

To see if the Town will vote to amend the Code of Lunenburg, to modify §250-2.1 by DELETING the definitions for Assisted Living Residence; Bed and Breakfast or Bed and Breakfast Establishment; Car Wash; Gasoline Station/Service Station or Filling Station; Hotel, Inn, Tourist Home or Lodging House; Kennel; Office Park; Professional Building; Rooming House or Boarding House; Shopping Center; and Townhouse or take any action relative thereto

§ 250-2.1 Terms defined; word usage.

For the purposes of this bylaw, certain terms and words are herein defined as follows. Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory; the word "lot" includes the words "plot" and "parcel," and "land" includes the words "marsh" and "water."

ACCESS

A strip of land, calculated in the frontage available, capable of being and used for vehicular ingress to or egress from the property, measured from the right-of-way to the setback line.

~~ASSISTED-LIVING RESIDENCE~~

~~A residential development with support services as defined by Chapter 19D of the General Laws of Massachusetts and which conforms to the requirements of said chapter.~~

~~BED-AND-BREAKFAST or BED-AND-BREAKFAST ESTABLISHMENT~~

~~A private owner occupied dwelling for rent which meets the definition of the Commonwealth of Massachusetts Department of Revenue for "bed and breakfast."~~

BUILDING

Includes the word "structure" unless the context unequivocally indicates otherwise. "Building" shall also mean a three-dimensional enclosure built, erected or framed of any combination of building materials on any space for use or occupancy, temporary or permanent, and may include foundations in the ground; also all parts of any kind of a structure above ground except fences and fields or garden walls or embankment retaining walls.

BUILDING LOT or LOT

See definition of "lot" below.

~~CAR WASH~~

~~A facility for washing, cleaning and waxing vehicles, including light trucks and vans.~~

CATERING SERVICE

A business which prepares and provides food on site and/or to be delivered and served at an off-site location.

CELLULAR TOWER

A tower used for cellular phone communication equipment.

CONSTRUCTED

Includes the words "built," "erected," "reconstructed," "altered," "moved," or "placed."

CONTINUING-CARE RETIREMENT COMMUNITY

A residential development which provides housing in independent units, skilled medical care and such services as a nursing home, meals and unit cleaning; which may also provide such amenities as

a craft area, library, store, bank or post office for sale of products or provision of services to meet daily needs of the residents only, and transportation for residents to shopping, social and recreational activities and to off-site medical appointments.

DRIVEWAY

A way for the passage of vehicles from the street used to qualify for required frontage to a garage or off-street parking and loading area.

- A. **COMMON DRIVEWAY** Any drive, right-of-way or private way which provides access to two lots but which does not qualify for determining frontage under Chapters 40A and 41 of the General Laws of Massachusetts.

DWELLING

Any building, or part thereof, used for habitation for one or more persons, but not including commercial accommodations for transient occupancy or trailers or mobile homes, however mounted.

- A. **DWELLING UNIT** One or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one or more persons living together as a single housekeeping unit.

EXTERIOR LINE

The dividing line between a street and a lot and, in the case of a public way, the street line established by the public authority laying out the way upon which the lot abuts.

FAMILY

One or more persons living together in one dwelling unit, but not including sororities, fraternities and other communal arrangements.

FARM

A parcel of land of five acres or more used for gain in the raising of agricultural products, livestock, poultry, dairy products, viticulture, horticulture and floriculture. It includes necessary farm structures and the storage of equipment used.

FRONTAGE

The distance measured along the boundary of a lot coinciding with the street line, being an unbroken distance through which actual access to the potential building site shall be required, provided that:

- A. Non-corner lots.
- (1) The lot is on a street or way legally accepted by Town Meeting vote; or
 - (2) The lot is on a street or way established by a state or federal authority; or
 - (3) The lot is shown on a street or way established by a subdivision plan approved in accordance with the Subdivision Control Law; or
 - (4) The lot is on a street or way on a list maintained by the Town Clerk, which is determined to qualify for frontage under the provisions of this section; and
- B. Corner lots; lots with frontage on culs-de-sac.
- (1) For a corner lot, which has a corner with a radius, frontage shall be measured between the above-described lot line and the midpoint of the arc made by the common radius; or

Comment [1]: Editor's Note: See Ch. 325, Subdivision Regulations.

- (2) For a corner lot, which has no radius, frontage shall be measured between one side lot line and the intersection with the abutting street right-of-way line; or
- (3) For a lot with frontage on a curved portion of a cul-de-sac, frontage shall be measured along a straight line running between the points where the lot's side lines intersect with the street's right-of-way line.

FUNCTION FACILITY

A building and its grounds used for meetings and events, to include receptions, dinners, weddings and similar social affairs, and business and civic meetings.

GARAGE

Covered space for housing of motor vehicles.

- A. **GARAGE, PRIVATE** A garage which is a part of or separate from a dwelling but which is not used for the rental of more than one stall or for commercial repair or commercial storage.
- B. **GARAGE, PUBLIC** Any garage other than a private garage, available to the public, operated by a public authority or for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles or supplying of gasoline or oil to motor vehicles or fuel to any kind of self-propelled vehicles.

~~**GASOLINE STATION/SERVICE STATION OR FILLING STATION**~~

~~An establishment which provides for the servicing of motor vehicles and operations incidental thereto limited to:~~

- ~~A. Retail sale of gasoline, oil, tires, batteries and new accessories.~~
- ~~B. The changing and repairing of tires, but not including recapping.~~
- ~~C. Battery service, charging and replacement, but not including repair or rebuilding.~~
- ~~D. Radiator cleaning and flushing, but not including repair or steam cleaning.~~
- ~~E. Installation of minor accessories.~~
- ~~F. The following operations, if conducted wholly within an enclosed building:~~
 - ~~(1) Lubrication of motor vehicles.~~
 - ~~(2) Brake adjustment, replacement of brake cylinders and brake fluid lines.~~
 - ~~(3) Minor repair, including the testing, adjustment and replacement of carburetors, coils, condensers, distributor caps, fan belts, filters, generators, points, rotors, spark plugs, voltage regulators, fuel pumps, motor hoses and wheel balancing.~~
- ~~G. Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, or major body, engine or transmission work.~~

GUESTHOUSE, PRIVATE

An accessory use on a lot which contains a dwelling. The guesthouse can be occupied on a

temporary basis by nonpaying guests of the principal dwelling and may contain sleeping and sanitary facilities but may not contain cooking facilities.

HAZARDOUS MATERIAL

A substance or material, whether in gaseous, liquid or solid form, or a combination thereof in a quantity or form that poses a substantial threat to human health or poses an unreasonable risk to health, safety, property or the environment when improperly managed, including all materials listed as hazardous by the Environmental Protection Agency, under the Toxic Substance Control Act, Federal Resource Conservation and Recovery Act as set forth in 40 CFR 261, or similar authority, the Department of Energy or by the Commonwealth of Massachusetts pursuant to applicable General Laws.

~~HOTEL, INN, MOTEL, TOURIST HOME OR LODGING HOUSE~~

~~A building, or portion thereof, or a group of buildings on a single lot, intended to be used for the temporary occupancy of three or more persons who are lodged, with or without meals and in which major provisions for cooking may be made in a central kitchen but may not be in individual rooms or suites.~~

IMPERVIOUS SURFACE

An impervious surface shall be considered one with a runoff coefficient of greater than 90%. All structures, driveways, parking areas and paved surfaces exceeding a 90% runoff coefficient shall be considered as impervious surfaces.

INDUSTRIAL PARK

An area planned for occupancy for more than one industrial building with shared common areas and/or parking areas.

~~KENNEL~~

~~One pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained (MGL c. 140, § 136A).~~

LOADING SPACE, OFF-STREET

An off-street space or berth, on the same lot with a building, for the temporary parking of vehicles while loading or unloading merchandise or material and which has access to a street or other appropriate means of ingress and egress.

LOT

- A. A single area of land in one ownership, capable of being built on and designated by metes and bounds or boundary lines shown in a recorded deed or a recorded plan or a plan proposed to be recorded.
- B. Lot width is the minimum distance between the side lot lines of the lot measured on any line parallel to a line joining the intersection of the side lot lines with the right-of-way at any point between said intersection and the nearest point of the principal building and the right-of-way line.
- C. A building lot is that area of land described in a site plan application for a building permit; or any application to the Board of Appeals for a special permit or a variance or any application to the Planning Board for development plan review or for a special permit; or otherwise described as an area on which a structure is to be constructed which will be recorded by plan or deed at the

Worcester North District Registry of Deeds.

- D. A building lot shall not include any part of the street.
- E. A corner lot shall be any lot abutting on two or more streets that are intersecting.
- F. A planned residential area lot is defined as the land within the perimeter boundaries of the unified plan.

NONCONFORMING

- A. A nonconforming building is a building lawfully existing at the time of adoption of this bylaw, or any amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the building is located.
- B. A nonconforming lot is a lot lawfully existing at the time of the adoption of this bylaw, or any amendment thereto, which does not conform to one or more of the applicable dimensional and density regulations for the district in which the lot is located.
- C. A nonconforming use is a use of a building or lot lawfully existing at the time of the adoption of this bylaw, or any amendment thereto, which use is not allowed by the bylaw in the district in which it is located.

~~OFFICE PARK~~

~~An area planned for occupancy by more than one office building, with shared common areas and/or parking areas.~~

PLANNED RESIDENTIAL AREA

A unified one-lot development, including one or more residential building types, undertaken in accordance with an overall plan, incorporating a consistent architectural concept and incorporating the preservation of natural areas within the development.

PRIVATE WAY

Any way that is not a "public way" as defined by this bylaw.

~~PROFESSIONAL BUILDING~~

~~An office or offices of recognized professions such as doctors, dentists, lawyers, architects, engineers and others who are qualified to perform, with or without staff, personal services of a professional nature, provided that the residential character of the exterior is maintained.~~

PUBLIC WAY

A way over which the public is entitled to pass, and which has been either:

- A. Laid out and accepted as public in the manner prescribed in statute; or
- B. Dedicated to perpetual public use by its owner prior to 1846; or
- C. Made public by prescription, as adjudged by a Massachusetts court.

RIGHT-OF-WAY

- A. A way serving property other than that on which it is located; or
- B. A right held by one or more parties to pass over land of another.

~~ROOMING HOUSE OR BOARDINGHOUSE-~~

~~A building or premises, other than a hotel, inn, motel, tourist house or lodging house, where rooms are let and where meals may be regularly served by pre-arrangement for compensation; not open to transient guests, in contrast to hotels, restaurants and tourist homes, open to transients.~~

SCREENED AREA

A section shielded from view from adjacent areas by fencing, hedges or trees.

~~SHOPPING CENTER~~

~~An area or building planned for occupancy by more than one retail business, with shared common areas and/or parking areas.~~

SIGN

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks, whether stationary or portable, by which anything is made known, such as are used to designate or locate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are visible from a public or private street or right-of-way and used to attract attention.

STREET

A public way or private way either shown on a plan approved in accordance with the Subdivision Control Law or otherwise qualifying a lot for frontage under the Subdivision Control Law or in existence when the provisions of the Subdivision Control Law became effective in the Town of Lunenburg having, in the opinion of the Planning Board, suitable grade, adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby or for the installation of municipal services to serve the plan and/or to be erected thereon.

A. **STREET LINE** See "exterior line" above.

STRUCTURE

Any construction, erection, assemblage or other combination of materials upon the land, necessitating pilings, footings or a foundation for attachment to the land, excluding fences, but including all indoor or outdoor swimming pools whether or not so attached and equipment and appurtenances thereto when the pool is used for landscaping, swimming or bathing and has 24 or more inches of depth and has a surface of 75 or more square feet and all other structures of over 120 square feet.

TELECOMMUNICATION TOWER

A tower used for telecommunication equipment and transmitting.

~~TOWNHOUSE-~~

~~A single family dwelling attached to another single family dwelling in such a manner that each dwelling has a door at ground level and front and rear access to the outside. Said dwelling may be in separate ownership from the unit(s) to which it is attached.~~

TOXIC MATERIAL or TOXIC WASTE

A substance or material, whether in gaseous, liquid or solid form or a combination thereof, in quantity or form that significantly contributes to serious illness or death or that poses a substantial threat to human health or poses an unreasonable risk to health when improperly managed, including all materials listed as toxic by the Environmental Protection Agency, under the Toxic Substance Control Act, Federal Resource Conservation Recovery Act as set forth in 40 CFR 261 or similar

authority or by the Commonwealth of Massachusetts pursuant to applicable General Laws.

TRAILER or MOBILE HOME

Any vehicle or object, whether resting on wheels, jacks or other foundation, and having no motive power of its own, but which is drawn by or used in connection with a motor vehicle and which is designed and constructed as a dwelling unit which permits its transportation and relocation as a complete unit on its own wheels. It shall contain complete electrical, plumbing and sanitary facilities and may be installed on a temporary or permanent foundation for permanent living quarters. This shall not include the type of vehicle known as a recreational camping-type vehicle, motorized travel vehicle, boat trailer, horse trailer or similar trailer vehicles nor shall it include any other prefabricated dwelling unit which contains detachable parts equal to or greater than 50% of the floor area of the total dwelling unit.

WIND ENERGY SYSTEM (WES)

All equipment, machinery and structures for wind energy systems utilized in connection with the conversion of wind to electricity.

- A. **SMALL WIND ENERGY SYSTEM (SWES)**A WES with a rated nameplate capacity of 60 kW or less.
- B. **COMMERCIAL WIND ENERGY SYSTEM (CWES)**A WES with a rated nameplate capacity of more than 60 kW of which more than 50% of the output is intended for use off site.
- C. **KILOWATT (kW)**One thousand watts.

YARD

An open space, other than an enclosed court, on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and a lot line and is not occupied or obstructed from the ground upward by a building or a structure.

- A. **YARD, FRONT**A yard extending across the full width of the lot and lying between the street line of the lot and the nearest line of the building. The depth of a front yard shall be the minimum distance between the building and the front lot line.
- B. **YARD, REAR**A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the building. The depth of the rear yard shall be the minimum distance between the building and the rear lot line.
- C. **YARD, SIDE**A yard between the side lot line of the lot and the nearest line of the building and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be the minimum distance between the building and the side lot line.