughout the life of the project.

## 2. Unauthorized Access

Wind energy facilities shall be designed to prevent unauthorized access. For instance, the towers of wind turbines shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.

## 3. Setbacks

A wind turbine may not be sited within:

- a) A distance equal to three times (3x) the height of the wind turbine from buildings, critical infrastructure, or private or public ways that are not part of the wind energy facility;
- b) A distance equal to three times (3x) the height of the turbine from the nearest existing residential structure;  
or
- c) A distance equal to three times (3x) the height of the turbine from the nearest property line

## 4. Setback Waiver V

The Site Plan Review Authority may reduce the minimum setback distance as appropriate based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a building permit under the provisions of this section.

## 5. Shadow/Flicker

Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has

the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

6. Sound

The operation of the wind energy facility shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10).

7. Land Clearing, Soil Erosion and Habitat Impacts

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind energy facility or otherwise prescribed by applicable laws, regulations, and by-laws.

L. Monitoring and Maintenance

1. Wind Energy Facility Conditions

The applicant shall maintain the wind energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way.

2. Modifications

All material modifications to a wind energy facility made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

M. Abandonment or Decommissioning

1. Removal Requirements

Any wind energy facility which has reached the end of its useful life or has been abandoned shall be removed. The owner/operator shall physically remove the facility no more than 150 days after the date of discontinued operations. The applicant shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a) Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
- b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption of vegetation.

## 2. Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the wind energy facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the applicant fails to remove the facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the facility.

## 3. Financial Surety

Applicants for utility-scale wind energy facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the Site Plan Review Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

*(Adopted June 13, 2011 at ATM; approved by Attorney General on September 14, 2011)*

## Changes made to Zoning By-Law

<i>Date: Adopted at ATM/ STM</i>	<i>Article #</i>	<i>Changes to By-Law:</i>	<i>Page #</i>	<i>Date: Attorney General Approval</i>
STM 11/14/22	9	<p>It was voted that the Town <b>amend</b> the Town of Lakeville Zoning By-Laws to add a new section to <b>Section 7.4 Special Permits</b> to create the position of Associate Planning Board Members as authorized by G.L. c. 40 A, §9, as set forth below, or take any other action relative thereto:</p> <p>7.4.4.1 Planning Board Associate Member</p> <p>There shall be one Associate Member, recommended by the Planning Board and appointed annually by the Select Board for a one-year term. The Chair may designate the Associate Member to sit on the Board for purposes of acting on special permit applications in the case of absence, inability to act, or conflict of interest on the part of any member of the Planning Board or in the event of a vacancy on the Board.</p>		AG Approval: 2/24/2023
STM 11/14/22	11	<p>It was voted that the Town <b>amend</b> the Lakeville Zoning Bylaw, Section 7.4.6 Specific Uses by Special Permit to:</p> <p><b>Remove: Signs, Off-Premise</b>  <del>SPGA – Board of Appeals; All Districts Applies to signs not exempt from local regulation by Chapter 93 of General Laws and not advertising the premises on which located or the occupant thereof or the goods and services available thereon; must advertise a business commodity or service available in Lakeville; shall not exceed 12 square feet in area; must be found to be appropriate for the location; Special Permit to be limited to a time period of not less than 3 years and subject to renewal.</del></p>		AG Approval 2/24/2023
STM 11/14/22	12	<p>It was voted that the Town <b>amend</b> the Lakeville Zoning Bylaw, Section 5.0 Intensity Regulations, 5.2 Footnotes to Intensity Requirements to:</p> <p>Add Section 5.2.8. In the Business District one side or rear yard setback, on a non-conforming lot abutting another businesses district property, may be reduced by 50% by a Special Permit issued by the Planning Board. This may be only Granted if the applicant can show to the satisfaction of the Board that the reduced setbacks are necessary to allow for the most desirable and efficient site design due to the nonconformity of the lot.</p>		AG Approval: 2/24/2023

STM 11/14/22	13	<p>It was voted that the Town <b>amend</b> the Lakeville Zoning Bylaw to:</p> <p>Add to Section 4.1.3 Industrial Uses</p> <p style="text-align: right;"><u>R   B   I   IB</u></p> <p>Warehouse, offices or facilities for distributing merchandise over 100,000 Sq. Ft    N    N   SP   SP</p> <p>and</p> <p>Add to Section 7.4.6 Specific Uses by Special Permits</p> <p><b><u>Warehouse, offices or facilities for distributing merchandise over 100,000 Sq. Ft</u></b></p> <p>SPGA – Planning Board</p> <p>A single building or combination of buildings that exceed a total of 100,000 square feet, located on one lot, shall require a Special Permit from the Planning Board.</p>		AG Approval: 2/24/2023
STM 11/14/22	14	<p>It was voted that the Town <b>remove</b> in its entirety Section 7.9 <b>Development Opportunities (DO) District</b> from the Town of Lakeville Zoning By-Law</p>		AG Approval: 2/24/2023
STM 11/14/22	18	<p>It was voted that the Town vote to <b>amend</b> the Lakeville Zoning Bylaw, Section 4.9 Use Regulations by:</p> <p><b>Adding to Section 4.1.2 Business Uses</b></p> <p style="text-align: right;"><u>R   B   I   I-B</u></p> <p>Licensed junk dealers (Pursuant to the Town of Lakeville General Bylaws)</p> <p style="text-align: right;">N   Y   N   N</p>		AG Approval 2/24/2023