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Part I: Administrative Legislation

Chapter 1 General Provisions

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

Article I Enforcement and Penalties

[Adopted as Art. X of the Town Bylaws]

§ 1-1 Authority to prosecute.

Except when otherwise provided by law, prosecutions for offenses under the bylaws of the Town may be made by any constable or police officer of the Town.

§ 1-2 Criminal complaint; maximum penalty.

Whoever violates any provision of these bylaws may be penalized by complaint brought in the District or Housing Court. Except as may be otherwise provided by law and as the District Court or Housing Court may see fit to impose, the maximum penalty for each violation or offense, brought in such manner, shall be \$300.

§ 1-3 Noncriminal disposition.

[Amended 5-13-1987]

Whoever violates any provision of these bylaws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board, or department which is subject to a specific penalty. Without intending to limit the generality of the foregoing, it is the intention of this provision that the foregoing bylaws and section of bylaws are to be included within the scope of this section, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section. Each day on which any violation exists shall be deemed to be a separate offense.

General Bylaws	Enforcing Person	Fine
Chapter 110, Article I, § 110-1, Dog restraint	Animal Control Officer	First offense: \$50 Second offense: \$75 Third offense and subsequent offenses: \$100
Chapter 116, Boats and Boating	Select Board (Board of Selectmen)	\$20/day
Chapter 159, § 159-1, Junk collection	Building Commissioner	\$50/day

General Bylaws	Enforcing Person	Fine
Chapter 205 , § 205-2 , Digging in highway	DPW Director or designated agent	\$50/day
Chapter 228 , Recreational Vehicles	Select Board (Board of Selectmen)	\$50/day
Chapter 232 , Unregistered Vehicles [Amended 5-13-1989]	Select Board (Board of Selectmen)	\$300/day
Chapter 239 , Wetlands Protection	Conservation Commission	\$300/day
Chapter 250 , § 250-6.7, Stormwater management	Building Commissioner	First violation: \$25 Second violation: \$50 Third violation: \$100 Fourth and subsequent violations: \$200
Chapter 250 , § 250-6.8, Discharges to municipal storm sewer system	Building Commissioner	First violation: \$25 Second violation: \$50 Third violation: \$100 Fourth and subsequent violations: \$200
Chapter 250 , § 250-8.2 , Zoning Bylaw	Building Commissioner	First violation: \$25 Second violation: \$50 Third violation: \$100 Fourth and subsequent violations: \$200

Article II Adoption of Code

[At the 5-6-2017 ATM, by Article 36, the Town voted to renumber and recaption the General Bylaws of the Town as follows: to assign a new number to each chapter of the General Bylaws; to renumber each section accordingly; to insert chapter and section titles; to update internal references to reflect the new numbering system; to reorganize defined terms to be indented and capitalized in the definitions sections of various chapters; and to enact certain global changes to the text of the General Bylaws of the Town, including consistent citation of statutory references and a standard system of capitalization and citation of numbers, all as incorporated in the document entitled "FINAL DRAFT (RED-LINE VERSION) - February 2017," on file in the office of the Town Clerk.]

Chapter 5

Administration of Government

[HISTORY: Adopted by the Town of Lunenburg as Art. II, §§ 1, 2, 3, 4, 7, 10 and 15, of the Town Bylaws. Amendments noted where applicable.]

§ 5-1 Records and minutes.

[Amended 5-13-1989]

- A. All boards, standing committees and officers of the Town shall keep proper records of all their doings and accounts. The records and vouchers of such boards, committees and officers shall be kept in their respective offices and shall not be removed therefrom; such records and vouchers shall be open to the inspection of the citizens of the Town, the said records and vouchers remaining under the supervision of the board, committee or officer having charge thereof.
- B. The minutes of all Town board's and committee's meetings shall be filed with the Town Clerk within two weeks after those minutes are approved by the Board, and the minutes of all executive sessions of those boards and committees shall be filed with the Town Clerk within two weeks of those minutes being made public. Minutes shall include the material substance of the discussions, including votes, and need not be a verbatim record unless otherwise required by law.

§ 5-2 Police Department rules and regulations.

The **Select Board (Selectmen)** may make from time to time such rules and regulations for the government, disposition and management of the police, including the elected constables when acting as police officers, as they may deem expedient.

§ 5-3 Supervision of public property; use of Town Hall.

All public grounds, parks, buildings and places of public resort owned by the Town shall be under the supervision of the **Select Board (Board of Selectmen)**, except as otherwise provided by statute, and the use of the Town Hall may be granted by the **Select Board (Selectmen)**, at their discretion, without pay therefor, to any Town organization or society for free public entertainment, lectures or meetings.

§ 5-4 Inspection of public establishments.

The **Select Board (Board of Selectmen)** and the elected constables of said Town shall have the right, either individually or collectively, to enter all places of public resort, business or amusement licensed in the Town, at any and all times, for the purpose of assuring themselves that the same are conducted according to law and the terms and conditions of the licenses.

§ 5-5 Fiscal year.

The fiscal year shall begin on the first day of July and end on June 30.

§ 5-6 Disposal of personal property.

[Amended 5-2001 ATM by Art. 33]

All Town boards or officers having in their charge or control personal property owned by the Town which, in the best judgment of said boards or officers, has become obsolete and does not have a value in excess of \$500 as reasonably estimated by them are hereby authorized, with the prior written approval of the Town Manager, to sell and convey the same in behalf of the Town upon such terms as said boards or officers deem reasonable; provided, however, that a description of such property sold, together with the name and address of the buyer, and the consideration paid therefor, shall be included in the annual report of the responsible board or officer for the year in which the property was sold. No such personal property, the estimated value of which exceeds \$500, shall be sold without prior authorization by a Town Meeting.

§ 5-7 **Annual audit.**

[Amended 5-14-1988 ATM by Art. 3]

The **Select Board (Board of Selectmen)** shall annually provide for an independent audit for all books and accounts of the Town. The audit requirement may be fulfilled, in whole or in part, by a certified public accountant, a firm of public accountants, or under the auspices of a federal or state governmental agency, or any combination thereof.

Chapter 12

Boards, Commissions and Committees

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

Article I

Finance Committee

[Adopted as Art. XII, § 3, of the Town Bylaws]

§ 12-1 **Removal of members.**

[Amended 4-4-1981]

Members absent from 1/3 of the regular meetings of the Finance Committee in any fiscal year may be removed by a two-thirds vote of the remaining members present and voting. Any member who shall remove from the Town shall upon such removal automatically cease to be a member of such committee.

Article II

Building Committee

[Adopted as Art. XVII of the Town Bylaws]

§ 12-2 **Separate committees for building projects.**

There shall be a separate committee appointed for each Town building project.

§ 12-3 **Membership; appointment.**

Each committee shall consist of a minimum of seven members for a term not to exceed 30 days following completion of the project. Committees shall be comprised of **one member of the Select Board to be appointed by the Select Board**, one member from the Planning Board to be appointed by the Planning Board, and two members from the department or board having jurisdiction over the building, or a designee, to be approved by such board, and three citizens at large to be appointed by the **Select Board (Selectmen)**, and Moderator. If membership exceeds seven, proportional integrity, as outlined above, shall, to the extent possible, be maintained, with no one group having a majority.

Article III

Council on Aging

[Adopted 5-2007 ATM by Art. 23 (Art. XVIII of the Town Bylaws)]

§ 12-4 **Establishment; membership and appointment.**

There is hereby established a local Council on Aging, consisting of 11 voting members who shall be appointed by the **Select Board (Board of Selectmen)** from the registered voters of the Town of Lunenburg.

§ 12-5 **Chair.**

The Chairman of the Council shall be elected by the members of the Council at the annual meeting in June.

§ 12-6 **Powers and duties.**

The local Council on Aging shall be responsible to the **Select Board (Board of Selectmen)**, and its members shall serve without compensation and within the limits of available funds. It may appoint such clerks and other employees as it may require with the approval of the Town Manager. It shall be the duty of the local Council on Aging to carry out programs designed to meet the needs of the aging in coordination with programs of the Executive Office of Elder Affairs established by the Commonwealth of Massachusetts and to submit an annual report to the Town and a copy thereof to said Executive Office.

Article IV

Computer Advisory Committee

~~[Adopted as Art. XXIII of the Town Bylaws]~~

~~§ 12-7 Establishment and membership; vacancies.~~

~~There shall be a Computer Advisory Committee, which shall consist of nine members to be appointed by the Select Board (Board of Selectmen). Any vacancy in the Committee shall be filled by the Select Board (Board of Selectmen).~~

~~§ 12-8 Powers and duties.~~

~~[Amended 5-1-2004]~~

~~The Committee shall propose and recommend technology, strategic planning and policies and procedures encompassing the Town and school departments. The Committee shall have the responsibility for reviewing the Technology Department goals and objectives. All technology purchases will be processed through the Technology Director's recommendation. The Committee shall issue a recommendation on all computer-related purchases in excess of \$5,000. This Committee shall also provide technical assistance to the Town Technology Department and other Town departments as applicable.~~

Article V

Public Access Cable Committee

[Adopted as Art. XXV of the Town Bylaws; amended in its entirety 5-3-2014 ATM by Art. 26]

§ 12-9 **Establishment and purpose.**

The name of the organization shall be the "Public Access Cable Committee," herein referred to as "PACC." The **Select Board (Board of Selectmen)** activated and appointed PACC in July 2007 to assist with the development of Lunenburg TV Channels **8, 9 and 99.**

§ 12-10 **Mission statement.**

The Committee was created for the purpose of establishing a local access TV station operating on cable for the Town of Lunenburg. PACC is to oversee programming in areas of public affairs, education, entertainment and Town government. PACC shall be responsible for the formulation and promulgation of policy directives and guidelines for the operation of PACC; provided, however, that nothing in this section shall be construed to authorize any member of PACC, nor a majority of such members, to become involved in the day-to-day administration of the Lunenburg Public Access.

§ 12-11 **Membership.**

A. Number of members. PACC shall consist of five members, who shall be appointed by the Lunenburg **Select Board (Board of Selectmen)** from residents of the Town of Lunenburg ~~or full-time students at~~

~~Lunenburg High School.~~

- B. Term of appointment. The term shall be for three years or, in the case of vacancy, any portion of an unexpired term, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year. The above term of appointment shall be effective with the appointments by the ~~Select Board (Board of Selectmen)~~ commencing in fiscal year 2009.
- C. Composition of membership. Members shall reflect the makeup of the community at large. Any resident of the Town ~~or any Lunenburg High School student~~ is eligible to submit his/her name to the Lunenburg ~~Select Board (Board of Selectmen)~~ for consideration to be appointed to PACC.
- D. Voting power. All duly appointed current members of PACC shall have the right to vote on all issues.
- E. Resignation. Members appointed by the Lunenburg ~~Select Board (Board of Selectmen)~~ shall resign in writing to the ~~Select Board (Board of Selectmen)~~ and PACC.
- F. Attendance. Regular meeting attendance is expected for all members of PACC. In the event of three consecutive absences, except for the reason of health or extenuating circumstances as duly reported to the Chair in advance of the meeting, PACC may request resignation of that member through the appointing authority.

~~G. Vacancies. Vacancies shall be filled by the Board of Selectmen.~~

G. Vacancies: PAAC vacancies shall be appointed by the Select Board to serve the balance of the unexpired term.

- H. Representations. No member of PACC shall make written or oral presentations for PACC unless authorized by a vote of PACC.
- I. Non-PACC members. PACC may appoint a non-PACC member to act on PACC's behalf. In such a case, all written materials, oral presentations or communications from the non-PACC member on behalf of PACC will need to be approved by a vote of PACC prior to his/her presentation or execution.

§ 12-12 Meetings.

- A. Regular meetings. Regular meetings will be held as determined by PACC, with the time and place to be posted at Town Hall.
- B. Special meetings. The Chair or a majority of PACC members may call for special meetings.
- C. Organizational meeting. The organizational meeting shall be held at the regularly scheduled monthly meeting after the start of each fiscal year.
- D. Quorum. The presence of a simple majority of the total membership, as defined in § 12-11A, shall be necessary and sufficient to constitute a quorum.

§ 12-13 Officers.

- A. Officers. The officers shall consist of a Chairman, Vice Chairman and Secretary as elected by the members.

- B. Election. Election for officers shall take place at the PACC organizational meeting.
- C. Terms of office. Terms of office for the officers shall be for one year, with no restrictions on re-election.
- D. Vacancy. Any vacancy may be filled at a regular or special meeting of PACC. It shall be for the unexpired term of the previous incumbent officer. In the case of the Chair, the Vice-Chair shall fill the position of the Chair for the remainder of the unexpired term of the Chair.
- E. Duties of officers.
 - (1) Chair. The Chair shall be the chief executive officer and be subject to the direction of PACC. The Chair or his/her designee shall provide the agendas for meetings, preside at meeting and orient new members. The Chair or his/her designee shall provide all PACC members a copy of the Open Meeting Law as required by state statute.
 - (2) Vice-Chair. The Vice-Chair shall exercise all the functions of the Chair during the absence or disability of the Chair, and, when so acting, shall have all the powers and be subject to all restrictions of the Chair.
 - (3) Secretary. The Secretary shall take the meeting minutes, post notices of upcoming meetings and provide minutes to PACC members. He/She shall post the meeting agenda in accordance with the Massachusetts Open Meetings Law and all other applicable Town bylaws.

§ 12-14 Amendments.

The PACC may consider amendments or alterations to these bylaws at either a regular or special PACC meeting. In either case, notification of the meeting and its purpose shall be given 14 days prior to the assembly. The notice shall include a summary of the proposed amendment, the full text of the proposed amendment or alteration, and a statement of the purpose of the proposed change. The proposed amendment must be approved by a majority vote of PACC. It will then be sent to the Lunenburg **Select Board (Board of Selectmen)** for approval and, if so approved, for insertion in the warrant and be submitted to the next Town Meeting for approval. This protocol applies only to the PACC's ability to initiate changes to these bylaws, and is not intended to usurp the rights given to registered voters of the Town specified in MGL c. 39, § 10.

§ 12-15 Staff.

The Town Manager shall appoint or hire staff as is necessary to meet programming, content and/or operational requirements. The Town Manager will consult with the PACC and Program Director for their input prior to making such appointments.

§ 12-16 Policies and procedures; conflicts; budget.

- A. Establishment of policy and procedures. PACC may establish policy or procedure according to the following guidelines: Such proposals must be presented to the PACC members at one meeting and voted on at the following meeting, except when the waiting period is waived by a majority vote of the members. The approved policy or procedure shall be included in the PACC Policy Manual.
- B. Possible conflict. If any part of these bylaws is in conflict with Town bylaws, those of the Town shall have preference.
- C. Annual budget. PACC will submit an annual budget to the Town Manager for inclusion in the Annual Town Meeting warrant. It shall be due when all other Town department budgets are required to be submitted to the Town Manager either by request and/or Charter requirement. Said budget may be fully

debated, discussed and amended at the Annual Town Meeting.

Article VI Capital Planning Committee

[Adopted 5-5-2007 ATM by Art. 21 (Art. XXVII of the Town Bylaws)]

§ 12-17 Establishment and membership; terms.

There shall be a Capital Planning Committee. That Committee shall consist of five members to be appointed as follows: one member each designated by the Finance Committee, the **Select Board (Board of Selectmen)**, the School Committee and the Planning Board, and a fifth member chosen by the Town Moderator. Each member shall be appointed for a term of three years, said terms staggered so that as nearly an equal number of members shall be appointed each year.

§ 12-18 Powers and duties.

[Amended 5-6-2017 ATM by Art. 34]

The Capital Planning Committee shall establish and update a comprehensive capital plan. The Committee shall at least annually provide its materials to the Town Manager so that the Town Manager will meet the obligations of the office set forth in Section 6-7 of the Lunenburg Town Charter. The Capital Planning Committee shall be responsible for providing a complete inventory of Town property, real and personal, including school property, in conjunction with the Town Manager.

Article VIII Americans with Disabilities Committee

[Adopted 4-10-1993 (Art. XXVIII of the Town Bylaws); amended 11-13-2018 STM by Art. 10]

§ 12-19 Membership and appointment.

- A. Composition and term of appointment: There shall be an Americans with Disabilities Committee which shall be composed of five members serving three-year terms appointed by the Town Manager and ratified by the **Select Board (Board of Selectmen)**. The majority of members shall consist of people with disabilities or may be a member of the immediate family of a person with a disability. One shall be a representative of the **Select Board (Board of Selectmen)**, or their designee and shall be initially appointed for a one-year term, one shall be the Building Commissioner or Local Inspector initially appointed for a three-year term, and three at-large members initially appointed for staggered terms of one, two and three years respectively. After the initial term, all members shall serve three-year terms. Any vacancies shall be filled in the same manner as an original appointment.
- B. Voting power: All duly appointed members shall have full voting rights.
- C. Resignation: Members of the Committee shall notify the Chairperson and **Select Board (Board of Selectmen)** in writing of their resignation.
- D. Vacancies: Any vacancies shall be filled in the same manner as an original appointment.
- E. Representations: Members shall get approval of the Committee prior to making statements, presentations or joining activities on behalf of the Committee.

§ 12-20 Powers and duties.

It shall be the responsibility of the Americans with Disabilities Committee to make recommendations to the Town that enables compliance with the provisions of the Americans with Disabilities Act of 1992 and will hold additional duties as charged by the **Select Board (Board of Selectmen).**

§ 12-20.1 Meetings.

- A. The Committee will meet at least six times a year.
- B. A quorum shall consist of three members.
- C. Special meetings can be called by the Chairperson or by a quorum of the Committee.
- D. An organizational meeting will be held at the first meeting after the start of a new fiscal year.
- E. Meetings shall adhere to **Robert's (Robett's)** Rule of Order.

§ 12-20.2 Officers.

- A. The Committee shall elect a chairperson, vice-chairperson, and clerk.
- B. Officers shall be elected annually by a majority vote of the Committee.
- C. Duties:
 - (1) The Chair or his/her designee shall provide the agendas for meetings, preside at meeting and orient new members. The Chair or his/her designee shall provide all Committee members a copy of the Open Meeting Law as required by state statute.
 - (2) The Vice-Chairperson shall perform all the functions of the chairperson in his/her absence.
 - (3) The Clerk shall take the meeting minutes, post notices of upcoming meetings and provide minutes to Committee members. He/she shall post the meeting agenda in accordance with the Massachusetts Open Meetings Law and all other applicable Town bylaws.

**Article VIII
Agricultural Commission**

[Adopted 5-4-2013 ATM by Art. 20 (Art. XXIX of the Town Bylaws)]

§ 12-21 Purpose.

[Amended 11-16-2015 STM by Art. 11]

The Agricultural Commission, once appointed shall develop a work plan to guide its activities. Such activities may include, but are not limited to, the following: encouraging the continued pursuit of agriculture in Lunenburg; promoting agricultural-based economic opportunities in Town; mediating, advocating, educating and/or negotiating on farming issues; working for the preservation of prime agricultural lands; overseeing, operating or running a farmers' market; and pursuing all initiatives appropriate to retaining farming in Lunenburg.

§ 12-22 Membership and appointment; terms.

[Amended 5-5-2018 ATM by Art. 30]

The Commission shall consist of five members, and two alternate members, appointed by the **Select Board (Board of Selectmen)** at the recommendation of the Town Manager. A majority of the membership shall be substantially engaged in the pursuit of agriculture. Members shall be appointed to serve three-year terms, except that the initial terms of office shall be staggered at the discretion of the **Select Board (Board of Selectmen)**, so that the approximately 1/3 of the terms shall expire each year. The appointing authority shall fill any vacancy based on the unexpired term being vacated at the recommendations of the standing Commission.

§ 12-23 Powers and duties.

The Agricultural Commission will assist in maintaining agriculture in Lunenburg. Specifically, the Agricultural Commission will administer the Right-to-Farm Bylaw, and will hold additional responsibilities as charged by the **Select Board (Board of Selectmen)**. The Right-to-Farm Bylaw and creation of an Agricultural Commission are components of the commonwealth's "Sustainable Development" program, thereby helping Lunenburg become eligible for various state grant programs.

Chapter 26

Emergency Services

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

Article I

Fire or Emergency Medical Details

[Adopted as Art. IX, § 23A, of the Town Bylaws]

§ 26-1 Authority.

Any time a fire or emergency medical detail is needed for an event on Town of Lunenburg property, the Lunenburg Fire Department will be the authority having jurisdiction.

§ 26-2 Request procedure.

The party needing/requesting the detail will notify the Lunenburg Fire Department as soon as possible with the detail information, i.e., type of detail needed, location of detail, time detail starts, and any other pertinent information. Should the Lunenburg Fire Department be unable to fill the details, it will notify the requesting party as soon as possible.

§ 26-3 Violations and penalties.

Anyone in violation of this bylaw will be prohibited from using Town property for six months for each violation.

Chapter 33

Fees

[HISTORY: Adopted by the Town of Lunenburg as Art. II, §§ 9 and 11, and Art. XIII of the Town Bylaws. Amendments noted where applicable.]

Article I

General Provisions

§ 33-1 **Payment to Town treasury.**

Fees collected for the Town by the Town Clerk and Tax Collector by virtue of these offices shall be paid into the treasury.

§ 33-2 **Building code fees.**

The **Select Board (Board of Selectmen)** shall issue, to comply with the Commonwealth of Massachusetts State Building Code, a prescribed fee schedule. All fees collected within the Town of Lunenburg shall be paid into the treasury.

Article II Report of Fees

§ 33-3 **Report required.**

All Town officers receiving any fees by virtue of their office shall report the amount thereof from time to time to the **Select Board (Selectmen)**, who shall publish the same in the annual report.

Chapter 60 Officers and Employees

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

Article I Town Clerk

[Adopted as Art. IV of the Town Bylaws]

§ 60-1 **Custody and use of Seal.**

[Amended 5-2001 ATM by Art. 35]

The Town Clerk has custody of the Town Seal, and all conveyances under seal which may hereafter be executed by the Town, pursuant to a vote of the Town or otherwise, shall be sealed with such a seal and subscribed by a majority of the **Select Board (Board of Selectmen)**.

§ 60-2 **Recording of conveyances.**

It shall be the duty of the Town Clerk to see that every conveyance to the Town of any interest in land is properly recorded in the Registry of Deeds.

§ 60-3 **Maintenance and indexing of records.**

It shall be the duty of the Town Clerk to keep all his/her records in a legible manner and properly indexed.

§ 60-4 **Posting of meeting notices.**

It shall be the duty of the Town Clerk to publicly post in the office of such Clerk and on the principal bulletin board in the Town and on the Lunenburg Town Website the notice of every meeting of all Town boards and committees.

§ 60-5 **Posting of agendas.**

It shall be the duty of the Town Clerk to publicly post in the office of such Clerk and on the principal bulletin board in the Town and on the Lunenburg Town Website the agenda, as defined in the Lunenburg Town Charter Section 7-8(b), of every meeting of all Town boards and committees.

§ 60-6 Posting of minutes.

It shall be the duty of the Town Clerk to post on the Lunenburg Town Website minutes of meetings of all Town boards and committees. The official minutes shall be in the office of the Town Clerk.

§ 60-7 Format of submissions.

For the purpose of implementing §§ **60-4**, **60-5** and **60-6**, the Town Clerk shall have the authority to specify to all Town boards and committees the format for submission of meeting notices, agendas, and meeting minutes.

Article II
Inspector of Weights and Measures

[Adopted as Art. IX, § 13, of the Town Bylaws]

§ 60-8 Title change.

The title of Sealer of Weights and Measures is hereby changed to Inspector of Weights and Measures and any Deputy Sealer of Weights and Measures to Deputy Inspector of Weights and Measures, as provided by Chapter 405 of the Acts of 1965.

Chapter 70
Salary Administration Plan

[HISTORY: Adopted by the Town of Lunenburg as last amended 6-13-2020. Subsequent amendments noted where applicable.]

§ 70-1 Purpose and scope.

This bylaw establishes a Salary Administration Plan, hereinafter called the "Plan," which classifies several positions of Town services into groups, establishes salary schedules, establishes so-called "fringe" benefits or "indirect pay" provisions, such as holidays and vacations with pay, sick leave, and the like, and establishes a Personnel Committee to administer the Plan, as hereinafter provided, and to represent the interest of both taxpayers and Town employees.

§ 70-2 Personnel Committee.

- A. There is hereby established a Personnel Committee consisting of five members, each residing in the Town of Lunenburg, to be appointed by the **Select Board (Selectmen)** and, each member shall serve for a term of three years; provided, however, that of the members originally appointed, one shall serve a term of one year, two for a term of two years, and two for a term of three years, as designated by the **Select Board (Selectmen)**. However, nothing herein shall be deemed to prohibit the chairman of the Personnel Committee from designating a member of said committee to serve as a representative of said Committee on a study committee of the Town Meeting, nor shall such service affect the tenure of said member of the Personnel Committee. If any member of the Personnel Committee shall resign or otherwise vacate the office before the expiration of their term, the successor shall be appointed by the **Select Board (Selectmen)** at their discretion, to serve the balance of the unexpired term.
- B. A Town employee may have a staff assignment to serve as a subject matter expert and non-voting member of the Personnel Committee and may be called upon from time to time to provide information requested by the Personnel Committee so that the Personnel Committee can make well informed decisions and proposals.

- C. Said Committee shall elect its own Chairman and Vice-Chairman by September 15 of each year; and in the absence or incapacity of the Chairman, the Vice-Chairman shall act as Chairman. The Committee shall keep a record of its official proceedings and actions, may establish its own rule of procedure and may, subject to appropriation therefor, retain such clerical and other assistance, and make such other expenditures as may be necessary to the performance of its duties. Three members shall constitute a quorum for the transaction of the business of the Committee, and the affirmative vote of three members shall be necessary to any official act of the Committee.
- D. The Personnel Committee is hereby authorized to administer the provisions of this bylaw, except for such duties as may be specifically assigned by statute or bylaw to other Town officers, boards or committees. Appeals of decisions of the Personnel Committee may be taken to the Town at the next Annual or Special Town Meeting.
- E. The Personnel Committee may from time to time issue, amend, or revoke administrative orders for the purpose of giving effect to the provisions of this bylaw, and for the purpose of giving effect to the provisions of such other bylaws and votes of the Town, pertaining to personnel administration, as said Committee may be responsible for administering and/or enforcing. Each such order shall be numbered in sequence, and said Committee shall maintain in the Town office a file for all such orders issued, said file to be open to public inspection.
- F. Except as otherwise provided by law, the Committee shall have access to all facts, figures, records and other information relating to the personnel of Town departments and the same shall be furnished forthwith by any such department whenever so requested by the Personnel Committee, in such a form as said Committee may require.
- G. In the event that the Personnel Committee does not have enough members to conduct business, the Town Manager shall have the authority to administer the Salary Administration Plan.

§ 70-3 Classification and Salary Schedule.

The positions of all employees in the service of the Town, and not otherwise covered by a collective bargaining agreement, are hereby classified by titles in the groups listed in Schedule A, entitled "Classification and Salary Schedule," as set forth in this bylaw.

§ 70-4 Titles of positions.

No person shall be appointed, employed or paid as an employee in any position subject to the provision of the Salary Administration Plan under any title other than those of the Classification and Salary Schedule, or under any title other than that of the job the duties of which are actually performed. The job title in the Classification and Salary Schedule of the Plan shall be the official title for all purposes having to do with the position and shall be used to designate the position in all payrolls, budget estimates and official reports, and in every other connection involving personnel and fiscal processes.

§ 70-5 New or changed positions.

The Personnel Committee tentatively may add new job titles and descriptions to this Plan, establishing grades with minimum and maximum wage or salary brackets for the same, and reclassifying existing jobs, revising the description and the minimum and maximum wage and salary brackets therefor, and such addition or reclassification shall be effective only for the period from the date of such action by the Personnel Committee to the date of any vote with respect thereto adopted at a subsequent Town Meeting, but in no case later than the next Annual Town Meeting unless such later date as may be specified by such vote. Any increase in

wages or salaries under this section shall be effective only if funds are available for the purpose, and approved by the Finance Committee and **Select Board (Board of Selectmen)**.

§ 70-6 Reclassification of employees.

No employee shall be reclassified to a job in another group, either higher or lower, until the Personnel Committee shall have determined that such a reclassification will be consistent with the provisions of the Salary Administration Plan.

§ 70-7 Job descriptions and interpretations.

- A. The Personnel Committee shall maintain written job descriptions of the jobs or positions in the Plan, describing the essential functions, requirements and duties. The descriptions shall not be interpreted as either complete or restrictive and employees shall continue to perform any duties assigned by an employee's supervisor.
- B. Every three years, the Personnel Committee shall review the wage and salary schedules of all positions in the Plan, and be in a position to recommend to the **Select Board (Board of Selectmen)** any action deemed desirable to maintain a fair and equitable pay level.

§ 70-8 Salary schedule.

- A. The Classification and Salary Schedule of the Salary Administration Plan, set forth in Schedule A of this bylaw, shall consist of the maximum and minimum salaries and step-rate salaries for the groups and positions in the Classification and Salary Schedule. The salary range of a group shall be the salary range for all positions classified in such group.
- B. Irrespective of the period of time for which pay rates may be shown in the Salary Schedule, all employees shall continue to be paid on an hourly, weekly, monthly, or other basis, as at present, unless otherwise authorized by the Personnel Committee or by amendment of the Salary Administration Plan.

§ 70-9 Salary rates above maximum.

Any salary rate which is above the maximum rate for a job, as established by Salary Administration Plan, shall be deemed to be a personal rate, and apply only to the incumbent. When such incumbent leaves the employ of the Town or is transferred to another job with a higher maximum rate than his/her personal rate or higher maximum rates are established, the personal rate shall disappear. No other employee assigned to or hired for such job shall advance beyond the maximum of the job.

§ 70-10 Layoff procedure; recall procedure.

- A. Layoff procedure. If the Town decides to lay off employees, it shall determine from which classification(s) or job function(s) layoffs shall be made. Layoffs shall then be made based on seniority within the classification.
 - (1) "Seniority" shall be the length of an employee's continuous service measured from the employee's most recent appointment date; provided an employee's seniority may be reduced for periods of unpaid leave, unless otherwise prohibited by law.
 - (2) If two or more employees in the same classification have the same seniority, the employee who has the shorter term of continuous employment with the Town shall be laid off. If there are two or more employees in the same classification with the same seniority and the same term of continuous employment with the Town, a part-time employee shall be laid off before a full-time employee. If there are still two or more employees in the same classification, the Town Manager shall determine which

employee shall be laid off.

- (3) An employee that is scheduled to be laid off shall have the right to bump other employees in lower classifications with less seniority, provided that the Town Manager, in his/her sole discretion, but with consultation of the department head, shall make a determination that the employee retained is qualified and able to perform the duties of the lower classification, subject to disability discrimination laws.
 - (4) Employees who have been laid off from employment are responsible for keeping the Town advised of their current address for the purpose of potential recall from layoff.
- B. Recall policy. If the Town conducts a recall from layoff, recall shall be offered in reverse order of layoff by classification, provided the laid-off employee is qualified and able to perform the duties of the classification to which the employee is being offered recall, subject to disability discrimination laws. Employees shall only be eligible for recall from layoff under the terms of this policy for one year from the date of the employee's layoff.
- (1) Any employee who is recalled from layoff under the terms of this policy shall retain his/her seniority, less the period of layoff.
 - (2) The Town will notify an employee of a recall opportunity by certified letter (or other verifiable method of delivery) to the employee's last known address. An employee who has been offered an opportunity to be recalled from layoff must advise the Town of his/her intention to accept recall within five working days.

§ 70-11 Transfers and promotions.

- A. When an employee is promoted to a job with a higher rate range, or rate of pay, he/she shall enter it at the minimum of the job rate range or at his/her own rate, whichever is the higher, but in no event at a rate in excess of the maximum for such job. He/She may also receive at the time one or more step rate increases, provided the maximum for the job is not exceeded, if the department head recommends that qualification and performance warrant it, and the Personnel Committee approves. If the department head should feel that there should be a trial period before recommending the promotional step rate increase or increases, on recommendation of the department head, the Personnel Committee may approve any such deferred promotional increase at the conclusion of the trial period.
- B. If an employee is transferred to a job with a lower rate range, or rate of pay, he/she shall enter it at his/her own rate or at the maximum rate for the job, whichever is the lower.

§ 70-12 New personnel.

- A. The hiring rate shall be the minimum of the rate range of the job for which the new employee is hired, unless otherwise authorized by the Personnel Committee. Department heads shall notify the Town Manager of the hiring of all new personnel. This notification shall be done in writing via the New Hire Personnel Form.
- B. Effective July 1, 2015, for new regular full-time, and new regular part-time personnel for whose position there is a rate range, eligibility for a step increase will depend on the employee's date of hire. If hired between January 1 and June 30, the employee is not eligible for a step increase until July 1 of the following calendar year. If hired between July 1 and December 31, the employee is eligible for their first

step increase on the upcoming July 1.

§ 70-13 Grievance procedure.

- A. Any employee who believes that he/she has received inequitable treatment is encouraged to discuss the grievance initially with his/her supervisor within 10 working days of the occurrence or knowledge of the event. If the employee is not comfortable discussing the matter with his/her direct supervisor, or if the matter is not settled, the employee should submit the grievance to his/her department head. The department head shall meet with the employee and will respond in writing to the employee within 14 days of the meeting.
- B. If the grievance is not resolved by the decision of the department head, the employee may file an appeal in writing with the Town Manager within 10 days of receipt of the decision. The Town Manager will meet with the employee within a reasonable time after receipt of the appeal and will respond in writing to the employee's grievance within 30 days after meeting with the employee.

§ 70-14 Department budgets.

Each department head shall include in the annual budget request a pay adjustment section to provide funds for anticipated pay adjustments during the ensuing year, expenditures to be made therefrom only in accordance with the Salary Administration Plan with approval of the Personnel Committee.

§ 70-15 Severability.

In the event any provision of this bylaw or application thereof shall be held to be invalid by the proper authorities, this shall not be construed to affect the validity of any other provision, or application thereof, of this bylaw.

§ 70-16 Civil service.

Nothing in this bylaw of Salary Administration Plan shall be construed to conflict with Chapter 31 (Civil Service) of the General Laws.

§ 70-17 Hours of work; overtime; compensatory time.

- A. The schedule of hours to be worked shall be determined by the appropriate department head.
 - (1) For positions entitled to overtime pay at 1 1/2 times the regular rate for work actually performed in excess of 40 hours within a work week, the words "work actually performed" shall be construed to include all duly paid time off, including but not limited to holidays, sick leave, vacation, personal days and bereavement leave, and such leave shall be included in the computation of 40 hours.
 - (2) Unauthorized leave or leave for which the employee is not entitled to compensation shall not be included in such computation.
- B. Hours by occupation.
 - (1) Industrial trades and service occupations.
 - (a) Work week: 40 hours in five days.
 - (b) One and one-half times the regular rate will be paid for work actually performed in excess of 40 hours within a work week.

- (2) Office occupations.
 - (a) Work week: 40 hours in five days and may be reduced administratively to 36 hours in four or five days.
 - (b) One and one-half times the regular rate will be paid for work actually performed in excess of 40 hours within a work week.
- (3) Public safety occupations.
 - (a) Fire Department. The hours of the Fire Department shall be determined by the Chief with the approval of the Personnel Committee; provided, however, that all hours worked by any member of the Fire Department will be paid for at the regular rate then in force.
- (4) Administrative and professional occupations.
 - (a) Persons employed in these positions are not governed by hours of the positions under their supervision or control. Generally, such positions shall be for at least 40 hours per week when full-time and are not entitled to overtime.
- C. Notwithstanding anything in the foregoing subsections, the appropriate department head may, instead of paying the overtime rate, provide that the employee take compensatory time off at a rate of 1 1/2 times the hours worked that qualify for overtime pay. Compensatory time must be taken within 60 days.

§ 70-18 Paid vacations.

- A. All persons employed regularly by the Town full-time or part-time for a minimum of 20 hours per week shall receive paid vacations according to the following schedule. Any persons working between 20 hours and 40 hours per week shall receive paid vacations, but it will be prorated accordingly. The part-time compensation formula shall be used to determine the prorated part-time employee's vacation day. (See § 70-29.)

Hours of Paid Vacation	
(based on 40-hour week)	
After Completion of	
Less than one complete year of continuous service	8 hours per each full calendar month, up to 80 hours
1 year of continuous service	80
5 years of continuous service	120
10 years of continuous service	160
11 years of continuous service	164
12 years of continuous service	168
13 years of continuous service	172
14 years of continuous service	176
15 years of continuous service	180
16 years of continuous service	184
17 years of continuous service	188
18 years of continuous service	192
19 years of continuous service	196
20+ years of continuous service	200

- B. Earned vacation time up to and including 80 hours must be used in the year granted. No unused portion

of this allowance shall be carried forward into a subsequent vacation year, nor shall any monetary compensation be given for such unused portion. Earned vacation time in excess of 80 hours should be used in the year granted, and no portion of such excess shall be carried forward into a subsequent year. If departmental scheduling or other serious extenuating circumstances preclude the use of all such excess in the year granted, the employee may request to receive compensation equivalent to such unused portion in a lump sum payable on the first payroll warrant in July, in addition to their regular salary, or may be allowed to carry over such excess as the Town may elect in its sole discretion. Any employee asserting a serious extenuating circumstance must submit a written request to his/her direct supervisor and such request must be approved by the direct supervisor and the Town Manager before the employee shall be compensated for, or allowed to carry over, such excess.

- C. Employment termination. An employee whose employment ends, whether voluntary resignation, retirement or involuntary termination, shall receive compensation equivalent to earned vacation allowance, provided he/she has been in the continuous service of the Town for 10 months, as follows:
 - (1) All currently available, unused vacation allowance up to a maximum of 200 hours; and
 - (2) One twelfth of the vacation allowance which would otherwise have been credited on the next succeeding July 1, for each full month worked since the preceding July 1.
- D. The vacation year shall begin July 1. In the first year of employment, employees shall accrue one day of vacation leave (prorated based on number of hours worked each week) per month of service completed to a maximum of 80 hours to be available for use by the employee on the following July 1. Vacation leave accrued each fiscal year will be available for use on the following July 1. Any change in the rate of accrual shall occur on the employee's anniversary date. When an employee's anniversary date for the completion of the fifth, tenth-twentieth years occurs after July 1, the employee shall receive vacation leave for the remainder of the year on a pro-rated basis.
- E. The assignment of vacation leave shall be arranged by the Department Head for such time or times as best serve the public interest, provided, however, that each employee shall be entitled to use at least 40 hours of their vacation accrual during the period between June 1 and September 15 if desired, based on seniority.
- F. No vacation time may be used in advance of the July 1 date on which it would normally be credited; except that where such advance served the needs both of the employee and the Town, it may be requested by the Department Head and authorized in writing by the Town Manager. In no case shall any such advanced vacation exceed the number of days for which the employee would be entitled to compensation, were he/she to terminate their services in good standing on the first day of such vacation.

§ 70-19 **Paid holidays.**

- A. The Town of Lunenburg shall observe the following holidays:

New Year's Day	Columbus Day
Martin Luther King, Jr. Day	Veterans' Day
Presidents Day	Thanksgiving Day
Patriots Day	One Floating Holiday*
Memorial Day	Day Before Christmas
Independence Day	Christmas Day

Labor Day

- * Floating holiday time for employees who work fewer than 40 hours per week will be calculated in hours and determined by dividing the number of hours regularly worked per week by the number of days they work in one week.
- B. Employees who regularly work 40 hours per week and/or five days per week shall receive paid holiday leave on the day on the Town observes the holiday based on the base hourly rate of the employee for the number of hours the employee is regularly scheduled to work on the day of the week on which the holiday is observed.
- C. Employees who regularly work fewer than 40 hours and/or five days per week shall receive paid holiday leave on the day the Town observes the holiday, provided the employee is regularly scheduled to work on the day the Town observes the holiday, based on the hourly rate of the employee for the number of hours the employee is regularly scheduled to work on the day of the week on which the holiday is observed.
- D. Holiday leave will be granted on the day the Town observes the holiday, when possible. If the holiday falls on a Saturday, it will be observed on the preceding Friday. If the holiday falls on a Sunday, it will be observed on the following Monday. If an eligible employee is required to work on the day the Town observes the holiday, he/she will be entitled to a "floating day" which has to be used within 30 days, by agreement of the supervisor and employee. If the department head determines that holiday leave cannot be granted, the employee shall receive payment at 1 1/2 times the base hourly rate for all hours worked on the holiday, in addition to his or her holiday pay. The final determination is to be made by the Town Manager.
- E. To be eligible for paid holiday leave, an employee must work his or her full assigned shift on his or her regularly scheduled workday before a holiday, and the next regularly scheduled working day following the holiday, unless the employee has been excused for a legitimate reason by the direct supervisor.

§ 70-20 Sick leave.

- A. All persons employed, full-time or part-time, who have completed the six-month probationary period by July 1 of any year, shall be entitled to sick leave of 96 hours, to be credited on July 1. The part-time compensation formula shall be used to determine the employee's prorated sick pay. (See § 70-29.)
- B. New employees having completed the six-month probationary period shall be credited as of the end of said six months, with sick leave in the amount of eight hours for each full month intervening between the six-month anniversary date and the next July 1, up to the maximum of 96 hours. Use of such leave must be occasioned by sickness or injury of the employee or their immediate family member.
- C. Unused sick leave shall be cumulative up to a maximum of 1,200 hours, and shall be carried forward on July 1 of each year, to be added to the sick leave credited as of July 1. Sick leave may be donated to another employee who has exhausted his/her accumulated sick leave at the discretion of the Town Manager.
- D. When an employee finds it necessary to be absent because of accident or illness, he/she shall report the fact to his/her immediate supervisor as soon as possible either in person or by agent. Sick leave will not be granted unless such report is made. For the protection of the Town, the department head or supervisor may require the presentation of a doctor's certificate in connection with a claim for sick leave that

exceeds or is equal to 24 hours (or three missed days of work), and may, if it is deemed advisable, send a doctor or nurse to investigate any absence alleged to be caused by illness. Any employee who refuses to submit to a doctor's examination shall not be entitled to sick leave.

- E. An employee who retires in good standing shall receive compensation based on a percentage of his/her accumulated unused sick leave, up to a maximum of 480 hours, as follows: five years of continuous service, 10%; 15 years of continuous service, 50%; 25 years of continuous service, 75%. In the event of an employee's death, the above benefit will be paid to his/her beneficiary. This retirement benefit will not be available to any employee hired after June 30, 2010.
- F. Sick time can be used for any of the following reasons:
 - (1) Care for the employee's own physical or mental illness, injury or medical condition that requires home care or rest, professional medical diagnosis or care, or preventative medical care;
 - (2) Care for the employee's child, spouse, parent or parent of a spouse who is suffering from a physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventive medical care;
 - (3) Attending the employee's routine medical appointment or a routine medical appointment for the employee's child, spouse, parent, or parent of a spouse.

§ 70-21 Personal leave.

- A. All persons employed, full-time or part-time, who have completed the six-month probationary period by July 1 of any year, shall be entitled to personal leave of 24 hours, to become available on July 1 for use during the ensuing fiscal year. The part-time compensation formula shall be used to determine the employee's pro-rated personal hours. (See § 70-27.)
- B. New employees having completed the six-month probationary period shall be credited, as of the end of said six months, with eight personal hours for use during the period between said six-month anniversary and the end of the then-current fiscal year; provided, however, that the said six-month probationary period must have been completed by May 1 of that year.
- C. Employees who do not use any sick leave within a three-month period (calculated quarterly) will be entitled to eight additional personal hours for each such quarter; said personal hours are to be used in the same fiscal year in which they are earned. Personal leave shall be scheduled with the approval of the department head. Personal leave shall not be cumulative.

§ 70-22 Family and medical leave.

- A. The Town agrees to abide by the provisions of the 1993 Family and Medical Leave Act (FMLA). All eligible employees are entitled to up to 12 weeks of unpaid leave for certain family and medical reasons in a one-year period. Employees are eligible for FMLA if they have worked for the Town for at least one year and at least for 1,250 hours over the previous 12 months.
- B. Unpaid FMLA leave must be granted for any of the following reasons:
 - (1) To care for the employee's child after birth, or placement for adoption or foster care.

- (2) To care for the employee's spouse, son, daughter, or parent, who has a serious health condition.
 - (3) For a serious health condition that makes the employee unable to perform the employee's job.
- C. In accordance with the Town's policy, the Town requires the use of paid leave time during the FMLA absence including accumulated sick leave, vacation leave, and personal leave. The Town requires all employees applying for an FMLA leave to notify their Department Head, in writing, 30 days prior to the leave, if possible.

§ 70-23 Bereavement leave.

In the event of death in an employee's family [wife, husband, mother (in-law), father (in-law), child, grandparents, brother, or sister], up to and including three days off duty may be granted, with pay, not to be charged against sick leave. Any time above the three days is to be charged against sick leave.

§ 70-24 Military leave.

- A. Town employees with a minimum of six consecutive months of employment with the Town who serve in the state or federal military training forces under orders shall be allowed full pay for not more than one normal working week and shall be granted a military leave of absence for the period of their required service with said forces.
- B. Military leave of absence with pay shall be granted to employees of the Town on occasion of their appearance before local draft boards or draft appeal boards, or for physical examinations ordered by said boards; but no such leave shall be granted for a period of more than one day without the approval of the Personnel Committee. Such leave shall be deemed to be a military leave of absence.
- C. A military leave of absence without pay shall be granted to any Town officer or employee called to active duty with the state or federal armed forces for purposes other than the routine annual tour of duty for training purposes.
- D. As used herein, the phrase "military training forces" or "armed forces" shall mean the United States Air Force, the United States Army, the United States Navy, the United States Marine Corps, the United States Coast Guard, the Massachusetts National Guard, the Massachusetts Air National Guard, the Massachusetts State Guard, and any and all components thereof.

§ 70-25 Jury duty.

All persons permanently employed, whether full-time or part-time for a minimum of 20 hours per week, called for jury duty shall be paid by the Town, an amount equal to the difference between the compensation paid for a normal working period and the amount paid by the court, excluding allowance for travel, and this will be certified by the Town Clerk or Treasurer upon presentation of the check for monies received for jury duty.

§ 70-26 Longevity pay.

After reaching ten (10) years employment, and thereafter, each employee permanently employed, whether full or part-time, shall receive an annual bonus equal to 2% of their annual salary payable in the first pay period after the Employee's anniversary date. At 15 years of continuous service - 2.5% of their annual salary, and at 20 years of continuous service - 3% of their annual salary.

§ 70-27 Travel reimbursement.

Travel reimbursement shall be by signed voucher at a rate established by the IRS when using the employee's

own car, plus tolls and parking fees.

§ 70-28 **Discipline policy.**

A. Items which constitute grounds for disciplinary action against an employee include: chronic absenteeism or tardiness, insubordination or refusal to work, infraction of work and safety rules, threat of physical violence against fellow employees, use of profane language to a supervisor or fellow employee, or offenses of comparable gravity or severity.

B. Process.

(1) Upon determination by the department head that disciplinary action is warranted, the following guidelines shall be implemented for all employees that have successfully completed a six-month probationary period:

- | | |
|---------|--|
| STEP 1. | 1st Offense - Written warning. |
| STEP 2. | 2nd Offense - A formal written reprimand notifying the employee of a one-day suspension and that one further offense shall result in a three-day suspension without pay. |
| STEP 3. | 3rd Offense - Employee will receive an immediate three-day suspension without pay and a written notification that any further offense shall be grounds for dismissal. |
| STEP 4. | 4th Offense - Immediate dismissal of the employee. |

(2) Depending on the particular circumstances, one or more of the above steps may be skipped. The offense for which disciplinary action is taken may be any combination of the items described above. For example, offense number one could be tardiness, offense number two could be absenteeism, and offense number three could be refusal to work or insubordination. If an employee goes 24 months without a further offense, the first offense beyond 24 months shall be disciplined at the level of Step 1.

C. The following infractions are grounds for the immediate dismissal of an employee for just cause by the department head. Just cause may include, but shall not be limited to, the following:

- (1) Willful neglect or nonperformance of one or more assigned duties;
- (2) Demonstrated incompetence in the performance of one or more assigned duties;
- (3) Behavior that seriously interferes with the normal operation of the municipality, the department, or any member of the workforce;
- (4) Insubordination, which shall mean a refusal to carry out a direct order;
- (5) Dishonesty in the performance of assigned duties;
- (6) Chronic absenteeism or tardiness without reasonable excuse;
- (7) Unauthorized possession or use of alcohol or an unprescribed controlled substance during any period of assigned work;
- (8) Municipal theft.

§ 70-29 Definitions.

The following terms used in the Salary Administration Plan shall be defined as set forth herein:

FULL-TIME EMPLOYEE

Any person who spends an amount of time between 36 hours and 40 hours of permanently scheduled work per week in the service of the Town.

HOURLY EMPLOYEE

Any employee of the Town who by virtue of their classified position is compensated at an hourly rate for services rendered.

INTERMITTENT EMPLOYEE

Any person who works fewer than 20 hours per week on a regular basis. Intermittent employees are not eligible for benefits (i.e., vacation, sick time, insurance, etc.) and work fewer than 1,040 hours per year in the service of the Town.

PART-TIME COMPENSATION FORMULA

Shall be determined by dividing the compensation or time off by 40 and then multiplying by the number of hours the employee works per week. For example, a forty-hour-per-week employee is eligible for 120 hours of vacation. If another employee with the same tenure works 36 hours, the formula is as follows: $120/40 = 3$; then multiply 3×36 hours = 108 hours.

PART-TIME EMPLOYEE

Any person who spends fewer than 36 hours but 20 hours or more of permanently scheduled work per week in the service of the Town.

PROBATIONARY PERIOD

The initial six-month period of employment with the Town.

SEASONAL EMPLOYEE

Any employee, part- or full-time, who spends no more than six months or 180 days, whichever is less per year, in the service of the Town. Seasonal employees are not eligible for benefits (i.e., vacation, sick time, insurance, etc.).

Attachments:

[Attachment 1 - Schedule A, Classification and Salary Schedule](#)

[Attachment 2 - Salary Schedules For Fiscal Years 2020, 2021 and 2022](#)

Chapter 74

Select Board (Selectmen)

[HISTORY: Adopted by the Town of Lunenburg as Art. III of the Town Bylaws. Amendments noted where applicable.]

Select Board (Selectmen) policies — See Ch. 305.

§ 74-1 **General duties.**

The **Select Board (Selectmen)** electmen shall exercise a general supervision over all matters affecting the interests or welfare of the Town.

§ 74-2 **Claims or suits against Town.**

The **Select Board (Selectmen)** may settle any claims or suits against the Town, which in their opinion cannot be defended successfully, and they may employ counsel in suits against the Town and in other matters whenever they deem it necessary.

§ 74-3 **Representation of Town.**

The **Select Board (Selectmen)** may appear (either personally or by counsel) before any committee of the Legislature, or board or commission, to protect the interest of the Town, but are not authorized by this bylaw to commit the Town to any course of action.

§ 74-4 **Liability on bonds.**

No member of the **Select Board (Board of Selectmen)** shall sign or become liable upon the bond of any Town officer required to give bonds.

Chapter 81

Town Meetings

[HISTORY: Adopted by the Town of Lunenburg as Arts. I and VI of the Town Bylaws. Amendments noted where applicable.]

Article I

Town Meetings

§ 81-1 **Warrants.**

[Amended 5-3-2003]

- A. Warrants for all Town Meetings shall be served by posting attested copies thereof in four or more public places in the Town, 14 days, at least, before the day appointed for said meeting, one in each Precinct:
- (1) Precinct A: Town Hall, 17 Main Street.
 - (2) Precinct B: Whalom Variety Store, 423 Electric Avenue in the Whalom-Bakerville District.
 - (3) Precinct C: Powell Stone & Gravel Co. Inc., 225 Leominster-Shirley Road.
 - (4) Precinct D: **JAXX (Centre Pizza & Variety)**, 1383 Massachusetts Avenue.
- B. The warrant for any Town Meeting, with report and recommendation of the Finance Committee (required by Chapter 12, Article I, § 12-2, of these bylaws), shall be mailed by the **Select Board (Board of Selectmen)** to each dwelling unit in the Town in which a registered voter resides, at least 14 days prior to such meeting. The warrant for the Annual Town Election shall be included in the mailing for the Annual Town Meeting.

§ 81-2 Meeting and election dates.

The Annual Town Meeting shall be held on the first Saturday in May commencing at 9:00 a.m., and all required reports shall be made at that time. The Annual Town Election shall be held on the third Saturday in May commencing at 7:00 a.m. and ending at 5:00 p.m.

§ 81-3 Closing of warrant.

[Amended 5-2001 ATM by Art. 31]

All requests for the insertion of subjects in the warrant for the Annual Meeting shall be submitted on or before 4:00 p.m. on the 42nd day before the date of the Annual Meeting. The requests shall be filed in the office of the **Select Board (Selectmen)** and the date of filing shall be noted on the request. No subject, the insertion of which is requested after the time herein designated, shall be inserted in the warrant.

§ 81-4 Supermajority votes.

[Amended 10-21-1997]

On matters requiring a two-thirds vote by statute, a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in MGL c. 39, § 15.

§ 81-5 Town meeting to be held prior to Town election.

[Amended 11-6-2001]

Any Town Meeting is required to take place not less than 14 days prior and not more than 30 days prior to any Town Election.

§ 81-6 Location of committee meetings.

[Amended 11-6-2001]

All Town committee meetings, either standing or ad hoc, must be held on Town property.

Article II Government of Town Meetings

§ 81-7 Debate on motions.

All motions made in connection with proposed action to be taken on any article at any Town Meeting shall be debatable, notwithstanding the rules or parliamentary law contained in "Town Meeting Time."

§ 81-8 Presiding officer duties.

The duties of the presiding officer, not specially provided for by law or by the foregoing rule, shall be determined by the rule of parliamentary law contained in "Town Meeting Time" so far as they are adapted to Town Meetings.

§ 81-9 Financial items at Special Town Meetings.

No money shall be raised or appropriated at a Special Town Meeting except by a two-thirds vote of the voters present and voting.

§ 81-10 Quorum.

The number of voters necessary to constitute a quorum at Town Meetings, except such parts as are devoted exclusively to the election of Town officers, shall be 50, provided, that a number less than a quorum may from time to time adjourn the same.

Part II: General Legislation

Chapter 105 Alarm Systems

[**HISTORY: Adopted by the Town of Lunenburg as Art. IX, § 23, of the Town Bylaws. Amendments noted where applicable.**]

§ 105-1 **Title and purpose.**

This bylaw shall be known as the "Burglar Alarm System Bylaw." The purpose of the bylaw is to encourage alarm users and alarm businesses to maintain the operation reliability of their alarm systems, to reduce or eliminate false alarm dispatch requests, to establish a system of regulations and fees with respect to burglar alarm systems, and to provide for penalties for violations of this bylaw.

§ 105-2 **Definitions.**

For the purposes of this bylaw, certain words and phrases shall be construed as set forth in this section, unless it is clear from the context that a different meaning is intended:

ALARM SYSTEM

A device or series of devices, including, but not limited to, systems interconnected with radio-frequency signals, which are designed to discourage crime by emitting or transmitting a remote or local audible, visual or electronic signal indication of an alarm condition. It may include a single device such as a solid-state unit which plugs directly into a 110 volt AC line, arranged to signal the presence of a hazard or intruder requiring urgent attention and to which police are expected to respond. This includes silent alarms warning of potential intruders or robbery.

FALSE ALARM

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or his/her employees or agents. It shall include a signal or oral communication transmitted to the Police Department requesting, requiring or resulting in a response on the part of the Police Department when in fact there has been no unauthorized intrusion, robbery, burglary or attempted threat.
- B. For the purposes of this definition, activation of an alarm system caused by actual criminal offense, or with evidence of a criminal intent, or resulting solely from power outages or extreme weather conditions shall not be deemed to be a false alarm. An alarm dispatch request which is canceled by the alarm business or alarm user prior to the dispatch of the responding officer shall not be considered a false alarm.

§ 105-3 **Alarm system operation, maintenance and control.**

- A. An alarm user shall maintain the alarm site and the alarm system in a manner that will minimize or eliminate false alarm dispatches and make every reasonable effort to respond or cause a representative to respond to the alarm site when notified by the Town to deactivate a malfunctioning alarm system or to provide access to the alarm site. An alarm user shall not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

- B. If the alarm system business, user or installer is testing the system, it shall notify the Police Department prior to and at the end of such testing.
- C. Every alarm user/owner shall submit to the Chief of Police and/or his designee the names and telephone numbers of his/her residence and place of employment and at least two other persons who are authorized to respond to an emergency signal transmitted by an alarm system and who can open or provide access to the premises wherein the alarm system is installed. The alarm user will be responsible to keep this information current and updated.
- D. All alarm systems installed after the effective date of this bylaw which use an audible horn, siren or bell shall be equipped with a device that will shut off such horn, siren or bell within 15 minutes after activation of the alarm system.

§ 105-4 Violations and penalties.

Upon receipt of one to three or more false alarms within a calendar year, the Chief of Police or his/her designee may:

- A. Send a letter of warning.
- B. Assess a fine of \$50 as a false alarm service fee for each false alarm in excess of three occurrences within a calendar year. All fees assessed hereunder shall be paid to the Town of Lunenburg c/o the Town Treasurer.

§ 105-5 Limitation of liability.

Neither the Town of Lunenburg nor any of its officers shall be under any obligation or duty to an alarm user, or to any person hereunder, by reason of this bylaw. The Town of Lunenburg specifically disclaims liability for any damages which may be caused by failure to respond to an alarm, take any action thereon or in relation thereto.

§ 105-6 Applicability.

General provisions of this bylaw shall not apply to any:

- A. Town governmental agency, the United States Governmental agencies or the Commonwealth of Massachusetts governmental agencies;
- B. Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this bylaw; or
- C. Any alarm system installed on a vehicle unless the vehicle is permanently located at site.

§ 105-7 Confidentiality of information.

Except as provided by law, the information furnished and secured pursuant to this bylaw shall be considered confidential in character and shall not be subject to public inspection and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of this bylaw.

§ 105-8 Severability.

The provisions of this bylaw are separable, and if any article, section or subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this bylaw.

Chapter 110

Animals

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

Article I

Dog Control

[Adopted as Art. IX, §§ 1-A, 1-B and 1-C, of the Town Bylaws]

§ 110-1 Dog restraint.

[Amended 5-1985; 5-11-1991; 5-2006 ATM by Art. 40]

- A. No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance within the Town at any time. It shall be the duty of the Animal Control Officer to apprehend any dog which he/she has reason to believe to be a public nuisance and to impound such dog in a suitable place and to order the owner thereof to restrain such dog. The owner of any dog impounded may reclaim such dog upon payment of the sum of \$25 for the first twenty-four-hour period or any part thereof that the dog is held and \$25 for each additional 24 hours or any part thereof; provided, however, that if the dog is not licensed, before release to any person, a license, if such is required by the Town, shall be secured. The sums collected pursuant to the provisions of this section shall be accounted for and paid over to the Town Treasurer. Any dog which has been impounded and has not been redeemed by the owner within 10 days shall be disposed of as provided for by the laws of the Commonwealth of Massachusetts.
- B. Any owner found in violation of any of the provisions of the bylaw shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine in accordance with the following schedule or any other schedule permitted by law:
- (1) First offense: \$50.
 - (2) Second offense: \$75.
 - (3) Third and subsequent offenses in any twelve-month period: \$100.
- C. If the owner or keeper of a dog is a minor, the parent or guardian of such minor shall be held liable for any violations of this bylaw and shall attend to all complaints or other matters pertaining to dogs in the Town with citation rights.
- D. Definitions. As used in this section, the following terms shall have the meanings indicated:

DOG

All animals of canine species, both male and female.

OWNER

Any person or persons, firm, association or corporation owning, keeping or harboring a dog as herein

defined.

PUBLIC NUISANCE

Any dog shall be deemed a public nuisance when attacking persons or domestic animals while such dog is on property other than that of the dog owner; when destroying property; when on a public school grounds and not under restraint; when it persistently chases moving vehicles; when it persistently and continuously barks or howls; when it is permitted to run at large and unrestrained on property other than its owner's; any unspayed female dog in season shall be deemed a public nuisance when not confined indoors or housed in a veterinary hospital or registered kennel. Each time one of the above nuisances exists shall constitute a separate offense.

§ 110-2 License and kennel fees.

A. License fees.

- (1) The annual fee in the Town of Lunenburg shall be:
 - (a) Unspayed female/unaltered male: \$20.
 - (b) Spayed female/altered male: \$5.
- (2) Dogs for which their age can be confirmed as being eight years or older, and dogs for which it can be verified by a veterinarian in writing that they cannot be spayed or altered due to severe medical reasons, shall adhere to the same fee schedule as spayed and altered dogs.

B. Kennel fees.

- (1) One dog to four dogs: \$30.
- (2) Five dogs to 10 dogs: \$60.
- (3) Over 10 dogs: \$100.

§ 110-3 Dog kennels.

[Amended 5-13-1987]

No owner or keeper of five or more dogs shall erect a kennel for housing of said dogs, without prior written approval of the Animal Control Officer relative to the construction, location and capacity of said kennel. Should the petitioner be turned down by the Animal Control Officer, the petitioner shall have the right to appeal to the **Select Board (Board of Selectmen)**.

Chapter 113

Architectural Preservation District

[HISTORY: Adopted by the Town of Lunenburg 5-2-2015 ATM by Art. 26. Amendments noted where applicable.]

GENERAL REFERENCES

Demolition delay — See Ch. 134.

§ 113-1 **Purpose.**

- A. This bylaw is enacted under the Home Rule Amendment of the Massachusetts Constitution for the purposes of:
- (1) Preserving, restoring and protecting groups of historically and/or architecturally significant buildings and the characteristics of their neighborhoods that are important to the Town's architectural, cultural, economic, political and/or social history;
 - (2) Fostering wider public knowledge and appreciation of such neighborhoods and contributing properties;
 - (3) Limiting the detrimental effect of alterations (substantial and minor), additions, and demolitions on the character of such contributing properties and their neighborhood settings;
 - (4) Reviewing proposed alterations (substantial and minor), including demolition of or to any contributing property located within the APD, for appropriateness and compatibility with the existing buildings, setting and neighborhood character; and
 - (5) Facilitating the protection of the APD through a regulatory review.
- B. To achieve these purposes, the Town of Lunenburg may designate APDs to be administered as set forth in this bylaw.

§ 113-2 **Definitions.**

For the purpose of this bylaw, the terms and words listed below shall have the following meanings:

ADDITION

Any addition to a principal or accessory contributing property that is enclosed by walls and which increases the existing gross floor area.

ADMINISTRATIVE REVIEW/DETERMINATION OF APPLICABILITY

Pursuant to § 113-7 of this bylaw, a process to review proposed alterations to contributing properties and identify the need for binding review.

ALTERATION, MINOR

Replacement, modification or material change to existing architectural features on a contributing property, which retains the character of the property as determined by the Architectural Preservation District Commission. Examples include, but are not limited to, windows, doors, roof material and trim work.

ALTERATION, SUBSTANTIAL

A change to a contributing property or part thereof, such as removal, reconstruction, restoration, replication, rehabilitation, addition, or demolition; and/or a change to a site that includes enlarging or moving a building and other similar activities.

ARCHITECTURAL PRESERVATION DISTRICT (APD)

An area of historic and/or architectural significance determined by the Town's residents to be worthy of preservation.

BINDING REVIEW

Pursuant to § 113-8 of this bylaw, a mandatory process which applies to substantial alterations of contributing properties, including demolition, in the APD.

BUILDING

A combination of materials having a roof, the purpose of which is the shelter of persons, animals, property, or processes, including any other permanent structure.

CERTIFICATE TO ALTER

A document issued by the APDC allowing alterations pursuant to § 113-8 of this bylaw.

CONTRIBUTING PROPERTY

Any building or stone wall within an APD, which is older than 75 years and contributes to the Architectural Preservation District's historical character as determined by the Architectural Preservation District Commission.

DEMOLITION

The act of removing or razing structures or significant parts of structures, or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION BY NEGLECT

Destruction by failure to maintain roof, siding, foundation or any other aspect that requires upkeep, which could ultimately result in the Contributing Property being condemned. These include but are not limited to:

1. Facades which may fall and injure members of the public or property.
2. Deteriorated or inadequate foundation, deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to deterioration.
4. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
5. Improper or insufficient waterproofing or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.
6. Any fault or defect in the Contributing Property caused by alteration or neglect of maintenance, which renders it not properly watertight or structurally unsafe.
7. Fireplaces or chimneys which list, bulge or settle due to deterioration.

DESIGN GUIDELINES

A public document which provides further detail and illustration of the design standards established in § 113-9 of this bylaw. Such guidelines, by facilitating the APOC's determination as to whether proposed alterations are appropriate and compatible with the existing Contributing Property's, setting and neighborhood character of the APD, will ensure fair, reasonable and objective preservation practices by the APDC.

§ 113-3 Designation of district.

[Amended 5-7-2016 ATM by Art. 42]

The APD shall, by Town Meeting vote, encompass the areas shown on the map entitled "Town of Lunenburg Architectural Preservation District" and appended to this bylaw. Amendments to the district boundaries may be made only by vote of Town Meeting.

[\[Image\]](#)

§ 113-4 Architectural Preservation District Commission (APDC).

[Amended 5-7-2016 ATM by Art. 42]

The **Select Board (Board of Selectmen)** shall appoint a five-member APDC to oversee the APD pursuant to this bylaw. Initially, two members shall be appointed for one year, two for two years, and one for three years; each successive appointment shall be made for three years. The **Select Board (Board of Selectmen)** may also appoint up to two alternate members, initially for terms of one, two and three years, and for three-year terms thereafter. If members are absent, unable to act, or recused from voting due to a conflict of interest, the APDC Chair may designate one or both of the alternate members to serve in their place. To the extent achievable, the APDC shall be comprised of the following persons: a member of the Lunenburg Historical Commission; a design professional; a craftsperson or building contractor familiar with historic restoration; and one resident of the APD and one resident at large. Members and alternates of the APDC shall by reason of experience and/or education have demonstrable knowledge, interest, and ability to effectively carry out the APDC's responsibilities.

§ 113-5 APDC powers and duties.

- A. The APDC shall exercise its powers in reviewing the alteration (substantial or minor), including demolition, of contributing properties within the APD as set forth in this bylaw, and in accordance with the standards described in § 113-9. Within 180 days of its establishment, the APDC shall adopt design guidelines to assist the APDC in determining whether the proposal satisfies the standards described in § 113-9, as well as to facilitate owner understanding of, and compliance with, those standards. The APDC may also promulgate rules and regulations consistent with the provisions of this bylaw, or set forth such forms and procedures as it deems appropriate for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, hearing procedures and other matters. In adopting design guidelines and rules and regulations, including any subsequent amendments, the APDC shall first hold a duly posted public hearing advertised at least 14 days in advance within a newspaper of local circulation.
- B. The APDC shall not adopt or amend any design guidelines or rules and regulations until at least 35 days after the APDC has provided a copy of those proposed guidelines or rules and regulations to the **Select Board (Board of Selectmen)**.

§ 113-6 Exemptions.

The following are exempt from the requirements of this bylaw:

- A. Routine maintenance of contributing properties.
- B. Repairs or improvements which do not require a building permit from the Building Commissioner.
- C. Temporary buildings (subject to time and size limits imposed by the APDC).
- D. Interior building alterations.
- E. Exterior building colors.
- F. Installation, removal or replacement of storm windows and storm doors, screen windows and screen doors.
- G. Installation, removal or replacement of gutters, downspouts, window shutters and door shutters.
- H. Structures not defined as contributing properties.

§ 113-7 **Administrative review/determination of applicability.**

- A. Minor alterations such as like-for-like replacement of architectural features and other minor work (as outlined in the APDC regulations) shall be reviewed through this process to ensure consistency of the property's character and appropriateness of the proposed materials. The APDC shall make a determination that the proposed work is exempt or that it does not retain the character of the contributing property. In the case where the work does not retain the character of the contributing property, it shall be determined to equate to a substantial alteration and require a binding review per § **113-8** of this bylaw.
- B. Property owners considering substantial alterations to a contributing property are strongly encouraged, but not required, to request an administrative review from the APDC. This review would focus on directing the applicant toward developing a proposal that would be compliant with the binding review process in § **113-8**.
- C. Administrative review does not require a public hearing and can be requested electronically. In providing administrative review for a proposed alteration, the APDC shall make a finding as to whether or not the proposed alteration is compatible with the standards in § **113-9** and the associated design guidelines. The APDC shall provide its finding in writing, as a negative determination or a requirement of binding review, and within 45 days of receiving a request for administrative review. The requirement of binding review may include recommendations on how the proposed alteration could be made more consistent with the standards and the design guidelines.

§ 113-8 **Binding review.**

- A. The following alterations require the submittal of an application for binding review by the APDC:
 - (1) Demolition of all or a part of a contributing property.
 - (2) Substantial alterations to a contributing property.
- B. Applications should include a completed application form and photographs showing existing buildings and site conditions. For substantial alteration, including additions and demolition, applicants should also

provide building elevations showing the proposed configuration and building materials; a plan showing the approximate footprint and relationships of buildings to other structures, exterior circulation, and points of entry; and any other plans which may help to demonstrate the proposed building design. Applications can be submitted electronically, but applicants shall also provide one hard copy of the application to the Planning Office. If appropriate, the APDC may waive any or all of the requirements for design submittal and review.

- C. Within 45 days of the application submittal, a copy of which shall be filed with the Town Clerk, the APDC shall hold a public hearing on the application, said hearing to be noticed by an ad published at least once in a newspaper with local circulation 14 days or more before the hearing. Following the hearing, the APDC shall determine whether or not the proposed alteration is consistent with the standards set forth in § **113-9** and the associated design guidelines. If the APDC determines by majority vote that the alteration adheres to the standards and the design guidelines, it shall issue a certificate to alter, which may be subject to reasonable conditions that the APDC deems necessary and appropriate. If the APDC does not achieve a majority vote that the alteration is compatible with the standards and the design guidelines, it shall make a negative determination. The APDC's written determination shall be submitted to the property owner within 20 days of the close of the public hearing, and no later than 90 days after the submittal of an application, unless granted a time extension by the owner. In making its determination, the APDC shall provide a rationale for its action, including a description of how the alteration does or does not meet the standards set forth in § **113-9** and the design guidelines. If the APDC denies a certificate to alter, it may include nonbinding, advisory only recommendations on how the proposed alterations may be modified to satisfy the APDC. Once the applicant modifies the alterations in a manner that the APDC finds acceptable, the APDC shall issue a certificate to alter. The determinations of the APDC relative to alterations described in this § **113-8**, whether positive or negative, shall be binding on the applicant. [Amended 5-7-2016 ATM by Art. 42]

§ 113-9 **Design standards.**

When reviewing an application, the APDC shall consider the following standards, which are intended to guide the property owner in the site development and building design, as well as the APDC in its review of proposed actions as described in § **113-8** above:

- A. Height and proportions. The height, proportions, and relationship of height to width between windows, doors, signs and other architectural elements should be compatible with the architectural style and character of the building or structure.
- B. Relation of structures and spaces. The relation of a structure to the open space between it and adjoining structures should be compatible with such relationships in the district.
- C. Shape. The shape of roofs, windows, doors and other design elements should be compatible with the architectural style and character of the building.
- D. Scale. The scale of a structure alteration should be compatible with its architectural design style and character and that of the district.
- E. Directional expression. Building facades and other architectural design elements should be compatible with those of others in the district with regard to the dominant vertical or horizontal expression or direction related to use and historical or cultural character, as appropriate.

- F. Garages and accessory buildings. Garages and accessory buildings shall be sensitively integrated into the overall development, and should not be the predominant design feature when viewed from the street.
- G. Materials and methods of construction. Materials used shall be consistent with the appearance and character of the surrounding properties and contribute to the historic nature of the area. Construction methods shall meet Building Code requirements and visually resemble historic patterns but may use contemporary technology.

§ 113-10 Procedures for issuance and filing of APDC determinations.

Each certificate to alter or negative determination issued by the APDC shall be dated and signed by its Chair or such other person designated by the APDC to sign certificates on its behalf. The APDC shall send a written copy of its actions to the property owner and shall file other copies with the office of the Town Clerk and the Building Commissioner. The date of issuance of a certificate or negative determination shall be the date of its filing of other said copy with the office of the Town Clerk. If the APDC should fail to submit a written determination within 20 days of closing its public hearing, or within 90 days of the submittal of a certificate, or within such further time as the applicant may allow in writing, a certificate to alter shall be waived in favor of the property owner.

§ 113-11 Enforcement.

- A. In addition to the duties previously set forth in this bylaw, the APDC or the Building Commissioner shall issue enforcement orders, with an immediate cease-and-desist order directing compliance with this bylaw and shall undertake any other enforcement authorized by law.
- B. Upon request of APDC, and with the approval of the **Select Board (Board of Selectmen)**, the Town Counsel shall take legal action on behalf of the Town for enforcement of this bylaw, or any order issued hereunder, in any court of competent jurisdiction. In the case of demolition, including demolition by neglect, without approval of the APDC, no building permit shall be issued with respect to any contributing property within the APD that caused a demolition of its building, structure or contributing property for a period of up to two years after the date of the violation.
- C. The APDC or its designee may use any and all of the aforementioned enforcement methods to address the contributing factors of demolition by neglect for purposes of preventing a contributing property from becoming structurally deficient or economically infeasible to repair.

§ 113-12 Coordination with other Town boards and bylaws.

- A. Except as stated in Subsection **B** below, the APDC's authority as established in this bylaw shall not supersede or interfere with the regulatory authority of other local or state boards or APDCs.
- B. By exercise of this bylaw, the APDC assumes the authority of the Lunenburg Historical Commission pursuant to Chapter **134**, Demolition Delay, of these General Bylaws, relative to the proposed demolition (including demolition by neglect) of buildings that are over 75 years of age and located within the APD.
- C. The APDC shall coordinate its review with that of other Town boards.
- D. The APDC shall be included as an advisory review entity in new construction projects in the APD.
[Amended 5-7-2016 ATM by Art. 42]

§ 113-13 **Appeal procedure.**

Any aggrieved party may appeal the action of the APDC in accordance with the General Laws.

§ 113-14 **Validity and severability.**

The provisions of this bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this bylaw shall continue to be in full force and effect.

§ 113-15 **Appendices.**

[Amended 5-7-2016 ATM by Art. 42]

Appendix A: The location and boundaries of the Town of Lunenburg Architectural Preservation District are defined and shown on the map entitled "Town of Lunenburg Architectural Preservation District," which is a part of this bylaw.

Chapter 116

Boats and Boating

[HISTORY: Adopted by the Town of Lunenburg as Art. IX, § 8, of the Town Bylaws. Amendments noted where applicable.]

§ 116-1 **Authority to promulgate rules and regulations.**

The **Select Board (Board of Selectmen)** shall make rules and regulations for the operation of motor boats upon the rivers, ponds and lakes of the Town to the end that such motor boats shall not be operated in a manner which endangers the safety of the public or is detrimental or injurious to the neighborhood or to the value of the property therein, and provide penalties of violation of such rules and regulations. (See Boating Bylaws adopted 3-17-1958.)

Attachments:

[Attachment 1 - Boating Bylaws](#)

Chapter 121

Building Construction

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 250.

Article I

Stretch Energy Code

[Adopted as Art. XXX of the Town Bylaws]

§ 121-1 **Adoption.**

The Town of Lunenburg has adopted the provisions of 780 CMR 115.AA of the State Building Code, or the "Stretch Energy Code," as may be amended from time to time, in place of the provisions set forth under 780

CMR 13.00, 34.00, 61.00 and 93.00.

§ 121-2 Purpose.

The purpose of adopting the Stretch Energy Code is to meet the final criteria for eligibility to become a Massachusetts Green Community.

§ 121-3 Effective date.

This bylaw shall become effective July 1, 2014.

Chapter 127 (Reserved)

Chapter 134 Demolition Delay

[HISTORY: Adopted by the Town of Lunenburg as Art. IX, § 22, of the Town Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Architectural preservation district — See Ch. 113.

Zoning — See Ch. 250.

§ 134-1 Intent and purpose.

The intent and purpose of this chapter is to protect the historic and aesthetic qualities of the Town of Lunenburg by preserving, rehabilitating or restoring, whenever possible, significant buildings or structures which constitute or reflect distinct features of architectural or historical resources of the Town, by promoting continued private ownership and utilization of such buildings and by providing owners of significant structures with time to consider alternatives to demolition, thereby promoting the public welfare and preserving the cultural heritage of the community.

§ 134-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICATION

An application for a permit for the demolition of a building, which shall include a photograph of the building taken within the past year.

DEMOLITION

The act of pulling down, destroying, removing or razing a building or structure.

PERMIT

A permit issued by the Building Commissioner for demolition of a building pursuant to an application.

SIGNIFICANT BUILDING

Any building or structure that the Historical Commission determines, in conjunction with the Building Commissioner and Fire Chief, meets one of the following conditions:

- A. Listed on the National or State Registry of Historic Places or is the subject of a previously submitted application for listing of historic places on said registries; or
- B. Included in a local Registry of Historic Places or is on a current or previously submitted inventory prepared by the local Historical Commission; or
- C. Importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town of Lunenburg or the Commonwealth of Massachusetts; or
- D. Historically or architecturally important in terms of period, style, or method of building construction; or
- E. Seventy-five years old or more.

§ 134-3 Procedure.

An application for a demolition permit will be made to the Building Commissioner, who shall, within five days, forward a copy of the demolition permit application to the Historical Commission. The Historical Commission shall, within five business days of receiving said application, determine whether a demolition plan review is required. If a demolition plan review is required, the applicant will supply to the Historical Commission a written narrative that includes the following:

- A. Sketch showing the location of the building or structure with reference to neighboring properties.
- B. Photographs of said structure.
- C. Description of the age, architectural style, historical association and importance of the building to be demolished.
- D. Reasons for demolishing.

§ 134-4 Demolition plan review.

- A. Within 30 days after said application is reviewed by the Historical Commission, the Historical Commission shall hold a demolition plan review meeting during its next scheduled public meeting to determine the applicability of the delay procedure or to make a determination of nonapplicability of the delay procedure. Said meeting will be advertised in the local newspaper and posted in the usual manner one week prior to said meeting.
- B. Written reports shall be presented by the Historical Commission, Building Commissioner and Fire Chief and the applicant pertaining to the applicability or nonapplicability of the delay procedure to the building or structure. The Historical Commission shall determine the status of the application based on the reports noted above. The written report of the determination taken shall be given to the Building Commissioner with seven days of the closing of the review meeting.
- C. If the Historical Commission determines the building or structure is not a significant building under this bylaw, the Building Commissioner may issue a demolition permit upon receipt of the notification.
- D. If the building or structure is determined to be a significant building under this bylaw, the Building Commissioner shall impose a demolition delay of 540 days from the date of notification, in which time

the applicant must notify the Historical Commission through written documents that: **[Amended 11-13-2018 STM by Art. 11]**

- (1) Bona fide, reasonable attempts have been made to sell, preserve, move, rehabilitate or restore said building or structure. Evidence shall include a listing of the building with a licensed real estate broker, an estimate of rehabilitation or restoration costs of the building or structure or an estimate for moving the building or structure.
- (2) A party or parties have been located who have agreed to preserve, rehabilitate, restore or relocate the building or structure.
- (3) The applicant has agreed to alternatives to demolition and/or accept conditions noted in the applicability determination.

§ 134-5 Emergency demolition.

Nothing in this bylaw shall restrict the Building Commissioner or the Fire Chief from ordering the demolition of a significant building determined to present a clear and present danger to the safety of the public, which only demolition can prevent.

§ 134-6 Violations and penalties.

- A. The Building Commissioner is empowered to institute any proceeding in law or equity as he deems necessary to obtain compliance with the requirements of this bylaw to prevent a violation thereof.
- B. No building permit shall be issued with respect to any premises upon which a significant building has been demolished in violation of this bylaw for a period of two years after the date of the violation.

Chapter 138

Departmental Revolving Funds

[HISTORY: Adopted by the Town of Lunenburg 5-5-2018ATM by Art. 2. Amendments noted where applicable.]

§ 138-1 Purpose.

This by-law establishes and authorizes revolving funds for use by town, departments, boards, committees, agencies and officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by General Laws Chapter 44, § 53E 1/2.

§ 138-2 Expenditure limitations.

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this by-law without appropriation subject to the following limitations:

- A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance in the fund.

- C. The total amount spent during the year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the **Select Board (Selectmen)** and Finance Committee.

§ 138-3 Interest.

Interest earned on monies credited to a revolving fund established by this by-law shall be credited to the general fund.

§ 138-4 Procedures and reports.

Except as provided in General Laws Chapter 44, § 53E 1/2 and this by-law, the laws, charter provisions, by-laws, rules, regulations, policies or procedures that govern the receipt and custody of town monies and the expenditures and payment of town funds shall apply to the use of a revolving fund established and authorized by this by-law. The Town Accountant shall include a statement on the collections credited to the fund, the encumbrances and expenditures charged to each fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

§ 138-5 Authorized revolving funds.

The Table establishes:

- A. Each revolving fund authorized for use by a town department, board, committee, agency or officer,
- B. The department or agency head, board, committee or officer authorized to spend from each fund,
- C. The fees, charges and other monies charged and received by the department, board, committee, agency or officer in connection with the program or activity for which the fund is established that shall be credited to each fund by the Town Accountant,
- D. The expenses of the program or activity for which each fund may be used. **[Amended 5-4-2019 ATM by Art. 2]**

Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from the Fund	Fees, Charges or Other Receipts Credited to the Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Fiscal Years
Ambulance Billing	Fire Department	5% of ambulance services and 100% of Advanced Life Support services	Payments to Third Party Billing Company and Advanced Life Support companies	None	Fiscal Year 2019 and subsequent years
Timber Rights	Conservation Commission	Proceeds of Timber Rights	Acquisition/Improvement of Conservation Land and associated costs	None	Fiscal Year 2019 and subsequent years
School Custodial	School Committee	Charges/Fees for Outside Details	Payment of Special Details for Outside	None	Fiscal Year 2019 and

Revolving Fund	Department, Board, Committee, Agency or Officer Authorized to Spend from the Fund	Fees, Charges or Other Receipts Credited to the Fund	Program or Activity Expenses Payable from Fund	Restrictions or Conditions on Expenses Payable from Fund	Fiscal Years
Special Details			Functions		subsequent years
Green Thumb	School Committee	Sales of Items from Green Thumb Program	Expenses related to the Operation of the Green Thumb Program	None	Fiscal Year 2019 and subsequent years
Library Revolving	Library Trustees	Library Fines, Penalties, Donations and Bequests	Purchase of Library and Information Materials, Document Information, and Electronic Data Delivery	None	Fiscal Year 2019 and subsequent years
Council on Aging/MART Revolving	Council on Aging/COA Director	MART Program Reimbursements and User Fees	Dispatch, Operation, Maintenance and Record Keeping of Elderly Transportation Program	None	Fiscal Year 2019 and subsequent years
Stormwater Task Force Revolving	Stormwater Task Force/DPW Director	Sale of Rain Barrels and Composting Bins	Purchase of additional Rain Barrels/ Composting Bins	None	Fiscal Year 2019 and subsequent years
Electrical, Gas, Plumbing Inspector Revolving	Building Department	82.5% of the fees collected from wiring inspections, 80% of fees collected from plumbing and gas inspections	Payment of all charges and fees related to electrical, plumbing, and gas inspections	None	Fiscal Year 2019 and subsequent years
Technology Revolving	Town Manager, IT Director, and Land Use Director	Proceeds from Technology Fee associated with electronic permitting	Payment of software fees, software upgrades, and equipment related to electronic permitting	None	Fiscal Year 2019 and subsequent years

Chapter 140

Excavations and Earth Removal

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted

where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 205.

Zoning — See Ch. 250.

Subdivision regulations — See Ch. 325.

Article I
Earth Removal

[Adopted 5-12-1990 (Art. IX, § 9, of the Town Bylaws)]

§ 140-1 Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

BOARD

The **Select Board (Selectmen)** of the Town of Lunenburg.

EARTH

Includes soil, loam, sand, gravel, and stone.

§ 140-2 Purpose.

The purpose of this bylaw is to protect the health, safety and welfare of the public by regulating the removal of earth so as not to create dust, washouts, noise, ponds, and other hazardous land conditions.

§ 140-3 Enforcement; violations and penalties.

Any person, firm or corporation willfully violating, disobeying or refusing to comply with any of the provisions of this bylaw shall be prosecuted under the terms of MGL c. 40, § 21, para. 17, and shall be subject to a fine of not more than \$50 for the first offense, not more than \$100 for the second offense, and not more than \$200 for any subsequent offense. Each day during any portion of which such violation is allowed to continue shall be considered a separate offense. The Board may revoke or suspend the permit of any person, firm or corporation holding a permit under this bylaw if such person, firm or corporation violates, disobeys, or fails to comply with any of its provisions.

§ 140-4 Existing soil removal operations.

Any person, firm or corporation engaged in the operation of soil removal on the effective date of this bylaw may continue such operation for 30 days after such date, but shall, within said 30 days, apply for a permit in accordance with this bylaw. At the end of such 30 days, the operation shall be governed by the terms of the permit issued or, if no such permit is issued, shall cease.

§ 140-5 Severability.

The invalidity of any section of this bylaw shall not invalidate any other section or provision thereof.

§ 140-6 Permit required.

No earth in an amount in excess of 10 cubic yards shall be moved from any parcel of land within the Town of Lunenburg to another parcel either within or without the Town unless such removal is authorized by a permit issued by the Board. No earth in an amount in excess of 10 cubic yards shall be moved in less than ten-cubic-yard quantities over a period of time, deemed by the Board to be for the purpose of evading any of the provisions of this bylaw. No earth removal permit shall be issued until an application therefor is filed with the Board and the Board has held a public hearing on the application, after publication of the time and place,

and subject matter sufficient for identification, in a newspaper having general distribution in the Town once in each of two successive weeks, the first publication to be not less than 14 days prior to said public hearing, and notice of such hearing shall be sent by mail to owners of abutting property prior to said public hearing.

§ 140-7 Application for permit.

Applications for such permits shall be accompanied by exhibits and documentation deemed necessary by the Board for the proper issuance of a permit, which shall include the following:

- A. Name and address of the legal owner of the land in question.
- B. Name and address of petitioner, if different, and names and addresses of owners of abutting property.
- C. An adequate and sufficient plan of land prepared by a registered engineer or land surveyor and indicating tract boundaries, adjacent streets and roads, the limits of the proposed excavation, the locations of all structures within 200 feet of said limits, original topography of five-foot contours, proposed final contours of five-foot intervals, and the location and proposed use of all structures and buildings to be used in connection with the removal operation. Any of the above provisions may be waived at discretion of the Board.
- D. Statement of plans for the disposal of rock, tree stumps and other waste material, and for the drainage of the site and excavation during and after the removal operation.
- E. Proposed closure plan as provided in § 140-13, unless waived at the discretion of the Board.

§ 140-8 Denial of permit.

No permit for earth removal shall be issued if such removal will:

- A. Endanger the general health, safety, or welfare or constitute a public nuisance.
- B. Result in detriment to the normal use of adjacent property by reason of noise, dust, erosion, or vibration.
- C. Result in traffic hazard in residential areas, or congestion and physical damage to public ways.

§ 140-9 Duration of permit.

No permit for any earth removal shall be issued for more than one year's duration, and may be renewed thereafter.

§ 140-10 Control of operation.

In approving the issuance of a permit, the Board shall impose all reasonable requirements which shall be deemed necessary by the Board and may include: grading, seeding, and planting, fencing necessary for public safety and screening unsightly operations, methods of removal, location and use of structures, hours of operation, routes of transportation of material removed, control of drainage, control of dust, disposition of waste material incident to the operation, due consideration for the preservation of the Town's natural resources, including inland swamps and waters and the aesthetic values, and final appearance of the property on completion of the operation.

§ 140-11 Bond or security.

The Board may require suitable bond or other security adequate to assure compliance with any of the provisions of this bylaw.

§ 140-12 Exemptions.
[Amended 1-10-1968]

This bylaw shall not be construed to apply to any such removal incidental to the construction or alteration of any structure for which a building permit has been issued, or to the removal incidental to the installation of any cesspool or septic tank for which a permit has been issued by the Board of Health, or to the grading or development of any approved subdivision or public way.

§ 140-13 Completion and closure.
[Amended 5-30-1986]

- A. The Board may require a closure plan before issuance of a permit, expiration or termination of an existing permit.
- B. The closure plan must be approved and completed to the satisfaction of the Board before any:
 - (1) Building/Construction.
 - (2) Transfer of ownership.
 - (3) Termination of bond or security.
- C. The closure plan shall include:
 - (1) Proposed final contours.
 - (2) Proposed final drainage.
 - (3) Proposed final revegetation.
 - (4) A drawing, drawn to scale, showing the location of any material (rock, tree stumps or any other waste material) buried on the site.

§ 140-14 Permit fees.

Fees shall be established from time to time by the **Select Board (Board of Selectmen)**. Failure to pay the earth removal permit renewal fee shall result in the automatic nonrenewal of the earth removal permit.

Article II
Excavations

[Adopted as Art. IX, § 10, of the Town Bylaws]

§ 140-15 Barriers required.

Owners of land which has been excavated shall erect barriers or take other suitable measures within five days after such owners have been notified in writing by the **Select Board (Selectmen)** that, in their opinion, such excavation constitutes a hazard to the public safety.

§ 140-16 Violations and penalties.

The penalty for violation of this bylaw shall be as follows:

- A. For the first offense: \$50.

- B. For the second offense: \$100.
- C. For each subsequent offense: \$200.

Article III Street Openings

[Adopted as Art. IX, § 11, of the Town Bylaws]

§ 140-17 Permit required; liability for costs.

[Amended 5-6-2017 ATM by Art. 34]

No Town way or other way, whether it be the traveled or untraveled portion thereof, which the Town of Lunenburg is, by law, obligated to maintain and keep in repair shall be dug up, no opening made therein for any purpose, nor shall any material be dumped or placed thereon or removed therefrom, and no obstruction or structure shall be placed thereon or removed therefrom or changed without written permit from a majority of the **Select Board (Board of Selectmen)** and then only in accordance with the Board's regulations and the work shall be done under the supervision of the Director of the Department of Public Works. The entire expense of replacing and resurfacing the highway at the same level and in as good a condition as before, with materials equal in specifications to those removed, shall be paid by the person or persons to whom the permit was given or by whom the work was done.

§ 140-18 Bond.

The **Select Board (Board of Selectmen)** may require a bond to guarantee the faithful and satisfactory performance of the work and payment for any damage to any such way caused by or resulting from the operations authorized by such permit. The amount of the bond shall be determined by the **Select Board (Selectmen)**, not to exceed the estimated cost of the work and any possible damage.

Chapter 143 Farming

[HISTORY: Adopted by the Town of Lunenburg 5-3-2014 ATM by Art. 28. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. **176**.

Zoning — See Ch. **250**.

§ 143-1 Legislative purpose and intent; applicability.

The purpose and Intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder, including but not limited to MGL c. 40A, § 3, Para. 1; MGL c. 90, § 9; MGL c. 111, § 125A, and MGL c. 128, § 1A. We, the citizens of Lunenburg, restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment"). This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Lunenburg by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This bylaw shall

apply to all jurisdictional areas within the Town.

§ 143-2 **Definitions.**

As used in this bylaw, the following terms shall have the meanings indicated:

FARM

Includes any parcel or contiguous parcel of land, or water bodies used for the primary purpose of agriculture, or accessory thereto.

FARMING

Shall encompass activities including, but not limited to, the following:

- A. Operation and transportation of slow-moving farm equipment over roads within the Town;
- B. Control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- C. Application of manure, fertilizers and pesticides;
- D. Conducting agricultural related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- E. Processing and packaging of the agricultural output of the farm and the operations of a farmer's market or farm stand, including signage thereto;
- F. Maintenance, repair, or storage of seasonal equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of the agricultural products; and
- G. On-farm relocation of earth and the clearing of ground for farming operations.

FARMING OR AGRICULTURE OR THEIR DERIVATIVES

Include, but not limited to, the following:

- A. Farming in all its branches and the cultivation and tillage of the soil.
- B. Dairying.
- C. Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural or horticultural commodities.
- D. Growing and harvesting of forest products upon forest land and any other forestry or lumbering operations.
- E. Keeping and raising of livestock, horses, poultry, swine, cattle, sheep ratites (such as emus, ostriches, rheas) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

§ 143-3 Right-to-farm declaration.

The right to farm is hereby recognized to exist within the Town of Lunenburg. The above-described agricultural activities may occur on holidays, weekdays and weekends by night or day and shall include the incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right-to-Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation or local zoning law.

§ 143-4 Disclosure notification.

- A. In order to ensure that prospective owners and prospective tenants are aware of the policy of the Town of Lunenburg expressed in this bylaw regarding agricultural uses and practices, the following notification of this policy shall be prominently posted in the Town Hall within 30 days of this bylaw becoming effective. Copies will also be made available for distribution. "This notification is to inform persons and entities who are about to acquire or lease rental property within the Town of Lunenburg that it is the policy of the Town of Lunenburg to conserve, protect and encourage the maintenance and improvement of the agricultural land, for the production of food and other agricultural products and for the preservation of its natural and ecological value. This notification is to further inform such owners and entities that farming activities, including the raising and keeping of livestock, take place in the Town of Lunenburg and that such activities may cause or create noise, dust and odors which adversely impact or are incompatible with the use or enjoyment of the property within the Town, including the property about to be acquired or leased."
- B. Property owners should make efforts to inform prospective tenants or buyers that Lunenburg is a right-to-farm community. In addition, the notification language required by this section shall appear annually in the Town's Annual Report.

§ 143-5 Resolution of disputes.

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the **Select Board (Selectmen)**, the Building Commissioner, or the Board of Health, depending on the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Building Commissioner or **Select Board (Selectmen)** shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed-upon time frame. The Board of Health, except in case of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed-upon time frame.

§ 143-6 Severability.

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of the bylaw. The Town of Lunenburg hereby declares the provisions of this bylaw to be severable.

Firearms and Explosives

[**HISTORY: Adopted by the Town of Lunenburg as Art. IX, § 2, of the Town Bylaws. Amendments noted where applicable.**]

§ 145-1 **Discharge restrictions; exceptions.**

No person shall fire or discharge any firearms or explosives of any kind within the limits of any highway, park or other public property, except with the consent of the **Select Board (Board of Selectmen)**, nor on any private property, except with the consent of the owner or the legal occupant thereof; provided, however, that this bylaw shall not apply to the lawful defense of life or property, nor to any law enforcement officer acting in the performance of his duties.

§ 145-2 **Violations and penalties.**

Any persons violating any of the provisions of this bylaw shall be punished by a fine of not more than \$20 for each offense.

Chapter 159 Junk Collectors

[**HISTORY: Adopted by the Town of Lunenburg as Art. VII of the Town Bylaws. Amendments noted where applicable.**]

GENERAL REFERENCES

Pawnbrokers and dealers in metal — See Ch. 184.

Peddling and soliciting — See Ch. 187.

§ 159-1 **License required; display; revocation; statutory provisions.**

The **Select Board(Selectmen)** may license suitable persons as junk collectors, to collect by purchase or otherwise, junk, old metals and secondhand articles from place to place in the Town; and no person shall so collect without such license. Such licensee shall display his name and license number on his vehicle when engaged in collecting, transporting or dealing in junk as aforesaid. The aforesaid licenses may be revoked at pleasure, and shall be subject to the provision of MGL c. 140, §§ 54 to 56 inclusive, and all amendments thereto.

§ 159-2 **Secondhand motor vehicles.**

- A. Before issuing any license or permit of the third class as defined in MGL c. 140, § 58, relative to secondhand motor vehicles, the following requirements shall be met:
- (1) The applicant shall file with the licensing authority a plan showing the location of the premises where the license or permit, if granted, is proposed to be exercised; where, on the premises, the secondhand motor vehicles are to be kept and in general the proposed set-up which the applicant proposes to have on the premises.
 - (2) The applicant shall file a list setting forth the maximum number of secondhand motor vehicles to be kept on the premises at any time, and a detailed description of all the operations proposed to be carried on if and when such license or permit may be issued.

- (3) Unless the licensing authority is satisfied that the location of the premises is such that the proposed operations can be carried on in the open with reasonable regard for order and sightlines the applicant shall be required to provide for the erection of a fence which, in the judgment of the licensing authority, will be suitable for maintaining orderliness and sightlines as may reasonably be done, having regard to the nature of the operations to be carried on upon the premises. The licensing authority shall determine the location of the fence and the applicant shall thereupon show the same on the plan submitted by him.
 - (4) No such license or permit shall be issued to an applicant until said plan, and list bearing the written approval, and the date thereof, of a majority of the members of the licensing authority is filed in the office of the Town Clerk.
 - (5) Failure on the part of any licensee hereunder to maintain the premises strictly in accordance with the plan and list approved by the licensing authority as aforesaid shall be grounds for revocation of said license unless any changes have been approved in writing by the licensing authority and noted upon the license.
- B. Nothing in this section shall be construed as exempting third class licenses under MGL c. 140, § 58, from the applicable provisions of existing laws and regulations, or authorizing the use of land in violation of any other bylaw of the Town of Lunenburg.

Chapter 168

Licensing

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

Article I Revocation

[Adopted as Art. II, § 5, of the Town Bylaws]

§ 168-1 Authority to revoke.

The **Select Board (Board of Selectmen)** shall have the right and power to revoke and annul any license, whenever any of the terms and conditions of such license may have been broken, or any infraction of the laws of the Town or commonwealth has been committed by the licensees.

Article II Denial or Revocation of Licenses for Failure to Pay Taxes

[Adopted 9-24-1991 (Art. II, § 16, of the Town Bylaws)]

§ 168-2 List of delinquent taxpayers. **[Amended 5-6-2017 ATM by Art. 29]**

The Tax Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the "licensing authority," that issues licenses or permits, including renewals and transfers, a list of any person,

corporation, or business enterprise, hereinafter referred to as the "party," that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, including amounts assessed under the provisions of MGL c. 40, § 21D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other municipal charges, for a period of 60 days, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

**§ 168-3 Authority to deny, revoke or suspend license.
[Amended 5-6-2017 ATM by Art. 29]**

The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers, of any party whose name appears on said list furnished to the licensing authority from the Tax Collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges payable to the Town as of the date of issuance of said certificate.

§ 168-4 Payment agreements.

Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit, and the validity of said license shall be conditioned upon satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

§ 168-5 Waiver.

The **Select Board (Board of Selectmen)** may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

§ 168-6 Exceptions.

This article shall not apply to the following licenses and permits:

Statute	Contact	Subject Matter
MGL c. 48, § 13	Fire Department	Open burning
MGL c. 101, § 33	Select Board	Sales of article for charitable purposes
MGL c. 149, § 69	School Department	Children work permits

Statute	Contact	Subject Matter
MGL c. 140, § 21E	Select Board	Clubs, associations dispensing food or beverage licenses
MGL c. 140, § 137	Animal Control	Dog licenses
MGL c. 131, § 12	Delete	Fishing, hunting, trapping licenses
MGL c. 207, § 28	Town Clerk	Marriage licenses
MGL c. 140, § 181	Select Board	Theatrical events, public exhibition permits

Chapter 171

Marijuana or Tetrahydrocannabinol

[HISTORY: Adopted by the Town of Lunenburg 11-16-2015 STM by Art. 9. Amendments noted where applicable.]

§ 171-1 Public consumption prohibited.

No person shall ingest or otherwise use or consume marijuana or tetrahydrocannabinol, (as defined in MGL c. 94C, § 1, as amended) other than a qualified patient with a valid medical certification of a debilitating condition, all as defined under state law, while in or upon a street, sidewalk, public way, footway, or pathway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any Town-owned vehicle; or in any place accessible to the public. No person, including a qualifying patient with a valid medical certification of a debilitating condition, as defined under state law, shall smoke marijuana or tetrahydrocannabinol in any public place set forth herein.

§ 171-2 Enforcement; violations and penalties.

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal complaint of fines pursuant to MGL c. 40, § 21D, by the **Select Board (Board of Selectmen)**, the Town Manager, or their duly authorized agents or any police officer. The fine for a violation of this bylaw shall be \$300 for each offense. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under MGL c. 94C, § 32L.

Chapter 176

Nuisances

[HISTORY: Adopted by the Town of Lunenburg as Art. IX, §§ 3, 4 and 5, of the Town Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 205.

§ 176-1 Disposal of waste in water bodies prohibited.

No person shall throw any glass or metal substance or the carcass of any dead animal, or any matter liable to putrefy, into any pond, brook, or stream of water, in said Town, or leave such carcass or substance on the ground or insufficiently buried.

§ 176-2 Fouling of water bodies prohibited.

No person shall foul any brook, pond or stream of water with any substance which shall kill the fish therein,

or create offensive smells therefrom so as to injure the public health or annoy the inhabitants of the Town.

§ 176-3 Injury to pumps or wells prohibited.

No person shall in any manner injure any of the pumps, wells or drinking fountains in the streets or public grounds of the Town, nor shall throw or place any substance or thing in said pumps, wells or drinking fountains.

Chapter 182

Parks and Recreation Areas

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Recreational vehicles — See Ch. 228.

Article I

Activities on Shirley Reservoir

[Adopted as Art. XX of the Town Bylaws]

§ 182-1 Definitions.

The following words, as used in this bylaw, unless a different meaning is required by the context, or as specifically prescribed, shall have the following meanings:

VEHICLE(S)

Includes all passenger motor vehicles and trucks, both registered and unregistered.

§ 182-2 Vehicle operation prohibited.

[Amended 5-1985]

No person, group of persons or organizations shall operate, or cause to be operated, any vehicle on Shirley Reservoir. Whoever violates any part of this § 182-2 shall be punished by a fine of not less than \$25 nor more than \$100.

§ 182-3 Pollutants and littering prohibited.

It shall be unlawful for any person to discharge in or upon Shirley Reservoir any pollutant or to discard therein or thereupon litter of any kind or upon the ways adjacent thereto. Whoever violates any part of this section shall be punished by a fine of not less than \$100 nor more than \$200.

Article II

Use of Vehicles on Whalom Lake

[Adopted 11-16-2015 STM by Art. 8]

§ 182-4 Purpose and scope.

The purpose and scope of this bylaw is to protect the safety of the public, to prevent the destruction of aquatic life, waterfowl or other wildlife, the decay of water quality and damage to abutting private and public lands by the inappropriate use of motor vehicles, recreation vehicles or snow vehicles on the waters or frozen waters of Whalom Lake; to promote voluntary compliance with all applicable laws relating to the operation

of motor vehicles; and, when necessary, to deter noncompliance through fines and penalties.

§ 182-5 Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

ALL-TERRAIN VEHICLE

A motorized recreational vehicle designed or modified for travel on four low-pressure tires and having a seat designed to be straddled by the operator and handlebars for steering control, and recreational vehicle or off-highway vehicle as defined in 323 CMR 3.02 and governed by MGL c. 90B.

BOARD

The Town of Lunenburg **Select Board (Board of Selectmen).**

LAW ENFORCEMENT OFFICER

Any police officer, constable or other officer authorized to make arrests or serve process, provided he is in uniform or displays his/her badge of office.

MOTOR VEHICLE

Any motor vehicle as defined in MGL c. 90, § 1.

OPERATION

To ride in or on and control the operation of, or to maintain, suffer, supervise, or permit the operation of, or to push a snow vehicle or an all-terrain vehicle, or in the case of a motor vehicle, any person who makes use of any mechanical or electrical agency, which alone or in sequence will set in motion the motive power of the vehicle, or if the engine is not running, any person who utilizes any combination of actions that would set the vehicle in motion.

PUBLIC ACCESS

The public access located in the City of Leominster or any other place where Whalom Lake can be accessed by the public.

SNOW VEHICLE

A motor vehicle designed to travel over ice or snow, having a curb weight of not more than 453 kilograms or 1,000 pounds, driven by track or tracks in contact with the snow or ice and steered by a ski or skis in contact with the snow or ice as defined in 323 CMR 3.02 and governed by MGL c. 90B.

§ 182-6 Operation of snow vehicles and all-terrain vehicles; assumption of risk.

- A. No person or group of persons shall operate, or cause to be operated, on the waters or frozen waters of Whalom Lake, any snow vehicles that are not in compliance with 323 CMR 2.01 to 3.09 and MGL c. 90B, §§ 21 to 35.
- B. When the Town of Lunenburg or any other agency or state agency duly authorized by law has posted the waters or frozen waters of Whalom Lake to prohibit access for or use of snow vehicles or all-terrain vehicles, no person or group of persons shall operate any snow vehicle or all-terrain vehicle upon such waters or frozen waters. In the absence of such a posting, persons utilizing water or the frozen water of Whalom Lake do so at their own risk and the Town of Lunenburg assumes no responsibility, either implied or expressed, for the safety of any person who voluntarily assumes a known and obvious risk inherent in such activities. No person shall operate a snow vehicle or all-terrain vehicle upon any frozen

waters of Whalom Lake under any circumstance unless a minimum of five inches of solid ice cover is present. The operator shall determine the thickness of the ice and assumes all responsibility in undertaking an activity with an inherent and known risk.

§ 182-7 Operation of motor vehicles prohibited.

No person, group of persons or organizations shall operate, or cause to be operated, any motor vehicle as defined in MGL c. 90, § 1, on the waters or frozen waters of Whalom Lake.

§ 182-8 Access.

No snow vehicle or all-terrain vehicle shall enter upon Whalom Lake except by public access or by written permission by the landowner.

§ 182-9 Enforcement; violations and penalties.

This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, enforcement by criminal complaint pursuant to MGL c. 40, § 21D, by the **Select Board (Board of Selectmen)**, the Town Manager, or their duly authorized agents, or any police officer. The fine for a violation of this bylaw shall be \$300 for each offense.

Chapter 184

Pawnbrokers and Dealers in Metal

[HISTORY: Adopted by the Town of Lunenburg 11-16-2015 STM by Art. 10. Amendments noted where applicable.]

GENERAL REFERENCES

Junk collectors — See Ch. 159.

Peddling and soliciting — See Ch. 187.

Article I

Buyers and Sellers of Goods and Electronics

§ 184-1 Licensing authority and requirements.

- A. The **Select Board (Board of Selectmen)** may license suitable persons to be pawnbrokers or buyers of goods pursuant to law. Licenses shall expire on the last day of December annually no matter when obtained during the preceding year. Such licenses shall not be valid to protect the holders thereof in a building or place other than that designated in the license, unless consent to removal is granted by the **Select Board (Board of Selectmen)**. Applications for new licenses under the rule may be filed at any time with the **Select Board (Board of Selectmen)**. Applications for the reissue of licenses already existing should be filed at least 30 days before the expiration of such licenses. Persons whose licenses have expired and have not been reissued will be liable to prosecution if carrying on business for which the license is required. Every person so licensed shall, at the time of receiving such license, file a bond as provided by MGL c. 140, § 77, as amended.
- B. Persons who engage in or carry on the business of lending money on mortgages, deposits or pledges of wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling the same back again at a stipulated price, when the property so mortgaged, pledged or purchased is deposited with the lender, must be licensed as pawnbrokers. This

provision, however, does not apply to loans made on stocks, bonds, notes or other written or printed evidence of ownership of property or of indebtedness to the holder or owner of such securities. (MGL c. 140, §§ 70 through 85)

§ 184-2 Interest rates; extra charges.

- A. Licensed pawnbrokers may charge interest at the rate of 3% per month, and in no event may they charge more than the rate allowed by the Massachusetts Commissioner of Banks.
- B. No such pawnbrokers shall charge or receive any greater rate of interest, and interest shall be determined on the precise sum advanced by the lender.
- C. No pawnbroker shall make or receive any extra charge or fee for storage, care or safekeeping of any goods, articles or things pawned with him. (MGL c. 140, § 78)

§ 184-3 Inspection of premises and records.

Any officer of the Lunenburg Police may at any time enter upon any premises used by a licensed pawnbroker or buyer for the purposes of his or her business, ascertain how he or she conducts his or her business and examine all articles taken in pawn or bought, or kept or stored in or upon said premises; and all books and inventories shall be exhibited to any above named whenever a demand shall be made for such exhibition. (MGL c. 140, § 74) (Penalty for refusal, MGL c. 140, § 74)

§ 184-4 Numbering of pawned articles.

Every licensed pawnbroker or buyer shall, at the time of making any loan, attach a number to the article taken in pawn or bought and shall make entry of such number in the book provided for in § **184-5** of this article.

§ 184-5 Maintenance of records; contents; photo identification.

- A. Every licensed pawnbroker or buyer shall keep a book of a style and size in which shall be legibly written in ink in the English language at the time of making each loan, an account and description, including all distinguishing marks and numbers and serial numbers of the goods, articles or things pledged or pawned, the amount of money loaned or paid thereon, the day and hour when it was pawned, the rate of interest to be paid on such loan and the number of such article as same. No entry made in said book shall be erased, obliterated or defaced. Electronic recordkeeping by the pawnbroker or buyer is acceptable as long as the records meet all the bylaw requirements.
- B. Every pawnbroker or buyer shall photograph any person pawning or pledging articles and keep such photographs with said books as part of his or her records. (MGL c. 140, § 79)
- C. For all transactions, every pawnbroker or buyer shall also require positive identification and shall record the type of identification presented and record the date of birth from any person pawning, pledging or selling any article. Positive identification shall mean any picture identification card issued by a governmental agency.

§ 184-6 Pledge cards; contents; retention.

Each pledger shall be required by the pawnbroker to sign his/her name and age and address on a card. In the event that the pledger is unable to write, the pawnbroker shall fill in the name, age and address on such card, together with a notation stating that the pledger was unable to do so. Such card shall be retained for seven years in an alphabetical index file by the licensed pawnbrokers.

§ 184-7 Copy of required record to pledger.

Every pawnbroker or buyer shall at the time of making such loan deliver to the person who pawns or pledges any goods, articles or things, a memorandum or note signed by him, containing the substance of the entry required to be made in his book by the provisions of § 184-5, and no charge shall be made or required by any pawnbroker or buyer for any such entry, memorandum or note. (MGL c. 140, § 80)

§ 184-8 Daily report to police; return of stolen goods.

- A. Every licensed pawnbroker or buyer shall make out and deliver a report of transactions to the Lunenburg Police Chief or his designee every day before the hour of 10:00 a.m., a legible and correct list containing an accurate description, including all distinguishable marks, numbers and serial numbers of all articles taken in pawn or bought during the preceding business day, the respective numbers of such articles as provided by § 184-4 of this bylaw, the amount loaned or paid thereon and the time when such articles were pawned or bought. This report can be done electronically, via the internet, or faxed to the Lunenburg Police Chief or his designee. If during the preceding day no articles have been taken in by such pawnbroker or buyer, he or she is required to report affirmatively. This report can be done both electronically via the internet and by fax.
- B. If any goods or articles pawned or pledged and in the possession of a pawnbroker or buyer are subsequently determined to be stolen property by a member of the Lunenburg Police Department or the Massachusetts State Police, or if the rightful owner identifies property in the possession of a pawnbroker or buyer and the property so identified is confirmed to be stolen goods by a member of the Lunenburg Police Department or Massachusetts State Police, said property shall be returned to the rightful owner at no cost to such owner.

§ 184-9 Posting requirements.

- A. Every licensed pawnbroker or buyer shall post in a conspicuous place in his or her shop or office a copy of the statutes, ordinances and police regulations relating to pawnbrokers/buyers, to be furnished by the Lunenburg Police Department's Police Chief or designee, and shall put in some suitable and conspicuous place in his shop a sign having his/her name and occupation legibly inscribed thereon in large lettering.
- B. No pawnbroker or buyer shall place or maintain any signs or devices upon or in connection with his or her licensed premises indicating or tending to indicate that any form of business is conducted therein which he or she is not legally authorized to pursue.

§ 184-10 Hours of operation.

A pawnbroker or buyer may have his/her shop open for transactions between sunrise and 10:00 p.m. in the evening of any weekday and weekend. Under no circumstances can a pawnbroker or buyer operate after the hour of 10:00 p.m. to sunrise.

§ 184-11 Disposition of pledged articles.

- A. Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by him/her on the premises occupied by him/her for his/her business for at least four months after the date of deposit.
- B. After the expiration of the applicable period of time, he/she may sell the article by public auction, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale and pay any surplus to the person entitled thereto on demand.

- C. No such sale of any article which is not of a perishable nature shall be made unless, not less than 10 days prior to the sale, a written notice of the intended sale shall have been sent by registered mail to the person entitled to the payment of any surplus as aforesaid, addressed to his residence as appearing in the records of such pawnbrokers. Proof of registered mail shall be kept on file for one year after the date of sale.
- D. No article taken in pawn by such pawnbroker or buyer shall be disposed of otherwise than as above provided, any agreement or contract between the parties thereto to the contrary notwithstanding.
- E. Articles of personal apparel shall not be deemed to be of a perishable nature within the meaning of this section. (MGL c. 140, § 71)

§ 184-12 Prohibitions.

- A. No pawnbroker or buyer shall make a loan, directly or indirectly, to a person under the age of 18, knowing or having reason to believe him or her to be such.
- B. No pawnbroker or buyer shall loan money secured by deposit or pledge of a firearm, rifle, shotgun or machine gun. (MGL c. 140, § 131B)
- C. No pawnbroker or buyer shall hold a license to sell, rent, or lease a firearm, rifle, shotgun, or machine gun.

§ 184-13 Complaints and disciplinary action; hearing.

- A. Complaints concerning licensed pawnbrokers or buyers shall be investigated by the Lunenburg Police Department under the direction of the Chief of Police. The Chief of Police or his designee will provide a disciplinary request to the **Select Board (Board of Selectmen)** for actionable complaints lodged against licensees.
- B. In the event the Chief of Police determines that disciplinary action should be instituted against a licensed pawnbroker or buyer, the Chief of Police shall cause to be served upon the licensed pawnbroker or buyer notice as to the time, date and place of hearing and of the charge, with a statement of the reasons for the proposed disciplinary action. Hearings shall be conducted in accordance with law.

§ 184-14 Suspension or revocation of license.

The **Select Board (Board of Selectmen)** may suspend or revoke licenses provided for by this article for any cause which the **Select Board (Board of Selectmen)** deems sufficient. Offenses which may result in the suspension or revocation of a pawnbroker's or buyer's license include but are not limited to the following:

- A. A violation of any section of this article.
- B. A violation of any provision of any statute or applicable law.

Article II
Sale, Exchange or Purchase of Metals

§ 184-15 Findings.

The Town of Lunenburg finds that there is a cognizable risk for stolen metals to end up in the possession of even legitimate businesses which trade in metals, including precious metals. Certain criminals bring stolen metals, including precious metals, to dealers in jewelry and scrap metal. The victims of theft have only small

hope of recovering their property unless the people and entities who receive scrap metals and jewelry are regulated in a manner which identifies both the metal received by the dealers and the persons who deliver the metal to these dealers. There is an internet alert system used by the Lunenburg Police Department which reports stolen metals. Monitoring transactions within the Town and identifying both the metals and the persons selling or delivering these metals will serve both to deter theft and to enable the Lunenburg Police Department to trace and recover stolen property and return it to the rightful owners.

§ 184-16 **Definitions.**

As used in this Article **II**, the following terms shall have the meanings indicated:

ARTICLE

Any metal which is subject to Article **II** and is exchanged, sold, collected, bartered or received by a person dealing in metals.

BOARD

The **Select Board (Board of Selectmen)**.

CHIEF OF POLICE

The Chief of the Lunenburg Police Department or his designee.

EXCHANGE

Receiving, purchasing, selling or bartering metals, including precious metals and industrial scrap metals.

METAL

A chemical element that is malleable, opaque and ductile, usually solid, which has a characteristic luster, is a good conductor of heat and electricity, and can be melted or fused, hammered into thin sheets, or drawn into wires, e.g., copper, aluminum, gold, silver or iron or other metals.

PRECIOUS METAL(S)

Any metal which is considered valuable, such as silver, gold, platinum and copper, without regard to the form or amount of such precious metal.

§ 184-17 **License required.**

- A. No person shall collect, deal in, exchange, buy, or keep a shop or place for the exchange, purchase, sale or barter of metals, including precious metals and industrial metals, in any building or place within the limits of the Town without having a license issued by the **Select Board (Board of Selectmen)**. The license requirement and the other requirements of this Article **II** shall not apply to commercial haulers having valid, current United States Department of Transportation stickers affixed to their vehicles.
- B. The **Select Board (Board of Selectmen)** may, for a fee set by said Board and based upon an application devised by said Board, license suitable persons to be dealers in and keepers of shops or locations for the purchase, sale or barter of precious metals at such places within the Town as may be designated in such license. The **Select Board (Board of Selectmen)** may place reasonable conditions on such licenses, which shall be inscribed on the face of the license. A license shall be limited to a specific address stated thereon. Subject to the notice and appeal provisions contained in § **184-23E(2)** and **(3)** of this Article **II**, the **Select Board (Board of Selectmen)** may deny a license to any person who in the exercise of his reasonable discretion is unsuitable.

- C. All metal dealer licenses shall expire annually on the last day in December. The license holders shall be responsible for submitting an application for license renewal with the license fee to the **Select Board (Board of Selectmen)** at least 30 days prior to the last day in December. Upon receipt of an application for renewal, the Board shall consider the performance of the licensee during the previous year and shall determine whether the licensee had been found in violation of this Article **II** and other ordinances and regulations of the Town applicable to metal dealers.
- D. The **Select Board (Board of Selectmen)** may promulgate reasonable regulations not inconsistent with this Article **II** which shall be binding upon all licensees. No regulation shall take effect until the expiration of 30 days from the date the regulation(s) is delivered or mailed to the person(s) then licensed. **Select Board (Board of Selectmen)** shall deliver a complete set of regulations and any amendments thereto to the Town Clerk. The Town Clerk shall maintain the complete set of all regulations in a book available to the public.
- E. The obligation to obtain a license as required by this section will take effect 45 days after it is finally enacted and the bylaw is approved by the Attorney General.

§ 184-18 Transactions with minors.

No licensee shall, directly or indirectly, exchange any metals with a person under the age of 18.

§ 184-19 Waiting period.

No article exchanged, purchased or received shall be sold, or altered in appearance, form or substance until a period of at least 21 days has elapsed from the date of its purchase or receipt. All articles exchanged, purchased or received must be made available to the Lunenburg Police Department upon request within 24 hours of such request, and the Police Department may investigate to determine if any article is or may be stolen property. This waiting period does not apply to scrap metal yards which are exempt from any waiting period.

§ 184-20 Daily report.

Every licensee shall electronically create and send to the Police Chief or his designee on a form, in the manner and at the time prescribed by the Police Chief or his designee, a legible complete list containing an accurate description of all metal articles received by the licensee during the previous 24 hours. The description must include: the type of metal, the size and/or quantity, whether the article is or may be a precious metal, if applicable; whether the article is typically used by or associated with a male or female, the wording of any engraving, whether the article has any gems or precious stones, any identifying number and every other identifiable trait.

§ 184-21 Recordkeeping requirements.

- A. Every licensee shall, at the time of making any exchange or receipt of any article, assign and attach a number to each article received and shall make entry of such number in the book described in Subsection **B**.
- B. Every licensee shall keep a book in which shall be legibly written in ink, in the English language, at the time the licensee receives any article, the following information:
- (1) An account and description, including all distinguishing or identifying marks and numbers of every article received by the licensee.
 - (2) The amount of money, if any, paid for the article.

- (3) The date and hour when it was received.
 - (4) The name, age, permanent address and telephone number of the person from whom purchased or received.
 - (5) A copy of the document used to identify the person giving the article to the licensee.
- C. Every licensee shall require positive identification from any person selling or exchanging any article. The licensee shall copy and record the type of identification presented and the date of birth from any person giving or exchanging any article. Positive identification means only a government-issued document with the person's name and photograph. The licensee shall photograph any person exchanging any article(s). A copy of the identification and the photograph shall be kept with the book required by this section as part of his records.
- D. No entry made in the book required by this section shall be erased, obliterated or defaced in any manner whatsoever. The book shall at all times be open for the inspection by the Police Chief or any police officer. The licensee shall keep and maintain all the records required by this Article **II** for a period of three years from the date of the last entry in any book.

§ 184-22 Posting requirements; inspections.

Every licensee shall post in some suitable and conspicuous place where he or she receives or exchanges articles, a sign having his/her full legal name, and his/her business name, if different, and his/her occupation legibly described thereon in large letters. The current license shall also be so posted. The location where transactions occur, the store or shop and all articles exchanged and/or kept therein or received therein and the book and documents required by this Article **II** may at all times be examined by the Police Chief or any police officer at their request.

§ 184-23 Violations and penalties; termination of licenses.

- A. Whoever, not having a valid license as required by this Article **II**, exchanges, collects, deals in or barter metals in any place or manner other than that designated in his license, or after notice to him that his license has been revoked, or whoever violates this Article **II** or any rule, regulation or restriction contained in his license, or any regulation promulgated by the Town of Lunenburg shall be subject to the fines and sanctions described in this section. Each day of such violation shall constitute a separate offense.
- B. The fine for breach of the duty imposed by this Article **II** is \$300. Each day on which the person continues in violation shall be considered as a separate violation.
- C. This Article **II** may, at the discretion of the Chief of Police, be enforced by civil process or by noncriminal disposition as provided in MGL c. 40, § 21D. The Chief of Police or any Lunenburg police officer may issue tickets to enforce this Article **II**. If enforced civilly by ticket, each day on which a violation exists shall be deemed to be a separate offense and the violator shall be subject to the following fines:
- (1) First violation: \$150.
 - (2) Second violation: \$200.

- (3) Third violation: \$300.
- (4) Fourth and each subsequent violation: \$300.
- D. In addition to the penalties set forth above, the enforcing authority may seek an injunction from an appropriate court to restrain any violation of this Article II, any regulation promulgated by the Town of Lunenburg or any condition inscribed on a license.
- E. The **Select Board (Board of Selectmen)** may terminate any license or refuse to renew any license for violation of this Article II, a regulation promulgated by the Town of Lunenburg or any condition inscribed on the license. The **Select Board (Board of Selectmen)** shall use the procedure described in this section.
- (1) Notice of violation. Whenever it comes to the attention of the **Select Board (Board of Selectmen)** that a violation of this Article II, a regulation promulgated by the Town of Lunenburg or a condition inscribed on a license has occurred, the Board shall, by written notice, deliver personally or send by certified mail to the licensee notifying him of the violation and order the person to cease and desist. Depending on the severity of the violation as determined by it, the **Select Board (Board of Selectmen)** may terminate the license. The Board shall also provide notice described herein if it denies an application for a license, stating the reasons therefor.
- (2) Contents of notice. The written notice to the licensee shall contain a description of the violation(s) and the date(s) of occurrence and a citation to the section of the ordinance, regulation or license condition which the licensee is alleged to have violated. The notice will, if applicable, describe what the licensee must do to comply, whether the **Select Board (Board of Selectmen)** intends to terminate the license and the effective date of the termination, which shall afford the licensee at least seven days to file an appeal of the proposed termination with the Board. In the case of denial of a license, the notice shall state the reasons for the denial.
- (3) Appeal. Upon receipt of a notice of license termination, or denial, the licensee may, within seven days of receipt of the notice, file a written appeal by delivery or certified mail to the **Select Board (Board of Selectmen)**'s office during the hours of 8:30 a.m. to 4:30 p.m. on days when Town Hall is open for business. When the **Select Board (Board of Selectmen)** receives an appeal, it shall appoint a neutral hearing officer who will take testimony from any persons with knowledge of the facts, including any police officer and the appellant. The appellant may be represented by counsel and any person so testifying will be subject to cross examination. The proceedings will be governed by the rules of evidence applicable to an informal administrative hearing. The hearing officer will assure that an appropriate record, including any documents submitted, is made and kept. The decision of the hearing officer will be written and final.
- F. The **Select Board (Board of Selectmen)**, to the process described in this section, may refuse to renew any license. The Board shall not issue a license to any person convicted of a felony.

§ 184-24 License and administration fees.

License and administration fees shall be as follows:

- A. Secondhand buyer of goods and electronics, annually: \$250.

B. Secondhand buyer of metal and precious metals, annually: \$250.

C. Pawnbroker license, annually: \$100.

Chapter 187

Peddling and Soliciting

[HISTORY: Adopted by the Town of Lunenburg 5-1985 (Art. IX, § 17, of the Town Bylaws). Amendments noted where applicable.]

§ 187-1 **Registration required.**

Any person, before proceeding to go from door to door within the Town for the purpose of bartering, selling, or taking orders for any goods, wares or merchandise, or for the purpose of begging or soliciting alms or charitable contributions, shall first record his name and address with the Chief of Police of the Town or his designee, together with such other information as the Chief of Police of the Town or his designee may reasonably require for the purpose of confirming such person's true identity and ascertaining the nature of the activities sought to be carried on.

§ 187-2 **Issuance of permit; group permits.**

Upon compliance by any such person with these requirements, the Chief of Police or his designee shall issue a written permit to such person, upon a form by the **Select Board (Board of Selectmen)**, to engage in the activity described therein. Upon the request of any person being solicited, or of a police officer, the holder shall exhibit his permit. The Chief of Police or his designee may, however, authorize a director of any worthy cause to solicit contributions within the Town without having each solicitor under his direction registered and recorded.

§ 187-3 **Violations and penalties.**

Whoever violates any portion of this bylaw shall be punished by a fine of not more than \$300 for each offense.

§ 187-4 **Appeals.**

Should the permit be denied by the Police Chief or his designee, the solicitor has the right to appeal to the **Select Board (Board of Selectmen)**.

Chapter 192

Reduction of Plastic Bags

[HISTORY: Adopted by the Town of Lunenburg 11-13-2018STM by Art. 17. Amendments noted where applicable.]

§ 192-1 **Purpose and intent.**

A. The production and use of thin-film single-use plastic checkout bags have significant impacts on the environment, including, but not limited to: contributing to the potential death of marine animals through ingestion and entanglement; contributing to pollution of the land environment; creating a burden to solid waste collection and recycling facilities; clogging storm drainage systems; and requiring the use of millions of barrels of crude oil nationally for their manufacture.

- B. The purpose of this bylaw is to eliminate the usage of thin-film single-use plastic bags by all retail and grocery stores in the Town of Lunenburg, by June 1, 2019.

§ 192-2 **Definitions.**

CHECKOUT BAG

A carryout bag provided by a store to a consumer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or checkout area of the store.

GROCERY STORE

A retail establishment where more than 50% of the gross floor area is devoted to the sale of food products for home preparation and consumption, which typically also offers home care and personal care products.

RETAIL STORE

An establishment that offers the sale and display of merchandise within a building.

REUSABLE CHECKOUT BAG

A bag, with handles, that is specifically designed for multiple use and is made of thick plastic, cloth, fabric or other durable materials.

THIN-FILM SINGLE-USE PLASTIC BAGS

Typically with plastic handles, these are bags with a thickness of 2.5 mils or less and are intended for single-use transport of purchased products.

§ 192-3 **Use regulations.**

- A. Thin-film single-use plastic bags shall not be distributed, used, or sold for checkout or other purposes at any retail or grocery store within the Town of Lunenburg.
- B. Customers are encouraged to bring their own reusable or biodegradable shopping bags to stores. Retail or grocery stores are strongly encouraged to make reusable checkout bags available for sale to costumers at a reasonable price.
- C. Thin-filmed plastic bags used to contain dry cleaning, newspapers, produce, meat, bulk foods, wet items and other similar merchandise, typically without handles, are still permissible.

§ 192-4 **Enforcement process.**

- A. Enforcement of this bylaw shall be the responsibility of the Town Manager or his/her designee. The Town Manager shall determine the inspection process to be followed, incorporating the process into other town duties as appropriate. Any retail or grocery store distributing plastic grocery bags in violation of this bylaw shall be subject to a non-criminal disposition fine as specified in Appendix A of the Regulations for Enforcement of Town Bylaws under M.G.L. Chapter 40, 21D and the Bylaw for Non-Criminal Disposition of Violations. Any such fines shall be paid to the Town of Lunenburg.
- B. And to amend Appendix A of the Non-Criminal Disposition Bylaw by adding the following:

Bylaw	Fine Schedule	Fine Allowed	Enforcement Agency
Plastic Bag Reduction	1st Offense	Warning	Town Manager's Designee

Bylaw	Fine Schedule	Fine Allowed	Enforcement Agency
Bylaw	2nd Offense	\$25.00	
	3rd and each subsequent offense	\$50.00	

Chapter 200

Sewers

[HISTORY: Adopted by the Town of Lunenburg as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. **250**.

Board of Health regulations — See Ch. **300**.

Sewer use regulations — See Ch. **320**.

Subdivision regulations — See Ch. **325**.

Article I

Sewer Assessments

[Adopted as Art. IX, § 21, of the Town Bylaws]

§ 200-1 **Assessment method.**

The Sewer Commissioners shall assess sewer betterment assessments under MGL c. 83, § 14 by a rate based upon the uniform unit method, as provided by MGL c. 83, § 15, and shall assess 100% of the cost of sewer projects upon those who benefit from each project, unless another percentage is voted by Town Meeting, and amend its vote under Article 4 of the May 8, 1999, Annual Town Meeting to provide that assessments authorized by that vote under the fixed uniform rate be instead assessed under the uniform unit method provided by the bylaw.

§ 200-2 **Property subject to assessment; procedures.**

- A. General. Every person owning land abutting upon any way in which a main or common sewer has been laid out, and who enters or has entered his particular drain into such main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall be assessed under the provisions of MGL c. 83, § 14. The Sewer Commission shall have the power as set forth in MGL c. 83, § 15, when ascertaining assessments as a betterment for construction, to apply a rate based upon a uniform unit method. A uniform unit method shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served after having proportioned the cost of special and general benefit facilities.
- B. Assessments under this section shall be ascertained, assessed, certified and committed to the Town Treasurer by the Sewer Commission. Such assessments may be made for all sewers, lateral sewers, pump stations and appurtenant works. Sewer betterment assessments and any sewer betterment policies which are adopted by the Town under MGL c. 80 and MGL c. 83 for particular public sewer construction projects shall follow the procedures set out herein below.

C. Method of assessment: uniform unit.

- (1) The Town of Lunenburg shall assess sewer betterments based upon a uniform unit method. Each unit shall be equal to a single-family residence. Multiple-family buildings and nonresidential buildings as described herein shall be converted into units on the basis of residential equivalents. The total assessment for a particular sewerage construction project shall not be based on or limited by an estimated betterment. Revenue generated by said betterment assessment shall be equal to or shall cover the total project costs associated with design and construction of the sewers and pumping station, and appurtenant work.
- (2) The Town shall levy assessments against all properties abutting a sewer street after acceptance of the entire pertinent construction contract(s), including finalization of all pertinent contractual documents. The date of acceptance shall be determined by the Sewer Commission. In the order of assessment, the Town shall designate the owner of each parcel on the preceding January 1 as liable for assessment under the provisions of the General Laws.
- (3) For assessment purposes, all properties receiving direct benefit from the sewerage system shall be converted into sewer units. Properties receiving direct benefit, either developed or undeveloped, shall be designated a number of sewer units under the following guidelines:
 - (a) Single-family dwellings shall comprise one sewer unit.
 - (b) Multiple-unit residential properties shall comprise a number of sewer units based on the following methodology:
 - [1] Residential properties such as apartments or multifamily homes shall be assessed one sewer unit for each apartment with more than three rooms. Residential units comprised of three rooms or less shall be assessed 1/2 of one sewer unit for each such unit.
 - [2] Residential condominium complexes shall be assessed one sewer unit for each dwelling unit.
- (4) Subdivisions shall be assessed one sewer unit for each buildable lot, except that a subdivision which, pursuant to subdivision regulations of the Town of Lunenburg, agreed to install and by the appropriate assessment date for betterments has actually installed a dry system in said subdivision shall not be assessed a sewer betterment fee per lot but shall be assessed a sewer privilege fee as set by § **200-3** hereinbelow. Certain lots not involving actual subdivision shall also be assessed as provided in § **200-4C** herein below.
- (5) Nonresidential uses.
 - (a) Nonresidential buildings, which shall include all industrial, commercial and municipal properties, shall comprise a number of sewer units based upon water consumption as follows:

Sewer units = Nonresidential water usage (gpd)/300 (gpd) (rounded up to the next whole number)

Nonresidential buildings not metered for water use shall be assigned a water consumption volume based on Title 5 (Part 2, Section 13) of the State Environment Code of the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

- (b) When a single structure or building contains a nonresidential use and a residential use and neither use is accessory to the other and the nonresidential use does not receive municipal water service, such mixed-use structure shall be charged a betterment only for the residential unit or use. This provision shall not apply in the following zoning districts as defined in the Town Zoning Bylaw: Retail Commercial; Commercial; Office Park and Industrial.
- (6) Undeveloped residential lots shall be converted into dwelling units on the basis of maximum number frontage and area requirements as directed in the Zoning Bylaw in effect at the time of assessment. Each potential dwelling unit shall then comprise one sewer unit; the owner of an undeveloped lot may apply pursuant to MGL c. 83, § 19 to extend the time for payment as provided in § **200-5** herein below. In addition, land classified as agricultural, horticultural, recreation, or forest land, upon the application of the owner, may have the betterment assessment suspended for so long as the land is devoted to that use pursuant to MGL c. 61A, § 18, MGL c. 61B, § 13, and MGL c. 61, § 5.
- (7) Undeveloped nonresidential lots shall be converted into development lots on the basis of the maximum number of lots that may be created based upon the frontage and area requirements as required in the Zoning Bylaw in effect at the time of assessment. Each potential development lot shall then comprise one sewer unit. The owner of an undeveloped lot may apply pursuant to MGL c. 83, § 19 to extend the time for payment as provided in § **200-5** herein below. In addition, land classified as agricultural, horticultural, recreation, or forest land, upon the application of the owner, may have the betterment assessment suspended for so long as the land is devoted to that use pursuant to MGL c. 61A § 18, MGL c. 61B, § 13, MGL c. 61, § 5.
- (8) Nothing in this section shall supersede the language of § **200-3** herein below concerning a compensatory fee for increase in the use of the land.

D. Betterment payment.

- (1) Except as provided herein, the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer assessments shall apply. The Tax Collector of the Town of Lunenburg shall have all of the powers conveyed by the General Laws. In accordance with MGL c. 80, § 12, assessments made shall constitute a lien upon the land assessed until the full balance is paid. At the time of assessment, a property owner may select a payment schedule over a period of 10 years or 20 years if they so specifically request. Once a selection has been made, the payment method may not be changed at a later date; however, the balance of the principal due on any lien may be paid in full at any time.
- (2) Upon the transfer of title to a new owner, the seller/transferor shall immediately notify the Town Treasurer/Collector and Town Assessors. After transfer of title, the betterment lien may be transferred. The betterments may be paid in full to the Collector's office without interest or charges within 30 days of the date of assessment. With regard to apportionment, the interest rate charged by the Town shall be the project bond rate paid by the Town for the sewer project plus a flat fee of \$200, as allowed by Acts and Resolves of 1993, Commonwealth of Massachusetts, Chapter 433.

E. Abatements and deferrals.

- (1) Unbuildable lot.

- (a) A property owner may request of the Building Commissioner a formal written opinion which declares that under the then-current Town Zoning Bylaw, the lot(s) which has been assessed a sewer betterment is not buildable without issuance of one or more variances under the applicable Zoning Bylaw provisions. This letter must be filed permanently with the Building Commissioner and with the Zoning Board of Appeals. Upon issuance of the opinion, the property owner may then file an application for abatement with the assessing board, which shall include a certified copy of the Building Commissioner's opinion and which shall require a notarized statement that the owner and any subsequent purchaser or their assigns or agents shall not apply for a variance to make the lot buildable.
 - (b) A property owner may file a notice of intent to construct a dwelling with the Town Conservation Commission for one or more lots that have been assessed a sewer betterment. Following the regular hearing procedures of the Conservation Commission for any such notice, if the Commission issues a formal denial of the notice of intent to construct a dwelling, and if all such documents which are otherwise required by law to be filed with the Registry of Deeds have been so filed, then the property owner may file with the assessing board an appeal action for abatement so long as the owner did not appeal the denial. The appeal action shall include a certified copy of the denial of the notice of intent to construct a dwelling.
 - (c) All such abatements that are issued by the assessing board under this Subsection **D(1)** shall also be permanently filed with the offices of the Building Commissioner and the Conservation Commission. All applications and orders or opinions issued under this subsection shall state that the property owner has voluntarily requested that the property be found unbuildable and that the property owner fully understands all consequences stemming from such determination.
- (2) Age and income. A property owner may defer the betterment assessment as provided in MGL c. 80, § 13B, which has been accepted by the Town of Lunenburg, if they are 65 years of age or older and qualify under MGL c. 59, § 5, Clause 41A. However, the transfer of lien provision, § **200-4C**, betterment payments, shall not apply to deferrals as provided for in this section, in compliance with MGL c. 80, § 13B.

§ 200-3 Compensatory sewer privilege fee.

Notwithstanding the above provisions of this Sewer Assessment Bylaw, if a betterment has (i) been assessed to a property based upon the estimated number of developable sewer units as required by this article or a sewer betterment policy adopted by the Sewer Commission and said property is ultimately developed to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, and/or (ii) been assessed to a developed parcel and later in time the use of that parcel is increased to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, then the Town shall assess a compensatory sewer privilege fee to reflect the increased use. This fee shall be equivalent to the amount that would have been charged as a betterment assessment upon the additional uses or units at the time of the original assessment. Apportionment of this fee shall be permitted only if specifically requested at the time of assessment and only for a period of 10 years or less. Apportioned sewer privilege fees shall bear interest at the same rate charged for the most recent Town sewer project betterments.

§ 200-4 Payment for sewers connecting with common sewer or main drain.

- A. Whenever any land is connected with a common sewer or main drain laid out by the Sewer Commission in a public way, the Commission shall, at the expense of the Town, lay the particular sewer providing

such connection from the common sewer or main drain to the boundary of the way. When a common sewer or main drain is constructed in a public way, the Sewer Commission may lay such particular sewers from the common sewer or main drain to the boundary of such way as may be necessary, in the opinion of the Sewer Commission, to connect land abutting on such way with such main drain or common sewer. The owner of any land having direct access to a main drain or common sewer via a sewer constructed to the boundary of a public way as aforesaid may make application to the Sewer Commission to connect any buildings on said land to the common sewer. Any such connection as may be approved by the Sewer Commission shall be in accordance with all rules and regulations as may be from time to time promulgated by the Sewer Commission.

- B. The owner of any land benefited by the layout of a particular sewer from the common sewer to the boundary of the way shall pay to the Town, for the permanent privilege of using the same, such reasonable amount as the Sewer Commission may determine, under the provisions of MGL c. 83, § 24; and the amount so determined shall be assessed, certified and committed to the Town Treasurer by the Sewer Commission.
- C. Notwithstanding the provisions of § 200-2 hereinabove and Subsections **A** and **B** of this section, the owner(s) of a subdivision which, pursuant to the regulations of the Planning Board, has/have been required to construct a sanitary sewer, shall not be assessed a sewer betterment fee but shall be assessed a sewer privilege fee on a per-lot basis in lieu of a betterment. Such fee shall be assessed at the time that the subdivision dry sewer is connected to the main sewer and may be subject to apportionment. In addition, regardless of whether or not a subdivision is involved, any applicant for a sewer extension permit shall, at the time such sewer extension is completed, pay such privilege fee. The fee shall be determined by the Sewer Commission and shall not exceed 100% of the betterment for the most recent Town sewer project.

§ 200-5 Land not built upon; extension of time for assessment.

Any land not built upon at the time of a sewer betterment assessment may, upon application of the landowner, receive an extension of time for the payment of the assessment until the land is built upon. Interest at the rate of 4% per year shall be paid annually upon the assessment from the time it was made. The assessment shall be paid within three months after such land is built upon.

§ 200-6 Maintenance of sewer works.

- A. Main drains and common sewers. It shall be the responsibility of the Sewer Department to maintain all main drains and common sewers in the Town of Lunenburg. Privately built main drains, common sewers, and appurtenances, including pumps, pumping stations and force mains, etc., shall not be maintained by the Town unless and until said main drains, common sewers and all appurtenances have been accepted by the Sewer Commission and ownership of and access to, said main drains, common sewers and appurtenances has been granted by the owner thereof to the Sewer Department.
- B. Sewer services and sewer connections. It shall be the sole responsibility of the property owner to maintain all connection pipes and any other components necessary to connect the buildings or structures on said property to the main drain or common sewer, including the physical connection ("Y" or "T" connection or entry to a manhole) to the main drain or common sewer and the main or mains running from the main drain or common sewer to the property line of the property owner.

Sewer Use

[Adopted 7-26-2010 (Art. XXIV of the Town Bylaws)]

§ 200-7 Statutory provisions.

Notwithstanding Chapter 83 of the General Laws or any other general or special law to the contrary, this act shall be the Sewer Bylaw of the Town of Lunenburg.

§ 200-8 Definitions.

For the purposes of this bylaw, the following words shall have the following meanings unless the context clearly requires otherwise:

AVAILABLE CAPACITY

Flow that is available via intermunicipal agreement or other sources that has not been previously allocated by the Sewer Commission.

BISECTED LOT

Property in which the line defining the sewer service area passes through the lot.

COMMISSION

The Board of Sewer Commissioners.

PROTECTIVE BY-LAW

The Zoning Bylaw of the Town of Lunenburg.

RESERVE CAPACITY

The flow capacity reserved for use by property owners along the sewer ways.

SEWER SERVICE AREA

The geographical areas of the Lunenburg sewer service area with boundaries as delineated on the Sewer Service Area Map.

SEWER SERVICE AREA MAP

The map approved by the Town Meeting vote on May 2, 2009, as may be amended from time to time by vote of the Town Meeting, delineating the sewer service area and sewer service zones.

SEWER SERVICE ZONE

An area located within the sewer service area and delineated on the Sewer Service Area Map.

§ 200-9 Purpose.

It shall be the purpose of this bylaw to regulate the connections to and extensions of the Town's sewer system in order to preserve and manage limited treatment capacity pursuant to intermunicipal agreements. Priority shall be given to providing solutions for wastewater problems within the sewer service area, including, but not limited to, failed septic systems with poor site conditions for upgrades.

§ 200-10 Sewer service area.

The Town of Lunenburg, acting by and through the Commission, may lay out, plan, construct, maintain and operate a system of common sewers within the sewer service area. The provision of sewer service within the sewer service area shall be under the jurisdiction and control of the Commission. No person shall extend or construct a sanitary sewer intended to be connected to a municipal common sewer to serve property, or any

portion of a property, located outside the designated sewer service area. Prior to the initiation of a sewer project in any sewer service zone and prior to submitting an appropriation request to the Town, the Sewer Commission shall survey the landowners in the sewer service area to determine whether a minimum of 2/3 of all affected owners support the installation of sewer service.

§ 200-11 Connection eligibility; location of connections.

- A. Developed parcels of land or portions of parcels of land located within a sewer service zone that abut a public way in which a sewer has been laid shall be eligible to connect existing buildings to the sanitary sewer unless the property is subject to a waiver deed restriction. Any undeveloped single-family, commercial or industrial lot or any undeveloped parcel of land created out of a preexisting developed lot, provided that it has at least 50 feet of frontage along the sewered way located within the sewer district and conforms to the Lunenburg Protective Bylaw, shall be eligible to connect and shall be limited to 330 gallons per day of capacity. Additional capacity for those parcels may be granted by a majority vote of the Sewer Commission, subject to available capacity. No property or portion of a property, located outside of service zones, shall be allowed to extend or construct a sanitary sewer. A lot bisected by a sewer service zone boundary line shall only install a sewer connection that serves buildings that are located within the sewer service zone lines.
- B. Sewer connections shall be located entirely on the property they are to serve. The connection must enter the property directly from the public way in which the sewer is located. No connections shall be allowed via an easement. A sewer line must remain within the parcel that it serves.

§ 200-12 Sewer extensions.

Owners of parcels of land or portions of parcels of land located within the sewer service area not presently served by a sewer may extend the existing sewer system to serve those parcels, but such extension shall be at the discretion of the Commission, subject to available capacity, and only if otherwise in compliance with law and with the conditions of any permits. Prior to granting approval for a sewer extension, the Commission may require the applicant to supply, at the applicant's own cost and expense, maps, plans, reports, specifications and other data which properly describe the proposed work. All development and construction shall be monitored in accordance with the "Monitoring and Inspection Procedures and Fee System of the Lunenburg Sewer Commission." Upon approval and prior to the commencement of work, the applicant may be required to post bonds, undertakings, guaranties and insurance policies in forms and amounts acceptable to the Commission to guarantee completion of the proposed work and restoration and to indemnify and save harmless the Town of Lunenburg and its officers, agents, servants and employees from damage or loss arising out of or in connection with the work.

§ 200-13 Reserve capacity.

At the time of finalization of the betterment for a sewer project, the 100% build-out utilization capacity shall be established consistent with the number of assessments and capacity allotment. Ninety percent of that total capacity shall be held in reserve by the Commission for future use by the assessed properties that are equitably entitled to such capacity.

§ 200-14 Allocation of capacity for change or expansion of use in existing facilities.

The Commission may allow for increased allocation for the change of use, or expansion of use which results in an increased sewage design flow, in existing facilities within the sewer service area, subject to available capacity and subject to the assessment of privilege fees by the Commission under MGL c. 83, §§ 17 and 20. For the purposes of this section and § **200-15**, a "change of use" or "expansion of a preexisting use" shall mean any undertaking on a property, whether involving material changes to structures or not, which results in

an increase of design flow on the property from the existing conditions pursuant to 310 CMR 15.000.

§ 200-15 Approval required for change or expansion of property use.

Any proposed change of use or expansion of preexisting use which results in an increase in flow allocation or change in type of flow, including, but not limited to, residential to commercial, or commercial to industrial, for a property within the sewer service area shall be reviewed by the Commission. An application completed by the property owner on a form approved by the Commission shall accurately and completely indicate the existing use and the proposed use and the associated flows calculated pursuant to Title V of 310 CMR 15.000. At the discretion of the Commission, applications may be approved by the Commission based on available capacity.

§ 200-16 Abandonment of septic systems at properties to be served by municipal sewer.

Within 30 days after connection to the sewer system, the on-site subsurface sewage disposal system shall be abandoned in accordance with the Lunenburg Board of Health regulations and Title V of 310 CMR 15.000.

§ 200-17 Amendments.

[Amended 5-7-2016 ATM by Art. 36]

The Sewer Commission will establish a draft of proposed changes during regular, properly posted open meetings. Once there is consensus on the proposed changes, a formal hearing will be scheduled and will take place over two regularly scheduled meetings. Both hearings will be televised. A notice of the hearing will be put in a local newspaper at least five business days prior to the hearing dates. At the discretion of the Sewer Commission, the hearing may be continued to the next consecutive open, regularly scheduled meeting. Once the hearing is closed, the final changes will be drafted and voted on. The proposed and approved changes will be posted on the Commission's Town website.

Chapter 204

Stormwater and Storm Sewers

[HISTORY: Adopted by the Town of Lunenburg 11-28-2017STM by Art. 20. Amendments noted where applicable.]

§ 204-1 Stormwater management; NPDES Phase II permits.

[Amended 11-17-2020STM by Art. 20]

A. Purpose and intent.

- (1) Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Lunenburg's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated storm water runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater which result in the contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; and flooding. This bylaw establishes minimum storm water management standards for the final conditions that result from development and redevelopment projects to minimize adverse impacts off-site and downstream which would be borne by abutters, townspeople and the general public.
- (2) This regulation requires local review and approval of a storm water management plan for all

development and redevelopment projects that disturb one acre or more. In addition to these regulations, the owner and/or developer is also obligated to meet the requirements of the Federal Environmental Protection Agency's (EPA) regulations for storm water management.

- B. The following definitions shall apply in the interpretation and implementation of this Bylaw. Additional definitions may be adopted by separate regulation:

ACRE

Forty-three thousand, five-hundred and sixty square feet (43,560 sq. ft.).

AGRICULTURAL USE

The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations.

ALTER

Any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns. Alter may be similarly represented as "alteration of drainage characteristics," and "conducting land disturbance activities."

APPLICANT

Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Storm water Management Permit for proposed land-disturbance activity.

BEST MANAGEMENT PRACTICE (BMP)

Structural, non-structural and managerial techniques that are recognized to be the most effective and practical means to prevent and/or reduce increases in storm water volumes and flows, reduce point source and nonpoint source pollution, and promote storm water quality and protection of the environment. "Structural" BMPs are devices that are engineered and constructed to provide temporary storage and treatment of storm water runoff. "Nonstructural" BMPs use natural measures to reduce pollution levels, do not require extensive construction efforts, and/or promote pollutant reduction by eliminating the pollutant source.

BETTER SITE DESIGN

Site design approaches and techniques that can reduce a site's impact on the watershed through the use of nonstructural storm water management practices. Better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover, and using natural features for storm water management.

CERTIFICATE OF COMPLETION

Document issued by the Town of Lunenburg Planning Board, its employees, or authorized agents upon receipt of a final inspection report and acknowledgement that all conditions of the Storm water Management Permit have been satisfactorily completed.

ENFORCEMENT ORDER

A written order issued by the Town of Lunenburg to enforce the provisions of this Article.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM

The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Lunenburg, MA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by the EPA or jointly with the Commonwealth of Massachusetts that authorizes the discharge of storm water to waters of the United States.

NEW DEVELOPMENT

Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in a total disturbance of land equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of Redevelopment.

NONPOINT SOURCE POLLUTION

Pollution from many diffuse sources caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into water resource areas.

OWNER

A person with a legal or equitable interest in property.

PERSON

Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Lunenburg and any other legal entity, its legal representatives, agents, or assigns.

POST-DEVELOPMENT

The conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land. Post-development refers to the phase of a new development or redevelopment project after completion, and does not refer to the construction phase of a project.

PRE-DEVELOPMENT

The conditions that exist at the time that plans for the land development of a tract of land are submitted to the Lunenburg Conservation Commission or Planning Board. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first plan submission shall establish predevelopment conditions.

RECHARGE

The replenishment of underground water reserves.

REDEVELOPMENT

Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in total disturbance of land equal to or greater than 1 acre (or activities that are part of a larger common plan of redevelopment disturbing greater than 1 acre) that does not meet the definition of New Development.

STORMWATER AUTHORITY

The Town of Lunenburg Planning Board or its authorized agent(s). The Planning Board is responsible for coordinating the review, approval and permit process as defined in this Bylaw.

STORMWATER MANAGEMENT PERMIT (SMP)

A permit issued by the Planning Board after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated storm water runoff.

WATERS OF THE COMMONWEALTH

All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.

WETLAND RESOURCE AREAS

Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in the Town of Lunenburg Article XXI General Wetlands Protection Bylaw, as amended.

C. The objectives of this bylaw are:

- (1) To require practices to control the flow of storm water from new and redeveloped sites to the Town's storm drainage system in order to prevent flooding and erosion;
- (2) To protect groundwater and surface water from degradation;
- (3) To promote groundwater recharge;
- (4) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
- (5) To ensure adequate long-term operation and maintenance of structural storm water best management practices so that they work as designed;
- (6) To comply with state and federal statutes and regulations relating to storm water discharges;
- (7) To establish Lunenburg's legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

- (8) Establish regulations of land development activities that preserve the health of water resources.
- (9) Require that the amount and quality of storm water runoff from new development is equal to or better than pre-development conditions in order to reduce flooding, stream erosion, pollution, property damage and harm to aquatic life.
- (10) Establish storm water management standards and design criteria to control the quality and quantity of storm water runoff.
- (11) Encourage the use of low-impact development practices, such as reducing impervious cover and preserving greenspace and other natural areas.

D. Applicability. No person may undertake a construction activity following the effective date of this Bylaw, including clearing, grading and excavation that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one acre of land without a permit from the permit granting authority. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity or the original purpose of the site. Construction activities that are exempt are:

- (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation, 310 CMR 10.04;
- (2) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling;
- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (4) Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;

E. Permits and procedures.

- (1) The permit granting authority (PGA) under this bylaw shall be the Lunenburg Planning Board. Such permit shall be granted if the PGA determines, in conjunction with the Conservation Commission, Department of Public Works, Board of Health and Building Commissioner, that the intent of this bylaw, as well as specific criteria, are met. The PGA shall not grant a special permit under this section unless the petitioner's application materials include, in the PGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The PGA shall document the basis for any departures from the recommendations of the other Town boards or departments in its decision.
- (2) The site owner or his agent shall file with the PGA 13 copies of a completed application package for a storm water management permit (SMP). Permit issuance is required prior to any site-altering activity. While the applicant can be a representative, the permittee must be the owner of the site. The SMP application package shall include:
 - (a) A completed application form with original signatures of all owners;

- (b) Thirteen copies of the storm water management plan and project description as specified in Section F of this Bylaw;
 - (c) Thirteen copies of the erosion and sediment control plan as required by Section G of this Bylaw;
 - (d) Thirteen copies of the operation and maintenance plan as required by Section H of this Bylaw.
 - (e) Payment of the application and review fees.
 - (f) A Certified List of Abutters within 300 feet of the property boundaries, obtained from the Assessor's Office, along with 2 stamped envelopes for each unique abutter contained in the list. Abutters located in other communities and within 300 feet of the property boundaries must also be included.
 - (g) A PDF file or files containing all application materials and plans emailed to the Planning Board Office.
- (3) Entry. Filing and application for a permit grants the PGA, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting permit.
- (4) Other boards. The PGA shall give one copy of the application package to the designated technical reviewers, which include the Conservation Commission, Department of Public Works, and Building Commissioner, for the purpose of reviewing the permit application. The PGA may also engage the services of a peer review engineer at its discretion.
- (5) Fee structure. The PGA shall obtain with each submission an application fee established by the PGA. To assist the PGA in its review of plans during the Permit approval process, the PGA, at its discretion may hire an engineer or other qualified professional to act as a consultant to the Board. The cost of these consultant services shall be paid by the Applicant and the PGA will not sign any Permit decision until all consulting fees are paid in full. Applicants must pay the following fees before the permitting process may begin:
- (a) Application Fee \$100/Acre rounded up to the nearest acre (Maximum fee is \$1,000).
 - (b) Application fee for an amendment \$100.
 - (c) Fees for a professional peer review Assessed on a case by case basis.
- (6) Actions. The PGA's action, rendered in writing, shall consist of either:
- (a) Approval of the storm water management permit application based upon determination that the proposed plan meets the standards in Subsection **F(2)** and will adequately protect the water resources of the community and is in compliance with the requirements set forth in this bylaw;
 - (b) Approval of the storm water management permit application subject to any conditions, modifications or restrictions required by the SPGA which will ensure that the project meets the standards in Subsection **F(2)** and adequately protects water resources, as set forth in this bylaw;
 - (c) Disapproval of the storm water management permit application based upon a determination that the proposed plan, as submitted, does not meet the standards in Subsection **F(2)** or adequately protect water

resources, as set forth in this bylaw.

- (7) Project completion. At completion of the project, the permittee shall submit as-built record drawings of all structural storm water controls and treatment best management practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a registered professional engineer.

F. Contents of storm water management plan.

- (1) Application. The storm water management plan shall contain sufficient information for the PGA to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from storm water. The plan shall be designed to meet the storm water management standards as set forth in Subsection **F(2)** below and the current edition of the Department of Environmental Protection guidelines and policies. The plan shall be designed to also meet the policy standards of the PGA. The storm water management plan shall fully describe the project in drawings, and narrative. It shall include, at a minimum:
 - (a) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
 - (b) Locus map;
 - (c) The existing zoning, and land use at the site;
 - (d) The proposed land use;
 - (e) The location(s) of existing and proposed easements;
 - (f) The location of existing and proposed utilities;
 - (g) The site's existing and proposed topography, with contours at one or two-foot intervals and additional spot grades as needed to depict detailed drainage patterns;
 - (h) The existing site hydrology (both groundwater recharge and surface runoff);
 - (i) A description and delineation of existing storm water conveyances, impoundments, wetlands drinking water resource areas, sewage disposal systems, swimming beaches, or other critical environmental resource areas, on or adjacent to the site or into which storm water flows;
 - (j) Description of subsurface conditions in areas to be used for storm water retention, detention, or infiltration;
 - (k) A delineation of one-hundred-year floodplains, if applicable;
 - (l) Estimated high groundwater elevation in areas to be used for storm water retention, detention, or infiltration, determined as outlined in 310 CMR 15.103;
 - (m) The existing and proposed vegetation and ground surfaces, with runoff coefficient for each;

- (n) A drainage area map showing pre- and post-construction watershed boundaries, drainage area and storm water flow paths;
- (o) A description and drawings of all components of the proposed drainage system, including:
 - [1] Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - [2] All measures for the detention, retention, or infiltration of water;
 - [3] All measures for the protection of water quality;
 - [4] The structural details for all components of the proposed drainage systems and storm water management facilities;
 - [5] Notes on drawings specifying materials to be used, construction specifications, and typicals; and
 - [6] Analysis of existing and proposed hydrology with supporting calculations;
 - [7] Calculations supporting the estimate of storm water treatment performance; and
 - [8] Calculations supporting the design of infiltration practices, including design infiltration rates, estimated dewatering times, and mounding analyses, where applicable.
- (p) Proposed improvements, including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
- (q) Timing, schedules, and sequence of development, including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;
- (r) A maintenance schedule for the period of construction;
- (s) Storm water runoff shall be calculated using latest Northeast Regional Climate Center (NRCC) extreme precipitation amounts for recurrence intervals (storm events) 2-, 10-, 25-, 50- and 100-year frequencies;
- (t) An Erosion and Sediment Control Plan as detailed in Section G;
- (u) An Operation and Maintenance Plan as detailed in Section H; and,
- (v) Any other information requested by the PGA.
- (2) Standards. Projects shall meet the standards of the Massachusetts Storm water Management Policy, which are as follows:
 - (a) No new storm water conveyances (e.g., outfalls) may discharge untreated storm water directly to or cause erosion in wetlands or water of the commonwealth;
 - (b) Low Impact Development (LID) site planning and design strategies must be implemented if practicable

in order to reduce the discharge of storm water from development sites;

- (c) Storm water management system design shall be consistent with the intent and guidance provided by the latest Massachusetts Storm water Handbook and per industry standard methods. While design should be completed per Massachusetts Storm water Handbook specifications to the fullest extent feasible, the PGA reserves the right to waive and/or modify minor disparities between the design and the Massachusetts Storm water Handbook on a project-specific basis.
- (d) Storm water management systems on new development shall be designed to meet an average annual pollutant removal equivalent to 90% of the average annual load of Total Suspended Solids (TSS) related to the total post-construction impervious area on the site AND 60% of the average annual load of Total Phosphorus (TP) related to the total post-construction impervious surface area on the site.
 - [1] Average annual pollutant removal requirements in E.2.(d) are achieved through one of the following methods:
 - [a] Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., State storm water handbooks and design guidance manuals) may be used to calculate BMP performance; or
 - [b] Retaining the volume of runoff equivalent to, or greater than, 1.0 inch multiplied by the total post-construction impervious surface area on the new development site; or
 - [c] Meeting a combination of retention and treatment that achieves the above standards; or
 - [d] Utilizing offsite mitigation that meets the above standards within the same USGS HUC12 as the new development site.
 - (e) Storm water management systems on redevelopment sites shall be designed to meet an average annual pollutant removal equivalent to 80% of the average annual post construction load of TSS related to the total post-construction impervious area on the site AND 50% of the average annual load of TP related to the total post-construction impervious surface area on the site.
 - [1] Average annual pollutant removal requirements in E.2.(e) are achieved through one of the following methods:
 - [a] Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance, then any federally or State-approved BMP design guidance or performance standards (e.g., State storm water handbooks and design guidance manuals) may be used to calculate BMP performance; or
 - [b] Retaining the volume of runoff equivalent to, or greater than, 0.8 inches multiplied by the total post-

construction impervious surface area on the redevelopment site; or

- [c] Meeting a combination of retention and treatment that achieves the above standards; or
- [d] Utilizing offsite mitigation that meets the above standards within the same USGS HUC12 as the redevelopment site.
- (f) Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from part Section F.2.(e). Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of Section F.2.(e).
- (3) Project changes. The permittee, or its agent, shall notify the PGA in writing of any change or alteration of a land-disturbing activity authorized in a storm water management permit before any change or alteration occurs. If the PGA determines that the change or alteration is significant, based on the design standards listed in Subsection **F(2)** and accepted construction practices, the PGA may require that an amended storm water management permit application be filed and a public hearing held. If any change or deviation from the storm water management permit occurs during a project, the PGA may require the installation of interim measures before approving the change.
- G. Erosion and sediment control plans. An erosion and sediment control plan is required at the time of application for all projects. The erosion and sediment control plan shall contain sufficient information about the nature and purpose of the proposed development, pertinent conditions of the site and adjacent areas, proposed erosion and sedimentation controls, and proposed control for other wastes on construction sites such as demolition debris, litter, and sanitary wastes to ensure they are not discharged to the MS4, drainage system, or waters of the commonwealth. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements as follows:
 - (1) Minimize total area of disturbance.
 - (2) Sequence activities to minimize simultaneous areas of disturbance.
 - (3) Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control.
 - (4) Divert uncontaminated water around disturbed areas.
 - (5) Maximize infiltration and groundwater recharge.
 - (6) Install, inspect, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices.
 - (7) Prevent off-site transport of sediment and wastes.

- (8) Protect all storm drain inlets and armor all newly constructed outlets.
 - (9) Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project).
 - (10) Comply with applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control.
 - (11) Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than fourteen (14) days after construction activity has temporarily or permanently ceased on that portion of the site.
 - (12) Properly manage on-site construction waste and materials.
 - (13) Stabilize construction site entrances and exits and prevent off-site vehicle tracking of sediments.
 - (14) Ensure that any storm water BMP (for post-construction storm water management) installed during construction will be protected from compaction, siltation, and erosion or will be restored or replaced such that the BMP will be capable of functioning as designed in accordance with these storm water regulations.
- H. Operation and maintenance plans. An operation and maintenance plan (O&M plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the permit, this bylaw and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system. The operation and maintenance plan shall remain on file with the PGA and shall be an ongoing requirement. The O&M plan shall include:
- (1) The name(s) of the owner(s) for all components of the system.
 - (2) Maintenance agreements that specify:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance.
 - (b) The person(s) responsible for financing maintenance and emergency repairs.
 - (3) Maintenance schedule for all drainage structures, including swales and ponds.
 - (4) List of easements, with the purpose and location of each.
 - (5) The signature(s) of the owner(s).
 - (6) Storm water management easement(s).
 - (a) Storm water management easements shall be provided by the property owner(s) as necessary for:
 - [1] Access for facility inspections and maintenance.
 - [2] Preservation of storm water runoff conveyance, infiltration, and detention areas and facilities, including

flood routes for the one-hundred-year storm event.

- [3] Direct maintenance access by heavy equipment to structures requiring regular cleanout.
- (b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
- (c) Storm water management easements are required for all areas used for off-site storm water control, unless a waiver is granted by the PGA.
- (d) Easements shall be recorded with the Worcester County Registry of Deeds prior to issuance of a certificate of completion by the PGA.
- (7) Changes to operation and maintenance plans.
 - (a) The owner(s) of the storm water management system must notify the PGA of changes in ownership or assignment of financial responsibility.
 - (b) The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the PGA and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include the owner(s), persons with financial responsibility, and persons with operational responsibility.
- (8) Storm water infrastructure shall be privately owned, inspected and maintained per the operation and maintenance plan approved for the project. Inspection and maintenance logs shall be provided to the Planning Board on a yearly basis by final day in June for the Town to use in preparation of its annual report to the EPA as part of the NPDES permit requirements.
- (9) The O&M Plan shall include procedures for using dedicated funds, establishing an escrow account, and/or developing a maintenance contract, if determined appropriate to ensure adequate long-term maintenance.
- (10) Stormwater Management operation and maintenance duties shall be recorded with the deed for each lot in a subdivision. The applicant may elect to setup a home owner's association (HOA) or other means to ensure all BMPs are inspected and maintained as required.
- (11) Long-term operators responsible for O&M Plan implementation shall submit an annual report to the Planning Board documenting all inspection and maintenance completed on the storm water system.
- I. Surety. The PGA may require the permittee to post, before the start of land disturbance or construction activity, a surety bond, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the PGA to ensure that the work will be completed in accordance with the permit. If the project is phased, the PGA may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the PGA has received the final inspection report as required by Section J and issued a certificate of completion.

J. Inspections.

- (1) At the discretion of the PGA, periodic inspections of the storm water management system construction may be conducted by the Town via the Planning Board, Conservation Commission, DPW or a professional engineer approved by the PGA. Written reports shall include:
 - (a) Inspection date and location.
 - (b) Evaluation of compliance with the storm water permit.
 - (c) Any variations from approved specifications or any violations of the storm water management plan.
- (2) At a minimum, the PGA or its designee may inspect the project site at the following stages:
 - (a) Initial site inspection: prior to approval of any plan.
 - (b) Erosion control inspection: to ensure erosion control practices are in accord with the filed plan.
 - (c) Bury inspection: prior to backfilling of any underground drainage storm water conveyance structures.
 - (d) Final inspection. After the storm water management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The PGA or its agent may inspect the system to confirm its "as-built" features. This inspector may also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate he shall so report to the PGA, which will issue a certificate of completion. As-built plans shall be full-size plans that include all final grades, prepared by a professional engineer. All changes to project design should be clearly depicted on the as-built plans.
 - (e) If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the storm water management plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act, the Town of Lunenburg may use the surety bond to complete the work. If the system does not comply with the plan, the permittee shall be notified in writing of the violation and the required corrective actions. A stop-work order shall be issued until any violations are corrected and all work previously completed has received approval by the PGA.

K. Waivers.

- (1) The PGA may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where such action:
 - (a) Is allowed by federal, state and local statutes and/or regulations;
 - (b) Is in the public interest; and
 - (c) Is not inconsistent with the purpose and intent of this bylaw.
- (2) Any applicant may submit a written request to be granted such a waiver. Such a request shall be

accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaws does not further the purposes or objectives of this bylaw.

- (3) All waiver requests shall be discussed and voted on at the public hearing for the project.
 - (4) If, in the PGA's opinion, additional time or information is required for review of a waiver request, the PGA may continue the hearing to a date certain announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.
- L. Certificate of completion. The PGA will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this bylaw.
- M. Building Permits. The Building Commissioner shall not issue a Building Permit without first confirming that a Storm water Permit has been obtained or is otherwise not required for the project.
- N. Enforcement.
- (1) Enforcement agents. The Building Commissioner, in conjunction with the Planning Board, Conservation Commission and DPW Director, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- O. Civil relief. If a person violates the provisions of this bylaw, regulations, a permit, notice, or order issued thereunder, the Planning Board, through the Building Commissioner, may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- P. Orders.
- (1) The Planning Board, in conjunction with the Conservation Commission and DPW Director, may issue a written order to the Building Commissioner to enforce the provisions of this bylaw or the regulations thereunder, which may include:
 - (a) Elimination of illicit connections or discharges to the MS4;
 - (b) Performance of monitoring, analyses, and reporting;
 - (c) That unlawful discharges, practices, or operations shall cease and desist;
 - (d) Remediation of contamination in connection therewith.
 - (2) If the Building Commissioner, in conjunction with the Planning Board, Conservation Commission and DPW Director, determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.

(3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the cost incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within 30 days of receipt of the notification of the cost incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due.

Q. Noncriminal disposition; right of entry.

(1) As an alternative to criminal prosecution or civil action, the Planning Board may elect, through the Building Commissioner, to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and Chapter 1, Article 1, of the General Bylaws of the Town, in which case the Planning Board, its authorized agents and the Building Commissioner of the Town shall be the enforcing person. The penalty for the first violation shall be \$25. The penalty for the second violation shall be \$50. The penalty for the third violation shall be \$100 and \$200 for the fourth and each subsequent violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

(2) Entry to perform duties under this bylaw. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board, its agents, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examination surveys or sampling as the Planning Board deems reasonably necessary.

R. Appeals. The decisions or orders of the Planning Board, in conjunction with the Conservation Commission and DPW, shall be final. Further relief shall be to a court of competent jurisdiction.

S. Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.

T. Severability. The invalidity of any section, provision, paragraph, sentence, or clause of these regulations shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

§ 204-2 Discharges to municipal storm sewer system and waters of commonwealth; NPDES Phase II permits.

A. Purpose.

(1) Increased and contaminated storm water runoff is a major cause of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; alteration or destruction of aquatic and wildlife habitat; flooding.

(2) Regulation of illicit connections and discharges to the municipal storm sewer system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety,

welfare and the environment.

(3) The objectives of this bylaw are:

- (a) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4);
- (b) To prohibit illicit connections and unauthorized discharges to the MS4;
- (c) To require the removal of all such illicit connections;
- (d) To comply with state and federal statutes and regulations relating to storm water discharges; and
- (e) To establish the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

B. Definitions. For the purposes of this bylaw, the following shall mean:

AUTHORIZED ENFORCEMENT AGENCY

The Planning Board (hereafter the "Board"), its employees or agents designated to administer/enforce this bylaw.

BEST MANAGEMENT PRACTICE (BMP)

An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEAN WATER ACT

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DISCHARGE OF POLLUTANTS

The addition from any source of any pollutant or combination of pollutants into the municipal storm sewer system or into the waters of the United States or commonwealth from any source.

GROUNDWATER

Water beneath the surface of the ground.

ILLICIT CONNECTION

A surface or subsurface sewer or conveyance, which allows an illicit discharge into the municipal storm sewer system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this bylaw.

ILLICIT DISCHARGE

Direct or indirect discharge to the municipal storm sewer system that is not composed entirely of storm water, except as exempted in Subsection **H**. The term does not include a discharge in compliance with an NPDES storm water discharge permit or a surface water discharge permit, or resulting from fire-fighting activities exempted pursuant to Subsection **H** of this bylaw.

IMPERVIOUS SURFACE

Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) or MUNICIPAL STORM SEWER SYSTEM

The system of conveyances designed or used for collecting or conveying storm water, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Lunenburg.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT

A permit issued by United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE

Discharge to the municipal storm sewer system not composed entirely of storm water.

PERSON

An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POLLUTANT

Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the commonwealth. Pollutants may include but are not limited to:

- (1) Paints, varnishes, and solvents;
- (2) Oil and other automotive fluids;
- (3) Nonhazardous liquid and solid wastes and yard wastes;
- (4) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
- (5) Pesticides, herbicides, and fertilizers;
- (6) Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- (7) Dissolved and particulate metals;
- (8) Animal wastes;
- (9) Rock, sand, salt, soils;

- (10) Construction wastes and residues;
- (11) Noxious or offensive matter of any kind.

PROCESS WASTEWATER

Water which during manufacturing or processing comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

RECHARGE

The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

STORMWATER

Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

SURFACE WATER DISCHARGE PERMIT

A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

TOXIC OR HAZARDOUS MATERIAL OR WASTE

Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as toxic or hazardous under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER

Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

WATERCOURSE

A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH

All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, and groundwater.

- C. Applicability. This bylaw shall apply to flows entering the municipally owned storm sewerage system and waters of the commonwealth.
- D. Authority. This bylaw is adopted pursuant to the regulations of the Federal Clean Water Act found at 40 CFR 122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

- E. Responsibility for administration. The Planning Board, in conjunction with the Conservation Commission, Department of Public Works Director and Building Commissioner, shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the above may be delegated in writing by the above to employees or agents of the above.
- F. Regulations. The Planning Board may promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.
- G. Prohibited activities.
 - (1) Illicit discharges. No person shall dump, discharge, cause or allow to be discharged any pollutant or non-storm water discharge into the municipal separate storm sewer system (MS4), into a watercourse, or into the waters of the commonwealth.
 - (2) Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm sewer system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
 - (3) Obstruction of municipal storm sewer system. No person shall obstruct or interfere with the normal flow of storm water into or out of the municipal storm sewer system without prior written approval from the Planning Board.
- H. Exemptions:
 - (1) Discharge or flow resulting from fire-fighting activities.
 - (2) The following non- storm water discharges or flows are exempt from the prohibition of non- storm water, provided that the source is not a significant contributor of a pollutant to the municipal storm sewer system:
 - (a) Water line flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;

- (i) Discharge from landscape irrigation or lawn watering;
 - (j) Water from individual residential car washing;
 - (k) Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - (l) Discharge from street sweeping;
 - (m) Dye testing, provided verbal notification is given to the Planning Board prior to the time of the test;
 - (n) Non- storm water discharge permitted under an NPDES permit or a surface water discharge permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
 - (o) Discharge for which advanced written approval is received from the Planning Board as necessary to protect public health, safety, welfare or the environment.
- (3) Discharge or flow that results from exigent conditions and occurs during a state of emergency declared by any agency of the federal or state government, or by the Town of Lunenburg Town Manager, the Planning Board or the Board of Health.
- I. Emergency suspension of storm sewerage system access. The Planning Board may suspend municipal storm sewer system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the authorized enforcement agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.
- J. Notification of spills. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal fire and police departments and the Planning Board and the Lunenburg Board of Health. In the event of a release of nonhazardous material, the reporting person shall notify the Planning Board no later than the next business day. The reporting person shall provide to the Planning Board written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.
- K. Enforcement.

- (1) The Building Commissioner, in conjunction with the Planning Board, Conservation Commission and DPW Director, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- (2) Civil relief. If a person violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Planning Board, through the Building Commissioner, may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- (3) Orders.
 - (a) The Planning Board, in conjunction with the Conservation Commission and DPW Director, may issue a written order to the Building Commissioner to enforce the provisions of this bylaw or the regulations thereunder, which may include:
 - [1] Elimination of illicit connections or discharges to the MS4;
 - [2] Performance of monitoring, analyses, and reporting;
 - [3] That unlawful discharges, practices, or operations shall cease and desist; and
 - [4] Remediation of contamination in connection therewith.
 - (b) If the Building Commissioner, in conjunction with Planning Board, Conservation Commission and DPW Director, determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- (4) Costs. Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due.
- (5) Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Planning Board may elect, through the Building Commissioner, to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, in which case the Building Commissioner of the Town shall be the enforcing person. The penalty for the first violation shall be \$25. The penalty for the second violation shall be \$50. The penalty for the third violation shall be \$100. The penalty for the fourth violation and subsequent violations shall be \$200. Each day or part thereof that such violation occurs or continues shall constitute

a separate offense.

- (6) Entry to perform duties. Under this bylaw, to the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Planning Board, its agents, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Planning Board deems reasonably necessary.
 - (7) Appeals. The decisions or orders of the Planning Board, Conservation Commission and DPW shall be final. Further relief shall be to a court of competent jurisdiction.
 - (8) Remedies not exclusive. The remedies listed in this bylaw are not exclusive of any other remedies available under any applicable federal, state or local law.
- L. Severability. The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.
- M. Transitional provisions. Residential property owners shall have 180 days from the effective date of the bylaw to comply with its provisions or petition the Planning Board for an extension, provided good cause is shown for the failure to comply with the bylaw during the specified period. All other property owners shall have 180 days from the effective date of the bylaw to comply with its provisions or petition the Planning Board for an extension, provided good cause is shown for the failure to comply with the bylaw during the specified period.

Chapter 205

Streets and Sidewalks

[HISTORY: Adopted by the Town of Lunenburg as Art. V of the Town Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Excavations and earth removal — See Ch. 140.

Nuisances — See Ch. 176.

§ 205-1 **Games restricted.**

No person shall, within the limits of any street or highway in the Town, play at any game of ball or engage in any amusement, game or exercise interfering with the safe and convenient use of such streets or highways by travelers, except by the permission of the **Select Board (Selectmen)**.

§ 205-2 **Excavations or obstructions.**

[Amended 5-13-1987; 5-6-2017 ATM by Art. 34]

No person shall break or dig up the wrought part of any highway or street right-of-way, or place within the limits of any street or highway any obstruction or rubbish, stones, ashes, or any animal or vegetable

substance or offal, or move any building into or along the same, without a license from the **Select Board (Selectmen)**, the Town Manager (or equivalent), or DPW Director or his or her designated agent.

§ 205-3 Tying animals prohibited; injury to public property prohibited.

No person shall tie any animal to any ornamental or shade tree, vine or shrub in any street or on any public land, or to any structure put up for the protection of the same, or shall otherwise willfully or wantonly injure or deface any public building or any public grounds.

§ 205-4 Animals at large.

No owner, or person having the care of any swine, sheep, horses, mules, or neat cattle, shall allow the same to go at large in any highway or public place in the Town, except under proper restraint.

§ 205-5 Graffiti; disorderly conduct; loitering.

No person shall make any indecent figures or write indecent or obscene words upon, or mar, disfigure or deface any fence, building or other public place within the Town; and no person shall behave in a disorderly manner, or use any indecent or profane language in any street, lane, alley or other public place in the Town, or near any dwelling house or obstruct the free passage of foot travelers on such sidewalk; and no person shall saunter or loiter in a street in such a manner as to obstruct travelers; but nothing in this section shall be construed to curtail, abridge or limit the right of opportunity to any person to exercise the right of peaceful persuasion guaranteed by MGL c. 149, § 24, or to curtail, abridge or limit the intentment of any statute of the Commonwealth of Massachusetts. Whoever violates any portion of this bylaw shall be punished by a fine of not more than \$50 for each offense.

§ 205-6 License required for sales.

No person shall place any table, tent, booth, stall or other thing in a street, highway, sidewalk, or on any of the public grounds in the Town, for the sale of fruit, or any other things, without a license from the **Select Board Selectmen**.

§ 205-7 Damage to property prohibited.

No person shall wantonly injure, mar, deface, or destroy a fence, signboard, guidepost, guideboard, awning, lamp post, streetlight, or lantern in a street, highway or public place in the Town.

§ 205-8 Advertising restrictions.

No person shall nail, post or paste any advertisement or notice upon a shade tree, bridge, fence, guide post, electric light or telephone pole in the Town, or erect any advertising signboard within the Town limits without permission from the **Board Selectmen**.

§ 205-9 Vegetation.

No person shall set out, suffer or cause to be grown at or near the line of intersecting public ways any trees, shrubs, or bushes in such manner, or to such height, as will constitute an obstruction to the vision of persons operating motor vehicles along such ways.

§ 205-10 Alcoholic beverages.

[Amended 4-1979]

No person shall drink any alcoholic beverage as defined in MGL c. 138, § 1, or possess an opened container full or partially full of any alcoholic beverage, while on, in, or upon any public way, upon any way to which the public has a right of access, in any place to which members of the public have access as invitees or licensees, in any park or playground, conservation area or recreation area, on private land or place without consent of the owner or person in control thereof. Any person convicted of violating this bylaw shall be punished by a fine not exceeding \$200 for each offense.

§ 205-11 **Placement of snow and ice on public ways.**

[Amended 5-13-1987]

No person shall plow, shovel, or otherwise place snow, ice, and debris onto that portion of any public way which is open to travel. The punishment for violation shall be \$50.

§ 205-12 **Improvements impacting surface water volume.**

[Amended 5-14-1988 by Art. No. 55]

A permit is required to be issued by the DPW Director or his designated agent for improvements which increase the volume of surface water onto Town ways.

§ 205-13 **Fire lanes.**

No person shall leave an unauthorized vehicle unattended within the limits of private ways furnishing means of access for fire apparatus to any building.

Chapter 214

Taxicabs and Livery Vehicles

[**HISTORY: Adopted by the Town of Lunenburg as Art. II, § 14, of the Town Bylaws. Amendments noted where applicable.**]

§ 214-1 **Adoption of rules and regulations.**

The **Select Board (Board of Selectmen)** shall adopt rules and regulations for licensing of taxicabs, limousines and other related transportation services having their principal place of business within the Town of Lunenburg, including the establishment of fees and penalties.

Chapter 220

Trees

[**HISTORY: Adopted by the Town of Lunenburg as Art. IX, § 14, of the Town Bylaws. Amendments noted where applicable.**]

§ 220-1 **Replacement trees.**

Any time roadside trees are removed in connection with the reconstruction of a Town way, it shall become the responsibility of the Tree Warden to plant new trees in place thereof, the cost of same to be included each year in the budget of the Tree Warden.

Chapter 228

Vehicles, Recreational

[**HISTORY: Adopted by the Town of 5-13-1987 (Art. IX, § 18, of the Town Bylaws). Amendments noted where applicable.**]

GENERAL REFERENCES

Boats and boating — See Ch. 116.

Parks and recreation areas — See Ch. 182.

§ 228-1 Scope; definition.

This bylaw shall apply to all recreation vehicles within the limits of the Town of Lunenburg. "Recreation vehicles" are defined as any motor vehicle designed or modified for use over unimproved terrain if used for recreation or pleasure off a public way as defined in MGL c. 90, and all legally registered motor vehicles when used off a way, as defined under MGL c. 90; provided, however, that vehicles used for agriculture, forestry, lumbering or construction shall be excluded from this definition when used for such purpose; provided, further, that in any complaint brought under this chapter, the burden shall be upon the defendant to prove such use. Any motor vehicle legally registered under MGL c. 90 will not be subject to registration under this chapter but registration numbers shall be displayed as required by said MGL c. 90.

§ 228-2 Operating restrictions.

Recreation vehicles are restricted from all private properties except under the following conditions:

- A. The land is owned or leased by the owner of the recreation vehicle.
- B. The owner or user of the recreation vehicle carries on his person written permission of the landowner.

§ 228-3 Violations and penalties.

- A. Any person who violates any provision of this bylaw shall be fined an amount not to exceed \$50.
- B. For the purposes of this bylaw, each subsequent day or part thereof of violation of such bylaw, whether such violation of such be continuous or intermittent, shall be construed as a separate and succeeding offense.

Chapter 232

Vehicles, Unregistered

[HISTORY: Adopted by the Town of Lunenburg as Art. XVI of the Town Bylaws. Amendments noted where applicable.]

GENERAL REFERENCES

Farming — See Ch. 143.

Junk collectors — See Ch. 159.

Nuisances — See Ch. 176.

§ 232-1 Storage restrictions.

No person or firm shall keep or permit to be kept on any premises within the Town of Lunenburg more than one unregistered motor vehicle, assembled or disassembled, unless said vehicles are stored within an enclosed building.

§ 232-2 Special permits.

- A. A special permit to keep more than one unregistered motor vehicle on any premises not within an enclosed building, after a duly called public hearing to which all abutters to the premises have received notice, may be granted by the **Select Board (Board of Selectmen)**, if it finds that such keeping:

- (1) Is in harmony with the general purposes and intent of this bylaw;
 - (2) Will not adversely affect the neighborhood; and
 - (3) Will not be a nuisance.
- B. All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premise by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

§ 232-3 Exceptions.
[Amended 5-13-1987]

The provisions of this bylaw shall not apply to motor vehicles designed and used for farming purposes, nor to persons or firms in the lawful exercise of licenses granted under MGL c. 140, §§ 58 and 59, as amended.

§ 232-4 Violations and penalties.
[Amended 5-13-1989]

Whoever violates any provisions of this bylaw shall be liable to a penalty of \$300 per day for each day of violation.

Chapter 239

Wetlands Protection

[HISTORY: Adopted by the Town of Lunenburg 5-14-1988 STM by Art. 3; amended 1998 ATM by Art. 16 (Art. XXI of the Town Bylaws). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. **250**.

Subdivision regulations — See Ch. **325**.

Wetlands regulations — See Ch. **335**.

§ 239-1 Purpose and scope.

The purpose of this bylaw is to protect the wetlands, related water resources, and adjoining land areas in the Town of Lunenburg by prior review and control of activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture and recreation values deemed important to the community (collectively, the "wetland values protected by this bylaw"). This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional standards and procedures stricter than those of the Wetlands Protection Act, MGL c. 131, § 40, and regulations thereunder, 310 CMR 10.00.

§ 239-2 Jurisdiction.
[Amended 5-7-2016 ATM by Art. 43]

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall

commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; creeks; beaches; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to flooding; lands within 100 feet of any of the aforesaid resource areas; perennial rivers and streams and lands within 200 feet of such rivers and streams (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters. Lands within 100 feet of the aforesaid resource areas and within 200 feet of rivers or perennial streams located within the corporate boundary of Lunenburg shall be protected regardless of the location of the wetland with respect to the municipal corporate boundary.

§ 239-3 Conditional exemptions.

- A. The permit and application required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, any existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph or other telecommunications, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- B. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.
- C. The permit and application required by this bylaw shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Conservation Commission or its agent certifies the work as an emergency project, provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.
- D. Other than as stated in this section, the exemptions provided in the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00, shall not apply.

§ 239-4 Applications for permits and requests for determination.

- A. Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.
- B. The Commission in an appropriate case may accept as the permit application and plans under this bylaw

the notice of intent and plans filed under the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.

- C. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a request for determination (RFD) shall include information and plans as are deemed necessary by the Commission.
- D. At the time of a permit application or RFD, or application for a certificate of compliance, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
- E. Upon receipt of a permit application or RFD, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of a resource area survey and delineation, analysis of resource area functions, including wildlife habitat evaluations, hydrogeologic and drainage analysis, and environmental or land use law.
 - (1) The Commission may waive the filing fee, consultant fee, and costs and expenses for an application or RFD filed by a government agency.
 - (2) The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. The applicant shall pay the fee, to be put into a revolving fund which may be drawn upon by the Commission for specific consultant services approved by the Commission at one of its public meetings. This revolving account shall be authorized annually and the amount expended by the Commission from this fund shall be limited for the ensuing fiscal year.
 - (3) The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based on its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.
 - (4) The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.
 - (5) The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

Project Cost	Maximum Fee
Up to \$100,000	\$500
\$100,001 to \$500,000	\$2,500
\$500,001 to \$1,000,000	\$5,000
\$1,000,001 to \$1,500,000	\$7,500
\$1,500,001 to \$2,000,000	\$10,000

Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged at an additional

Project Cost**Maximum Fee**

\$2,500 maximum fee per increment.

- (6) The "project cost" means the estimated, entire cost of the project, including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

§ 239-5 Notice and hearing requirements.

[Amended 5-7-2016 ATM by Art. 43]

- A. Any person filing an application or RDA with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested), certificate of mail or hand delivery, to all abutters according to the most recent applicable tax list of the Assessors, including owners of land directly opposite on any public or private street or way, including any in another municipality or across a body of water. The notice to abutters shall enclose a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.
- B. The Commission shall conduct a public hearing on any application or RDA, with written notice given at the expense of the applicant, five business days prior to the hearing, in a newspaper of general circulation in the municipality.
- C. The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination unless an extension is authorized in writing by the applicant.
- D. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
- E. The Commission, in an appropriate case, may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act, MGL c. 131, § 40, and regulations, 310 CMR 10.00.
- F. The Commission shall have authority to continue the hearing, with the applicant's consent written or granted verbally on the record during the course of the public hearing or meeting, to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of boards and officials listed in § 239-6.

§ 239-6 Coordination with other boards.

[Amended 5-7-2016 ATM by Art. 43]

Any person filing a permit application or RDA with the Commission shall provide written notice thereof at the same time, by certified mail or hand delivery, to **the Select Board (Board of Selectmen)**, Planning Board, Zoning Board of Appeals, Board of Health and Building Commissioner. The Commission shall not take final

action until such boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any such comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

§ 239-7 Permits and conditions.

- A. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities permitted and exempt, and foreseeable future activities.
- B. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw, and where no conditions are adequate to protect those values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.
- C. Lands within 100 feet of specific resource areas, and within 200 feet of rivers and streams, are presumed important to the protection of these resources because activities undertaken in close proximity to wetlands and other resources have a high likelihood of adverse impacts upon them, either immediately as a consequence of construction, or over time as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the aforesaid one-hundred-foot or two-hundred-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.
- D. In the case of areas within 200 feet of rivers and streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of evidence that (1) there is no practicable alternative to the proposed project with less adverse impacts, and, as well, should there be no such practicable alternative, (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purposes, logistics, existing technology, costs of the alternatives, and overall project costs.
- E. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible, shall minimize wetlands alteration and, where alteration is unavoidable, shall require full

mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

- F. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. The Commission may extend a permit or a previous extension for an additional period of no greater than three years per extension. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land. **[Amended 5-7-2016 ATM by Art. 43]**
- G. For good cause, the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters and Town boards, pursuant to §§ **239-5** and **239-6**, and a public hearing.
- H. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the Registry Section of the Land Court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded.

§ 239-8 **Regulations.**

[Amended 5-7-2016 ATM by Art. 43]

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum, these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees. The Conservation Commission will establish a draft of proposed changes during regular, properly posted open meetings. Once there is consensus on the proposed changes, a formal hearing will be scheduled and will take place over two regularly scheduled meetings. Both hearings will be televised. A notice of the hearings will be put in a local newspaper at least five business days prior to the hearing dates. At the discretion of the Conservation Commission, the hearing may be continued to the next consecutive open, regularly scheduled meeting. Once the hearing is closed, the final changes will be drafted and voted on. The proposed and approved changes will be posted on the Commission's Town website.

§ 239-9 **Definitions.**

The following definitions shall apply in the interpretation and implementation of this bylaw:

ALTER

Includes, without limitation, the following:

- A. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind.
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution,

sedimentation patterns, flow patterns, or flood retention characteristics.

- C. Drainage or other disturbance of water level or water table.
- D. Dumping, discharging or filling with any material which may degrade water quality.
- E. Placing of fill, or removal of material, which would alter elevation.
- F. Driving of piles, erection or repair of buildings, or structures of any kind.
- G. Placing of obstructions or objects in water.
- H. Destruction of plant life, including cutting of trees.
- I. Changing water temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of water.
- J. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.
- K. Application of pesticides or herbicides.
- L. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

BANK

Includes the land area which normally abuts and confines a water body, the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in slope or the mean annual flood level, whichever is higher.

PERSON

Includes any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the commonwealth or political subdivision thereof to the extent subject to Town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents or assigns.

RARE SPECIES

Includes, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

VERNAL POOL

Includes a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.

§ 239-10 Security.

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

- A. By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient, in the opinion of the Commission, to be released in whole or in part upon issuance of a certificate of compliance for work performed pursuant to the permit.
- B. By accepting a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

§ 239-11 Compliance required; enforcement; violations and penalties.

- A. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.
- B. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.
- C. The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.
- D. Upon request of the Commission, the **Select Board (Board of Selectmen)** and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.
- E. Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.
- F. Any person who violates any provision of this bylaw, or permits or administrative orders issued thereunder, shall be punished by a fine of up to \$300. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense. As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the noncriminal disposition procedure set forth in MGL c. 40, § 21D.

§ 239-12 Burden of proof.

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that

the work proposed in the application will not have unacceptable significant or cumulative effect upon the wetland values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

§ 239-13 Appeals.

A decision of the Commission shall be reviewable in the Superior Court in accordance with MGL c. 249, § 4.

§ 239-14 Relation to Wetlands Protection Act.

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, MGL c. 131, § 40, and regulations thereunder, 310 CMR 10.00.

§ 239-15 Severability.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit or determination which previously has been issued.

Chapter 250

Zoning

[HISTORY: Adopted by the Town of Lunenburg 8-18-1960, as amended through 5-3-2014 ATM (Art. XIV of the Town Bylaws). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Architectural preservation district — See Ch. **113**.

Demolition delay — See Ch. **134**.

Sewers — See Ch. **200** and Ch. **320**.

Wetlands protection — See Ch. **239** and Ch. **335**.

Land use permitting procedure — See Ch. **315**.

Subdivision regulations — See Ch. **325**.

Telecommunication and cell tower rules and regulations — See Ch. **330**.

Article I

Purpose and Authority

§ 250-1.1 Purpose.

The purpose of this bylaw is to achieve the objectives of the Zoning Enabling Act, Chapter 40A of the General Laws, as amended, as presented in Section 2A of Chapter 808 of the Acts of 1975, which include but are not limited to the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of recommendations of the Master Plan, adopted by the Planning Board and the Comprehensive Plan of the Regional Planning Agency; and to

preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

§ 250-1.2 Authority.

This bylaw is adopted under the authority provided by and in accordance with, the provisions of Chapter 40A of the General Laws, as amended.

**Article II
Definitions**

§ 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.

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.

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
 - (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.

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.

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.

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.

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.

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.

SCREENED AREA

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

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.

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.

Article III **Establishment of Districts**

§ 250-3.1 Types of districts. [Amended 5-7-2016 ATM by Art. 38]

The Town of Lunenburg is hereby divided into 15 types of districts designated as:

- A. Residence A District.

- B. Residence B District.
- C. Outlying District.
- D. Recreation District.
- E. Commercial District.
- F. Limited Business/Residential District.
- G. Retail Commercial District.
- H. Route 2A Overlay District.
- I. Office Park and Industrial District.
- J. Floodplain District.
- K. Water Supply Protection District.
- L. Lake Whalom Overlay District.
- M. Tri-Town Smart Growth District.
- N. Summer Street Revitalization Overlay District.

§ 250-3.2 **Location of districts.**

Said districts, except Floodplain Districts, Water Supply Protection Districts, the Route 2A Overlay District, Whalom Overlay District, and Tri-Town Smart Growth District, hereinbefore referred to are located and bounded as shown on a map entitled "Revised Protective Bylaw Map of the Town of Lunenburg, Massachusetts," dated May 3, 2008, signed by the Planning Board and filed with the Town Clerk, which map, together with all explanatory matter thereon, shall be deemed to accompany and be a part of this bylaw. The Floodplain District location is described in § **250-4.8B**, Water Supply Protection District is described in § **250-4.9B**, Route 2A Overlay District is described in § 250-4.10, Lake Whalom Overlay District is described in § 250-4.12B, Tri-Town Smart Growth District is described in § 250-4.13, and Summer Street Revitalization Overlay District is described in § 250-4.14B.

§ 250-3.3 **Lots in two districts.**

- A. Where a district boundary line divides any lot laid out by deed or conveyance or shown on a duly recorded plan prior to the time such boundary line is established and in effect, the regulations applying to the less restricted portion of such lot may be considered as extending not more than 50 feet into the more restricted portion; provided, however, that the lot has frontage on a street in the less restricted district.
- B. Where a district boundary line divides a lot not covered by the provisions of Subsection **A**, the more restrictive zoning district shall be interpreted as extending no further than 20 feet into the adjacent district.

§ 250-3.4 **Two dwellings on lot.**

No more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot, in a subdivision or elsewhere in the Town, without the approval of the Planning Board.

Article IV
Use Regulations

§ 250-4.1 **Permitted and prohibited uses.**

[Amended 5-5-2018 ATM by Art. 31]

- A. No building or structure shall be constructed and no building, structure or land, or part thereof, shall be used for any purpose or in any manner other than:
- (1) One principal permitted use, except as hereinafter provided;
 - (2) A use permitted by special permit from the Zoning Board of Appeals or the Planning Board;
 - (3) An accessory use allowed in Residential and Outlying Districts;
 - (4) A residential use in the Retail Commercial and the Commercial District, which shall comply with § **250-5.1D(1)**.
- B. Any use not specifically listed or otherwise permitted in a district herein established shall be deemed prohibited. All residential development of 10 or more units permitted pursuant to the Subdivision Control Law (MGL Chapter 41), the Lunenburg Zoning Bylaw planned residential area (§ **250-5.5**), and the Lunenburg Zoning Bylaw mixed residential development (§ **250-5.4**), in all districts shall "set aside" dwelling units for low- or moderate-income persons and families as defined by the Massachusetts Department of Housing and Community Development (DHCD) and said set-aside dwelling units shall qualify for the DHCD subsidized housing inventory for the Town of Lunenburg and shall count toward the mandate of the housing inventory threshold set in MGL Chapter 40B.
- (1) A development containing 10 or more units shall set aside 10% of the units as moderate- or low-income units. A development containing 36 or more units shall set aside 15% of the units as moderate- or low-income units. The set-aside units shall conform to the zoning requirements of the zone in which the units shall be built. The set-aside units may be developed as sale or rental units. All partial units under this formula will be rounded to the next highest number.
 - (2) The following conditions will prevail:
 - (a) The low- or moderate-price set-aside units shall be dispersed within the site.
 - (b) The exterior and interior quality and appearance of the set-aside units shall be the same as the market-price units.
 - (c) The set-aside units shall be made available to qualified low- and moderate-income persons or families in perpetuity. The Lunenburg Housing Authority will determine the qualified persons or families and will administer the process through a lottery.

- C. Nothing in this bylaw shall prohibit, regulate or restrict the use of land or structures in any district for the following uses:
- (1) Religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a nonprofit educational corporation, except as provided in MGL c. 40A, § 3, as amended.
 - (2) Agriculture, horticulture, floriculture and viticulture, provided that such uses shall be limited to parcels of land containing at least five acres.
 - (3) Activities accessory to activities otherwise permitted within the district as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right, subject to the provisions of § **250-8.3**. for a special permit.
- D. Uses permitted in all districts:
- (1) Cemeteries.
 - (2) Municipal buildings and uses.
 - (3) Conservation areas for water, plants and wildlife and dams necessary for achieving this purpose, farming, including raising, harvesting and storing crops, truck gardening and grazing, orchards, nurseries, forest and tree farms and areas for horticulture and floriculture, but not including fur farms or piggeries, provided that:
 - (a) Equipment necessary for these uses is normally stored in an enclosure.
 - (4) Small wastewater treatment facilities which shall be designed and operated in accordance with the Lunenburg Planning Board regulations for the design, operation and maintenance of small wastewater treatment facilities and sewage pumping stations contained in the Rules and Regulations Governing the Subdivision of Land, provided that:
 - (a) The location of such plants shall be shown on a development plan approved by the Planning Board in accordance with § **250-8.4**.
 - (b) The facility shall be located on a lot in conformance with the dimensional regulations in § **250-5.1** for the district in which it is located or as approved on a special permit granted under § **250-5.5**, Planned residential area.
 - (c) No construction shall be undertaken prior to review, approval and granting of a disposal works construction permit by the Board of Health.
 - (d) Communal sewage or wastewater disposal or treatment systems.
- [1] In view of the high vulnerability of Lunenburg's wetlands, water absorption areas, water-bearing bedrock fissures, groundwater supply and individual or private wells to pollution and contamination from sewage or wastewater disposal within the Town of Lunenburg, it is important, in order to protect

the drinking water, the public health and the environment, that any communal or central sewage or wastewater disposal or treatment plants or systems which may be built in Lunenburg shall be constructed, owned, operated, monitored, maintained, repaired and replaced by the Town rather than by private individuals, associations or other private entities, since such plants or systems typically handle substantial amounts of sewage, require frequent monitoring, have a useful life far shorter than that of the building they serve and pose a substantially greater threat to pollution or contamination of wetlands, water absorption areas, groundwater and wells in the event of malfunction or failure than do the smaller individual systems serving individual homes.

- [2] For these reasons and to carry out the intent and purposes stated elsewhere in this subsection and the "Purpose" section (§ **250-1.1**), the use of privately constructed or privately owned, operated and maintained communal sewage or wastewater disposal or treatment systems, facilities or plants with capacity in excess of 14,999 gallons per day, serving two or more main buildings for commercial or residential use (other than institutional use) is prohibited pursuant to Massachusetts General Laws Chapter 40A (the Zoning Act), Article **II**, Sections I through IX of the Amended Massachusetts Constitution (known as the "Home Rule Amendment"), and other provisions of the law. A building permit shall not be issued for a building to be served by such a privately constructed or privately owned, operated or maintained communal system or plant.
- (5) Child-care facilities, as defined by MGL c. 15D, § 1A, as a "child-care center" or "school-aged child care program" but not "family child-care home," provided that:
- (a) If the proposed day-care facility requires four or more parking spaces, the site to be used shall be shown on a development plan prepared by the applicant and approved by the Planning Board in accordance with those parts of § **250-8.4** deemed applicable by the Planning Board based on the scale of the application.
 - (b) The lot area shall conform to the area requirements contained in § **250-5.1** or, if none is prescribed for the district in which it is located, or if it is a legal nonconforming lot, the area shall be a minimum of 20,000 square feet.
 - (c) The building used for the purpose conforms to all dimensional regulations contained in Article **V** which are applicable in the district in which it is located and to all requirements of Article **VI** pertaining to off-street parking and loading areas, lot monuments, land, driveways and entrances, signs and performance standards, and further provided that buildings, structures, driveways, walkways, parking areas and other impervious surfaces shall not cover more than 20% of the total lot area on which the facility is located.
 - (d) No building or structure shall exceed 35 feet in height in Residence A, Residence B, Outlying, Recreation or Limited Business Districts and shall not exceed 35 feet in height elsewhere unless shown on the development plan and approved by the Planning Board.
 - (e) With the exception of a driveway and walkway, no required front yard shall be paved or used for the purposes of the child-care facility.
 - (f) Parking areas and play areas shall be located behind the setback line in the side or rear of the building used for a child-care facility and shall be screened from abutting residences in the same manner as is required in the second sentence of § 250-6.6Q(1).

1)												
4.1.D.(Municipal Uses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2)												
4.1.D.(Conservation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
3) Areas												
4.1.D.(Small	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4) Wastewater Treatment Facilities												
4.1.D.(Child Care	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5) Facilities												
4.1.H RESIDENT-IAL USES	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W	
4.1H.(Accessory	Y	Y	Y	Y	—	—	—	Y	—	—	—	RA-Y
1) Dwelling												
4.1.H.(Boarding	SP-Z	SP-Z	SP-Z	—	—	—	—	—	—	—	—	RA-SP-PB
2) House												
4.1H(3 Multi-Family	SP-Z	SP-Z	SP-Z	SP-Z	—	—	—	SP-Z	—	Y	—	RA-SP-PB
) Dwelling												
4.1H(4 Single Family	Y	Y	Y	Y	—	—	—	SP-Z	—	—	—	RA-Y
) Dwelling												
4.1H(5 Two Family	Y	Y	Y	Y	—	—	Y	SP-Z	—	—	—	RA-Y
) Dwelling												
4.1H(6 Townhouse	SP-Z	SP-Z	SP-Z	SP-Z	—	—	—	—	—	—	—	SP-PB
)												
4.1.I INSTITUTIONAL USES	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W	
4.1I(1) Assisted Living	—	—	—	SP-Z	SP-Z	—	—	—	SP-Z	—	—	C-SP-PB
4.1I(2) Charitable	SP-Z	SP-Z	SP-Z	SP-Z	Y	—	Y	SP-Z	Y	—	—	RA-SP-PB
Institution												
4.1I(3) Church	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1I(4) Educational	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Use												
4.1I(5) Hospital	SP-Z	SP-Z	SP-Z	—	SP-Z	—	—	—	—	—	—	RA-SP-PB
4.1I(6) Government	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	—	Y
Building												
4.1I(7) Public Utility	SP-Z	SP-Z	SP-Z	SP-Z	Y	Y	SP-Z	Y	Y	—	—	RA-SP-Z/C-Y
4.1I(8) Water Supply	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	RA-Y
4.1.J RECREATIONAL USES	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W	
4.1J(1) Outdoor	—	—	—	—	Y	Y	Y	—	Y	Y	—	RA-Y
Entertainment												
4.1J(2) Indoor	—	—	—	—	Y	Y	—	SP-Z	Y	—	—	C-Y
Entertainment												
4.1J(3) Golf Course	—	—	SP-Z	—	—	—	Y	—	—	—	—	—
4.1J(4) Private Club	SP-Z	SP-Z	SP-Z	SP-Z	—	—	—	SP-Z	SP-Z	—	—	C-SP-Z
4.1J(5) Private Camp	—	—	SP-Z	—	—	—	Y	—	—	—	—	—
4.1.K COMMERCIAL USES	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W	
4.1K(1 Adult Use	—	—	—	—	SP-Z	—	—	—	SP-Z	—	—	C-SP-Z
)												
4.1K(2 Auction House	—	—	—	SP-Z	Y	—	—	—	Y	—	—	C-Y

4.1L(7 Equipment) Sales	—	—	—	—	SP-Z	Y	—	—	SP-Z	—	C-SP-Z
4.1L(8 Equipment) Repair Service	—	—	—	—	SP-Z	Y	—	—	SP-Z	—	C-SP-Z
4.1L(9 Fuel Service) Station	—	—	—	—	SP-Z	—	—	—	SP-Z	—	C-SP-Z
4.1L(1 Repair Shop 0)	—	—	—	Y	Y	—	—	—	Y	—	C-Y
4.1L(1 Trade Shop 1)	—	—	—	—	Y	Y	—	—	Y	—	C-Y
4.1M INDUSTRIAL USES	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W
4.1M(Distribution 1)	—	—	—	—	—	Y	—	—	—	—	—
4.1M(Industrial Parks 2)	—	—	—	—	—	Y	—	—	—	—	—
4.1M(Manufacturing 3)	—	—	—	—	—	Y	—	—	—	—	—
4.1M(Research 4) Establishment	—	—	—	—	—	SP-Z	—	—	—	—	—
4.1N OTHER USES	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W
4.1N(1 Agriculture)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.1N(2 Agricultural) Sales & Service	SP-Z	SP-Z	SP-Z	SP-Z	Y	—	—	—	SP-Z	—	C-Y
4.1N(3 Earth Removal)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
4.1N(4 Kennel)	SP-Z	SP-Z	SP-Z	—	SP-Z	—	—	—	—	—	C-SP-Z
4.1N(5 Veterinary) Hospital	SP-Z	SP-Z	SP-Z	—	SP-Z	—	—	—	—	SP-Z	—
250- Large Solar 4.13 Energy Systems	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB
250- Registered 4.14 Marijuana Dispensaries	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB	SP-PB
4.10 Non-Medical Marijuana Uses	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W
4.10(1 Marijuana) cultivator	—	—	—	—	—	SP-PB	—	—	—	—	—
4.10(2 Marijuana) Product Manufacturer	—	—	—	—	—	SP-PB	—	—	—	—	—
4.10(3 Marijuana) Testing Facility	—	—	—	—	—	SP-PB	—	—	—	—	—
4.10(4 Marijuana) Retailer	—	—	—	—	SP-PB	SP-PB	—	—	SP-PB	—	—
4.10(5 Marijuana) Transporter	—	—	—	—	—	SP-PB	—	—	—	—	—

1. Any use not defined or included in the Use Table shall be considered prohibited in all Districts.
2. In the Use Table those uses listed under the Overlay Districts are applicable only when using the provisions of the subject Overlay District. Otherwise, the existing underlying Zoning District and its allowed uses will apply.

H. Residential uses.

- (1) Accessory Dwelling: A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot. The dwelling shall include a separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities. Given that it meets the following criteria:
 - (a) The primary building has at least twelve hundred (1,200) square feet of floor area.
 - (b) The entire structure used for dwellings shall not occupy more than fifty (50%) percent of the lot area.
 - (c) There is at least one (1) off street parking space for each bedroom or efficiency apartment in the converted portion of the structure, which space shall be provided in conjunction with other parking facilities.
 - (d) There is provision for screening by fencing or landscaping of outside storage areas.
 - (e) No accessory unit shall have a floor area of less than five hundred (500) square feet plus one hundred (100) square feet for each bedroom over one.
 - (f) The floor area of the accessory unit shall not be more than thirty 30% percent of the normally habitable floor area of a combination of the dwelling units, after conversion.
 - (g) Each unit shall be a complete and independent housekeeping unit, containing a bedroom or bedroom/living room combination, bathroom and kitchen or kitchenette and shall have a separate entrance.
 - (h) The exterior appearance of the structure shall not be altered except for:
 - [1] Stairways and exits required by law.
 - [2] Consistent with the original architecture of the structure.
 - (i) The lot and all structures shall be owned in common and one (1) of the units shall be occupied by the property owner.
 - (j) If the second unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings in writing.
 - (k) No permit for accessory housing granted hereunder shall take effect sooner than one (1) year after

occupancy of the primary dwelling, nor until the owner/petitioner records the authorization in the applicable Registry of Deeds at his own expense.

- (1) All permits for accessory housing must be secured before any construction is undertaken.
 - (2) **Boarding House:** A single-family dwelling where more than two, but fewer than six rooms are provided for lodging for definite periods of times. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests.
 - (3) **Multi-Family Dwelling:** A building consisting of not more than four dwelling units which are attached by common vertical walls and each unit having a separate or combined entrance or entrances.
 - (4) **Single Family Dwelling:** A detached building on a single lot containing one dwelling unit, or a factory-assembled structure constructed to state building code standards.
 - (5) **Two-Family Dwelling:** A residential structure designed to house a single-family unit from lowest level to roof, with a private outside entrance, but not necessarily occupying a private lot, and sharing a common wall adjoining dwelling units.
 - (6) **Town House:** Single-family attached unit in structures housing three or more dwelling units, contiguous to each other only by the sharing of one common bearing or party wall; such structures are to be of the townhouse or rowhouse type as contrasted to multiple-dwelling apartment structures. No single structure shall contain in excess of five dwelling units and each dwelling unit shall have separate and individual front and rear entrances.
- I. Institutional uses.
- (1) **Assisted Living:** A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.
 - (2) **Charitable Institution:** Any entity which: (1) has been certified as a not-for-profit organizations under Section 501(c)(3) of the Internal Revenue code, and (2) has religious, charitable, or eleemosynary functions or is a religious or charitable organization. As used in this definition, a charitable organization is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons, and which thereby lessens the burdens of government.
 - (3) **Church:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.
 - (4) **Educational Use:** Use of land or a building or buildings as or for an institution not for profit but for the establishment and maintenance of a public or private college, secondary, elementary, trade or vocational school or other educational institution for the academic instruction and cultivation of the mind and/or

the inculcation of a clearer sense of moral and spiritual values.

- (5) Hospital: An institution, licensed by the state department of health, providing primary health services and medical and/or surgical and/or mental health care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities, or training facilities.
- (6) Government Building: Any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated. A building belonging to or used by the public for the transaction of public or quasi-public business.
- (7) Public Utility: All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity. Facilities shall be licensed by the Department of Public Utilities (DPU).
- (8) Water Supply: A system for the provision to the public of piped water for human consumption if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes: (a) any collection, treatment, storage, or distribution facility under control of the operator of the system and used primarily in connection with the system; and (b) any collection or pretreatment storage facility not under the control of the operator of the system which is used primarily in connection with the system.

J. Recreation uses.

- (1) Outdoor Entertainment: Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Includes, but not limited to, skating rinks, water slides, miniature golf courses, arcades, bowling alleys, and billiard halls, but not movie theaters.
- (2) Indoor Entertainment: An establishment providing completely enclosed recreation activities. Accessory uses may include the preparation and serving of food or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, rollerskating or ice-skating, billiards, pool, motion picture theaters, and related amusements.
- (3) Golf course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restaurant, golf-related retail, restrooms, driving range, and shelters as accessory uses.
- (4) Private Club: A facility open only to bona fide members and guests of the private organization operating the facility. This includes recreational centers for the exclusive use of members and their guests with facilities that may include swimming pools and/or tennis courts, but specifically excluding golf courses.
- (5) Private Camp: Land under single ownership and management having tents, buildings, or other shelters (not including recreational vehicles or mobile homes) for recreational or educational purposes and accommodating four or more people for two or more days, or portions thereof.

- (6) Recreation: The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife.
- K. Commercial uses.
- (1) Adult Use: Adult uses, as defined by Section 9A of Chapter 40A, provided that:
- (a) All buildings containing adult uses are at least two hundred fifty (250) feet from an existing residence, school or place of worship and are at least five hundred (500) feet from an existing Residential or Outlying District boundary.
 - (b) All parking is in the rear of the setback line and is screened from view of abutting properties.
 - (c) All signs shall be approved by Development Plan Review and the Planning Board shall review the size, location, number, design, color and content to determine a public nuisance or be incompatible with the character of the community and, as to content, to determine only that the sign or signs are not obscene.
 - (d) All requirements of Section 9A of Chapter 40A are met including that no Special Permit is granted to a person(s) who have been convicted of violating the provisions of Section 63 of Chapter 119 or Section 28 of Chapter 272 of MGL.
 - (e) The **Select Board (Board of Selectmen)** may require that a security guard be on the premises during all or some hours of operation.
- (2) Auction House: A building, area, or areas within a building used for the public sale of goods, wares, merchandise, or equipment to the highest bidder. This definition excludes therefrom an auction, the principal purpose of which is the sale of livestock or motor vehicles.
- (3) Bed & Breakfast: Bed and Breakfast, or Bed and Breakfast Establishment provided that:
- (a) The use complies with the Commonwealth's [MGL 64b Section I (a) and/or (b)] definition of Bed and Breakfast, or Bed and Breakfast Establishment provided the dwelling is owner occupied.
 - (b) The lot conforms to all dimensional requirements of the Zoning Bylaw.
 - (c) Parking for each room available for rent is provided in the side yard behind the setback line or in the rear yard, but not nearer than ten (10) feet to any property line. One (1) parking place shall be provided for each bedroom.
 - (d) The outside appearance of the building is not altered except to comply with the Building Code.
- (4) Drive-in Theater: An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures on a paid admission basis to patrons seated in automobiles, this does not include Adult Theaters.
- (5) Hotel: An establishment providing, for a fee, sleeping accommodations, which are generally accessed through a lobby, corridor or internal hallway and customary lodging services, including maid service,

the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

- (6) **Laundry Service:** A business that provides washing, drying, and/or ironing services for a fee or machines for hire to be used by customers on the premises.
- (7) **Liquor Store:** Any business selling general alcoholic beverages, including distilled spirits or hard liquor, beer, wine and malt beverages for off-premises consumption.
- (8) **Medical Clinic:** A facility operated by a collected group of physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis. This is contrasted with an unrelated group of such offices.
- (9) **Mixed Use:** A combination of commercial and residential uses within a single building or lot. In the case of uses that require a Special Permit, a Zoning Board of Appeals decision must be rendered on the use prior to filing for Planning Board Site Plan Approval.
- (10) **Motel:** A building or series of buildings in which lodging is offered for compensation, and which is distinguished from a hotel primarily by reason of providing direct independent access to, and adjoining parking for, each rental unit.
- (11) **Office Park:** A development on a tract of land that contains a number of separate businesses, offices, light manufacturing facilities, accessory and supporting uses, and common open space designed, planned, and constructed on an integrated and coordinated basis.
- (12) **Pawn Shop:** An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.
- (13) **Personal Improvement Service:** A business primarily providing instruction and/or facilities for dancing, martial arts, music instruction, physical exercise, fitness training, or other voluntary physical or mental health services not related to a medical diagnosis.
- (14) **Professional Office:** Offices or studios of professional or service occupations or agencies which are characterized by low traffic and pedestrian volumes, lack of distracting, irritating, or sustained noise, and low density of building developments. This includes but is not limited to accountant, appraiser, architect, engineer, insurance adjuster, landscape architect, lawyer, consultant, secretarial agency, bonding agency, real estate, mortgage or title agency, and investment agency.
- (15) **Retail Establishment:** Sale or rental with incidental service of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by definition.
- (16) **Restaurant:** An establishment where food and/or beverages are prepared, served, and consumed, and whose principal method of operation includes one or both of the following characteristics: (1) customers are normally provided with an individual menu and served their food and beverages by a restaurant employee at the same table or counter where the items are consumed; or (2) a cafeteria-type operation

where food and beverages generally are consumed within the restaurant building.

- (17) Restaurant, Carry-Out: A restaurant where food, frozen dessert, or beverages are primarily sold in disposable packaging, ready-to-consume, and is intended for ready consumption by the customer on or off the premises.
- (18) Service Establishment: Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.
- (19) Shopping Center: A single piece of real estate containing more than three commercial establishments and a total business space of more than 5,000 square feet planned, constructed, and managed as a total entity with customer and employee parking provided on site.

L. Heavy commercial uses.

- (1) Auto Sales: Any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, off highway use recreational vehicles, or motorcycles or other similar motorized transportation vehicles. Dealerships may maintain an inventory of the vehicles for sale or lease either on-site or at a nearby location and may provide on-site facilities for the repair and service of vehicles as an accessory use.
- (2) Auto Repair Facility: Any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, tire service and sales, or installation of remote start, car alarms, and/or stereo equipment.
- (3) Boat Service Yard: Facility (which could include a boat repair garage, boat storage yard) where boats are repaired and stored until repairs are completed.
- (4) Car Wash: Mechanical facilities for the washing and/or waxing and/or detailing of private automobiles, light trucks and vans. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification and coin-operated devices operated on a self-service basis shall be construed to be the same. This definition is not applicable to fleet vehicle and truck wash facilities not open to the public.
- (5) Construction Sales and Service: Establishments or places of business primarily engaged in retail or wholesale sale, from the premises, of materials and light equipment used in the construction of buildings, landscape features or other structures, but specifically excluding automobile or heavy equipment supplies, sales and rentals.
- (6) Contractor Yard: Any land or buildings housing the offices of and used for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.
- (7) Equipment Repair Service: Establishments primarily engaged in the repair of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment. Included in this use type is the incidental storage and/or sale of such pre-owned equipment.

- (8) Equipment Sales: Establishments primarily engaged in the sale or rental of tools, trucks, construction equipment, and similar industrial equipment. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.
- (9) Fuel Service Station: That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity, repair service, and may also include a freestanding automatic car wash.
- (10) Outdoor Storage/Display: An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service.
- (11) Repair Shop: Establishments primarily engaged in the provision of repair services to individuals but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.
- (12) Trade Shop: Building or portion of a building used to conduct the business of a carpenter, cabinetmaker, electrician, painter, paperhanger, plumber, printer, sign painter, upholsterer or similar tradesman or artisan.

M. Industrial uses.

- (1) Distribution: Storage, wholesale, and shipment or movement of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.
- (2) Industrial Parks: A planned, coordinated development of a tract of land with two or more separate lots or industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation, and open space.
- (3) Manufacturing: The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials including but not limited to oils, plastics, resins, etc., which by the nature of the materials, equipment, and process utilized are not objectionable by reason of odor, radiation, noise, vibration, gas fumes, dust, smoke, refuse matter or water-carried waste.
- (4) Research Establishment: Laboratories or other facilities that perform research, development, and testing but whose activities do not involve the mass manufacture, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration, or similar pollution standard.

N. Other uses.

- (1) Agriculture: Activities including but not limited to.

- (a) Farming in all its branches and the cultivation and tillage of the soil.
 - (b) Dairying.
 - (c) Production, cultivation, growing and harvesting of any agricultural, floricultural, viticulture or horticultural commodities.
 - (d) Growing and harvesting of forest products upon forest land and any other forestry or lumbering operations.
 - (e) Keeping and raising of livestock, horses, poultry, swine, cattle sheep, ratites (such as emus, ostriches, rheas) and camelids (such as llamas and alpacas) and other domesticated animals for food or other agricultural purpose, including bees and fur bearing animals.
- (2) Agriculture Sales and Service: A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, farm supplies, agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming and ranching. This includes food sales and farm machinery repair services that are accessory to the principal use.
- (3) Earth Removal: The removal, extraction, excavation, fill, or grading for any purpose of soil, sand, shell, limestone, dolomite, gravel, ore, rock, clay, peat, or any material by whatever process.
- (4) Kennel: The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
- (5) Veterinary Hospital: Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal health conditions wherein the animals are limited to dogs, cats, or other comparable household pets and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

O. Non-Medical Marijuana Uses. **[Added 5-4-2019 ATM by Art. 25]**

- (1) "Marijuana cultivator," an entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.
- (2) "Marijuana product manufacturer," an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers.
- (3) "Marijuana testing facility," an entity licensed to test marijuana and marijuana products, including certification for potency and the presence of contaminants.
- (4) "Marijuana retailer," an entity licensed to purchase and deliver marijuana and marijuana products from

Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

- (5) "Marijuana Transporter" an entity with a fixed location not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.
- (6) "Marijuana Researcher Facility" an entity licensed to cultivate, purchase, or otherwise acquire marijuana for the purpose of conducting research regarding marijuana products.

§ 250-4.2 Residential and Outlying Districts.
[Amended 5-5-2018 ATM by Art. 31]

A. Accessory uses:

- (1) Temporary placement of a mobile home or trailer for temporary use as a dwelling notwithstanding provisions herein contained to the contrary, provided, however:
 - (a) Such use is necessary to provide housing for occupants of a dwelling house (exclusive of a summer camp) which has recently been rendered uninhabitable by fire or other disaster.
 - (b) The dwelling was being continuously used as a dwelling at the time of disaster and the Building Commissioner has determined after examination that the dwelling house is uninhabitable without immediate and substantial repairs.
 - (c) Such temporary use of the premises shall not exceed one (1) year from the date of the granting of the permit, but application for an extension of the time may be made to the Building Official who shall be governed by the same provisions as in the granting of the original permit, so far as applicable, provided no extension shall extend such use beyond two (2) years from the original granting of such permit.
 - (d) Mobile homes and trailers used as temporary owner living quarters during construction of a permanent home shall be permitted only after the building permit and other required permits for the permanent structure have been issued, and a temporary permit has been granted by the Building Official, which temporary permit shall be granted only for a determined length of time up to, but not more than one (1) year.
- (2) The raising or keeping of poultry, saddle horse(s), livestock or other farm animals for non-commercial use on properties that are not exempt under the General Laws Chapter 40A Section 3.
- (3) Tool shed, playhouse, tennis/basketball court, boat house or other structure for domestic use; private garage for motor vehicles, but not including more than one (a) commercial vehicle used for a commercial enterprise or more than one (1) school bus or farm vehicles.
- (4) The use of a room or rooms, in a dwelling or building accessory thereto by a resident of the premises as an office, studio or workroom for a home occupation, provided that:

- (a) Such use is clearly incidental and secondary to the use of the premises for dwelling purposes,
- (b) Not more than (2) two persons other than residents of the premises are regularly employed thereon in connection with such use,
- (c) No stock in trade is regularly maintained, except for products of the occupation itself or for goods or materials which are customarily stored, used or sold incidental to its performance,
- (d) From the exterior of the building so used, there is not visible any display of goods or products, storage of materials or equipment, regular parking of commercial vehicles or any other exterior indication that the premises are being utilized for any purpose other than residential (except for an accessory sign).

§ 250-4.3 Recreation District.

[Amended 5-5-2018 ATM by Art. 31]

A. Special conditions and design standards:

- (1) Night lighting of parking areas shall be directed downward, not affect abutting properties and be Dark Sky Compliant.
- (2) Landscaped or naturally vegetated buffers shall be provided along the periphery of the property.
- (3) Outdoor facilities which generate noise, such as swimming pool or a shooting range, shall be located and buffered so as not to be a nuisance and an unenclosed pool, if any, shall be set back from any public street at least two (200) feet.
- (4) Natural features shall be preserved to the maximum extent practicable.
- (5) Stone walls and man-made features which improve or contribute to the character of the area shall be maintained where possible.
- (6) Service areas shall be screened from active recreation areas.
- (7) Reasonable mitigation measures shall be taken to address traffic, parking and safety (including road safety) concerns posed by the proposed development. The Planning Board will review measures during Site Plan Approval as deemed necessary.
- (8) There shall be more than one (1) means of access.
- (9) All residents of the Town shall be eligible for membership.
- (10) In the case proposed proposal is adjacent to a Planned Residential Area, special care will be taken to coordinate the development with the Planned Residential Area.
- (11) Maximum capacity limitations shall be established by the Licensing Authority for accessory facilities, including restaurants and function rooms, after recommendations from appropriate Town Boards, including (but not necessarily limited to) the Planning Board, Board of Health, Fire Chief, Building Official and Police Chief. Maximum capacity limitations shall be based on, but not limited to, the

following criteria, but in no case shall exceed two hundred (200) persons; provision for adequate off-street parking in accordance with Section **250-6.1** of this Code of Lunenburg; provision for adequate wastewater disposal; provision for adequate refuse disposal provision for crowd control and security; and no adverse impact on adjacent uses.

(12) No more than ten (10) percent of the total lot area shall be covered by an impervious surface.

§ 250-4.4 Limited Business/Residential District.

[Amended 5-5-2018 ATM by Art. 31]

A. Accessory uses:

- (1) Function Facility, allowed only as an accessory to Bed & Breakfast, Hotel, Farm, and Restaurant uses, to serve as a facility for meetings and other functions to include reception, dinners, weddings and business and civic meetings and similar social affairs and further provided that:
 - (a) The building is located on a lot of at least two (2) acres.
 - (b) The primary structure plus accessory buildings devoted to the use shall contain at least three thousand (3,000) square feet of floor area.
 - (c) Additions to the floor areas, if any, shall not exceed fifty (50%) percent of the existing floor area and shall conform to the architectural style of the existing building.
 - (d) The number of persons attending events shall be determined by the maximum number allowed by Building Code, the Board of Health Regulations and/or the Sewer Commission Permit.
 - (e) The number of events in any calendar year shall be determined during the Site Plan Approval process.
 - (f) Anticipated parking shall be provided and parking of over fifty (50) vehicles may require a traffic policeman at the discretion of the Police Department.
 - (g) Outside lighting or music, if any, shall not extend beyond ten (10) PM and shall be limited in so far as possible to the property on which the use is located. No lighting shall be reflected into adjacent abutters' properties. The level of sound shall be no higher than 70 decibels at the property line or beyond.
 - (h) Tents or suitable enclosures to be used in connection with an event shall be located within the setback and shall be erected and removed within twenty-four (24) hours of the beginning and end of the event.
- (2) Catering Service.
 - (a) Kitchen and cooking facilities, allowed only as an accessory to Bed & Breakfast Hotel and Restaurant uses. On the premise and off site catering must meet Board of Health Regulations and/or any other pertinent permitting requirement.
 - (b) Any vehicle identified for business used in connection with making catering deliveries must be garaged or parked in an in conspicuous location on the property, preferably the rear of the structure, if practicable.

- (3) Any use allowed by right or special permit within the zoning district provided that:
 - (a) They are associated with the primary use of the property.
 - (b) They comprise no more than thirty five percent (35%) of the gross floor area of the building.
 - (c) Any permissible Accessory Use that comprises greater than thirty five percent (35%) of the gross floor area may be allowed by Special Permit from the Zoning Board of Appeals.
- (4) Drive Through Service may be allowed by Special Permit from the Planning Board in the Commercial and Office/Industrial Park Districts. In the approval of the Special Permit the Planning Board shall take the following items into consideration:
 - (a) The minimum space available for vehicles to queue on-site shall not be less than ten (10) cars.
 - (b) That the drive through service window be located on the side or rear of the building.
 - (c) The lane accessing the drive through service window shall not restrict other vehicular access around the building.
- (5) Outdoor Storage/Display may be allowed by Special Permit from the Zoning Board of Appeals with the following conditions.
 - (a) All outdoor storage, excluding that specifically designated for display, shall be screened as to not be visible from abutting properties and/or the public right of way.
 - (b) Display may be permitted in areas visible from the public Right-of-Way and neighboring properties, provided it does not create a nuisance by the introduction of noise, vibration, dust or other physical or sensory impact on abutting properties.
 - (c) No storage or display shall be permitted within the required building setbacks.
 - (d) No storage or display shall be allowed in any area that would interfere with parking, loading, travel or pedestrian facilities that are required by law.

B. Special conditions & design standards:

- (1) The architectural style of the original structure shall not be altered and new construction shall be of a residential style consistent with the present residences.
- (2) There shall be no drive-through window service.
- (3) All parking shall be off-street, shall not be located within the required setback of the principal building or in an area approved in the Site Plan Review.
- (4) There shall be no exterior storage, display or sales, without obtaining a Special Permit.
- (5) There shall be no exterior structural evidence of the non-residential use of the structure, with the

exception of signs conforming with the provisions of Section **250-6.5** of the Code of Lunenburg.

§ 250-4.5 **Commercial District.**

[Amended 5-5-2018 ATM by Art. 31]

A. Accessory uses:

- (1) Function Facility, allowed only as an accessory to Bed & Breakfast, Hotel, Farm, and Restaurant uses, to serve as a facility for meetings and other functions to include reception, dinners, weddings and business and civic meetings and similar social affairs and further provided that:
 - (a) The building is located on a lot of at least two (2) acres.
 - (b) The primary structure plus accessory buildings devoted to the use shall contain at least three thousand (3000) square feet of floor area.
 - (c) Additions to the floor areas, if any, shall not exceed fifty (50) per cent of the existing floor area and shall conform to the architectural style of the existing building.
 - (d) The number of persons attending events shall be determined by the maximum number allowed by Building Code, the Board of Health Regulations and/or the Sewer Commission Permit.
 - (e) The number of events in any calendar year shall be determined during the Site Plan Approval process.
 - (f) Anticipated parking shall be provided and parking of over fifty (50) vehicles may require a traffic policeman at the discretion of the Police Department.
 - (g) Outside lighting or music, if any, shall not extend beyond ten (10) PM and shall be limited in so far as possible to the property on which the use is located. No lighting shall be reflected into adjacent abutters' properties. The level of sound shall be no higher than 70 decibels at the property line or beyond.
 - (h) Tents or suitable enclosures to be used in connection with an event shall be located within the setback and shall be erected and removed within twenty-four (24) hours of the beginning and end of the event.
- (2) Catering service.
 - (a) Kitchen and cooking facilities, allowed only as an accessory to Bed & Breakfast Hotel and Restaurant uses. On the premise and off site catering must meet Board of Health Regulations and/or any other pertinent permitting requirement.
 - (b) Any vehicle identified for business used in connection with making catering deliveries must be garaged or parked in an in conspicuous location on the property, preferably the rear of the structure, if practicable.
- (3) Any use allowed by right or special permit within the zoning district provided that:
 - (a) They are associated with the primary use of the property.
 - (b) They comprise no more than thirty five percent (35%) of the gross floor area of the building.

- (c) Any permissible Accessory Use that comprises greater than 35% of the gross floor area may be allowed by Special Permit from the Zoning Board of Appeals.
- (4) Drive Through Service may be allowed by Special Permit from the Planning Board in the Commercial and Office/Industrial Park Districts. In the approval of the Special Permit the Planning Board shall take the following items into consideration:
 - (a) The minimum space available for vehicles to queue on-site shall not be less than (ten) 10 cars.
 - (b) That the drive through service window be located on the side or rear of the building.
 - (c) The lane accessing the drive through service window shall not restrict other vehicular access around the building.
- (5) Outdoor Storage/Display may be allowed by Special Permit from the Zoning Board of Appeals with the following conditions.
 - (a) All outdoor storage shall be screened as to not be visible from abutting properties and/or the public right of way.
 - (b) Display may be permitted in areas visible from the public Right-of-Way and neighboring properties, provided it does not create a nuisance by the introduction of noise, vibration, dust or other physical or sensory impact on abutting properties.

B. Special conditions & design standards:

- (1) Occupied Lot Area.
 - (a) The total area on any lot devoted to building, parking, outdoor storage and display and other paved hard surface areas may occupy up to eighty-five (85%) percent of the total lot area.
- (2) Building Location and Utilities.
 - (a) The Building front shall face the street on which the lot obtains its frontage, unless the building is more than two hundred fifty feet (250 ft.) from the street and is on a private access road. In such instance the building may face the access road.
 - (b) If there is more than one building on the site.
- [1] Parking facilities shall be shared to the extent practicable, as determined by the Planning Board;
- [2] The buildings shall be sited with varied setbacks;
- [3] The site shall have sufficient pedestrian access to all public facilities on the site;
- [4] Buildings shall maintain a minimum twenty foot (20') setback from one another.

These items shall be reviewed through Site Plan Approval pursuant to the procedures outlined in Section 8.4.

- (c) All utilities shall be placed underground.
- (d) Building facades, materials and roof lines shall be reviewed under the Site Plan Approval to ensure consistency and compatibility with other structures.
- (e) Flat roofs that are visible from the street level are prohibited unless an the facade includes design elements and/or material compositions that produce an architectural variation in the horizontal and vertical planes.
- (f) The principal building(s) shall be connected to public water and sewer where available and accessible.
- (g) LEED (Leadership in Energy and Environmental Design).

[1] LEED Certification should be encouraged to meet the best practicable level.

(3) Interior Streets, Drives, Walkways and Access.

- (a) Site access shall be a divided way (one way in and one way out) where and when appropriate as determined under Site Plan Approval (SPA).
- (b) Surfaces shall be pervious when possible and practical, excluding the required parking areas.

(4) Parking and Loading Area.

- (a) Parking shall be in the rear or side of building(s) and shall not be visible from the street line when practicable. Parking will be reviewed under Site Plan Approval.
- (b) All loading docks shall be to the side or rear of the building(s) and shall be visually screened from the street.
- (c) All paved areas shall be separated from the lot line setbacks by a four (4) foot landscaped area of indigenous materials.

(5) Sidewalks.

- (a) Sidewalks shall be provided from the street line, when applicable, and from the parking areas to building(s).

(6) Screening.

- (a) Screening of the site shall be by a minimum four (4) foot landscaped strip at the rear and side lot lines.
- (b) Additional landscaping and screening may be required during the Site Plan Approval or by the SPGA.

(7) Landscaping.

- (a) There shall be a minimum four (4) foot landscaped area along the street frontage and along the front and side of the principal building(s) and plantings of indigenous materials along the facades of the

building(s) and between the building(s) if there is more than one principal building on site.

- (b) Such landscape shall be a type and height that does not interfere with sight lines of drivers.
- (c) Natural features shall be retained to the extent practicable in relation to the limitations imposed by the surrounding natural features, as determined by the Planning Board.
- (d) A landscape plan shall be provided and reviewed as part of Site Plan Approval per Section **250-8.4**.
- (8) Street Furniture.
 - (a) Light fixtures shall be designed to be of number and height that grants plentiful lighting. Such lighting shall shine downwards as to not affect adjacent properties and shall be Dark Sky Compliant.
 - (b) Lighting must also be placed on the side and rear of the building. This lighting shall be provided in the form of on building lights to provide minimal adequate lighting for security and safety.
 - (c) If provided, outdoor tables, benches, and bicycle racks shall be of a style consistent with the principal use(s) of the site.
 - (d) The location, number and style of trash receptacles shall be reviewed under Site Plan Approval.

**§ 250-4.6 Office Park/Industrial District.
[Amended 5-5-2018 ATM by Art. 31]**

A. Accessory uses:

- (1) Any use allowed by right or special permit within the zoning district provided that:
 - (a) They are associated with the primary use of the property.
 - (b) They comprise no more than thirty five percent (35%) of the gross floor area of the building.
 - (c) Any permissible Accessory Use that comprises greater than thirty five percent (35%) of the gross floor area may be allowed by Special Permit from the Zoning Board of Appeals.
- (2) Drive Through Service may be allowed by Special Permit from the Planning Board in the Commercial and Office/Industrial Park Districts. In the approval of the Special Permit the Planning Board shall take the following items into consideration:
 - (a) The minimum space available for vehicles to queue on-site shall not be less than ten (10) cars.
 - (b) That the drive through service window be located on the side or rear of the building.
 - (c) The lane accessing the drive through service window shall not restrict other vehicular access around the building.
- (3) Outdoor Storage/Display may be allowed by Special Permit from the Zoning Board of Appeals with the following conditions.

- (a) All outdoor storage shall be screened as to not be visible from abutting properties and/or the public right of way.
- (b) Display may be permitted in areas visible from the public Right-of-Way and neighboring properties, provided it does not create a nuisance by the introduction of noise, vibration, dust or other physical or sensory impact on abutting properties.

B. Special conditions and design standards:

- (1) The plan shall show a buffer strip which shall create a visual screen using landscaping of existing natural growth and/or plant material indigenous to the area;
 - (a) The buffer strip shall be at least fifty (50) feet deep where the District abuts a residential use or district.
 - (b) The buffer strip shall be at least twenty (20) feet deep at all side and rear property lines, except as provided above.
- (2) Unless otherwise approved with the development plan, accessory uses not contained in the principal building shall be provided with safe access and shall be visually screened from view from a public way or shall be in a structure of an architectural style compatible with the principal structure.
- (3) Limitations upon uses.
 - (a) In addition to the limitations set forth in Section 5.0. of the Bylaw, all uses within an Office Park and Industrial District shall be subject to the following limitations:
 - [1] The lot coverage of all buildings and structures shall not exceed;
 - [2] Fifty (50) percent of the total lot area of a lot used for an office park or office building.
 - [3] Seventy (70) percent of the total lot area of a lot used for storage or distribution.
 - [4] An amount determined by the Planning Board not to exceed seventy (70) percent of the total lot area for any other use.
 - (b) The total impervious area shall not exceed:
 - [1] Ninety (90) percent of the total lot area of a lot used for an office park or an office building.
 - [2] Seventy (70) percent of the total lot area of a lot used for storage or distribution.
 - [3] An amount determined by the Planning Board not to exceed Ninety (90) percent of a lot used for any other purpose.

**§ 250-4.7 Village Center District: special conditions and design standards.
[Amended 5-5-2018 ATM by Art. 31]**

A. Special conditions & design standards:

- (1) Purpose.
 - (a) In pursuit of this opportunity and to address this challenge, the Town implements this bylaw and designates this zoning district as Village Center District in order to encourage economic and residential growth that fits the character of the Town.
 - (b) The purposes of the Village Center District are to:
 - [1] Build upon the historic development patterns in the existing village centers to create attractive, walkable neighborhoods;
 - [2] Encourage adaptive reuse of abandoned, vacant or underutilized buildings or structures where appropriate;
 - [3] Allow for a mix of new land uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods;
 - [4] Provide incentives to develop larger parcels at higher densities and in a coordinated, planned approach;
 - [5] Maintain a consistently high level of design quality throughout the district;
 - [6] Encourage the development of mixed use buildings and campuses that are designed and constructed in a manner that is contextually sensitive to the existing structures and facilities.
- (2) Authority.
 - (a) The Planning Board shall act as the administering authority for any Site Plan Approval procedure associated with this bylaw Section 8.4. The Board of Appeals shall serve as the Special Permit Granting Authority for any use that requires a Special Permit in the district, any use requiring a Special Permit pursuant to Section 4.17.5.
- (3) Special Permit Approval Criteria. The Zoning Board of Appeals shall act upon all applications after notice and public hearing, and after due consideration may grant such a special permit provided that it finds the proposed use:
 - (a) Is in harmony with the purpose and intent of the Bylaw and will promote the purposes of the Village Center District.
 - (b) The use is in harmony with those of the abutting properties and the Village Center District as a whole.
 - (c) All applicable standards for use, parking, and dimensional requirements are met;
 - (d) All applicable design standards listed in Section 8 are met.
 - (e) Where multiple structures are proposed, the site design reflects a thoughtful arrangement of elements that will facilitate the movement of pedestrians between structures through the use of sidewalks, internal walkways, alleys or open space features.

- (4) The following uses are prohibited in the Village Center District:
- (a) Newly constructed one-story buildings on lots of less than five (5) acres.
 - (b) Retail operations with more than five thousand (5,000) square feet of gross floor area on any individual floor, except for reuse of buildings existing prior to 1 May 2015.
 - (c) Drive through establishments, excluding those expressly allowed by Special Permit.
- (5) Dimensional requirements.
- (a) Requirements.

	Building Type	
	Mixed Use with Commercial First Floor	Other Mixed Use or Residential Only
Maximum floor area ratio (FAR) (gross floor area/lot size)	2.0	1.5
Minimum lot frontage		75 feet
Maximum lot coverage		85%
Minimum lot area		N/A
Number of buildings per lot		See Subsection 1
Maximum building frontage		300 feet
Minimum front setback		5 feet
Maximum front setback w/o street furniture		15 feet
Minimum side/rear setback abutting a residential zone		10 feet
Minimum side/rear setback in VCD		5 feet
Interior setback (between buildings on the same lot)		10 feet

- (b) Height limitations for nonresidential and mixed use. Building height for mixed use or nonresidential use shall not exceed 38 feet and no building shall have more than three stories.

- (6) Parking requirements.

Use	Parking Requirement
Retail/personal service/liquor store	1 parking space per 400 square feet of net floor area, plus 1 space per employee on the largest shift
Professional office/civic uses	1 parking space per 300 square feet of net floor area
Artists space	1 parking space per 400 square feet of net retail/gallery floor area, plus 2 parking spaces per dwelling unit
Restaurant/private club	1 parking space per 4 seats, plus 1 space for each employee on the largest shift
Bed-and-breakfast	1 parking space per accommodation room, plus 2 parking spaces for the primary residence, plus 1 space per nonresident employee on the largest shift
Mixed use/multiple commercial	Parking to be provided per the individual uses

Use	Parking Requirement
All residential uses	2 parking spaces per dwelling unit
Movie house	1 parking space per 4 occupants, plus 1 parking space per 2 employees on the largest shift
Outdoor market	1 parking space per 500 square feet of sales space
(a) As part of a Site Plan Approval or special permit process within this district, the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking.	
(b) Available innovative parking strategies include:	
[1] Shared On-Site Parking.	
[a] Non-competing uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 50% of the requirements for the predominant use may be waived by the Planning Board or the Board of Appeals if the applicant can demonstrate that the peak demands for two uses do not overlap. An additional 25% may be waived with the addition of bicycle parking facilities.	
[2] Off-Site Parking. Separate from, or in conjunction with Shared Parking provisions, an applicant may use off-site parking to satisfy their parking requirements in accordance with the following conditions:	
[a] Off-site parking shall be within one thousand (1,000) feet of the property for which it is being requested.	
[b] Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the Permit Granting Authority as a condition of either the Development Plan Review or the Special Permit. Where an agreement shall expire within a specified timeline, the applicant or current property owner shall continue to provide evidence to the Zoning Enforcement Officer that the agreement has been extended. The Permit Granting Authority will verify with the Zoning Enforcement Officer that there are no existing parking agreements during the permitting process.	
(7) Design standards. The Design Standards in this section shall be applied to development within the Village Center District where applicable.	
(a) Occupied lot area. The total lot devoted to building, parking, outdoor storage and display and other paved hard surfaces may occupy up to eighty-five (85%) percent of the total lot area.	
(b) Buildings.	
[1] All buildings shall have a principal facade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal facade and/or entry.	
[2] Building finish materials shall be appropriate to traditional New England architecture.	
[3] Building facades, materials and roof lines shall be reviewed under the Permit Granting Authority to ensure consistency and compatibility with other structures.	
[4] Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not	

possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls.

- [5] New retail buildings shall have one of the following features along the front entrances to pedestrians: awning, marquee, arcade and/or colonnade.
- [6] Flat roofs that are visible from the street are prohibited unless an appropriate facade is included in the design.
- [7] Larger buildings with multiple non-residential tenants on the first floor shall articulate the facade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations of acceptable signage, awnings, marquees, colonnades or arcades.
- [8] Mixed Use buildings shall have no more than twenty five (25%) percent of the first floor dedicated to residential use. Conversion or partial conversion of residential uses existing before 1 May 2015 are exempt from this provision.
- [9] All new utility service connections shall be placed underground.
- [10] Lighting, signage and architectural style shall be consistent with other uses in the District and reviewed under the Permit Granting Authority.

(c) Signs.

- [1] Primary signs shall be flat against the facade, or mounted projecting from the facade.
- [2] Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level.
- [3] Signs shall be externally lit from the front; lighting shall be provided using a gooseneck fixture. Back lighting of signs shall not be used.
- [4] Neon, flashing signs, moving signs, electric message signs, and roof signs shall not be used, except for barber poles.
- [5] Banners with a specific date of expiration, shall be allowed, after approval by the Zoning Enforcement Officer.
- [6] Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint/engraved on facade surface.
- [7] Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.
- [8] Each building facade facing a street or parking area is permitted to have signs that equal a maximum square footage of five (5%) percent of the respective facade.
- [9] Sandwich board signs, flags and other portable signs are permitted only within the property lines, as long as they are properly weighted.

- [10] Window signs, comprising no more than ten (10%) percent of the transparent surface, shall be allowed. Window signs shall not be lighted or animated in any manner, with the exception of the standard lighting fixtures within the building.
- (d) Site design.
- [1] Interior streets, drives, walkways and access.
- [a] Site access shall be a divided way (one way in and one way out) where and when appropriate as determined by the Permit Granting Authority.
- [b] Surfaces shall be pervious when possible and practical.
- [c] Street level frontage shall be devoted to entrances, shop windows or other displays.
- [d] Primary entrances to proposed and existing buildings shall be situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 10 feet.
- [e] Setbacks shall be consistent with the fabric of the existing street and do not preclude pedestrian access.
- (e) Parking and loading area.
- [1] Parking shall be in the rear or side of building(s) and shall not be visible from the street line when possible. Parking will be reviewed by the Permit Granting Authority.
- [2] All loading docks shall be to the rear of the building(s) and shall not be visible from the street. Adequate access for loading and emergency vehicles is maintained on one side of the building.
- (f) Sidewalks.
- [1] Sidewalks shall be provided from the street line, when applicable, and from the parking areas to building(s).
- (g) Landscaping.
- [1] There shall be a minimum of a four (4) foot landscaped area along the street frontage and along the front and side of the principal building(s) and plantings of indigenous materials along the facades of the building(s) and between the building(s) if there is more than one principal building on site.
- [2] Additional landscaping and screening may be required during the Development Plan Review or by the permitting authority.
- [3] Such landscape shall be a type and height that does not interfere with sight lines of drivers.
- [4] Natural features shall be retained to the extent possible.
- [5] A landscape plan shall be provided and reviewed.

- [6] Where residential neighborhoods abut commercial, office or mixed use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features.
- (h) Street furniture.
 - [1] Light fixtures shall be designed to be of number and height that grants plentiful lighting. Such lighting shall shine downwards as to not affect adjacent properties and be dark sky compliant.
 - [2] Lighting must also be placed on the side and rear of the building.
 - [3] A Lighting Plan may be required if the Permitting Granting Authority deems the project is of such a scale that the impacts to the neighborhood are adverse; such plan will show where all light fixtures are being proposed within the site, as well as a narrative as to the type of light and height of all fixtures.
 - [4] Outdoor tables, benches, and bicycle racks shall be of a style consistent with the principal use(s) of the site.
 - [5] The location, number and style of trash receptacles shall be reviewed under Permit Granting Authority.
- (8) Village Center District campus developments. Developments that contain multiple buildings and uses on a single lot are encouraged as long as they are sensitive to the context of the surrounding area and meet the purposes outlined above. These developments are subject to the provisions of Section 8.4 Development Plan Review of the Protective Bylaw as well as the additional design guidelines outlined in Section 4.17.8. of this Bylaw and below.
- (9) Additional design standards. In addition to those design standards listed in Section 4.17.8. of this bylaw, applications for a Village Center District Campus shall also meet the following standards:
 - (a) Buildings.
 - [1] Newly constructed building facades for non-residential first floor uses shall have a transparency of at least thirty five (35%) percent and no more than sixty (60%) percent for all facades that, wholly or partially, address street frontage, sidewalks, or other public space.
 - [2] Buildings in Village Center District Campus Developments shall meet the following criteria:
 - [3] No more than ten (10%) percent of the first floor of newly constructed buildings shall be occupied by residential use.
 - [4] No more than sixty (60%) percent of the total gross floor area of the development shall be occupied by residential use.
 - (b) Signs.
 - [1] Freestanding directory signs may be permitted as part of a Village Center District Campus application where several non-residential operations are accessed through a common vehicular entrance. Such freestanding signs shall not exceed eight (8) feet in height, six (6) feet in width and each tenant shall be

allowed a maximum of four and a half (4.5) square feet to display the company or agency name.

(c) Site design.

- [1] Buildings shall be arranged in a manner that optimizes the ability of residents and consumers to access public spaces and pedestrian amenities.
- [2] Buildings shall be oriented toward each other in a way that minimizes conflicts between pedestrians and automobiles.
- [3] Open space provided pursuant to Section 4.17.9.b. of this bylaw shall be designed as a public gathering place. Arcades, courtyards, parks, greens or other common areas shall be located in a manner that connects buildings to each other and to public sidewalks without interruption from parking areas or automobile travel lanes to the greatest practicable extent.
- [4] Features that may be used to create open space areas acceptable to the Planning Board or the Board of Appeals may include, without limitation, fixed benches, fixed tables, fountains, pathways, bikeways, bicycle racks, period lighting, shade trees, perennial gardens, picnic areas, and/or trash receptacles.

§ 250-4.8 **Floodplain District.**

A. Purpose. The purposes of the Floodplain District are to protect the public health, safety and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics and the flood storage capacity of the floodplain and to preserve and maintain the groundwater table and water recharge areas within the floodplain.

B. District delineation.

- (1) The general boundaries of the Floodplain District are shown on the Lunenburg Flood Insurance Rate Map (FIRM), dated June 15, 1982, as Zones A, A1-30 to indicate the one-hundred-year floodplain. The exact boundaries of the district are defined by the one-hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the Flood Insurance Study, dated December 15, 1981. The floodway boundaries are delineated on the Lunenburg Flood Boundary Floodway Map (FBFM), dated June 15, 1982, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two maps, as well as the accompanying study, are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner and **Select Board (Board of Selectmen)**.
- (2) Within Zone A, where the one-hundred-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Planning Board. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this bylaw and the State Building Code.

C. Use regulations.

- (1) The Floodplain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL c. 131, § 40 and with the requirements of the Massachusetts State Building

Code pertaining to construction in the floodplain.

- (2) Permitted uses. The following uses of low flood damage potential and causing no obstructions to flood flows shall be allowed, provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:
 - (a) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
 - (b) Forestry and nursery uses.
 - (c) Outdoor recreational uses, including fishing, boating, play areas, etc.
 - (d) Conservation of water, plants, wildlife.
 - (e) Wildlife management areas, foot, bicycle and/or horse paths.
 - (f) Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.
 - (g) Buildings lawfully existing prior to the adoption of these provisions.
- (3) Uses permissible by special permit granted by the Planning Board. No structure or building shall be erected, constructed, substantially improved or otherwise created or moved, no earth or other materials dumped, filled, excavated or transferred, unless a special permit is granted by the Planning Board. Said Board may issue a special permit hereunder, subject to other applicable provisions of this bylaw, if the application is in compliance with the following provisions:
 - (a) The proposed use shall comply in all respects with the provisions of the underlying district; and
 - (b) Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Board of Health and Building Commissioner. Final action shall not be taken until reports have been received from the above boards or until 35 days have elapsed; and
 - (c) All encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood; and
 - (d) The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupant of the proposed use.

§ 250-4.9 Water Supply Protection District.
[Amended 5-5-2018 ATM by Art. 32]

- A. Purpose. The purpose of the Water Supply Protection District is to promote the health, safety and general welfare of the community; to protect, preserve and maintain present and potential sources of water supply and watershed areas for the public health and safety; to protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the Town for public

health and safety; to preserve and protect the lakes, ponds, streams, brooks, rills, marshes, swamps, bogs and other water bodies and watercourses in Town; to protect the community from the detrimental use and development of land and water within the district; to conserve the natural resources of the Town; to preserve and maintain the groundwater table and water recharge areas within the Town; and to prevent blight and the pollution of the environment.

B. District delineation.

- (1) The boundaries of the Water Supply Protection District shall be as follows: Zone I, Zone II, and Zone III for the Town of Lunenburg, approved by the Department of Environmental Protection (DEP) according to Map 1, entitled "Water Protection District, revised October, 2009."
- (2) Where the bounds as delineated are in doubt or in dispute, the burden of proof that the use is outside the Water Supply Protection District or does not impact the district shall be upon the owner(s) of the land in question. However, the Building Commissioner retains its authority to determine final location with regard to said Water Supply Protection District.
- (3) At the written request of the owner(s) of the property in question, the Town may engage a professional geologist, a certified soil scientist or a registered professional engineer trained in hydrology to determine the location and extent of a protection area on the parcel in question and charge the owner(s) of said parcel for the cost of the investigation.

C. Use regulations.

- (1) The Water Supply Protection District is established as an overlay district to all other districts. Land in the Water Supply Protection District shall be subject to the requirements of this section, as well as to all other requirements of this Zoning Bylaw which apply to the underlying zoning districts. Uses that are not permitted in the underlying district shall not be permitted in the Water Supply Protection Districts.
- (2) Uses permissible in the Restricted Area Zone I by special permit granted by the Planning Board. Irrespective of the permitted uses in the underlying district, only the following uses are permitted within the Restricted Area Zone I of the Water Supply Protection District, subject to the granting of a special permit by the Planning Board, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained, and except as limited by the Conservation Commission and/or Lunenburg Water District as outlined in Guidelines and Policies for Public Water Systems, Department of Environmental Quality Engineering, Division of Water Supply, Revised May 1, 1991, as amended:
 - (a) Conservation of soil, water, plants and wildlife.
 - (b) Outdoor recreation, nature study, boating and fishing.
 - (c) Raised wooden walkways, foot, bicycle and/or horse paths and bridges.
 - (d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.
 - (e) Farming, gardening, nursery, conservation, forestry, harvesting and grazing as provided under MGL

Chapter 40A, provided that fertilizers, herbicides, pesticides, manure, hazardous materials, liquid petroleum products, and other leachable materials are stored within an enclosed structure and used in a manner that will not permit groundwater contamination.

- (f) Uses accessory and subordinate to the above uses, if permitted in the underlying district and subject to the provision of the underlying district, provided that the use does not result in coverage of more than 15% of the lot with impervious surfaces.
- (3) Uses permissible in Zone II by special permit granted by the Planning Board. Irrespective of the permitted uses in the underlying district, only the following uses are permitted within Zone II of the Water Supply Protection District, subject to the granting of a special permit by the Planning Board, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained and except as limited by the Conservation Commission and/or Lunenburg Water District as outlined in Guidelines and Policies for Public Water Systems, Department of Environmental Quality Engineering, Division of Water Supply, Revised May 1, 1991:
 - (a) Conservation of soil, water, plants and wildlife.
 - (b) Outdoor recreation, nature study, boating and fishing.
 - (c) Raised wooden walkway, foot, bicycle and/or horse paths and bridges.
 - (d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.
 - (e) Farming, gardening, nursery, conservation, forestry, harvesting and grazing as provided under MGL Chapter 40A, provided that fertilizers, herbicides, pesticides, manure, hazardous materials, liquid petroleum products and other leachable materials are stored within an enclosed structure and used in a manner that will not permit groundwater contamination.
 - (f) Uses accessory and subordinate to the above uses, if permitted in the underlying district and subject to the provision of the underlying district, provided that the use does not result in coverage of more than 20% of the lot with impervious surfaces.
 - (g) Detached one-family dwellings, if permitted in the underlying district and subject to the provisions of the underlying district, provided that no more than 20% of the required lot area is covered with impervious surfaces.
 - (h) New detached two-family dwellings, if permitted in the underlying district and if located on a lot having an area at least 1 1/2 times that required by § 250-5.1, and provided that no more than 20% of the required lot area is covered with impervious surfaces.
 - (i) Maintenance and repair of an existing structure, provided that there is not an increase in impervious surfaces.
 - (j) Public utilities and facilities, provided that no adverse impact on surface water or groundwater will occur.

- (4) Permitted uses: Zone III. The following uses are permitted within Zone III of the Water Supply Protection District, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained and except as limited by the Conservation Commission and/or Lunenburg Water District as outlined in Guidelines and Policies for Public Water Systems, Department of Environmental Quality Engineering, Division of Water Supply, Revised May I, 1991, as amended:
- (a) Conservation of soil, water, plants and wildlife.
 - (b) Outdoor recreation, nature study, boating and fishing.
 - (c) Raised wooden walkways, foot, bicycle and/or horse paths and bridges.
 - (d) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.
 - (e) Farming, gardening, nursery, conservation, forestry, harvesting and grazing provided under MGL Chapter 40A, provided that fertilizers, herbicides, pesticides, manure and other leachable materials are stored within an enclosed structure and used in a manner that will not permit groundwater contamination.
 - (f) Uses accessory and subordinate to the above uses, if permitted in the underlying district and subject to the provisions of the underlying district, provided that the use does not result in coverage of more than 20% of the lot with impervious surfaces.
 - (g) Detached one-family dwellings, if permitted in the underlying district and subject to the provisions of the underlying district.
 - (h) New detached two-family dwellings, if permitted in the underlying district.
 - (i) Maintenance and repair of an existing structure, provided that there is no increase in impervious surfaces.
 - (j) Public utilities and facilities, provided that no adverse impact on surface water or groundwater will occur.
 - (k) The application of pesticides for nondomestic or agricultural uses, provided that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the Water Supply Protection District as a result of such application. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water or the use of pesticides having low solubility in water, the prevention of volatilization and redeposition of pesticides and the lateral displacement of pesticides.
 - (l) The application of fertilizers for nondomestic or agricultural uses, provided that such application shall be made in such a manner as to minimize adverse impacts on surface water and groundwater due to nutrient transport and deposition and sedimentation.
 - (m) Planned residential development, subject to development plan approval and provided that no more than

15% of the required lot area is covered with impervious surfaces.

- (n) Those commercial and industrial activities permitted in the underlying district, subject to development plan approval to prevent adverse impact on the environment.
- (5) Uses prohibited in the Water Supply Protection District:
 - (a) Storage of road salt or deicing chemicals;
 - (b) Chemical and bacteriological laboratories;
 - (c) Industrial uses which discharge process water, including any commercial or service uses discharging wastewater;
 - (d) Storage of petroleum or other refined petroleum product except within buildings which will be heated by the petroleum or other refined petroleum product; however, nothing in this section shall prevent the owner of a tank or tanks existing at the time of adoption of this section to replace said tanks, provided there is no increase in capacity;
 - (e) Any other use which involves the manufacture, use, storage, transportation or disposal of toxic or hazardous materials or generates, treats, stores or disposes of hazardous materials as defined in Article **II** in quantity exceeding 250 total gallons of liquid material(s) or 2,000 total pounds of solid material(s) at any one time.
 - (6) Uses prohibited in Zone I and Zone II. The following uses are prohibited in Zone I and Zone II:
 - (a) Public or private sanitary landfills, including the deposition of any foreign or nonindigenous material upon the land except for normal and accepted agricultural;
 - (b) Junkyards or recycling facilities;
 - (c) Sewage treatment facilities;
 - (d) Commercial car washes;
 - (e) Dry-cleaning establishments;
 - (f) Metal plating or metal finishing;
 - (g) Use of chemicals for deicing unless deemed necessary for public safety by the **Select Board (Board of Selectmen)**;
 - (h) The use of septic system cleaners which contain toxic organic chemicals;
 - (i) The rendering impervious of more than 15% of a required lot area;
 - (j) The disposal of liquid or leachable wastes, except subsurface domestic waste disposal systems;

- (k) Dumping of snow brought in from outside the district;
- (l) The alteration of any natural site features or topography, including but not limited to the cutting or removal of trees or other natural vegetation or the dumping, filling, excavation, grading, transferring or removing of any gravel, sand, loam or other soft material, rock or ledge prior to obtaining all permits and approvals for final development plans required by this bylaw;
- (m) Any use determined by the Planning Board to be detrimental to the purposes of this section of the bylaw;
- (n) Mining of land except as incidental to a permitted use, subject to a special permit granted by the **Select Board (Board of Selectmen)**.

D. Conditions for use.

- (1) Each application for a special permit in the Water Supply Protection District shall conform to the Planning Board Rules and Regulations for Site Plan Approval and Special Permits, as amended. In addition to the submission requirements of the Planning Board Rules and Regulations for Site Plan Approval and Special Permits the following items shall also be included:
 - (a) A plot plan showing:
 - [1] Location of wetlands, streams, water bodies and floodplain;
 - [2] Existing drainage patterns, including direction of surface flow and, if required, subsurface flow;
 - [3] Existing soils;
 - [4] Soil boring locations and results;
 - [5] Existing woodlands;
 - [6] Areas having slopes exceeding 15%;
 - [7] Areas to be disturbed by construction;
 - [8] Areas where earth and other material subject to erosion will be temporarily stockpiled;
 - [9] Areas to be used for disposal or storage of construction debris, stones, stumps, etc. if within the district;
 - [10] Temporary and permanent erosion control measures planned, such as sediment basins, storm waste basins, diversions, rip-rap, stabilization seedings, etc.;
 - [11] Temporary work roads to be used during projects;
 - [12] Locations and size of septic systems;
 - [13] Method to contain spillage in fuel filling areas;

- (b) A storm drainage plan showing:
 - [1] Locations of drains and culverts and names of streams, rivers, ponds or reservoirs in the Town into which they flow;
 - [2] Discharge peaks and expected velocities at drain or culvert outlets;
 - [3] Conditions above and below outlets and expected flow velocities;
 - [4] Supporting computation for the above;
 - (c) A grading plan showing existing topography and planned grade along existing and/or proposed street or highway profiles;
 - (d) A siltation and sedimentation control plan, including:
 - [1] Sedimentation and erosion control structures such as diversions, waterways, slope stabilization structures and sediment basins, in sufficient detail to implement their installation together with referred standards for soil erosion and sedimentation as appropriate and design calculations as required for each structure;
 - [2] Seeding and/or sodding requirements for all exposed areas, including seedbed preparation, seed mixtures, lime, fertilizer and mulching requirements with referenced standards;
 - [3] Schedule or sequence of operation with starting dates for clearing and/or grading, timing for storm drain and culvert installations, both temporary and permanent, indicated dates when critical area stabilization, paving, seeding, mulching and/or sodding is to be completed;
 - [4] General notes for sediment control that spell out the procedures for implementing the plan.
 - (e) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by description of measures proposed to protect such materials from vandalism, corrosion and leakage and to provide for control of spills;
 - (f) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal methods;
 - (g) Evidence of approval by the Massachusetts Department of Environmental Quality Engineering (DEQE) of any industrial water treatment or disposal systems;
 - (h) For underground storage of toxic or hazardous materials, evidence of qualified professional supervision of system design, installation and operation;
 - (i) Analysis by a professional engineer in sanitary or civil engineering registered in the Commonwealth of Massachusetts certifying compliance with Subsection **E** below.
- (2) The Planning Board shall transmit one copy of the plan to the Board of Health and one copy to the

Conservation Commission, one copy to the Fire Department and one copy to the local water purveyor for review and comment. The Board of Health and the Conservation Commission shall submit a written report to the Planning Board within 14 days.

- (3) Said plan submission shall be submitted to the Planning Board at a regularly scheduled meeting of the Planning Board.
 - (a) In case of a use not requiring a special permit, the Planning Board, within 45 days of the receipt thereof, shall submit a report to the Building Commissioner. Said report shall summarize the Board's findings with regard to the compliance of the plan with the provisions of the Zoning Bylaw and any recommendations of the Board to ensure that:
 - [1] The proposed use shall comply in all respects with the provisions of the underlying district and will promote the purposes of the Water Supply Protection District; and
 - [2] The proposed use is appropriate to the natural topography, soils and other characteristics of the site to be developed; and
 - [3] The proposed use will not, during construction or thereafter, have an adverse environmental impact on the aquifer or recharge area; and
 - [4] The proposed use will not result in the deterioration of existing groundwater or surface water quality, whether or not such water meets established state or federal standards; and
 - [5] The proposed use complies with the provisions of § **250-8.3C(2)**.
 - (b) The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.
 - (c) The Building Commissioner shall not issue a permit until the report of the Planning Board, or more than 45 days shall have elapsed from the time of submittal to the Planning Board without receipt of such report, has been submitted to the Building Commissioner.
- E. Limitations upon uses. In addition to the limitations set forth in Article V of this bylaw, all uses within the Water Supply Protection District, except for single-family dwelling lots on plans not requiring Planning Board approval, shall be subject to the following limitations:
 - (1) Safeguards. Provision shall be made to protect against toxic or hazardous materials discharged or lost through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials and indoor storage provisions for corrosive or dissolvable materials.
 - (2) Location. Where the premises are partially outside of the Water Supply Protection District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the district.
 - (3) Disposal. For any toxic or hazardous waste to be produced in quantities greater than those associated

with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with Chapter 21C of the Massachusetts General Laws and all other applicable laws and regulations.

- (4) Drainage. All runoff from impervious surfaces shall be recharged on the site, diverted towards areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are infeasible and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination.
- (5) Monitor test wells. Where fertilizers, pesticides, herbicides or other potential contaminants are to be applied, utilized or stored and in the opinion of the Planning Board are a matter of concern, a groundwater monitoring program shall be established before the special permit is granted. Such a program shall adequately monitor the quality of the groundwater leaving the site through the use of monitor wells and/or appropriate groundwater sample analyses.
- (6) Natural vegetation. No more than 30% of existing natural vegetation on any lot may be disturbed in an underlying residential district, nor more than 50% of existing natural vegetation on any lot may be disturbed in an underlying nonresidential district.
- (7) Technical reference. The technical reference to be used to prepare and review plans is "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts," 1977, U.S.D.A. Soil Conservation Service, Amherst, Massachusetts. Specific guidelines to use include, but are not limited to:
 - (a) Limit grading to only those areas actively undergoing current construction;
 - (b) The smallest practical area of land should be exposed at one time during development;
 - (c) Limit the length of time graded areas are exposed;
 - (d) Provide temporary or permanent stabilization of disturbed areas at the earliest opportunity. Limit exposure to less than 60 days;
 - (e) Retain and protect as much of the natural vegetation as possible;
 - (f) Permanent improvements such as streets, utilities, storm sewer, vegetated waterways and other features of the development should be scheduled for installation to the greatest extent possible before removing the vegetative cover from an area scheduled for building construction;
 - (g) Protect all fill slopes and cut slopes exceeding five feet in height from storm run-off through the use of diversion berms, drop chutes or other acceptable means;
 - (h) Rough-graded rights-of-way awaiting installation of utilities and/or pavement should be protected by the installation of interceptor berms across the right-of-way so as to reduce the length of slope between berms to not more than 250 feet;
 - (i) On sites where the above procedures are impractical or not acceptable, where the topography permits, install sediment basins, desilting basins or silt traps to remove sediment from runoff waters.

- (8) Non-point source pesticide contamination. All pesticide use in Zone II shall comply with the provisions 333 CMR 12.00.

§ 250-4.10 Lake Whalom Overlay District.
[Amended 5-5-2018 ATM by Art. 32]

- A. Purpose. The purpose of the Lake Whalom Overlay District is to provide for the coordinated development of the former amusement park area and its adjacent area in a manner which will protect the historic features of the area, provide housing, encourage sound economic development, protect the adjacent neighborhood, and respect adjacent natural features and Town properties, all with minimum environmental and traffic impacts.
- B. Location. The Lake Whalom Overlay District includes the area bounded as follows: by the present Commercial District boundary line on the west from the Leominster City line to the center line of Whalom Road, easterly along the center line of Whalom Road, continuing along the center line of Pond Street to Kimball Street, southeasterly along the center line of Kimball Street to the center line of Prospect Street, westerly along a line extending straight across Prospect Street to the shoreline of Whalom Lake, southwesterly along the shoreline of Whalom Lake to the Commercial District boundary line, southerly along the Commercial District boundary to the Leominster City line to the point of beginning.
- C. Permitted uses: all uses of the underlying districts, subject to the restrictions and provisions of the underlying district, except for those uses permitted by §§ 250-4.2C(1)(a) and 250-4.6C(1)(j), (l) and (n).
- D. Uses permissible by special permit granted by the Planning Board:
- (1) Townhouses and garden flats.
 - (2) Recreation facilities, limited to lakefront facilities, including a club house, beach, tennis, badminton, bocce, shuffleboard, gardens, outdoor seating and similar uses.
 - (3) Restaurants.
- E. Conditions of use.
- (1) All uses are subject to the applicable provisions of Section **250-8.4**.
 - (2) The dimensional requirements of Section 250-5.0. can be modified by the Planning Board in connection with a Special Permit or a Site Plan Approval, if
 - (a) the use or uses are connected to municipal sewer and
 - (b) at least ten (10) percent of the residential portion, if any, is limited in perpetuity to occupancy by persons fifty-five (55) years or more of age or qualifying for affordable units as defined by the Commonwealth.
 - (3) The maximum density shall be determined by the Planning Board so as not to conflict with the surrounding properties and intended use, but shall not be more than eight (8) units per acre.

- (4) If density exceeds the underlying zone, there shall not be more than two (2) bedrooms per unit.
- (5) Consideration shall be given to preserving some of the previous character of the area as an amusement park, such assigning or markers, maintaining a feature of the park or other historic structures.
- (6) Development of uses permitted by Section 4.12.3. shall be completed within three (3) years from the date of approval of the special permit, unless otherwise approved by the Planning Board.

§ 250-4.11 Tri-Town Smart Growth District.
[Amended 5-5-2018 ATM by Art. 32]

- A. Purpose and authority. The purposes of the Tri-Town Smart Growth District are to encourage smart growth in accordance with the purposes stated in MGL Chapter 40R and to encourage a range of housing types and opportunities which are appropriate in Lunenburg. The objectives include:
- (1) To promote the public health, safety and welfare by encouraging a diversity of housing opportunities.
 - (2) To provide a range of housing choices for households of varying size, incomes and ages and increase the production of housing to meet existing and anticipated need.
 - (3) To establish requirements, standards and guidelines which will ensure suitable and cost-effective development and a clear, predictable and efficient development review and permitting process.
 - (4) To enable the Town to receive zoning incentive and density bonus payments under MGL Chapter 40R and Chapter 40S.
- B. Definitions. For purposes of this section, the following definitions shall apply. All terms shall be defined in accordance with the definitions established under the enabling laws or this section, or as set forth in the rules and regulations of the permit approval authority ("regulations"), if any. To the extent that there is any conflict between the definitions set forth in this section or the regulations and the enabling laws, the terms of the enabling laws shall govern.

ACCESSORY USE

An accessory use shall be customarily incidental to any of the permitted uses, provided that there is no exterior display and that there are no products sold on the premises and no customers or clients coming to the premises.

AFFORDABLE HOMEOWNERSHIP UNIT

An affordable housing unit required to be sold to an eligible household.

AFFORDABLE HOUSING

Housing that is affordable to and occupied by eligible households.

AFFORDABLE HOUSING RESTRICTION

A deed restriction of affordable housing meeting statutory requirements in MGL c. 184, § 31 and the requirements of Subsection **G(5)** of this bylaw.

AFFORDABLE RENTAL UNIT

An affordable housing unit required to be rented to an eligible household.

AS-OF-RIGHT PROJECT or PROJECT

A development of housing under zoning without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A project that requires approval pursuant to this section shall be considered an as-of-right project.

ELIGIBLE HOUSEHOLD

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

ENABLING LAWS

MGL Chapter 40R and 760 CMR 59.00.

GARDEN APARTMENT

A multifamily residential building of not more than three floors.

MULTIFAMILY RESIDENTIAL USE

Apartment or condominium units in one or more buildings that contain or will contain more than three dwelling units.

PLAN APPROVAL

Standards and criteria which a project in the Tri-Town Smart Growth District must meet under the procedures established herein and in the enabling laws.

PLAN APPROVAL AUTHORITY

For purposes of reviewing project applications and issuing decisions on development projects within the Tri-Town Smart Growth District, the Planning Board, consistent with MGL Chapter 40R and 760 CMR 59.00, shall be the plan approval authority, and is authorized to approve a site plan to implement a project.

RECREATIONAL USES

Active recreational uses, including but not limited to ball fields, and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

C. Overlay district.

- (1) Establishment. The Tri-Town Smart Growth District is an overlay district having a land area of approximately +8.97 acres in size that is superimposed over the underlying zoning district applicable to a portion of the property shown on the map entitled "Tri-Town Smart Growth District," dated April 10, 2006, being the locus formerly used as the Tri-Town Drive-in Theater on Youngs Road and shown on Assessor's Map Number 81, Parcel Number 907. This map is hereby made a part of the Zoning Bylaw and is on file in the office of the Town Clerk.
- (2) Underlying zoning. The Tri-Town Smart Growth District is an overlay district superimposed on all

underlying zoning districts. When a building permit is issued for any project approved in accordance with this § 250-4.13, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Subsection **L** for such project.

- D. **Applicability of Tri-Town Smart Growth District.** In accordance with the provisions of MGL Chapter 40R and 760 CMR 59.00, an applicant for a project located within the Tri-Town Smart Growth District may seek plan approval in accordance with the requirements of this section. In such case, then notwithstanding anything to the contrary in this Zoning Bylaw, such application shall not be subject to any other provisions of this 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 building permit or dwelling unit limitations.
- E. **Permitted uses.** The following uses are permitted as of right in the Tri-Town Smart Growth District:
- (1) Multifamily residential use, including garden apartments, with a density of 22.03 dwelling units per acre.
 - (2) Parking, including surface, garage-under, and structured parking (e.g., parking garages).
 - (3) Open space and recreational uses.
 - (4) Accessory uses customarily incidental to any of the above permitted uses.
- F. **Project phasing.** The Planning Board, as a condition of any plan approval, may require a project to be phased for the purpose of coordinating development with the mitigation required to address any adverse project impacts on nearby properties. For projects that are approved and developed in phases, the proportion of affordable units and the proportion of market-rate units shall be consistent across all phases.
- G. **Housing and housing affordability.**
- (1) **Marketing plan.** Prior to granting plan approval for a project within the Tri-Town Smart Growth District, an applicant for such approval must submit 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. Not less than 10% of the residential units within a project shall be three-bedroom units. These documents in combination, to be submitted with a site plan application pursuant to Subsection **L** below, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.
 - (2) **Number of affordable housing units.** Not less than 25% of housing units constructed in a project shall be affordable housing; provided, however, that the Planning Board may consider an application where 20% of the units are affordable housing set aside for eligible households. For purposes of calculating the number of units of affordable housing required within a project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.
 - (3) **Requirements.** Affordable housing shall comply with the following requirements:

- (a) For an affordable rental unit, the monthly rent payment, including utilities and parking, shall not exceed 30% of the maximum monthly income permissible for an eligible household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- (b) For an affordable homeownership unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30% of the maximum monthly income permissible for an eligible household, assuming a family size equal to the number of bedrooms in the unit plus one.
- (c) Affordable housing required to be offered for rent or sale shall be rented or sold to and occupied only by eligible households.
- (4) Design and construction. Units of affordable housing shall be finished housing units. Units of affordable housing shall be dispersed throughout the development of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the development. The total number of bedrooms in the affordable housing shall be proportionate to the total number of bedrooms in all the units in the development of which the affordable housing is part, provided that at least 10% of the three-bedroom units within the district shall be affordable housing.
- (5) Affordable housing restriction. Each unit of affordable housing shall be subject to an affordable housing restriction which is recorded with the appropriate Registry of Deeds or District Registry of the Land Court and which contains the following:
 - (a) Specification of the term of the affordable housing restriction, which shall be in perpetuity;
 - (b) The name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;
 - (c) A description of the unit of affordable housing by address and number of bedrooms;
 - (d) Reference to a housing marketing and resident selection plan, to which the affordable housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such unit shall be given to a household of the appropriate size;
 - (e) A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of eligible households compiled in accordance with the housing marketing and selection plan;
 - (f) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership 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 a homeownership housing unit to a commercial lender in an amount

less than the maximum resale price may have priority over the affordable housing restriction if required by then current practice of commercial mortgage lenders;

- (h) A requirement that only an eligible household may reside in affordable housing and that notice of any lease or sublease of any unit of affordable housing shall be given to the administering agency;
 - (i) Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
 - (j) Provision that the restriction on an affordable homeownership unit shall run in favor of the administering agency and the Town of Lunenburg in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an eligible household;
 - (k) Provision that the restriction on an affordable rental unit shall run in favor of the administering agency and the Town of Lunenburg in a form approved by municipal counsel, and shall limit rental and occupancy to an eligible household;
 - (l) Provision that the owner(s) or manager(s) of affordable rental unit(s) shall file an annual report to the administering agency, in a form specified by that agency certifying compliance with the affordability provisions of this bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
 - (m) A requirement that residents in affordable housing provide such information as the administering agency may reasonably request in order to ensure affordability.
- (6) Administering agency. An administering agency, which may be the Lunenburg Housing Authority or other qualified housing entity, shall be designated by the Planning Board. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Planning Board or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such agency shall ensure the following:
- (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 requirements 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;
 - (e) Affordable housing restrictions meeting the requirements of this section are recorded with the proper Registry of Deeds.

- (7) Housing marketing and selection plan. The housing marketing and selection plan may make provision for payment by the project applicant of reasonable costs to the administering agency to develop, advertise, and maintain the list of eligible households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed 1/2% of the amount of rents of affordable rental units (payable annually) or 1% of the sale or resale prices of affordable homeownership units (payable upon each such sale or resale), as applicable.
- (8) Age restrictions. The district shall not include the imposition of restrictions on age.
- (9) Phasing. For housing that is approved and developed in phases, the proportion of affordable housing units shall be consistent across all phases.
- (10) Computation. Prior to the granting of any building permit for the housing component of a project, the applicant for such building permit must demonstrate, to the satisfaction of the Planning Board, 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.
- (11) No waiver. Notwithstanding anything to the contrary herein, the affordability provisions in this section shall not be waived.

H. Density and dimensional regulations.

- (1) Lot area, width and frontage.
 - (a) No building, except a detached building or accessory use, shall be constructed on a lot smaller than the land in the Tri-Town Smart Growth District.
 - (b) The frontage of the lot must be available for access.
- (2) Setbacks and yards.
 - (a) No building shall be constructed less than 40 feet from the exterior line with Youngs Road unless otherwise approved by the Planning Board in accordance with Subsection **N(1)**.
 - (b) No building or accessory use shall be constructed nearer to the boundary lines of the district than 25 feet unless approved by the Planning Board in accordance with Subsection **N(1)**.
- (3) Building height.
 - (a) The maximum height of a building or structure shall be 38 feet, measured from the highest level abutting the building to the highest point of the building.
 - (b) The vertical distance between any point on the roof of a building, whether main or accessory, and any point on the side or rear lines of its lot shall not exceed the horizontal distance between the same two points by more than five feet.
- (4) Density and unit type.

- (a) There shall not be more than 204 dwelling units.
 - (b) Twenty percent of the units shall be one-bedroom units, 70% shall have two bedrooms and not less than 10% shall have three bedrooms.
- I. Parking requirements.
- (1) Dwellings: two parking spaces for each dwelling containing two or three bedrooms, one parking space for each dwelling unit containing one bedroom, which shall be attached to the dwelling structure unless otherwise approved by the Planning Board.
 - (2) Guest parking. The location and number of guest parking spaces shall be approved during the development plan review process.
- J. Signs. No signs except an entrance sign and interior directional signs are allowed.
- K. Performance standards.
- (1) The architectural style, including facades and color, handicapped units and access, walkways and landscaped areas shall be approved by the Planning Board as compatible with the Town of Lunenburg.
 - (2) Landscaping shall be used to establish buffers between incompatible land uses, which shall be shown on the plan, including plant type and location.
 - (3) Open spaces and pedestrian amenities shall be available to the public.
 - (4) Access points, service roads, driveways and driveway entrances, parking areas, lighting and pedestrian walkways shall be arranged and provided in a manner which facilitates interior circulation and minimizes conflict between vehicles and pedestrians.
 - (5) Ease of access, travel and on-site movement for fire and police equipment and other emergency services shall be assured for public safety.
 - (6) Utilities shall be placed underground, unless otherwise approved by the Planning Board.
 - (7) Surface run-off shall be minimized and the protection of the site and adjacent properties from erosion as a result thereof shall be assured.
 - (8) The relationship of the buildings to the site, including the siting of buildings, structures and open spaces, shall be designed to permit passive solar energy and to permit maximum protection of pedestrian areas from adverse impact of winds, vapors or other emissions, shadows and/or noise.
 - (9) The relationship of the buildings and site to adjoining areas, including compatibility with the prevailing architectural style and landscape, shall assure suitable transition to adjoining properties.
 - (10) Historical considerations and compatibility with abutting properties and the area in which it is located shall be respected.

- (11) Provision shall be made for maintenance of common areas and special features.
- (12) The design of parking and off-street loading areas shall comply with the Regulations of the Planning Board of the Town of Lunenburg Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas, effective January 1, 2005.
- (13) The landscaping shall comply with the Planning Board Guidelines for Nonresidential Landscaping, effective January 1, 2005.
- (14) Alteration of the topography shall be limited as nearly as possible to that which is necessary for the provision of access.
- (15) Appropriate surface treatment, fencing, walls and signage shall be provided.
- (16) Adequate size, location and screening of exterior and outside storage and service areas shall be provided.
- (17) Appropriate provision shall be made for waste disposal, water supply; refuse removal, drainage, dust and erosion control and other utilities and their appurtenances, in accordance with applicable Town regulations.
- (18) Adverse impacts as identified in the environmental impact statement required by the Lunenburg Planning Board Rules and Regulations Governing the Subdivision of Land, dated March 2002, shall be mitigated to the satisfaction of the Planning Board.
- (19) Utilities, including water, sewer, drainage, and electricity, shall conform to the applicable sections of the Lunenburg Planning Board Rules and Regulations Governing the Subdivision of Land, dated March 2002.
- (20) Project review, development and construction shall be monitored in accordance with the Monitoring and Inspection Procedures, dated 2005, and the Fee System of the Lunenburg Planning Board in effect January 1, 2005.

L. Application for plan approval.

- (1) Required submittals. The application for plan approval shall be accompanied by the following plans and documents. 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 40 feet or larger, or at a scale as approved in advance by the Planning Board, and shall show the following:
 - (a) The perimeter dimensions of the lot; Assessors Map, lot and block numbers.
 - (b) 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 or larger in caliper ("Caliper" is girth of the tree at approximately waist height.).
- (g) Scale and North arrow (minimum scale of one inch equals 40 feet).
- (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-bedroom units, two-bedroom units, etc., if appropriate.
- (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: either one bedroom, two bedrooms or more.) The area in square feet of each typical unit should be indicated.
- (n) Developer's (or his representative's) name, address and phone number.
- (o) Any other information, which may include required traffic, school, utilities impact study and in order to adequately evaluate the scope and potential impacts of the proposed project.
- (2) Records. All plans and elevations presented with the application shall remain a part of the records of the Planning Board. The provision of the plan and the application shall be the sole responsibility of the applicant.

M. Procedures.

- (1) Filing. An applicant for plan approval shall file the application form and other required submittals as set forth above with the Town Clerk, and also shall file forthwith the required number of copies of the application and other required submittals as set forth above with the Planning Board, including the date of filing with the Town Clerk.

- (2) Circulation to other boards. Upon receipt of the application, the Planning Board shall immediately provide a copy of the application materials to the **Select Board (Board of Selectmen)**, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, 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.
- (3) Hearing. The Planning Board shall hold a public hearing for which notice has been given as provided in MGL c. 40A, § 11. The decision of the Planning Board 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 Planning Board, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the Planning Board to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.
- (4) Peer review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the plan approval application, pursuant to MGL c. 44, § 53G.

N. Decision.

- (1) Waivers. Upon the request of the applicant, the Planning Board may waive dimensional and other requirements of this section, including the performance standards of Subsection **K**, 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 Tri-Town Smart Growth District, 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.
- (2) Plan review. An application for plan approval shall be reviewed for consistency with the purpose and intent of this section, and such plan review shall be construed as an as-of-right review and approval process as required by and in accordance with the enabling laws.
- (3) Plan approval. Plan approval shall be granted where the Planning Board finds that:
 - (a) The applicant has submitted the required fees and information as set forth herein; and
 - (b) The project and site plan meet the requirements and standards set forth in this section, or a waiver has been granted therefrom; and
 - (c) Extraordinary adverse potential impacts of the project on nearby properties have been adequately mitigated.
- (4) Plan disapproval. A site plan may be disapproved only where the Planning Board finds that:
 - (a) The applicant has not submitted the required fees and information as set forth herein; or
 - (b) The project and site plan do not meet the requirements and standards set forth in this section, or a waiver has not been granted therefrom; or

- (c) It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.
- (5) Form of decision. The Planning Board 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 Planning Board. If 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. 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.
- O. Change in plans after approval by Planning Board.
 - (1) Minor change. After plan approval, an applicant may apply to make minor changes 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 Planning Board on red-lined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Planning Board. The Planning Board may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Planning Board shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk.
 - (2) Major change. Those changes deemed by the Planning Board to constitute a major change 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 Planning Board as a new application for plan approval pursuant to this section.

§ 250-4.12 Summer Street Revitalization Overlay District.
[Amended 5-5-2018 ATM by Art. 32]

- A. Purpose. The Summer Street Revitalization Overlay District has been established to encourage development that in itself is compatible and aligns with the character of the Town; to create, through amenities, a sense of community that is an appealing place to live and work, ensuring the vision of Lunenburg as a New England Town, and further, to provide clear and precise guidelines as to the building and lot design that will revitalize the area and, when possible, using sustainable building materials and design features that include indoor/outdoor conservation methods.
- B. Location: in Lunenburg from the Fitchburg line to the Leominster line, including all of the Industrial District along Summer Street in Lunenburg and all of the Commercial District along Summer Street and Youngs Road in Lunenburg.
- C. Objectives:
 - (1) Allowing a mix of uses in close proximity in the district within the development, including residential,

retail, office, and light industrial;

- (2) Preserving and restoring a village-style character to the designated overlay area;
- (3) Promoting a balance of land uses;
- (4) Promoting the opportunity for people to work, meet, shop, and utilize services in the vicinity of their residences;
- (5) Providing opportunities for the development of variety of housing opportunities;
- (6) Providing opportunities for a mixture of uses in the same building;
- (7) Promoting a positive pedestrian environment in the district;
- (8) Facilitating integrated physical design;
- (9) Promoting a consistent level of design quality;
- (10) Encouraging the development of flexible space for small and emerging businesses;
- (11) Facilitating development proposals responsive to current and future market conditions;
- (12) Encouraging the development of open spaces and parks within the district to accommodate workers, residents, pedestrians, and shoppers.

D. Permit granting authority. The Zoning Board of Appeals (ZBA) is hereby Special Permit Granting Authority for the Summer Street Overlay District.

E. Permitted uses. The following uses are permitted within the Summer Street Revitalization Overlay District:

- (1) Uses as outlined in Section 250-4.1.G Use Table.
- (2) Mixed-use development, which is a development of a tract of land, building, or structure with two or more different uses such as, but not limited to, residential, office, retail, institutional, or entertainment. Residential uses shall be allowed as part of a mixed-use project.

F. Dimensional standards. These standards herein are hereby established as such to achieve a village-style design for the Summer Street Revitalization Overlay District.

- (1) Occupied lot area.
 - (a) The total area on any lot devoted to building, parking, outdoor storage, and display and other hard-surfaced areas may occupy up to 85% of the total lot area.
- (2) Maximum height: no more than 55 feet measured from ground level.

- (3) Setbacks. A landscape plan shall be required for screening and buffering purposes for setback areas.
 - (a) Front: 20 feet.
 - (b) Side: 15 feet.
 - (c) Rear: 20 feet.
 - (4) Minimum lot size: 20,000 square feet.
 - (5) Minimum frontage: 50 feet.
 - (6) Minimum open space. All projects within the Summer Street Revitalization Overlay District shall have at least 10% of the total site area devoted to open space; required setbacks shall be considered as part of the total area required for open space. The required open space shall not be used for parking or loading purposes and shall be open and unobstructed to the sky. Items such as benches, walkways, planters, landscaping, kiosks, gazebos and similar structures shall not be considered obstructions.
 - (7) Mixed-use developments that propose to have retail and residential uses within the same building on lots that meet the minimum dimensional requirements established herein shall be allowed only in a two-story building.
 - (8) A mixed-use development within the Summer Street Revitalization Overlay District must provide that at least 10% of its residential units be made affordable to low- to moderate-income persons in perpetuity as defined by the Executive Office of Housing and Economic Development (EOHED).
- G. Additional standards. As well as the standards required under § **250-8.4**, Site plan approval, these additional standards are established for the Summer Street Revitalization Overlay District:
- (1) Building location and facade.
 - (a) The building front shall face the street on which the lot obtains its frontage.
 - (b) If there is more than one building on the site, the siting shall be approved by the special permit granting authority pursuant to the procedures outlined in § **250-8.4**, and there shall be sidewalk connections between buildings.
 - (c) Flat roofs that are visible from the street level are prohibited unless an appropriate facade is included in the design.
 - (d) Roof colors shall be appropriate to the area and consistent through the site, except signs approved under the development plan review.
 - (e) The principal building(s) shall be connected to public water and sewer where readily available and accessible.
 - (f) Lighting, signage, and architectural style shall be consistent with other uses in the district and reviewed under the development plan review (DPR).

- (2) Parking, loading, and interior streets.
 - (a) Parking lots shall be located at the rear of or the side of buildings wherever feasible or practical.
 - (b) Parking lot layout shall take into consideration pedestrian circulation. Pedestrian crosswalks shall be provided, where necessary and appropriate.
 - (c) Turning radius of emergency response vehicles shall be accommodated within the design of the project.
 - (d) All loading docks shall be at the rear of building(s) and not be visible from the street.
 - (e) All paved areas shall be separated from the lot line setback by a four-foot landscaped area of indigenous materials.
- (3) Landscaping and screening.
 - (a) There shall be a minimum of a four-foot landscaped area along the street frontage and along the front and side of the principal building(s) and plantings of indigenous material along the facade of the building(s) and between the buildings if there is more than one building on site.
 - (b) Such landscaping shall not interfere with sight lines of drivers.
 - (c) Natural features shall be retained wherever feasible.
 - (d) Screening of the site shall be by a four-foot landscaped strip at the rear and side lot lines.
 - (e) Additional landscaping and screening may be required where it is deemed such appropriate measures are in order.
- (4) Streetscape.
 - (a) Light fixtures shall be designed to appropriately blend within the district and be of a number and height that grants plentiful lighting. Such lighting shall shine downward so as to not affect adjacent properties.
 - (b) Lighting must also be placed on the side and rear of the building.
 - (c) Outdoor tables, benches, and bicycle racks shall be of a size and be consistent with the principal use(s) of the site.
 - (d) Trash receptacles must be of a size that provides proper usage.
 - (e) Sidewalks shall be provided from the street line, when applicable and practical, and from the parking areas to building(s).
- H. Waiver. The review authority may waive any of the standards within this section, provided that such waiver will not substantially derogate from the village-style design standard established herein.
- I. Commonly held lots. Any lot that is commonly held in ownership with an adjacent lot in this district

may be treated as a single lot in accordance with this section, provided that the total area of such lots is at least 20,000 square feet in area combined, the lots have a combined contiguous frontage of at least 50 feet, and both are vacant of structures, parking facilities, or accessory uses.

- J. Conflict with other laws. All development activities within the Summer Street Revitalization Overlay District shall comply with applicable laws, regulations, and standards of the Town, except that in the event of a conflict between this bylaw and any such laws and regulations, the provisions of this bylaw shall control, provided that they are consistent with state and federal law.
- K. Severability. If any section or provision of this bylaw is found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other section or provision of this bylaw.

§ 250-4.13 **Solar energy systems.**

[Amended 5-5-2018 ATM by Art. 33]

- A. Purpose. The purpose of this section is to provide siting for solar photovoltaic energy systems for power generation for all home, commercial or industrial installations. Small-scale ground-mounted photovoltaic installations, roof-mounted solar energy installations and large-scale ground-mounted photovoltaic installations within the Solar Overlay District may be constructed without need for discretionary approval as set forth herein. Large-scale ground-mounted photovoltaic installations outside of the Solar Overlay District may be constructed by special permit, provided certain criteria as set forth herein are met. The provisions in this section of the Zoning Bylaw shall apply to the construction, operation, repair, and/or removal of all solar electric systems, and to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

BUFFER STRIP

A strip of land between the solar photovoltaic arrays, and any structures accessory thereto, and the boundary of the parcel, reserved for plant material, berms, walls or fencing to serve as a visual barrier.

LARGE-SCALE GROUND-MOUNTED PHOTOVOLTAIC INSTALLATION

A solar photovoltaic system that is structurally mounted on the ground and has a nameplate capacity of 10 kW or greater.

PLANT MATERIAL

Trees or shrubs of a type and height that sufficiently screen the arrays without blocking necessary sun that would hinder the product performance, including ground cover that would screen the lower portion of the arrays.

RATED NAMEPLATE CAPACITY

The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

ROOF-MOUNTED SOLAR ENERGY INSTALLATION

Solar photovoltaic arrays placed on the roof of residences, or commercial, industrial or institutional buildings and Town-owned municipal buildings.

SMALL-SCALE GROUND-MOUNTED PHOTOVOLTAIC INSTALLATION

A solar photovoltaic system that is structurally mounted on the ground and has a nameplate capacity under 10 kW.

SOLAR PHOTOVOLTAIC ARRAY

An arrangement of solar photovoltaic panels.

- C. Small-scale ground-mounted solar photovoltaic installations and roof-mounted solar energy installations.
- (1) Purpose. The purpose of this section is to promote the creation of renewable energy for individual residences, commercial enterprises and municipal buildings, as-of-right.
 - (2) Roof-mounted solar energy installations. Roof-mounted solar energy installations shall be located so as not to increase the total height of the structure more than one foot above the applicable zoning regulations related to height in the district in which it is located, or such other height as is determined by the Building Commissioner to be essential for proper operation, but in no case no more than four feet.
 - (3) Small-scale ground-mounted solar energy installations.
 - (a) Small-scale ground-mounted photovoltaic installations are not permitted in the zoning dimensional setbacks as listed in § **250-5.2** of the Zoning Bylaw and may not be located closer than 25 feet to residential side yard lines.
 - (b) Dimensional setbacks for small-scale ground-mounted photovoltaic installation shall have a front lot setback no closer than the existing foundation of the primary dwelling to the front property line, except when the existing foundation of the primary dwelling is more than 125 feet from the front property line or otherwise if determined appropriate by the Building Commissioner.
 - (c) Small-scale ground-mounted photovoltaic installations shall be adequately screened from the neighboring lot line as determined by the Building Commissioner.
 - (d) A small-scale ground-mounted photovoltaic installation with 20 feet or greater in height, at its maximum extension, shall require a special permit in accordance with Subsection **D(3)**.
 - (4) Required documents. The following documents shall be required:
 - (a) Sun and shadow diagrams specific to the proposed installation to determine the solar access.
 - (b) Detailed information, including maps, plans or dimensional sketches showing proposed location of the solar installation, including any setbacks from property lines or distances from structures which are used for habitation on adjacent properties, and a landscape diagram showing proposed screening.
 - (c) Site drawings showing the building and structure footprints, property lines, location and the dimensions of solar arrays, ridgeline of roof and description of the installation.
 - (d) Elevation drawings showing heights of buildings and solar arrays.

(5) Permitting. Small-scale ground-mounted solar photovoltaic installations and roof-mounted solar energy installations require only a building permit, except that a small-scale ground-mounted solar photovoltaic installation 20 feet in height or greater, at its maximum extension, shall require a special permit in accordance with Subsection **D(3)**. All data listed above shall be submitted to the Building Commissioner. All other necessary permits shall be obtained before a building permit is issued.

(6) As built plans. As-built plans shall be submitted prior to final inspection to the Building Commissioner and copied to the Planning Board.

D. Large-scale ground-mounted solar photovoltaic installations.

(1) Purpose.

(a) The purpose of this subsection is to facilitate 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 environmental, scenic, natural and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

(b) Subject to the requirements below, large-scale ground-mounted solar photovoltaic installations are permitted as-of-right in the Solar Overlay District and by special permit in any other district. The special permit granting authority for these purposes shall be the Planning Board.

(2) Solar Overlay District. Large-scale ground-mounted solar photovoltaic installations are allowed by right in the following designated overlay district:

(a) 27 Youngs Road, 42 acres, Map 115, Parcel 016 (Commercial District).

(b) 671 Lancaster Avenue, 132 acres, Map 110, Parcel 003 (Residence B District).

(c) 500 Leominster Shirley Road, 17.4 acres, Map 144, Parcel 001 (Office Park and Industrial District).

(3) Siting by special permit. Except where permitted as-of-right in the Solar Overlay District, large-scale ground-mounted solar photovoltaic installations may be located on any lot containing more than 20 acres in any district by special permit issued by the Planning Board; provided, however, that the requirements of this § 250-4.15 and the following criteria are met:

(a) Standards. In granting the special permit, the Planning Board shall find that the permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this bylaw, and shall find that:

[1] The specific site is an appropriate location for such an installation;

[2] The proposed installation will not adversely affect the existing neighborhood by the following:

[a] Historical significance.

[b] Scenic vistas.

- [c] Natural and rural character.
- [d] Public safety.
- [3] The granting of the special permit will not reasonably diminish the available light, air, sunlight and other amenities; and
- [4] There will be no nuisance or serious hazard to vehicles or pedestrians.
- (b) Conditions. The Planning Board may impose any conditions deemed necessary to achieve the purpose of this bylaw, such as, but not limited to, the following:
 - [1] Greater than minimum setback requirements;
 - [2] Modification of exterior appearance;
 - [3] Limitation of size or extent of facilities;
 - [4] Regulation of traffic and site plan features;
 - [5] Screening of premises from view by use of appropriate walls, fencing or buffer strips;
 - [6] Control of the number, location, size and lighting of signs;
 - [7] Additional design and siting modifications where appropriate.
- (4) Development plan review.
 - (a) All large-scale ground-mounted solar photovoltaic installations shall require development plan review, under § **250-8.4** of the Zoning Bylaws, by the Lunenburg Planning Board. A public information meeting shall be held by said Board. The Building Commissioner shall not issue a building permit unless, and until, the Planning Board submits an approved development plan review document, and special permit documentation, where applicable, to the Building Commissioner.
 - (b) A building permit will be issued by the Building Commissioner that shows evidence that the project is consistent with state and federal building codes, the findings and directives of the development plan review, and/or special permit, and local bylaws and regulations, including those set forth by the Conservation Commission. As-built plans shall be submitted prior to final inspection to the Building Commissioner, with copies to the Planning Board.
 - (5) Utility notification. Evidence shall be provided at the time of the application for the development plan review that the utility company that operates the electrical grid where the installation is to be located has been informed of the applicant's intent to construct a solar photovoltaic installation and that approval to connect to the grid has been granted or appropriate application(s) has or will be made to such utilities for interconnection. Off-grid systems shall be exempt from this requirement. Reasonable efforts should be made to place all utility connections underground, depending on appropriate soil conditions, shape and topography of the site.

- (6) Fees. An application for a development plan review shall be accompanied by the required fee and a tri-party account (in-house escrow account with the Planning Board, developer and Town Treasurer) for engineering review, monitoring, and inspections fees. An application for a building permit shall be accompanied by the fee required for a building permit. All other fees that shall be required by permitting parties (Conservation Commission, etc.) shall be administered according to their regulations.
- (7) Setbacks and buffer strips.
 - (a) Buffer strips in all districts. All ground-mounted installations shall be surrounded by a buffer strip which shall be 200 feet in depth in a Residential, Conservation or Recreation District and shall be 50 feet in a Commercial or Industrial District unless it abuts a Residential, Conservation or Recreation District, in which case the buffer strip shall be 200 feet in depth along such abutting lot lines, unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip.
 - (b) Setbacks in all districts.
 - [1] Front yard. The front yard shall be at least 50 feet; provided, however, that when the lot is in a Residential, Outlying or Recreation District or abuts a Residential, Conservation, or a Recreation District, the front lot setback shall not be less than 200 feet.
 - [2] Side yard. Each side yard setback shall be at least 50 feet; provided, however, that when the lot is in a Residential, Outlying or Recreation District or abuts a Residential, Conservation, or a Recreation District, the side yard setback shall not be less than 200 feet.
 - [3] Rear yard. The rear yard shall be at least 50 feet; provided, however, that when the lot is in a Residential, Outlying or Recreation District or abuts a Residential, Conservation, or a Recreation District, the rear yard setback shall not be less than 200 feet.
- (8) Required documents. In addition to documents required for development plan review, the following will be required for large-scale ground-mounted solar photovoltaic installations. The Planning Board may waive one or more of these requirements in its sole discretion under appropriate circumstances for large-scale ground-mounted solar photovoltaic installations between 10 kW and 249 kW.
 - (a) All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.
 - (b) Property lines and physical features, including roads for property sites.
 - (c) Proposed changes to landscape of site, including grading, vegetation, clearing, planting, screening vegetation or structures.
 - (d) Locations of wetlands and priority habitat areas defined by the Natural Heritage and Endangered Species Program.
 - (e) Locations of floodplains or inundation areas for moderate- or high-hazard dams.

- (f) A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate. [See Subsection **D(9)(i)**].
- (g) Drawings of the installation showing the proposed layout of the system and any potential shading from nearby structures.
- (h) One- or three-phase line electrical diagrams detailing the installation, associated components and electrical interconnection methods with all National Electrical Code compliant disconnects and overcurrent devices.
- (i) Documentation of the major system components to be used, including the electric-generating PV panels, mounting system, inverter, etc.
- (j) Name of property owner, address, telephone number, e-mail.
- (k) Name of lessor or lessee, address, telephone number, e-mail.
- (l) Name of contact person, address, telephone number, e-mail.
- (m) Name of designing engineer, address, telephone number, e-mail.
- (n) Names of contractors, address, telephone number, e-mail.
- (o) Name of installer, address, telephone number, e-mail.
- (p) Zoning district designation for parcel of land, map and parcel.
- (q) Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation and maintenance of the proposed solar photovoltaic installation.
- (r) Provision of water, including that needed for fire protection.
- (s) Proof of liability insurance.
- (t) Description of the financial surety required by Subsection **D(12)** below.
- (u) Sight line representations depicting in profile the view of the proposed installation, and any appurtenant structures, from the location upon any public road within 300 feet that would have the most unobstructed view of the installations, and from the closest wall of each residential building within 300 feet of the highest point of the installation.
- (v) A screening plan, in compliance with Subsection **D(9)(f)**.
- (9) Design standards.
 - (a) Lighting and security. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as any appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from

abutting properties. Where feasible, any required lighting shall be directed downward and shall incorporate full-cut-off fixtures to reduce light pollution. Surveillance and security cameras shall be shielded from viewing abutting private property or invading the privacy of any abutting residential property owner.

- (b) Signage. Signage size shall comply with the Zoning Bylaw and shall not be used for displaying any advertising except to identify the owner and/or operator of the solar installation and a twenty-four-hour emergency contact telephone number.
- (c) Land clearing. Clearing of natural vegetation shall be limited to what is necessary for construction, operation and maintenance of the installation. Any land disturbance, including earth removal of land cleared greater than one acre shall be subject to stormwater management criteria and/or as otherwise prescribed by applicable laws, regulations and bylaws.
- (d) Safety, emergency service and environmental standards. The applicant shall provide a copy of the project summary, electrical schematic, and site plan. The applicant shall develop an emergency response plan, including showing all means of shutting down the solar installation. The applicant shall submit the name of the person answerable to inquires throughout the life of the installation. If the designated person changes, the name of the new designated person shall be submitted as an addendum.
- (e) Monitoring and maintenance.
 - [1] The applicant shall submit a plan for the operation and maintenance of the installation which shall include measures for maintaining the site, including safe access, stormwater control, structural repairs and the integrity of security measures. These measures must be acceptable to the Fire Chief and emergency medical services personnel. If needed, training of service personnel will be provided by the applicant. The owner/operator shall be responsible for the cost of maintaining the installation.
 - [2] The applicant shall also submit a monitoring/inspection form under the development plan review during construction, and shall further submit a report on the condition of the structure and site by January 15 of each year.
- (f) Visual impact. Any large-scale ground-mounted solar photovoltaic installation shall be designed to minimize visual impacts, including preserving natural vegetation to the maximum extent possible, blending in equipment with the surroundings, and adding vegetative buffers to screen abutting residential properties, whether developed or not. Siting shall be such that the view of the solar electric-generating installation from other areas of Town shall be as minimal as possible. Buffer strips shall surround the proposed project. A screening plan, that assures the facility is shielded to greatest extent possible from public view, shall be required to be reviewed under the development plan review.
- (g) Height. The height of any structure associated with a large-scale ground-mounted solar photovoltaic installation shall not exceed 35 feet.
- (h) Roads. All access roads and interior roads shall be constructed to minimize grading, removal of stone wall or trees and to minimize impacts to environmental or historic resources.
- (i) Hazardous materials. Hazardous materials stored, used, or generated on site shall not exceed the amount

for a very small quantity generator of hazardous waste as defined by the Department of Environmental Protection ("DEP") pursuant to 310 CMR 30.000 and shall meet all requirements of the DEP, including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar electric equipment, then impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

- (j) Noise. Noise generated by a large-scale ground-mounted solar photovoltaic installation, and by any associated equipment and machinery, shall conform to applicable state and local noise regulations, including the Department of Environmental Protection's Division of Air Quality noise regulations, 310 CMR 7.10. The site shall not produce any other vibration, harmonics, or interference which would be perceived or impact the normal function of electronics off site.
 - (10) Modifications. All modification requests to a solar photovoltaic installation, including changes in arrays, addition to number of arrays or change in placement, made after issuance of the required building permit shall require review through development plan review for compliance with this bylaw.
 - (11) Abandonment and removal. Absent notice of the 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 Planning Board. The owner or operator shall physically remove the installation no more than 150 days after the date of abandonment or the proposed date of decommissioning operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The notification shall consist of the methodology of physical removal of all structures, equipment, security barriers and transmission lines, disposal of all solid and hazardous waste and stabilization or revegetation of the site. Landscaping, etc. may be left upon approval of the Planning Board. If the owner or operator fails to remove the installation in accordance with the above criteria, the Town may, after the receipt of an appropriate court order or consent of the property owner, enter the property and physically remove the installation at the owner's expense. As a condition of development plan review, a property owner shall agree to allow the Town entry to remove an abandoned or decommissioned installation. The cost for the removal will be charged to the property owner in accordance with the provisions of MGL c. 139, § 3A as a tax lien on the property.
 - (12) Financial surety. Proponents of large-scale solar photovoltaic projects shall provide a form of surety, either through an 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 to be reasonable by the development plan review authority, but in no event to exceed more than 125% of the cost of removal 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 owner/operator 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 cost due to inflation.
- E. Inclusionary uses and conflicts.
- (1) Small accessory or ornamental solar products which do not generate electricity for use in a dwelling or structure are exempt from the provisions in this bylaw.

- (2) In the event that any part of this section conflicts with other requirements of the Zoning Bylaw, the requirements of this section shall apply.

**§ 250-4.14 Registered marijuana dispensaries.
[Amended 5-5-2018 ATM by Art. 33]**

- A. Purpose: to provide for the placement of registered marijuana dispensaries (RMDs), in accordance with the Humanitarian Medical Use of Marijuana Act, MGL c. 94C, App. 1-1 - Chapter 369 of the Acts of 2012, in locations suitable for lawful medical marijuana facilities and to minimize adverse impact of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security and removal of RMDs.
- B. Applicability.
- (1) All RMDs shall comply with the regulations promulgated by the Massachusetts Department of Public Health (DPH), 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana, effective May 24, 2013, and any subsequent amendments thereto.
- (2) The Town reserves the right to require compliance with provisions in the DPH regulations for which the state granted waivers and/or exemptions to the RMD applicant based on the provisions of § **250-8.3C** (as to special permits) and § **250-8.4** (as to development plan review).
- C. Definition. As used in this section, the following terms shall have the meanings indicated:

REGISTERED MARIJUANA DISPENSARY

Also known as a "medical marijuana treatment center," means a not-for-profit entity registered under 105 CMR 725.000 that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, "RMD" refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

- D. Location.
- (1) RMDs that include retail, processing and cultivation are allowed in Commercial Districts (C) by special permit.
- (2) Cultivation and/or agricultural processing: Allowed in all Residential Districts by Special Permit but only if the applicant is otherwise eligible for protection under § 250-4.1.c(2) and/or G.L. c. 40A, § 3.
- (3) RMD facilities that cultivate and process, but do not do retail of marijuana, are allowed in Office Park and Industrial Districts (OP/I) by special permit.
- (4) All cultivation must be conducted within a building which must be located at least five hundred (500) feet from any residential property line.
- E. Procedure for submittal.

- (1) The Planning Board shall be the special permit granting authority (SPGA) for a RMD special permit per MGL c. 40A, § 9. Siting shall be by special permit and development plan review per § **250-8.4** of the Lunenburg Protective Bylaw.
- (2) Criteria. In granting any special permit, the Planning Board shall assure that the proposed use:
 - (a) Will not be injurious or dangerous to the public health or unduly hazardous because of traffic congestion, danger or fire or explosion or other reasons.
 - (b) Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
 - (c) Will be operated with reasonable regard for order and sightlines if an open use.
 - (d) Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.
- (3) It is recommended that a concept plan showing the proposed use shall be submitted to the Planning Board for review and discussion prior to the filing for development plan review.
- (4) The provisions of § **250-8.3C** (as to special permits) and § **250-8.4** (as to development plan review) shall apply.
- (5) Filing under §§ **250-8.3C** and **250-8.4** may be simultaneous.
- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership of the premises as a RMD. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this section.

F. Conditional standards.

- (1) Distance. All proposed RMDs shall be sited accordingly as stated in Massachusetts Department of Public Health (DPH) 105 CMR 725.110(A)(14), which states a RMD shall not be sited within a radius of 500 feet of a school, day-care center, or any facility in which children commonly congregate. The five-hundred-foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.
- (2) Setbacks and buffer strips. Cultivation facilities located outside of Retail Commercial (RC), Commercial (C), or Office Park and Industrial Districts (OP/I) shall be surrounded by a buffer strip which shall be five hundred (500) feet in depth unless the applicant can demonstrate, and the Planning Board finds, that adequate buffering can be provided in a narrower buffer strip. In all other districts, existing setbacks will apply.
- (3) Design standards. In addition to requirements contained elsewhere in this bylaw, § 250-4.6E, Design standards, shall be applicable to a RMD. The applicant shall meet all requirements of the Commercial District (C) or DPH guidelines, whichever is more restrictive.

(4) Waivers. The Planning Board may waive any of the conditional standards within this section, provided that such waiver will not derogate from the intent established herein.

G. Security.

- (1) All security measures shall be approved by the Lunenburg Fire and Police Chiefs. An active security system shall be required for all RMD locations and approved by both the Lunenburg Fire and Police Chiefs and submitted to the Planning Board for final approval.
 - (2) RMDs shall be open to inspection by the Fire Department, Police Department, Building Commissioner and the Board of Health with 24 hours' notice of request for such inspection to be made by the Town department or official. A property contact shall be available to such Town department or official 24 hours a day, seven days a week.
- H. Documentation. The Planning Board shall be provided with all decisions or approvals, denials or other substantive actions by DPH regarding the RMD and all submittals of information relating to such activities between the applicant or RMD and DPH.

§ 250-4.15 Non-medical marijuana establishments.
[Added 5-4-2019 ATM by Art. 25]

- A. Purpose. The purpose of this Bylaw is to allow state-licensed non-medical Marijuana Establishments to exist in the Town of Lunenburg in accordance with applicable state laws and regulations and impose reasonable safeguards to govern the time, place and manner of Marijuana Establishment operations and any business dealing in marijuana, marijuana products and marijuana accessories in such a way as to ensure public health, safety, well-being, as well as limit undue impacts on the natural environment as it relates to cultivation, processing and manufacturing subject to the provisions of this Zoning Bylaw, M.G.L. c. 40A, and M.G.L. c. 94G.
- B. Applicability. Where permitted by the Use Regulation Schedule, Section **250-4.1**, the types of Marijuana Establishments specified therein may be allowed in designated zoning districts by special permit issued by the Planning Board pursuant to M.G.L. c. 40A, § 9, and Section **250-8.3** of this By-Law. All Marijuana Establishments authorized by special permit shall also require site plan review pursuant to Section **250-8.4**; which review shall be undertaken concurrently with the special permit process. The provisions of this Section 250-4.15 shall not apply to Medical Marijuana Treatment Centers, which shall be subject to and governed exclusively by Section 250-4.14.
- C. Special permit required. The Planning Board may grant a Special Permit for Marijuana Establishments, as defined in M.G.L. c. 94G, in accordance with the standards set forth in this section and the general criteria for granting a Special Permit contained in Section **250-8.3** of the Code of Lunenburg.
- D. Definitions. This Bylaw shall incorporate all definitions promulgated by M.G.L. 94G as amended.
- E. Requirements.
1. It shall be unlawful for any person to operate a Marijuana Establishment without obtaining a special permit to operate pursuant to the requirements of this Bylaw.

2. A separate special permit is required for each different Marijuana Establishment detailed in Section **250-4.10**. In the case that one or more different types of Marijuana Establishments are proposed, each establishment type shall require a special permit from the Planning Board.
 3. The special permit requirements set forth in this Bylaw shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law.
 4. The issuance of a special permit pursuant to this Bylaw does not create an exception, defense, or immunity to any person or entity in regard to any potential criminal liability the person or entity may have for the production, distribution, or possession of marijuana.
 5. A special permit issued for a Marijuana Establishment is not transferable or assignable to a different location or a different type of Marijuana Establishment.
- F. General requirements for marijuana establishments. The following apply to all Marijuana Establishments as defined in Section **250-4.10** and in M.G.L. c. 94G, including but not limited to marijuana cultivation, manufacturing, testing, and retail establishments:
- (1) Security, operations, and emergency plans. All Marijuana Establishments shall file a security plan, operation and management plan, and emergency plan with the Lunenburg Police Department: Should the Lunenburg Police Department find the Security Plan deficient, and the applicant is unable to appropriately modify the Plan to the Department's satisfaction, the Lunenburg Police Department shall submit a written document outlining the deficiencies.
 - (a) Security plan.
 - [1] The petitioner shall submit a security plan to the Lunenburg Police Department, in conformance with the requirements of the Lunenburg Police Department, to demonstrate that there is limited undue burden on Town public safety officials as a result of the proposed business.
 - [2] The security plan shall include the details of all security measures for the site and the transportation of marijuana and marijuana products to and from off-site premises to ensure the safety of employees and the public and to protect the premises property from theft or other criminal activity.
 - (b) Operation and management plan. All Marijuana Establishments shall submit an operation and management plan to the Building Department and Planning Board which shall include, but not be limited to the following elements: Organizational Structure, Location, Property Description, Hours of Operation and Staffing, description of proposed operations, distribution practices, employee safety, general compliance, fire prevention, sanitation and waste disposal requirements, electrical system overview, proposed energy demand and proposed electrical demand off-sets, ventilation system and air quality, proposed water system and utility demand prior to the issuance of a building permit.
 - (c) Emergency response plan. All Marijuana Establishments shall meet with the Lunenburg Fire Department and the Lunenburg Police Department to discuss and identify emergency plans/contingency plans for the site. A written Emergency Response Plan, including contact information for a facility representative available 24 hours a day, shall be filed with the Lunenburg Fire Department and the Lunenburg Police Department pursuant to M.G.L. c. 94G, § 12.

- (d) Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.
- (2) All Marijuana Establishments shall be within a fully enclosed structure and no marijuana odor shall be detectable at the Marijuana Establishment's property line. The use of chemical masking agents shall not be permitted.
- (3) Marijuana Establishments shall not be located in mobile structures.
- (4) A Marijuana Establishment shall not be located within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, pre-existing small and large group child care facilities licensed by the Commonwealth, or within 250 feet of pre-existing family child care providers licensed by the Commonwealth, municipal active recreation facilities, houses of worship and funeral homes. This setback shall be measured from the nearest portion of the Marijuana Establishment's structure to the property line of the protected use.
- (5) All business signage shall be subject to the requirements to be promulgated by the Cannabis Control Commission and the requirements of Sections **250-6.5** of the Code of Lunenburg, as amended.
- (6) No marijuana shall be smoked, eaten, or otherwise consumed or ingested within any type of licensed Marijuana Establishment or property thereof.
- (7) Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, 935 CMR 500, the Town of Lunenburg's General By-Laws, the Town of Lunenburg's Zoning By-Laws, all applicable local and state building, fire prevention, police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Planning Board Special Permit), and agreements between the Marijuana Establishment and the Town, including host community agreements.
- (8) All Marijuana Establishments shall be required to permit each individual location/address individually with the Town of Lunenburg.
- (9) Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties. "Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, lighting, illegal drug activity under State or local law, harassment of passersby, littering, loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or local Traffic Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or any activities that result in police detentions and arrests.
- (10) A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:
 - (a) Prior to surrendering its State-issued license; or

(b) Within 90 days of ceasing operations.

Applicants shall be required to estimate and submit a detailed breakdown of the total cost for the removal of all Marijuana and marijuana products. This estimate will be reviewed and approved by the Planning Board. Prior to the recording of any Special Permit, the applicant shall place surety with the Town of Lunenburg in the amount of the approved estimate plus 20%.

- (11) No use of any special permit or site plan approval issued hereunder shall commence nor shall construction of a Marijuana Establishment authorized hereunder begin unless and until all requisite provisional license(s) and approval(s) under M.G.L. c. 94G and 935 CMR 500.000, et seq., have first been obtained. No Marijuana Establishment shall be permitted to commence operations until the Cannabis Control Commission has issued a Final License.
 - (12) No land, building(s) or structure(s) shall be used for Marijuana-related business or activity except in accordance with a license issued by the Commonwealth of Massachusetts in good standing.
 - (13) The requirements of this Section 250-4.15 shall apply to all Marijuana Establishments regardless of the class or type of license issued by the Commonwealth of Massachusetts. All requisite operational, siting and security requirements of the applicable licensing scheme shall be satisfied, and proof thereof submitted to the Planning Board.
 - (14) Marijuana plants, marijuana products and marijuana accessories for the ingestion, inhalation, or used to introduce marijuana to the human body shall not be visible from the outside of any structure in which a Marijuana Establishment is located; nor shall any outdoor storage be permitted. The foregoing shall be deemed to prohibit outdoor cultivation by a Marijuana Cultivator.
 - (15) No Marijuana-related public events shall be permitted except in accordance with M.G.L. c. 94G and 935 CMR 500.000, et seq., and only if, and as may be authorized by, the **Select Board (Board of Selectmen)** from time to time.
 - (16) The Planning Board, as SPGA, may impose such restrictions on the time, place and manner of Marijuana Establishment operations and of any business dealing in marijuana, marijuana products and/or marijuana accessories as may be necessary to protect the public interest and/or to satisfy the purpose and intent of this By-Law. The Planning Board may consider factors including, but not limited to, project and building design, setbacks, visibility, traffic and pedestrian circulation, outdoor lighting, odor control, security, hours of operation and consistency with nearby and abutting land uses, and may reasonably condition any special permit or site plan approval accordingly.
 - (17) Pursuant to M.G.L. c. 40A, § 3, agriculture, aquaculture, floriculture and horticulture shall not include the growing, cultivation, distribution of Marijuana; and, consequently, these activities are not exempt from zoning thereunder.
 - (18) All shipping and receiving areas shall be for the exclusive use of the Marijuana Establishment.
 - (19) All Marijuana Establishments shall comply fully with the provisions of 935 CMR 500.000, as amended.
- G. Access to premises and information/reporting/record-keeping.
- (1) Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its

premises by the Building Commissioner or designee, or an agent from the Planning, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer assigned by the Chief) on week-days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected noncompliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection may be subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

- (2) Marijuana Establishments shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning, Building, Health, Police, Fire and Public Works Departments. Within 24 hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Manager, Police Chief, Board of Health and the Building Commissioner any summary cease and desist order, quarantine order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

- H. Requirements specific to marijuana retailer establishments. Marijuana retailers shall be subject to M.G.L. c. 94G, § 12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:
 - (1) As defined in M.G.L. c. 94G, the number of marijuana retailers shall be limited to no more than 2.
 - (2) There shall be no drive/walk-up service window or other mechanical or non-mechanical means that allows the retail sale of marijuana, marijuana products and/or marijuana accessories through the exterior walls of a retail Marijuana Establishment to a customer or customers.

- I. Requirements specific to marijuana transporters.
 - (1) No marijuana or marijuana products shall be permitted to be stored in any vehicle. All products must be stored inside a fully enclosed building and in a manner deemed appropriate by the Lunenburg Police Department and the Planning Board.

- J. Setbacks from residential uses. All Marijuana Establishments must be setback from any pre-existing residential use or lot located in a residential zoning district as shown in the chart below. This distance shall be measured from nearest portion of the Marijuana establishment's structure to the property line.

Zoning District Marijuana Establishment is Located												
Marijuana Establishment Type	RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W	

Zoning District Marijuana Establishment is Located

Marijuana Establishment Type		RA	RB	O	LB/R	C	OPI	R	VCD	SS	TT	W
4.1O(1)	Marijuana Cultivator	500 feet	500 feet	500 feet	N/A	N/A	250 Feet	N/A	N/A	N/A	N/A	N/A
4.1O(2)	Marijuana Product Manufacturer	N/A	N/A	N/A	N/A	N/A	250 Feet	N/A	N/A	N/A	N/A	N/A
4.1O(3)	Marijuana Testing Facility	N/A	N/A	N/A	N/A	N/A	250 feet	N/A	N/A	N/A	N/A	N/A
4.1O(4)	Marijuana Retailer	N/A	N/A	N/A	N/A	250 Feet	250 feet	N/A	N/A	250 Feet	N/A	N/A
4.1O(5)	Marijuana Transporter	N/A	N/A	N/A	N/A	N/A	250 feet	N/A	N/A	N/A	N/A	N/A
4.1O(6)	Marijuana Researcher	N/A	N/A	N/A	N/A	N/A	250 feet	N/A	N/A	N/A	N/A	N/A

K. Special permit procedure: All Special Permits for Marijuana Establishments shall be filed and follow the provisions of Section **250-8.3** of the Code of Lunenburg and the Planning Board Rules and Regulations for Site Plan Approval & Special Permits, as amended. In addition to the requirements listed in the aforementioned documents applicants must also submit the following information:

- (1) Applicant shall submit proof of approval from the Commonwealth of Massachusetts for the proposed Marijuana Establishment by submitting copies of all required registrations, licenses and permits issued to the applicant by the state and any of its agencies for the facility as well as Host Community Agreement (HCA) with the Town and approval hereunder shall be conditioned on final approval from the Commonwealth.
- (2) In addition to complying with any other state or town requirement related to good character and criminal background, any person or entity proposed to have interests in the license to operate a Marijuana Establishment shall not have committed any marijuana licensing violation affecting public safety, or received any suspension or revocation of any other state or local marijuana business licenses.
- (3) A statement signed by the organization's chief executive officer disclosing all of its designated owners, including officers, directors, partners, managers, investors or other similarly situated individuals. If any of the above are entities rather than persons, the Applicant must disclose the identity and current contact information of all responsible individuals.
- (4) Evidence that the applicant has site control and the right to use the site for a Marijuana Establishment.
- (5) An Odor Control Plan detailing the Marijuana Establishment's proposed mitigation measures for the potential odors associated with the operation of their business.

L. Special permit findings: In addition to the findings for a special permit in Section **250-8.3** of the Code of Lunenburg, the Planning Board must also make the following findings:

- (1) The applicant demonstrates that the Marijuana Establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth and will be in compliance with all applicable state laws and regulations, including, but not limited to M.G.L.A. c. 94G, § 12 General Marijuana Establishment Operation.

- (2) The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Bylaw and any applicable town bylaws.
- (3) The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public and that storage and location of marijuana and marijuana products is adequately secured.
- M. Lapse: Notwithstanding the provisions of Sections **250-8.3** and 8.4 of this Bylaw, any special permit issued for a Marijuana Establishment, and any site plan approval received therefor, shall lapse within one year from the grant thereof (plus such time as may be required to pursue or await the determination of an appeal therefrom) if substantial use has not sooner commenced, except for good cause.
- N. Prohibition: All Marijuana Social Consumption Operations are expressly prohibited anywhere within the Town of Lunenburg; provided, however, that said prohibition shall apply only insofar as the same does not conflict with Massachusetts law, or has not been preempted thereby.
- O. Revocation: Any violation of this Bylaw or conditions of the Special Permit shall be grounds for the revocation. The Special Permit may be revoked by the Planning Board if the Cannabis Control Commission license is revoked or lapses. The Marijuana Establishment shall notify the Planning Board of the revocation or loss of license(s) in writing within 48 hours of such happening.
- P. Severability: If any provision of this section is invalidated by subsequent legislation or regulation, or held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

§ 250-4.16 (**Reserved**)

§ 250-4.17 **Village Center District.**

[Added 5-2-2015 ATM by Art. 27]

Preamble: The Lunenburg Town Center region has tremendous importance in symbolizing the unique character and heritage of Lunenburg. As residents engage with the historic buildings and streetscape of this area in the course of their routine daily business, be it school related, recreational, commercial, or even just driving through, the experience greatly reinforces a profound bond with the Town's present community and past heritage. There is an opportunity to significantly improve the quality of this already poignant civic experience and increase the number of people who will be drawn to share in it by expanding the businesses and other attractions in the area. There is also a key challenge to preserving this critical embodiment of our Town. Appropriate new uses or remedies must be found to the increasing number of underutilized buildings located about the Town center. Town planning experience and best practices, as exemplified in the state's model bylaw for Village Center Districts, demonstrates some key ingredients to sustaining and enriching this type of environment in small towns. One of these is careful stewardship through clear guidelines for development consistent with what the area means to the community. Another is encouraging a level of intensive mixed-use development, so that the critical mass of social and economic activity can be reached that will naturally provide the resources and inspiration required to maintain and organically adapt the area landmarks, buildings, and infrastructure without excessive burden on the Town's public finances.

A. Purpose.

- (1) In pursuit of this opportunity and to address this challenge, the Town implements this bylaw and

designates this zoning district as the Village Center District in order to encourage economic and residential growth that fits the character of the Town.

- (2) The purposes of the Village Center District are to:
 - (a) Build upon the historic development patterns in the existing village centers to create attractive, walkable neighborhoods;
 - (b) Encourage adaptive reuse of abandoned, vacant or underutilized buildings or structures, where appropriate;
 - (c) Allow for a mix of new land uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods;
 - (d) Provide incentives to develop larger parcels at higher densities and in a coordinated, planned approach;
 - (e) Maintain a consistently high level of design quality throughout the district;
 - (f) Encourage the development of mixed-use buildings and campuses that are designed and constructed in a manner that is contextually sensitive to the existing structures and facilities.
- B. Establishment. The Village Center District is hereby established as of 1 January 2016 and consists of the area shown as the Village Center District on the Town of Lunenburg Zoning Map on file with the Town/City Clerk and dated 2 May 2015, as may be amended from time to time by Town Meeting.
- C. Definitions. As used in this section, the following terms shall have the meanings indicated:

ARTIST DPRCE

A shop for the creation and/or sale of goods made by a potter, ceramicist, silversmith, jewelry maker, painter, photographer or other fine artist. This space may also serve as a living space for the artist, provided there is adequate separation between uses per the governing Building and Health Codes.

BANNER

A strip of cloth or other man-made fabric on which a sign is painted, silk-screened or printed. The display area shall be defined as the area of one face of the banner. The banner shall not exceed 40 square feet and shall not be displayed for more than 14 consecutive days.

BED-AND-BREAKFAST

Bed-and-breakfast, or bed-and-breakfast establishment, provided that:

- (1) The dwelling is owner-occupied.
- (2) The lot conforms to all dimensional requirements of the Zoning Bylaw.
- (3) Parking for each room available for rent is provided in the side yard behind the setback line or in the rear yard, but not nearer than 10 feet to any property line. One parking place shall be provided for each bedroom.

- (4) The outside appearance of the building is not altered from that of a residence, except to comply with the Building Code.

CIVIC USE

A land use that provides a public, cultural, or institutional benefit to the community. Specific uses may include, but shall not be limited to, government offices, religious institutions, educational institutions, and medical facilities (not including veterinary operations). For the purposes of this bylaw, civic uses shall not include open space as defined below.

MIXED USE

A combination of commercial and residential uses within a single building or lot. In the case of uses that fall under the special permit requirements of Subsection **E(2)**, a Zoning Board of Appeals decision must be rendered on the use prior to the filing for development plan review.

MULTIPLE COMMERCIAL USE

A combination of commercial uses within a single building or lot. In the case of uses that fall under the special permit requirements of Subsection **E(2)**, a Zoning Board of Appeals decision must be rendered on the use prior to the filing for development plan review.

OPEN DPRCE

In the context of an application for a Village Center District special permit, this term denotes open areas set aside for public use as part of a coordinated site development process. Specific requirements for ownership and maintenance are provided in Subsection **I** and shall not include areas covered with impervious surface treatments.

PERSONAL SERVICE

An establishment engaged in the provision of services to the general public which are conducted within the structure. This includes, but is not limited to, barbers, hair salons, massage therapists, chiropractors and nail salons.

PROFESSIONAL OFFICE

An office primarily devoted to professional activities, including, but not limited to, banks, real estate, insurance or other agency offices; an office of an accountant, physician, teacher, dentist, engineer, lawyer, homebuilder, photographer, or other recognized professional for which specific training and/or licensing is required. Drive-through service shall be limited to banks and shall require a special permit.

RESTAURANT

A place serving food and beverage within a structure or patio, primarily for consumption on the premises. Drive-through windows shall be prohibited for this use.

RETAIL

An establishment engaged in displaying and selling goods or merchandise within a building to the general public or to business establishments where the goods or merchandise are not intended for resale. There shall be no outdoor display of goods without the granting of a special permit from the Board of Appeals.

TRANSPARENCY

The amount of transparent space that occupies a building facade, including standard street-level windows and doorway windows.

- D. Authority. The Planning Board shall act as the administering authority for any site plan approval procedure associated with this bylaw. The Board of Appeals shall serve as the special permit granting authority for any use that requires a special permit in the district, any use requiring a special permit pursuant to Subsection **E**.
- E. Use provisions. [**Amended 8-22-2016 STM by Art. 8**]
- (1) The following uses are allowed by-right, subject to any development plan review requirements listed in § **250-8.4** and all applicable density and design provisions listed in this bylaw:
- (a) Retail, with a maximum 5,000 square feet of floor area.
 - (b) Professional office space.
 - (c) Personal service.
 - (d) Artist space.
 - (e) Restaurant.
 - (f) Bed-and-breakfast.
 - (g) Mixed use containing less than 5,000 square feet per individual proposed use.
 - (h) Multiple commercial use containing less than 5,000 square feet per individual proposed use.
 - (i) Civic uses.
- (2) The following uses are allowed only through the granting of a special permit by the Board of Appeals pursuant to the procedures outlined in § **250-8.3**:
- (a) Single- and two-family homes.
 - (b) Multifamily homes.
 - (c) Apartment complexes.
 - (d) Movie house/theater (maximum of two screens).
 - (e) Liquor stores.
 - (f) Outdoor markets, subject to applicable licensing requirements.
 - (g) Private club.

- (h) Drive-through use for banks.
 - (i) Retail use greater than 5,000 square feet.
 - (j) Uses allowed by-right with a floor area greater than 5,000 square feet included in a multiple commercial use or mixed-use development.
- (3) The following uses are prohibited in the Village Center District:
- (a) Newly constructed one-story buildings on lots of less than five acres.
 - (b) Retail operations with more than 5,000 square feet of gross floor area on any individual floor, except for reuse of buildings existing prior to 1 May 2015, with footprints greater than 5,000 square feet.
 - (c) Drive-through establishments, excluding those expressly allowed by special permit.
- F. Dimensional requirements.
- (1) Requirements.

	Building Type	
	Mixed Use with Commercial First Floor	Other Mixed Use or Residential Only
Maximum floor area ratio (FAR) (gross floor area/lot size)	2.0	1.5
Minimum lot frontage		75 feet
Maximum lot coverage		85%
Minimum lot area		N/A
Number of buildings per lot		See Subsection I
Maximum building frontage		300 feet
Minimum front setback		5 feet
Maximum front setback w/o street furniture		15 feet
Minimum side/rear setback abutting a residential zone		10 feet
Minimum side/rear setback in VCD		5 feet
Interior setback (between buildings on the same lot)		10 feet

- (2) Height limitations for nonresidential and mixed use. Building height for mixed use or nonresidential use shall not exceed 38 feet and no building shall have more than three stories.

G. Parking requirements.

Use	Parking Requirement
Retail/personal service/liquor store	1 parking space per 400 square feet of net floor area, plus 1 space per employee on the largest

Use	Parking Requirement
Professional office/civic uses	shift 1 parking space per 300 square feet of net floor area
Artists space	1 parking space per 400 square feet of net retail/gallery floor area, plus 2 parking spaces per dwelling unit
Restaurant/private club	1 parking space per 4 seats, plus 1 space for each employee on the largest shift
Bed-and-breakfast	1 parking space per accommodation room, plus 2 parking spaces for the primary residence, plus 1 space per nonresident employee on the largest shift
Mixed use/multiple commercial	Parking to be provided per the individual uses
All residential uses	2 parking spaces per dwelling unit
Movie house	1 parking space per 4 occupants, plus 1 parking space per 2 employees on the largest shift
Outdoor market	1 parking space per 500 square feet of sales space

- (1) As part of a development plan approval or special permit process within this district, the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking.
 - (2) Available innovative parking strategies include:
 - (a) Shared on-site parking.
 - [1] Noncompeting uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 50% of the requirements for the predominant use may be waived by the Planning Board or the Board of Appeals if the applicant can demonstrate that the peak demands for two uses do not overlap. An additional 25% may be waived with the addition of bicycle parking facilities.
 - (b) Off-site parking. Separate from, or in conjunction with, shared parking provisions, an applicant may use off-site parking to satisfy its parking requirements in accordance with the following conditions:
 - [1] Off-site parking shall be within 1,000 feet of the property for which it is being requested.
 - [2] Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to the permit granting authority as a condition of either the development plan review or the special permit. Where an agreement shall expire within a specified time line, the applicant or current property owner shall continue to provide evidence to the Building Commissioner that the agreement has been extended. The permit granting authority will verify with the Building Commissioner that there are no existing parking agreements during the permitting process.
- H. Design standards. The design standards in this section shall be applied to development within the Village Center District where applicable.

- (1) Occupied lot area.
 - (a) The total lot devoted to building, parking, outdoor storage and display and other impervious surfaces may occupy up to 85% of the total lot area.
- (2) Buildings.
 - (a) All buildings shall have a principal facade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal facade and/or entry.
 - (b) Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to, brick or high-quality brick face, wood, stone or high-quality stone face.
 - (c) Building facades, materials and roof lines shall be reviewed under the permit granting authority to ensure consistency and compatibility with other structures.
 - (d) Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls.
 - (e) New retail buildings shall have one of the following features along the front entrances to pedestrians: awning, marquee, arcade and/or colonnade.
 - (f) Flat roofs that are visible from the street are prohibited unless an appropriate facade is included in the design.
 - (g) Larger buildings with multiple nonresidential tenants on the first floor shall articulate the facade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations of acceptable signage, awnings, marquees, colonnades or arcades.
 - (h) Mixed-use buildings shall have no more than 25% of the first floor dedicated to residential use. Conversion or partial conversion of residential uses existing before 1 May 2015 are exempt from this provision.
 - (i) All new utility service connections shall be placed underground.
 - (j) Lighting, signage and architectural style shall be consistent with other uses in the district and reviewed under the permit granting authority.
- (3) Signs.
 - (a) Primary signs shall be flat against the facade, or mounted projecting from the facade.
 - (b) Signs that project from buildings shall have at least 10 feet of clearance from the ground level.
 - (c) Signs shall be externally lit from the front; lighting shall be provided using a gooseneck fixture. Back lighting of signs shall not be used.

- (d) Neon, flashing signs, moving signs, electric message signs, and roof signs shall not be used, except for barber poles.
 - (e) Banners with a specific date of expiration shall be allowed, after approval by the Building Commissioner.
 - (f) Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint/engraved on facade surface.
 - (g) Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.
 - (h) Each building facade facing a street or parking area is permitted to have signs that equal a maximum square footage of 5% of the respective facade.
 - (i) A building with multiple businesses shall have signs of equal size on the facade; signs shall be either rectangular or oval shaped.
 - (j) Freestanding signs other than portable and temporary signs should be consistent with other uses in the district and require a special permit from the special permit granting authority.
 - (k) Sandwich board signs, flags and other portable signs are permitted only within the property lines, as long as they are properly weighted.
 - (l) Window signs, comprising no more than 10% of the transparent surface, shall be allowed. Window signs shall not be lighted or animated in any manner, with the exception of the standard lighting fixtures within the building.
- (4) Site design.
- (a) Interior streets, drives, walkways and access.
 - [1] Site access shall be a single divided way (one way in and one way out) where and when appropriate as determined by the permit granting authority.
 - [2] Surfaces shall be pervious when possible and practical.
 - [3] Street-level frontage shall be devoted to entrances, shop windows or other displays.
 - [4] Primary entrances to proposed and existing buildings shall be situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 10 feet.
 - [5] Setbacks shall be consistent with the fabric of the existing street and do not preclude pedestrian access.
 - (b) Parking and loading area.
 - [1] Parking shall be in the rear or side of the building(s) and shall not be visible from the street line when possible. Parking will be reviewed by the permit granting authority.

[2] All loading docks shall be to the rear of the building(s) and shall not be visible from the street. Adequate access for loading and emergency vehicles shall be maintained on one side of the building.

(c) Sidewalks.

[1] Sidewalks shall be provided from the street line, when applicable, and from the parking areas to the building(s).

(d) Landscaping.

[1] There shall be a minimum of a four-foot landscaped area along the street frontage and along the front and side of the principal building(s) and plantings of indigenous materials along the facades of the building(s) and between the building(s) if there is more than one principal building on site.

[2] Additional landscaping and screening may be required during the development plan review or by the permitting authority.

[3] Such landscape shall be of a type and height that does not interfere with sight lines of drivers.

[4] Natural features shall be retained to the extent possible.

[5] A landscape plan shall be provided and reviewed.

[6] Where residential neighborhoods abut commercial, office or mixed-use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features.

(e) Street furniture.

[1] Light fixtures shall be designed to be of number and height that grants plentiful lighting. Such lighting shall shine downwards so as to not affect adjacent properties and be dark sky compliant.

[2] Lighting must also be placed on the side and rear of the building.

[3] A lighting plan may be required if the permit granting authority deems the project is of such a scale that the impacts to the neighborhood are adverse; such plan will show where all light fixtures are being proposed within the site, as well as a narrative as to the type of light and height of all fixtures.

[4] Outdoor tables, benches, and bicycle racks shall be of a style consistent with the principal use(s) of the site.

[5] The location, number and style of exterior trash receptacles shall be reviewed under permit granting authority.

I. Village Center District campus developments. Developments that contain multiple buildings and uses on a single lot are encouraged as long as they are sensitive to the context of the surrounding area and meet the purposes outlined above. These developments are subject to the provisions of § **250-8.4**, Site plan approval, of the Protective Bylaw as well as the additional design guidelines outlined in Subsection **H** of

this bylaw and below.

- (1) Additional design standards. In addition to those design standards listed in Subsection **H** of this bylaw, applications for a Village Center District campus shall also meet the following standards:
 - (a) Buildings.
 - [1] Newly constructed building facades for nonresidential first-floor uses shall have a transparency of at least 20% and no more than 60% for all facades that, wholly or partially, address street frontage, sidewalks, or other public space.
 - [2] Buildings in Village Center District campus developments shall meet the following criteria:
 - [a] No more than 10% of the first floor of newly constructed buildings shall be occupied by residential use.
 - [b] No more than 60% of the total gross floor area of the development shall be occupied by residential use.
 - (b) Signs.
 - [1] Freestanding directory signs may be permitted as part of a Village Center District campus application where several nonresidential operations are accessed through a common vehicular entrance. Such freestanding signs shall not exceed eight feet in height, six feet in width and each tenant shall be allowed a maximum of 4.5 square feet to display the company or agency name.
 - (c) Site design.
 - [1] Buildings shall be arranged in a manner that optimizes the ability of residents and consumers to access public spaces and pedestrian amenities.
 - [2] Buildings shall be oriented toward each other in a way that minimizes conflicts between pedestrians and automobiles.
 - [3] Open space provided pursuant to Subsection **I(2)** of this bylaw shall be designed as a public gathering place. Arcades, courtyards, parks, greens or other common areas shall be located in a manner that connects buildings to each other and to public sidewalks without interruption from parking areas or automobile travel lanes to the greatest practicable extent.
 - [4] Features that may be used to create open space areas acceptable to the Planning Board or the Board of Appeals may include, without limitation, fixed benches, fixed tables, fountains, pathways, bikeways, bicycle racks, period lighting, shade trees, perennial gardens, picnic areas, and/or trash receptacles.
- (2) Open space ownership and maintenance. As a condition of a special permit, the Board of Appeals shall require an applicant to document ownership of open space within the proposed development and to provide a detailed maintenance schedule to ensure the long-term care of open space areas.
- J. Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby.

Article V
Dimensional Regulations

§ 250-5.1 **Lot area.**

Purpose. The purpose of § **250-5.1** is to define all dimensional regulations related to allowable lot area, width, frontage, including dimensional regulations for all districts, and to clarify the regulations for dwellings per lot, lot size exceptions and reduction of occupied lots.

- A. Wetlands or land under water. In all districts, no more than 10% of the required lot area, as defined in this Article **V**, shall consist of wetlands or land under water.
- B. Lot area, width, shape and frontage. Except as provided in Subsections **C**, **D** and § **250-5.5**, no building, except a detached building of accessory use, shall be constructed on a lot having less area than the "Required Lot Area" or having less width than the "Required Lot Width Through Building," specified in the following table for the district in which said lot is located:

District	Required Lot Area (square feet)	Required Lot Width Through Building (feet)	Required Lot Width and Frontage (feet)
Residence A	40,000	175	100
Residence B	80,000	175	100
Outlying	80,000	175	100
Dimensional requirements with sewer			
Retail Commercial	40,000	100	100
Commercial	40,000	150	100
Office Park and Industrial	60,000	200	150

- (1) An area of access is the portion of the lot between the accepted or approved Town way and the point where the required lot width through the principal building is reached.
- (2) Lot shape. Unless approved in connection with a subdivision plan under MGL c. 41, or with a development plan review under this bylaw, lots shall maintain, beyond the principal building, a lot width as defined in Subsection **B** of the definition of "lot" in § **250-2.1**, and measured from side lot line to side lot line to be a minimum of 50% of the required lot width as defined in this Subsection **B** above. Any lot area width less than the minimum described above shall not be calculated in the required area dimension or used for any other purpose.
- (3) Frontage can be reduced by 50% when it provides the only access to one dwelling unit on a lot which is equal to at least twice the minimum lot area requirement, provided that:
 - (a) Not more than two lots with such reduced frontage can be placed side by side.
 - (b) There shall be at least two lots with the otherwise required 100% frontage adjacent to any two 50% frontages.
 - (c) Each 50% frontage lot must be the access to its own lot.

- (d) No more than 30% of the required lot frontage can be encumbered by easement or used for a common driveway.
 - (e) Entrances and/or driveways to lots in all districts must be made from an accepted or approved Town way.
 - (4) The frontage of a lot must be available for access.
 - (a) The Planning Board shall determine that the frontage is adequate and available for safe vehicular access in accordance with its Rules and Regulations Governing the Subdivision of Land and/or when the Building Commissioner requests a determination.
 - (b) Except for public utilities in place at the time of the passage of this provision, no more than 30% of required frontage shall be encumbered by easements, drives, access strips, or ways of any type.
 - (5) In case of a farm exempted from the provisions of the zoning by statute, the minimum lot area, width and frontage requirements shall be in addition to the five acres as required under MGL c. 40A, § 3 and MGL c. 61A.
- C. Recreation District. In a Recreation District, except for municipal recreation uses, the following minimum areas and frontages are required:
- (1) The minimum frontage for all uses shall be 200 feet.
 - (2) For a golf course, the minimum lot area shall be at least 120 acres.
 - (3) For all other uses, the minimum lot area shall be at least two acres of lot area plus sufficient area for the proposed use as determined by the standards contained in Time-Saver Standards for Site Planning, Joseph DeChiara and Lee E. Koppleman, McGraw Hill, New York City, 1984, pages 424 and 425.
- D. Retail Commercial, Commercial and Office Park and Industrial Districts.
- (1) In a Retail Commercial or Commercial District, no building shall be constructed as a dwelling or so used on a lot having less area or width than the amount required for the construction of a dwelling in an abutting Residence A, Residence B or Outlying District or where more than one such district abuts, in the particular district having the greatest length of common boundary with the Retail Commercial or Commercial District in question.
 - (2) In an Office Park and Industrial District, the following minimum areas and frontage are required:
 - (a) For office and industrial parks, at least five acres of lot area and 150 feet of frontage and 200 feet required lot width through building.
 - (b) For all other uses, at least 1.2 acres plus the minimum land area required for on-site sewage disposal.
- E. One dwelling per lot. In all districts, not more than one building on each lot shall be constructed as a dwelling or so used except as provided in Section 3.4.

- F. Reduction of occupied lots. No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with lot area, width, setback or yard provisions of this bylaw, or, if such building or lot already fails to comply with said provisions, such reduction or change would bring about a greater degree of noncompliance with said provisions. This prohibition shall not apply, however, when a portion of a lot is taken or conveyed for a public purpose.

§ 250-5.2 Setbacks and yards.

Purpose. The purpose of § **250-5.2** is to provide specific regulations for all setbacks for buildings, side and rear yards lot lines, including corner clearance, building space, and exceptions to yard and spacing requirements.

A. Setbacks for buildings.

- (1) In all districts, no building shall be constructed nearer to the exterior line of any street than 40 feet; and where the street has width of less than 40 feet between its exterior lines, no building shall be constructed nearer to the center line thereof than 60 feet.

B. Exception for existing alignment.

- (1) If authorized by the Board of Appeals in Retail Commercial, Commercial and Office Park and Industrial Districts and without such authorization in all other districts, a building may (subject to the provisions on corner clearance) be constructed as near to the exterior and/or center line of any street as the average of the setbacks of the dwellings or other main buildings nearest thereto on either side; provided, however, that where the nearest main building on either side is more than 300 feet from the building in question, such side building shall not be counted in determining said average but, instead, the intervening space shall be considered as though occupied by a main building having the required setback (whether or not said space is laid out as a separate lot).
- (2) In the Office Park and Industrial District, the following minimum areas and frontage are required:
- (a) For office and industrial parks, at least five acres of lot area and 200 feet of frontage.
- (b) For all other uses, at least 1.2 acres plus the minimum land area required for on-site sewage disposal.

C. Setbacks for other uses. In all districts, no open display of goods or products, no open storage of materials or equipment, no sign over two square feet in area and, except for a flag, utility or light pole, no structure over five feet in height shall be located nearer to the exterior line of any street than 20 feet, or, where the street has a width of less than 40 feet, nearer to the center line thereof than 40 feet.

D. Corner clearance. In all districts, no building shall be constructed within the triangular area formed by the exterior lines of intersecting streets and a line joining points on such lines 50 feet distant from their point of intersection or, in case of a rounded corner, the point of intersection of their tangents and no structure; no foliage, shrubbery or other planting and no open display, storage or other open use shall be located within said triangular area in such a manner as to interfere with traffic visibility across the corner.

E. Side and rear yards. In all districts, no building shall be constructed nearer to the side lines of its lot than the "Required Side Yard Width," or nearer to the rear line of its lot than the "Required Rear Yard

Depth," specified in the following Subsections (1) through (4):

- (1) Residence A District.
 - (a) Required side yard width: five feet for a detached accessory building if 100 feet or more from the exterior line of any street; 15 feet for all other buildings.
 - (b) Required rear yard depth: five feet for a detached accessory building; 20 feet for all other buildings.
 - (2) Residence B or Outlying District.
 - (a) Required side yard width: five feet for a detached accessory building if 150 feet or more from the exterior line of any street; 25 feet for all other buildings.
 - (b) Required rear yard depth: five feet for a detached accessory building; 30 feet for all other buildings.
 - (3) Retail Commercial, Commercial, Office Park and Industrial Districts.
 - (a) Required side yard width: 15 feet for dwellings; 20 feet for detached accessory buildings; and 20 feet for all other buildings.
 - [1] If a driveway is shared with an adjacent lot, the side yard requirements would be reduced to 15 feet.
 - (b) Required rear yard depth: 20 feet for dwellings; 20 feet for a detached accessory building; and 20 feet for all other buildings.
 - (4) Recreation District.
 - (a) Required side yard width: 50 feet for a detached accessory building; and 50 feet for all buildings on the same lot.
 - (b) Required rear yard depth: 50 feet for a detached accessory building; and 50 feet for all other buildings on the same lot.
- F. Building space. In all districts, no building shall be constructed nearer than 10 feet to any other detached building on the same lot.
- G. Yard and spacing exceptions. On an existing lot exempted from lot area and width requirements hereof under the provisions of § **250-5.1F** above, the required side yard width may, without authorization by the Board of Appeals, be reduced by six inches for each foot by which the width of said lot (measured as herein specified) is less than the required lot width through the building required under § **250-5.1B(1)**; provided, however, that no side yard shall be so reduced to less than six feet. For purposes of this subsection, the width of the lot shall mean the minimum distance measured through the building and parallel to the street from one side lot line to the other side lot line. In addition, the Board of Appeals may, in the specific case of an irregular or shallow lot, or a lot unusual either in shape or topography, vary the yard and spacing regulations hereof, provided that, in the opinion of said Board, it is impractical or extremely difficult to adhere to such regulations.

§ 250-5.3 **Building height.**

Purpose. The purpose of § **250-5.3** is to provide specific regulations for building heights in all districts.

A. Building.

- (1) In a Residence A, Residence B, Outlying or Recreation District, the maximum height of a building or structure shall be 38 feet, measured from the highest level abutting the building to the highest point of the building.
- (2) In a Residence A, Residence B or Outlying District, the vertical distance between any point on the roof of a building (whether main or accessory) and any point on the side or rear lines of its lot shall not exceed the horizontal distance between the same two points by more than five feet.
- (3) In all other districts, except the Tri-Town Smart Growth District, the maximum height, as measured in Subsection **A(1)**, shall not exceed 55 feet unless approved with development plan review and the approval of the Fire Chief or in the case of cellular and telecommunication towers approved by special permit. Irrespective of the preceding two subsections, the Planning Board may approve a special permit for telecommunication and cellular towers in any district, where they are permitted by this bylaw subject to the provisions of § **250-6.6K(1)**.

B. Projections. Nothing herein shall prevent the projection into any required setback area or yard of cornices, eaves, sills or ornamental features not over three feet in width or of terraces, steps or uncovered porches not over three feet high above average finished grade and nothing herein shall prevent the projection above a roof of chimneys or antennas or of steeples, domes, towers or similar projections not used for human occupancy.

§ 250-5.4 **Mixed residential development.**

Purpose. The purposes of § **250-5.4** are to provide an opportunity for varied housing stock as opposed to conventional single-family subdivision or development and to encourage development alternatives.

A. In a mixed residential development, the regulations of this § **250-5.4** shall apply to any grant of a special permit which is authorized by the Planning Board pursuant to Article **VIII**. Granting of a special permit for a mixed residential development is subject to review and approval of a definitive plan, the standards set forth in MGL c. 40A, § 9, these Protective Bylaws, the rules and regulations promulgated by the Lunenburg Planning Board for granting of a special permit and the Rules and Regulations Governing the Subdivision of Land, unless specifically waived as provided in said regulations.

B. Intensity and dwelling unit mix.

- (1) The minimum area of any mixed residential development shall be not less than five acres, and not more than 10% of this minimum area shall consist of wetlands or land under water or land with a slope in excess of 15%.
- (2) Where a mixed residential development abuts a residential use other than another mixed residential development or planned residential area, there shall be a buffer of a continuous width of at least 50 feet. Said buffer shall be maintained in its natural state or planted or landscaped with vegetation indigenous to the area.

- (3) If there is more than one housing type in the mixed residential development, e.g., one-family, two-family or more, no one type shall constitute more than 60% nor less than 20% of the total number of dwelling units.
- (4) There shall be no more than one structure constructed or used as a dwelling on a lot in a mixed residential development.
- (5) The maximum number of dwelling units in a mixed residential development may not exceed 2% of the total number of dwelling units in Town as shown on the record of the Board of Assessors for the year in which the application for the special permit is filed.
- (6) In any one year, no more units may be constructed than are equal to 1% of the total number of dwelling units in Town as shown on the record of the Board of Assessors for the year in which the application for special permit is filed.
- (7) Notwithstanding the foregoing Subsections (1) through (6), the number of building lots and/or the number of dwelling units to be constructed may not exceed the number of building lots and/or the number of dwelling units of said tract of land which could be constructed under this bylaw by means of a conventional development or subdivision plan, considering the whole tract, exclusive of water bodies and wetlands and land prohibited from development by legally enforceable restrictions, easements or covenants.

C. Dimensional regulations.

- (1) In a mixed residential development, lots shall be developed in accordance with the following table, provided that all units within the development are connected to public water or are served by a common or individual well approved by the Lunenburg Board of Health and are connected to a sewer or an on-site sewage treatment facility approved by the Lunenburg Board of Health.

Residence A District

Number of Units in Structure	Minimum Frontage Per Unit (feet)	Minimum Setbacks (feet)			Minimum Lot (square feet)
		Front Yard	Side Yard	Rear Yard	
		1	90	40	
2	50	40	15	20	32,000
3	40	40	15	20	40,000
4	30	40	15	20	41,000

Residence B and Outlying Districts

Number of Units in Structure	Minimum Frontage Per Unit (feet)	Minimum Setbacks (feet)			Minimum Lot (square feet)
		Front Yard	Side Yard	Rear Yard	
		1	90	40	
2	50	40	20	25	72,000

Residence A District

Number of Units in Structure	Minimum Frontage Per Unit (feet)	Minimum Setbacks (feet)			Minimum Lot (square feet)
		Front Yard	Side Yard	Rear Yard	
3	40	40	20	25	80,000
4	30	40	20	25	94,000

- (2) Irrespective of the table in Subsection C(1), lots in a mixed residential development which abut a street in existence at the time the application for the mixed residential development is filed shall conform to the lot size currently required in the district in which it is located and shall only be used for a one-family dwelling structure.
- (3) Except as indicated in Subsection C(2), each unit in a mixed residential development shall have the minimum frontage required on the table in Subsection C(1). Frontage shall be on an accepted Town road or way approved by the Planning Board under the Subdivision Control Law.
- (4) No building in a mixed residential development shall exceed 28 feet in height, said height to be determined by the vertical distance between the average finished grade of the ground adjoining the building to the highest point of the roof beams.
- (5) Each dwelling shall have at least two sides with full exposures and shall have two separate exits.

D. Design.

- (1) All buildings shall be of an architectural style which is compatible with the prevailing style in the mixed residential development.
- (2) Buildings, open spaces, driveways, parking areas and other development features shall be located and designed in a manner which conforms to the existing natural terrain of the site.
- (3) All existing or proposed utilities shall be installed underground at the time of initial construction. Each unit in a structure containing four units shall be equipped with a fire protection residential sprinkler system approved by the Lunenburg Fire Department.
- (4) Lighting facilities, whether placed along drives, in parking areas or on the exterior of buildings, shall be so arranged and shielded that they do not unreasonably distract the occupants of the buildings or shine directly upon abutting properties and/or public ways. In no case shall illumination upon the window surface of any buildings used for dwelling purposes exceed 0.5 footcandle.

E. Affordability guarantee.

- (1) All units to be sold as affordable shall contain deed restrictions guaranteeing that the unit shall remain affordable in perpetuity from first occupancy or such period as defined by the Commonwealth of Massachusetts for affordable housing. Said deed restrictions shall guarantee that during the period in which the unit must remain affordable, it may be sold only at a price that allows the seller to realize a return on improvements and a reasonable rate of appreciation according to the Consumer Price Index

between the time of purchase and the sale. The deed restrictions shall also guarantee that any purchaser of the unit within the period of affordability shall meet the then-qualifying income and any other eligibility guidelines for purchase of affordable housing as set forth by the Lunenburg Housing Partnership or such board or authority as is designated by the **Select Board (Board of Selectmen)**.

- (2) Eligibility for purchase or lease of affordable units shall be determined by the Town of Lunenburg acting through the Lunenburg Housing Partnership, if any, or such board or authority as is designated by the **Select Board (Board of Selectmen)** and according to the definitions established by the Commonwealth of Massachusetts.
 - (3) Eligibility for purchase or lease of affordable units after the initial sale or lease shall be determined by the Town of Lunenburg acting through the Lunenburg Housing Partnership, if any, or such board or authority as is designated by the **Select Board (Board of Selectmen)**. Said Housing Partnership, board or authority shall review eligibility and provide written response within 30 days of receipt of the request for determination of eligibility.
- F. Common area and facilities. All common areas and facilities shall be owned and maintained by a nonprofit organization the principal purpose of which is the preservation and maintenance of common areas and facilities or a corporation or trust owned or to be owned in common by the owners of the dwelling units within the mixed residential development in which the ownership of the common areas and facilities runs with the title to the dwelling units and is not separably alienable.
- G. Off-street parking. Off-street parking shall be provided in accordance with the provisions of § **250-6.1**, except as follows:
- (1) All parking spaces, including any which may be in excess of those requirements, shall be located a minimum of 75 feet from the center line of any public ways or ways utilized to meet the frontage requirements of this section.
 - (2) Unless in an accessory garage within the structure, no parking space shall be located closer than 25 feet to a building used for dwelling purposes.
 - (3) All required parking spaces shall be provided within 300 feet of the dwelling units which they are required to serve.
 - (4) The provisions of § **250-6.4C(4)** shall not apply to entrances and/or driveways within a mixed residential area.
- H. Open space and landscaping.
- (1) All areas not covered by pavement, curbing, buildings and/or structures, including such facilities as playing areas for court games, swimming pools and plazas, shall be landscaped with grass, shrubbery, trees, flowers or ground covers indigenous to the area. Along the length of each exterior wall of each principal building, there shall be a landscaped area with bushes, shrubs or flowers indigenous to the area.
 - (2) An area equivalent to 1/2 of the minimum area required by Subsection **B(2)** shall be left substantially in

its natural state.

§ 250-5.5 **Planned residential area.**

Purpose. The purpose of § **250-5.5** is to provide opportunities for other than single-family development by establishing regulations that include intensity, dimensions, design, ownership, maintenance, etc.

- A. In Residence A, Residence B or Outlying Districts, the following regulations shall apply to any grant of a special permit for a planned residential area, a single-lot, unified development, as may be authorized by the Planning Board pursuant to Article **VIII**. Pursuant to approval of the definitive plan in accordance with the Rules and Regulations Governing the Subdivision of Land, adopted by the Lunenburg Planning Board, said application shall be reviewed in accordance with the standard set forth in MGL c. 40A, § 9, these Protective Bylaws and rules and regulations promulgated by the Lunenburg Planning Board for granting of a definitive plan.
- B. Intensity.
- (1) The minimum area of any planned residential area shall be not less than five acres, provided that not more than 10% of this minimum area shall consist of wetlands or land under water or land with a slope in excess of 15%.
 - (2) In addition to the minimum five acres required in Subsection **B(1)** above, there shall be provided for each dwelling unit within the planned residential area an area equivalent to the lot area required within the district for a detached one-family dwelling.
 - (3) If 20% or more of the dwelling units qualify as low- or moderate-income housing, as defined by the Commonwealth of Massachusetts Executive Office of Communities and Development for Lunenburg for the year in which they are to be first occupied, and further provided that measures satisfactory to appropriate Town Boards, **Select Board -Selectmen** are executed to assure that these units remain available as low- or moderate-income units and conform to the requirements of the Local Initiative Program, then:
 - (a) The minimum five acres of area required by Subsection **B(1)** and **(2)** above shall not be required.
 - (b) The lot area required in Subsection **B(2)** equivalent to a single-family detached building may be reduced by 30% and the frontage requirement in Subsection **C** may be reduced at the discretion of the Planning Board, provided that the planned residential area has at least 100 feet of frontage on an accepted public way for the first 10 units and an additional 200 feet of frontage on an accepted public way for any additional units to assure two means of entrance which are properly spaced or 100 feet if the second entrance is on a second public way.
 - (4) The maximum number of dwelling units in a planned residential area shall not exceed 2% of the total number of dwelling units in Town, as shown on the record of the Board of Assessors for the year in which the application is filed.
 - (5) In any one year, no more units will be constructed than are equal to 1% of the total number of dwelling units in Town, as shown on the record of the Board of Assessors for the year in which the application is filed.

(6) Notwithstanding the foregoing Subsections (1) through (4), the number of building lots and/or the number of dwelling units to be constructed within the planned residential area may not exceed the number of building lots and/or the number of dwelling units of said tract of land which could be constructed under this bylaw by means of a conventional development or subdivision plan, considering the whole tract, exclusive of water bodies and wetlands and land prohibited from development by legally enforceable restrictions, easements or covenants.

C. Dimensional regulations.

(1) A planned residential area shall have a minimum frontage on a public way and/or a way approved by the Planning Board under the Subdivision Control Law, equivalent to 50 feet for each dwelling unit contained within the planned development. The requirements of this section may be modified if review and a determination by the Planning Board is made that adequate access is provided and changes will not derogate from the intent of § 250-5.5, Planned residential area.

(2) No building within a planned residential area shall contain more than four dwelling units.

(3) No building in a planned residential area shall exceed 28 feet in height, said height to be determined by the vertical distance between the average finished grade of the ground adjoining the building to the highest point of the roof beams.

(4) No building or structure shall be located closer than 100 feet to the center line of any public way or other way utilized to meet the frontage requirements of this section or within 75 feet from the center line of any interior street, way, or driveway.

(5) No building or structure shall be located within areas which are required to be maintained in a natural state.

(6) No building or structure shall be located within 50 feet of a property or lot line.

(7) If there is more than one building containing dwelling units on a single lot, there shall be a minimum of 50 feet between such buildings.

(8) Each dwelling unit shall have at least two sides with full exposures and shall have two separate exits.

(9) No floor, except an unfinished basement, of a dwelling unit shall be located beneath the average finished grade of the ground adjoining the building.

D. Design.

(1) Buildings shall be of an architectural style which is compatible with the prevailing style in the area in which the planned residential area is located and shall be compatible with other buildings in the planned residential area.

(2) Buildings, opens spaces, driveways, parking areas and other development features shall be located and designed in a manner which conforms to the existing natural terrain of the site.

(3) Building placement which makes maximum use of solar energy shall be encouraged.

- (4) All existing or proposed utilities shall be installed underground at the time of initial construction. Each townhouse unit shall be equipped with an approved fire protection residential sprinkler system in accordance with the Lunenburg Fire Department approval. Each dwelling shall have on the exterior a horn and light that is connected and will activate with the fire alarm protective devices.
 - (5) Lighting facilities, whether placed along service drives, in parking areas or on the exterior of buildings, shall be so arranged and shielded that they do not unreasonably distract the occupants of the buildings or shine directly upon abutting properties and/or public ways. In no case shall illumination upon the window surface of any buildings used for dwelling purposes exceed 0.5 footcandle.
 - (6) Provisions shall be made for the storage, collection and removal of garbage. All necessary facilities shall be appropriately screened.
 - (7) There shall be one entrance road and one exit road to each planned residential area, unless a divided entrance-exit road is approved by the Planning Board.
 - (8) All interior roads and drives shall be constructed to the standards of the Planning Board as contained in the Rules and Regulations Governing the Subdivision of Land.
- E. Off-street parking. Off-street parking shall be provided in accordance with the provisions of § **250-6.1** and in accordance with the Regulations of the Planning Board of the Town of Lunenburg Governing the Design, Construction and Maintenance of Off-Street Parking and Loading Areas except as follows:
- (1) All parking spaces, including any which may be in excess of those requirements, shall be located a minimum of 75 feet from the center line of any public way or ways utilized to meet the frontage requirements of this section.
 - (2) Unless in an accessory garage within the structure, no parking space shall be located closer than 25 feet to a building used for dwelling purposes.
 - (3) All required parking spaces shall be provided within 300 feet of the dwelling units which they are required to serve.
 - (4) The provisions of § **250-6.4C(4)** shall not apply to entrances and/or driveways within a planned residential area.
- F. Open space and landscaping.
- (1) All areas not covered by pavement, curbing, buildings and/or structures, including such facilities as playing areas for court games, swimming pools and plazas, shall be landscaped with grass, shrubbery, trees, flowers or ground covers indigenous to the area. Along the length of each exterior wall of each principal building, there shall be a landscaped area with bushes, shrubs or flowers indigenous to the area.
 - (2) An area equivalent to 1/2 of the minimum area required by Subsection **B(2)** shall be left substantially in its natural state.

G. Ownership and maintenance.

- (1) The area left substantially in its natural state shall be placed in an ownership which shall provide for its permanent retention and maintenance. The manner of ownership, use and maintenance of such permanent natural area shall be determined by the agreement, duly executed in a form suitable for recording by the owner or owners of such natural area, and shall provide that, in the event the Planning Board shall grant a special permit under this section, such permanent area shall be owned or to be owned in common by the owners of the dwelling units within the development in which the ownership of the natural areas runs with the title to the dwelling units and is not separably alienable.
- (2) Such natural area shall be kept in an open and natural state and shall not be built upon for residential use, for walkways, driveways and/or parking.
- (3) Such natural areas shall be subject to permanent restrictions as agreed under Subsection A(1).
- (4) An organization, corporation or trust owned or to be owned in common by the owners of the dwelling units within the development in a form approved by the Planning Board shall be responsible for the maintenance of all common areas, not otherwise provided in accordance with Subsection A(1), including, but not limited to, lighting, plowing, roadways, sidewalks, recreation facilities and accessory structures.

§ 250-5.6 **Cluster development.**

- A. Purpose. The purpose of cluster development is to encourage the preservation of usable open space, agricultural lands, and forested lands in the Town of Lunenburg and assist in preserving the rural residential character of the Town.
- B. Applicability. In a Residence A, Residence B, or Outlying Districts, where subdivisions, planned residential and mixed residential lots or exclusive use areas proposed to be developed with single-family dwellings consist of 25 acres or more, the following conditions must be met, pursuant to approval of a definitive plan in accordance with the Rules and Regulations Governing the Subdivision of Land, adopted by the Lunenburg Planning Board.
- C. Intensity.
 - (1) Dwelling units shall be developed on a maximum of 50% of the land within the development, with the remaining 50% of the land being designated as permanent open space. Not more than 10% of the open space shall consist of wetlands or land under water or land with a slope in excess of 15%.
 - (2) In lieu of cluster development as shown above [Subsection C(1)], a site can be developed in lots with a minimum of five acres each; each lot may have no more than one dwelling.
- D. Dimensional requirements.
 - (1) The minimum dimensional area for each dwelling shall be as follows:
 - (a) Residence A: 30,000 square feet.
 - (b) Residence B and Outlying Districts: 60,000 square feet.

(2) All other dimensional regulations for the district in which the land is located shall apply.

E. Design.

(1) The selection of land to be designated as permanent open space shall be made by the applicant and shall be subject to the approval of the Planning Board based on the following criteria:

(a) The preservation of existing farms and/or the appropriateness of the land for agricultural uses.

(b) The preservation of environmentally sensitive lands.

(c) The appropriateness of the land for recreational uses.

(d) The location of the land relative to other adjacent or nearby open space lands.

(e) The location of the land relative to other development sites.

(f) The area of roadway providing frontage to dwelling units shall not be calculated as permanent open space.

(2) Land designated as open space shall be limited to the following uses:

(a) Agriculture, farming, and/or the keeping of horses and grazing of animals as permitted by this bylaw.

(b) Passive or active recreation.

(3) Open space may be conveyed to a nonprofit organization, the principal purpose of which is the conservation of open space, or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot, or if proposed and accepted for public ownership, shall be dedicated to the Town of Lunenburg, as provided by MGL c. 40A, § 9, provided that, prior to acceptance, said land shall be tested by the applicant for contaminants, who shall take proper remediation action, if necessary.

(4) All interior roads and drives, and utilities and other improvements shall be constructed to the standards of the Planning Board as contained in the Rules and Regulations Governing the Subdivision of Land.

F. Anti-segmentation. No development or series of developments shall be segmented or phased, nor shall any contiguous parcels in single or common ownership as of or subsequent to the date of adoption hereof be conveyed or otherwise transferred, so as to avoid compliance with, defer or curtail the applicability or requirement(s) of this bylaw. It is not the form of ownership but control that determines single or common ownership hereunder, which shall expressly include ownership by affiliated or related persons and/or entities such as, but not limited to, business organizations in the same or similar ownership and joint tenancies, tenancies in common or trusts with a commonality of legal or equitable interest(s) therein. **[Added 5-4-2019 ATM by Art. 33]**

Article VI
General Provisions Affecting All Districts

§ 250-6.1 Off-street parking and loading areas.

[Amended 5-7-2016 ATM by Art. 39]

Unless otherwise provided in this bylaw, off-street parking and loading spaces shall be required as follows:

- A. Dwellings: two parking spaces for each dwelling unit.
- B. Place of assembly, including a funeral home: one parking space for each three seats therein or one space for each 60 inches of bleachers or benches.
- C. Schools: one parking space for each classroom or office, plus one parking space for each three seats in the auditorium thereof.
- D. Hotels, motels and other places providing overnight accommodations: one parking space for each room accommodation therein and adequate spaces for delivery vehicles.
- E. Restaurants: one parking space for each table or booth and one parking space for every two counter seats and adequate spaces for delivery vehicles.
- F. Other service and retail establishments: parking areas, exclusive of driveways, shall be in a minimum ratio of three square feet of ground area to one square foot of gross floor area, exclusive of storage areas and adequate loading spaces.
- G. Office and all other permitted nonresidential structures, except agricultural: one space for each 1,000 square feet of gross floor area and loading space for all deliveries and shipping; however, the minimum parking area shall be in a minimum ratio of one square foot of ground area for each three square feet of floor area.
- H. Child care facilities: one parking space for each 10 children in attendance plus one parking space for each person engaged on site in the business of the facility at any one time.
- I. For uses not specified above, the number of required spaces will be determined by the Building Commissioner based on accepted planning standards, as contained in the latest edition of Time-Saver Standards for Site Planning, Joseph DeChiara and Lee E. Koppleman, McGraw Hill, New York City, 1984, or similar source and a reference for handicapped parking as outlined in Chapter **205**, Streets and Sidewalks, § **205-11**.

§ 250-6.2 Lot monuments.

No building permit shall be approved for a new dwelling unit until existing permanent or new permanent monuments, a minimum of 30 inches in length, have been installed defining a lot.

§ 250-6.3 Plans.

- A. A plan for a building permit for a new dwelling, retail commercial or commercial building shall contain a two-dimensional line drawing, drawn to scale, showing the location and the perimeter outline dimensions, street names and building lot area and shall be stamped and signed by a registered land surveyor. A copy, in duplicate, of said plan, bearing the stamp and signature of the registered land surveyor, shall be filed with the application for a permit and said copies shall show, in addition to the

foregoing, existing structures on said lot and any proposed structures to be constructed thereon and, also, the front, rear and side yard dimensions from the lot line to the building, water supply sources, sanitary system and, where applicable, information pertaining to the requirements of § 250-6.1 hereof. The additional details to be shown on the plan copies may be inserted therein by the registered land surveyor or the applicant, provided that the plan copies shall disclose by whom such additional details were inserted; however, the official or board having authority to issue the permit applied for shall have the right to require that the additional details to be shown on the plan copies shall be inserted therein by a registered land surveyor and bear the stamp and signature of a registered land surveyor.

- B. A plan for a building permit to construct a detached accessory building, utility shed or an addition to an existing structure shall contain a two-dimensional line drawing, drawn to scale, showing the location and perimeter outline dimensions of the lot, existing and/or proposed structures and showing thereon the front, rear and side yard dimensions from the lot line to the building, the building lot area, street names, existing water supply source and sanitary system. Such plan need not bear the stamp and signature of a registered land surveyor; provided, however, that the official or board having authority to issue the permit applied for shall have the right to require a lot outline plan bearing the stamp and signature of a registered land surveyor. Submission of a copy of said lot outline plan, in duplicate, showing the data and details herein required shall be sufficient, provided that, in any instance where it shall be required that a lot outline plan bear the stamp and signature of a registered land surveyor, the copies shall likewise bear such stamp and signature. In any case, it shall not be necessary for the original lot outline plan to show the existing structures or proposed structures or the rear and side yard dimensions from the lot line to the building, nor the water supply source or sanitary system.

§ 250-6.4 Driveways and entrances.

A. Purpose. The purposes of this section are:

- (1) To provide maximum protection to the public through the orderly control of traffic moving onto and from a street.
- (2) To provide a uniform practice in the design and layout of driveways and entrances.
- (3) To provide for adequate drainage where required.

B. Procedure. Prior to any construction of a driveway, an owner shall make written application for approval to the Building Commissioner. Before approval is granted, the application shall be referred to the DPW Director and, if necessary, the Conservation Commission.

C. Off-street parking design standards; general parking and loading provisions. **[Amended 5-7-2016 ATM by Art. 39]**

(1) Location.

- (a) Required off-street parking spaces shall be provided on the same lot as, and loading bays shall be provided next to, the principal or accessory use they are required to serve.
- (b) No area may be utilized and counted as both a required parking space and a required loading bay, without the approval of the Planning Board. Shared parking/loading areas shall only be used for loading

prior to opening or after closing of all uses located on the site in question. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each. Existing areas used for both parking and loading shall be counted for loading purposes.

- (c) Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.
 - (d) Off-street parking space required for two or more buildings, uses, or establishments on a single lot may be provided in a common lot.
- (2) Driveways.
- (a) Each parking space and loading bay shall be connected by a driveway to a street or to an interior drive that leads to a street.
 - (b) The number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
 - (c) All curb cuts and access driveways shall be located in the zoning district in which the site's primary use is permitted.
 - (d) The maximum grade of any outdoor driveway is 12%.
 - (e) No driveway shall require that vehicles back out onto public or private ways.
- (3) Setbacks.
- (a) Each parking space or driveway serving a one-family or two-family dwelling shall be set back five feet from any side lot line and rear lot line, with the exception of common driveways, and shall be designated on a plan and is issued a building permit by the Building Commissioner.
 - (b) No parking is permitted in the front yard other than in a designated parking space or driveway.
 - (c) All paved parts of all parking spaces, driveways and maneuvering aisles shall be set back from any wall of a principal building and from any lot line or zoning boundary line as indicated in the following table:

District	Residential District Line	Street Line	All Other Lot Lines	Wall of Principal Building
RA; RB; O; R; VCD	N/A	25	5	5
LB/R	25	25	10	5
RC; C	40	30	15	5
OP/I	50	30		5

Exceptions to the Table are:

- a. **One- and two-family homes.**
 - b. A parking space located within a structure otherwise permitted in such area.
- (d) No parking space, internal driveway or loading bay, whether required or otherwise provided, shall be

located, wholly or partly, within the right-of-way of a street.

- (e) All access to parking shall be by driveways meeting the requirements of this section; curbs, wheel stops, screening or similar barriers must be installed to prevent vehicles from being parked or driven within required setback areas.
- (4) Screening for parking.
 - (a) In all residential and mixed uses, or on a lot in any district which abuts or is across the street from a residential use, any outdoor parking lot, all loading bays, maneuvering aisles and driveways shall be screened in a manner to protect abutting lots from the glare of headlights, noise and other nuisance factors.
 - (b) Any parking lot, which is a principal use, must be screened along driveways and around the entire perimeter of the parking lot. The entrance to driveways, to the extent practicable, shall be located on the side near nonresidential uses or on streets or highways leading to nonresidential areas.
 - (c) Screening shall consist of:
 - [1] A strip of land at least four feet wide, densely planted with a combination of shrubs, and trees, with or without earthen berms, which shall have a combined height of at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years;
 - [2] A wall, barrier, or fence of uniform appearance at least five feet high above finished grade. Such wall, barrier or fence may be opaque or perforated, provided that not more than 50% of the face is open; or
 - [3] Any combination of [1] and [2] approved by the Planning Board through site plan approval.
 - (d) Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by entrances or exists and shall have no signs attached thereto other than those permitted in the district.
- (5) Design standards.
 - (a) Dimensions.
 - [1] Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table and elsewhere in this subsection:

Table 1

S = Standard Parking Space

C = Compact Parking Space

Angle of Parking	Width of Parking Space		Depth of Parking Space ²		Width of Maneuvering Aisle		Unit Parking Depth	
	(feet)	(feet)	(feet)	(feet)	(feet)	(feet)	(feet)	(feet)
	S	C	S	C	S	C	S	C
61° to 90°	9 ¹	8.5 ¹	19	15	22	20	60	50
46° to 60°	9	8.5	19	15	16	15	56	48
45°	9	8.5	19	15	14	13	53	47
Parallel	8	8	22	18	12	12	n/a	n/a

Notes:

¹ Where one or both of the long sides of a parking space abut a wall or similar obstruction, the width shall be 12 feet.

² Up to two feet of unpaved landscaped space may be included in the depth, provided there are no obstructions to the vehicle's overhang.

- [2] To count as a required parking space a parallel parking space shall have maneuvering space at least 20 feet deep in front of it in an aisle parallel to and abutting such parking space.
 - [3] Where columns of a building or structure are located in a parking lot (such as a parking garage under a building), no part of a column may be within three feet of a maneuvering aisle or within the minimum dimensions of a parking space.
 - [4] The width of a driveway for one-way use shall be a minimum of 10 feet and for two-way use shall be a minimum of 20 feet and a maximum of 30 feet, as measured at the setback line.
 - [5] Where access or egress is provided for a parking lot, or one or more loading bays, such access or egress shall be so arranged to provide a circulation system or maneuvering space on the lot so that all vehicles may exit from and enter onto a public street by being driven in a forward direction, and no vehicle shall be required to enter or leave by backing, and no vehicle shall have to stand within a street right-of-way waiting to enter the lot.
- (b) Number of compact car spaces. In parking lots containing more than 20 spaces, not more than 33% of such spaces may be designed for use by compact cars, Such compact car spaces shall be located in one or more continuous areas and shall not be intermixed with spaces designed for standard cars and shall be clearly designated by signs or pavement marking. In parking lots with 20 or fewer parking spaces, spaces designed for use by compact cars are not permitted.
- (c) Loading bays.
- [1] All required loading bays must have minimum dimensions as follows: 30 feet long, 12 feet wide and 14 feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the permitting authority requests, evidence shall be provided that the loading bay and its maneuvering space are adequate to accommodate large motor vehicles and trailers.
 - [2] All required loading bays shall have an adequate travel aisle to provide access. This may be separately located or through the parking area. In either instance the "truck route" shall be clearly delineated by

signage or pavement marking. An adequate travel path shall provide width and turning radii appropriate to a WB-55 or the largest truck expected to deliver goods to the site, whichever is larger.

- (d) Marking. In a parking lot or loading area, the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent, and signs shall be erected indicating that loading bays, and, if necessary, compact or other reserved parking spaces, are reserved for such use. Where 50% or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in a dwelling, parking spaces for guests or visitors to the use or establishment, not to exceed 10% of the required parking spaces, shall be located and designated, by signage or pavement marking, as visitor parking near the principal entrance to the building which they serve.
- (e) Availability. To ensure the availability and utilization of required parking spaces and loading bays on a year-round basis:
 - [1] Unless authorized by special permit or site plan approval, no fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building, or establishment.
 - [2] Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other space or bay.
 - [3] Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.
- (f) Snow storage.
 - [1] An aggregate area equal to, at a minimum 10% of the paved area shall be set aside for snow storage. Snow storage shall be designated, at a minimum, in two separate and distinct places on the property. These areas shall be located on the submitted off-street parking and loading plan.
 - [2] In addition, snow storage shall be prohibited from:
 - [a] Being located on/in storm water structures or ponds.
 - [b] Impacting the sight lines at intersections both within the site and where the site driveway meets public roads.
 - [c] Being located in/on off-street parking spaces that are required per the Protective Bylaw.
- (g) Surfacing and drainage.
 - [1] All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose

of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership.

- [2] It is the intent of this subsection that the paved surface of a parking lot or loading area shall be limited to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this subsection. The off-street parking and loading plan required by this section shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the permitting authority may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this subsection.
- (h) Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be 10%.
- (i) Landscaping.
 - [1] On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there must be at least one tree for every eight parking spaces abutting the perimeter; such trees must be spaced so that some part of a parking space is not more than 30 feet from the center line of a tree.
 - [2] In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 10 or more parking spaces face each other, a landscaped open space not less than five feet in width must be provided. The landscaped strip may be provided either:
 - [a] Between the rows of parking spaces parallel to the aisle; or
 - [b] In two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces. There must be in each such strip at least three trees and in all such strips not fewer than one tree for every eight parking spaces in the interior part of the parking lot. Trees must be spaced so that some part of each parking space is not more than 30 feet from a tree.
 - [3] Trees required by this subsection shall be at least two inches in diameter at a height four feet above the ground at time of planting and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this subsection.
- (j) Exception for one-family or two-family dwelling. The provisions of Subsection **C(2)(e)** and **(5)(d), (e)** and **(f)** with regard to backing into a public street, marking of pavement, moving of vehicles and surfacing and drainage and snow storage shall not apply where parking is provided for any one-family or two-family dwelling.
- (k) Not more than two primary dwellings may maintain one common entrance and/or driveway. Said driveway shall be located through the frontage or access strip of both lots equally, including lots with reduced fifty-percent frontage. Such driveway should be permitted only after issuance of a building permit and shall relate to the design and construction standards as for Subsection **C(1), (3)** and **(5)(g)[1]**.
[Added 5-6-2017 ATM by Art. 32]
 - [1] Such driveway shall not provide potential access to lots not shown on an accepted plan.

- [2] If such a common driveway cannot be located as determined above, a determination may be made by the Planning Board and Building Official for other acceptable locations.
- (6) Bicycle parking.
- (a) Required spaces. In any parking area with 20 or more spaces as defined in the parking and loading tables, a minimum of two bicycle parking spaces shall be provided, and one additional bicycle parking space shall be provided for each increment of 20 motor vehicle parking spaces over 40 vehicle spaces.
- (b) Placement and access. Bicycle parking shall be located near the primary entrance(s) of the building. Half of the bicycle parking spaces shall be provided as long-term parking, safe and secure from vandalism and theft and protected from the elements. The other half shall be provided as short-term (customer or visitor) parking, and short-term parking spaces shall be visible and convenient to the building entrance. Bicycle parking apparatus shall not be installed in a manner that will cause obstruction of pedestrian or motor vehicle traffic. Bicycle parking shall be situated in such a way that normal snow removal activities and snow storage do not impact the bicycle parking facility.
- (c) Dimensional regulation. Each bicycle parking space shall be sufficient to accommodate a bicycle six feet in length and two feet in width.
- (d) Design. Bicycle parking apparatus shall be of a high-security design to which the frame and wheel of a parked bicycle may be attached; installed in a visible location to deter vandalism and theft; and permanently mounted to the ground or to a building or other immovable structure. Inverted-U-frame or other racks that support the bicycle at two or more points above the center of gravity are required.

§ 250-6.5 Signs.

- A. General requirements. It is the intention of these sign regulations to promote public safety, protect property values, create an attractive business climate and enhance the physical appearance of the community. No signs or advertising devices of any kind or nature, etc. shall be erected on any premises or affixed to the outside of any structure except as herein permitted.
- (1) All signs, together with their supports, braces, guys and anchors, shall be kept in good repair and in safe condition. The owner or occupier of the premises on which a sign is erected shall be directly responsible for keeping such sign and premises around it in a safe, sanitary, neat and clean condition.
- (2) Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity and color and shall be designed, located, erected and maintained only for the purposes of illuminating the subject sign and/or premises. Said illuminated sign may not directly shine into the eyes of any occupant of any vehicle traveling upon any highway, driveway or parking area or into any window of any residence within 200 feet or where the illumination will interfere with the visibility or readability of any traffic sign or device.
- B. Signs permitted in all districts.
- (1) The following signs are permitted in all districts, provided they meet the general requirements of Subsection A:

- (a) One nonilluminated identification sign not to exceed three square feet in area or eight feet in height from average grade, stating the name and address of the occupant, or in the case of a sign which lists only the names of occupants of dwellings on the street on which it is located, a sign of a size and location approved by the Building Commissioner.
- (b) One temporary nonilluminated real estate sign pertaining to the lease, sale or use of a lot or building on which such sign is placed, not exceeding a total area of six square feet.
- (c) One sign for identification of professional and home occupations, not exceeding a total area of three square feet.
- (d) A marker not to exceed two square feet identifying a historic building.
- (e) A sign erected by the Town, county, state or federal government or other governmental units.
- (f) A sign erected by a public carrier for direct information concerning its service at the location, which shall not exceed 12 square feet.
- (g) Signs and displays associated with an approved stand for the retail sale of agricultural or farm produce not exceeding 12 square feet in total area.
- (h) A sign erected by any fraternal, civic, religious or service organization or club, merely announcing its presence in the Town of Lunenburg and the time and place of its regular meeting, provided such sign shall not exceed three feet in diameter nor nine square feet in area.
- (i) Any flag, badge, insignia or device of any governmental agency or civic, charitable, religious, patriotic, political, fraternal or similar nonprofit organization when displayed along a line of march of any parade or in sockets along any street during a fund-raising drive, as permitted by the Building Commissioner.
- (j) Temporary political signs displayed during election campaigns, provided no sign shall exceed four square feet in a residence zone or 24 square feet in a commercial district.
- (k) One "open" flag or portable sandwich board style sign may be permitted as described herein. The only allowable flag shall be no larger than three feet by five feet, with only the word "open" on the flag. The only allowable portable sign shall be a so-called "sandwich board" sign, i.e., a two-panel sign shaped like an inverted letter V, which rests on the ground or other flat surface. Each panel of such sign shall be no larger than two feet by two feet. Any such flag or portable sign may be displayed only when the related business is open and is permitted only on lots where only one business is located. These are not permitted on multi-business-tenant lots or malls. Flags or portable signs must comply with setback and corner clearance criteria.
- (2) A temporary construction sign is permitted in any district, provided the sign is nonilluminated, does not exceed 32 square feet in area, identifies an engineer, architect and/or contractor engaged in the development of land or construction or alteration of buildings, and further provided such sign is set back at least 10 feet from any street line and is removed upon completion of construction.
- (3) Temporary signs, advertising special events, sales for nonprofit organizations or causes or changes in

the nature of an activity of a public nature may be placed on common public areas, which include the Upper Common, the Lower Common, school property, church property, parks and like property determined by the Building Commissioner and approved by the proper governing authority to be public property, provided that:

- (a) Temporary signs may only be erected for a two-week period.
 - (b) Temporary signs do not exceed two feet by three feet.
 - (c) Temporary signs may include banners.
 - (d) A two-dimensional plot plan shall be presented to and approved by the Building Commissioner prior to the erection of the sign.
- C. Maximum area, height and illumination requirements of signs. Signs are permitted as follows and in accordance with all the provisions of this section and all applicable provision for development plan review (§ 250-8.4).

Classification	Maximum Area of Building Sign (square feet)	Maximum Height of Signs from Average Grade (feet)	Illumination
Class A:			
Residence A	3	8	Natural or external lighting only
Residence B	3	8	
Outlying	3	8	
Limited Business-Residential	9	8	
Class B:			
Retail/Commercial	24	30	Internal lighting
Recreation	9	8	Natural or external lighting only
Class C:			
Commercial	220	30	Internal lighting
Also see Subsection D			
Class D:			
Office Park/Industrial	220	30	Natural or external lighting
Floodplain	All signs are governed by the underlying district(s)		
Water Supply Protection	All signs are governed by the underlying district(s)		

D. Location and number of signs.

- (1) Signs are permitted as follows and in accordance with all the provisions of this section and all applicable

provisions for development plan review (§ 250-8.4):

Classification	Size/Placement	Number of Signs
Class A:		
Residence A	All signs shall be located on the building or at a minimum distance from the street line of 50% of the required front yard	1 per street
Residence B		
Limited Business/Residential		
Outlying		
Class B:		
Retail/Commercial	A freestanding sign (pylon) and a sign located on the building, not exceeding 24 feet	1 per principal use
Secondary signs	To be determined by the development plan review	1 per principal use
Recreation	A sign on the building or at a minimum of 20 feet from street line.	1 per principal use
Class C: Commercial		
Single use:		
Freestanding sign	A freestanding sign (pylon) or a sign located on the building which may not exceed 36 square feet, unless the ground floor area of the building exceeds 10,000 square feet, in which case there may be 1 additional square foot of sign for every additional 500 square feet of ground floor area thereafter	1 per principal use
Primary sign		1 per principal use
Secondary signs	A sign(s) located on the building which may not be more than 50% of the size of the freestanding or primary sign	2 per principal use
Multi-use, 1 building:		
Freestanding sign	A freestanding sign (pylon) and a sign located on the building which may not exceed 36 square feet unless the ground floor area of the building exceeds 10,000 square feet, in which case there may be 1 additional square foot of sign for every additional 500 square feet of ground floor area thereafter, plus such additional square feet as may be permitted in Subsection D(2)	1 per building
Primary sign		1 per principal use

Classification	Size/Placement	Number of Signs
Secondary sign	A sign located on the building which may not be more than 50% of the primary sign	1 per principal use
Multi-use, multiple buildings on a site or a shopping center:		
Freestanding sign	A freestanding sign (pylon) and a sign located on the building which may not exceed 36 square feet unless the ground floor area of the building exceeds 10,000 square feet, in which case there may be 1 additional square foot of sign for every additional 500 square feet of ground floor area thereafter plus such additional square feet as may be permitted in Subsection D(2)	1 per development 1 per principal use
Primary sign		
Secondary sign	To be determined by the development plan review	

Class D: Office Park and Industrial

Freestanding sign	A free standing sign (pylon) and a sign located on the building which may not exceed 36 square feet unless the ground floor area of the building exceeds 10,000 square feet, in which case there may be 1 additional square foot of sign for every additional 500 square feet of ground floor area thereafter	1 per principal use
Primary sign		1 per principal use

Class D: Floodplain

All signs are governed by the underlying district(s)

Class D: Water Supply Protection

All signs are governed by the underlying district(s)

- (2) All signs 20 feet from the right-of-way may be a maximum of 36 square feet plus two square feet for each additional 20 feet of setback from the right-of-way, but in no case shall be larger than the maximum allowed by other provisions of this section.

- E. Signs permitted in Residence A, Residence B, Outlying and Limited Business/Residential Districts. (Class A). In addition to signs permitted by Subsection **B**, the following signs are permitted in all residential districts:
 - (1) One nonilluminated or indirectly illuminated identification sign for each separate street line of a home occupation per § 250-4.2.(4) or an approved special permit use not to exceed nine square feet nor eight feet in height; and further limited as follows: Said sign shall be subject to the applicable side and rear yard requirements for principal buildings and a minimum of 50% of the applicable front yard requirements for principal buildings; the height of such sign shall not be greater than the distance it is located from any lot line, but in no case greater than eight feet in height; the square foot area of such sign shall not be greater than 1/2 the linear foot distance it is located from any lot line, but in no case greater than nine square feet. **[Amended 11-13-2018 STM by Art. 13]**

- (2) Other signs shall be limited to directional signs necessary for public safety or convenience and shall be designated and approved as an integral part of the development plan and for an allowable special permit use.
- F. Signs permitted in nonresidential districts. In addition to signs permitted by Subsection **B**, the following signs are permitted in Commercial, Retail/Commercial and Office Park and Industrial Districts:
- (1) One sign for the purpose of advertising the sale or lease of the premises, which shall not exceed 32 square feet in signboard area.
 - (2) One of the signs permitted, per use, in nonresidential districts may be internally illuminated. All internally illuminated signs located within the building but visible from the exterior of the building shall constitute one of the signs permitted.
 - (3) Other signs, limited to directional signs necessary for public safety or convenience, may be designated and approved as an integral part of the development plan as approved by the Planning Board.
 - (4) One freestanding sign that meets the following criteria: [**Added 11-13-2018 STM by Art. 13**]
 - (a) The square footage will not exceed twelve square feet (12 feet²), with no less than a 1:3 ratio between the perpendicular sides.
 - (b) The sign shall be a minimum of 25 feet from the front property line and a minimum of 20 feet from the side property line.
 - (c) No sign installed under this provision may be lighted.
- G. Signs subject to development plan review.
- (1) Prior to the granting of a permit by the Building Commissioner for a sign, the Planning Board must approve the following signs subject to applicable submission requirements, contents and guidelines of § **250-8.4**, Site plan approval, said determination to be made by the Planning Board:
 - (a) All freestanding signs (pylons), except those permitted in Subsections **B** and **E**.
 - (b) All signs over 36 square feet.
 - (2) In addition to the requirements of § **250-8.4**, site plan approval, the Planning Board shall approve the location, safety and the design of the sign according to the design regulations adopted by the Lunenburg Planning Board.
- H. Prohibited signs. The prohibitions contained in this section shall apply to all signs, all artificial lighting and all districts, regardless of designation.
- (1) No permitted sign, including projecting signs, shall be located in any street right-of-way.
 - (2) No sign or advertising device shall be erected, used or maintained which in any way simulates official directional or warning signs erected or maintained by federal, state or Town governments for the

protection of the public health and safety.

- (3) No sign or advertising device shall be erected or maintained in such a manner as to obstruct or interfere with the free and clear vision on any street or driveway.
- (4) No sign or advertising device shall be erected or maintained with any lighting or control mechanism which may cause radio or television interference.
- (5) No illuminated sign or lighting device shall be placed or directed on any property in a manner that would permit the light beams and illumination therefrom to be directed or beamed onto a public street or walkway or onto adjoining properties so as to cause glare or reflection that might constitute a traffic hazard or public nuisance.
- (6) No animated sign or advertising device shall be erected.
- (7) No flashing signs or advertising device which creates intermittent or varying light intensity shall be erected.
- (8) No projecting sign shall extend more than 12 inches beyond the building walls or parts thereof, or be less than eight feet above grade, except as otherwise provided in these sign regulations.
- (9) No sign shall be erected on a roof of a structure; however, a sign may be attached to the facade of a building, provided that it does not exceed the allowable height limitations as stated in Subsection **C**.
- (10) No building or part thereof, such as a gable, roof or wall, shall be outlined by direct illumination for the purpose of commercial advertising.
- (11) No sign shall be attached to or be erected or maintained in such a manner as to obstruct any fire escape, window, door or other building opening used for egress and ingress, ventilation or other fire-fighting purpose.
- (12) No commercial advertising sign shall be allowed, except as otherwise provided in Subsection **F** hereof.
- (13) No freestanding sign shall be erected to exceed a height of 30 feet.
- (14) Promotional banners shall not be in excess of eight square feet for a special permitted use. No special displays such as flashing signs shall be allowed.
- (15) Signs may not have any moving or animated parts or images, whether caused by machinery, electronics, wind, gas or otherwise, except for clocks, thermometers or cloth flags, the latter of which are moved only by natural wind. Strings of flags or streamers are not permitted, except as provided in Subsection **B(3)(c)**.
- (16) A sign attached to a building shall not:
 - (a) Project more than one foot from the building wall when the building bounds on a lot line.
 - (b) Project into or over the paved portion of a street or a right-of-way.

- (c) Exceed the height of the building, except as permitted by Subsection **H(9)**.
- (17) All off-premises signs, except for farm stands and signs for agricultural uses in Lunenburg and as in Subsection **B(1)(a)**, are prohibited.
 - I. Sign condition. All signs are required to be maintained in a safe condition. Any sign deemed not in a safe condition by the Building Commissioner can be required to be repaired or removed at the owner's or occupant's expense.
 - J. Sign removal.
 - (1) Any sign or logo erected after adoption of this ordinance which, because of a change in occupancy, ceases to refer to a bona fide business conducted or product sold on the premises shall be removed by the owner or occupant within 60 days from the change of occupancy.
 - (2) All signs in existence at the time of adoption of this sign bylaw and not conforming to this § **250-6.5** shall be removed within one year after the adoption of this section, unless the sign is otherwise approved by the Building Commissioner after a determination that the sign is safe and in good condition and poses no hazard to traffic or public safety.
 - K. The following definitions apply to this § **250-6.5**:

PRINCIPAL USE

The primary purpose for which a lot or the main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained.

§ 250-6.6 Performance standards.

- A. Administration and interpretation. All proposed uses of buildings, lots or premises within any district after the passage of this bylaw shall conform to the following:
 - (1) The applicant, at his own expense, shall furnish evidence sufficient to satisfy the Building Commissioner that the proposed use of the building or premises will not produce any nuisances beyond the lot lines as measured by the performance standards listed below or as existing in comparable operations allowed in the district, which are not now creating a nuisance.
 - (2) Any nuisance produced in excess of the standards permitted below or any other nuisance found after public hearing to be excessive shall be reduced to acceptable standards or discontinued.
- B. Air pollutants. Except as is herein provided, all use and conditions of land, buildings and structures shall be in conformance with the regulations in 310 CMR 6.00 through 8.00 of the Department of Environmental Quality Engineering, Commonwealth of Massachusetts, December 31, 1981, and amendments thereto.
- C. Noise.
 - (1) No use shall be allowed if it will cause sound or noise perceptible without instruments more than 200 feet from the boundaries of the originating premises, except from warning devices, construction work, maintenance or other special circumstance.

- (2) At the district boundary line, noise shall not exceed 60 decibels between the hours of 8:00 p.m. and 6:00 a.m. and, at all other times, shall not exceed 60 decibels for more than 20 minutes in each hour.
 - (3) Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency or high frequency.
- D. Odor. Emissions from plant sites or other sources as measured at the user's property line shall not exceed the established threshold limit values for odors as outlined in T.M. Hellman and F.H. Small, Journal Air Pollution Control Association, 24(10), 979-982, (1974), and amendments thereto added by the Manufacturing Chemists Association, Inc., Washington, D.C.
- E. Heat, glare and vibration. No heat, glare or vibration shall be discernible without instruments from the outside of any structure.
- F. Wind energy systems.
- (1) Wind energy systems (WES) are subject to a development plan review granted by the Planning Board and to the following conditions, unless waived or adjusted by the Planning Board as is consistent with the purposes of this section:
 - (a) Area and height.
 - [1] A small wind energy system (SWES) shall be located on a parcel of 40,000 square feet minimum or on Town-owned property. For a SWES, the blade tip height, defined as combined tower and turbine height, shall not exceed 80 feet, measured from the average elevation of the existing grade at the base of the tower to the highest reach of the blade tip of the turbine.
 - [2] A commercial wind energy system (CWES) shall be located on a minimum of 400,000 square feet (10 building acres) or on Town-owned property. The maximum height shall be determined by the Planning Board and/or according to manufacturer recommendations, not to exceed FAA regulations.
 - (b) Setback. A SWES and CWES minimum horizontal distance shall be measured from the base of the tower structure to any property line or road right-of-way and shall be the greater of either the blade tip height plus 10 feet or the "fall zone," as determined by the wind turbine chart or engineering standards supplied by the manufacturer. No part of any WES, including guy wire and anchors, may extend closer to the property boundaries than the setback for the zoning district in which it is located, as provided in the dimensional table in Article V of this bylaw.
 - (c) Security. The system is to be designed to prevent unauthorized access.
 - (d) Appearance and design. The system shall be of monopole design with appropriate bracings, unless otherwise approved by the Planning Board, and a nonreflective exterior color designed to blend with the surrounding environment. No logos, designs, decorations, or writing shall be visible at or beyond the property line so that the visual character of surrounding neighborhoods and the community is minimally affected by site selection, turbine design or appearance, buffering, screening or lighting.
 - (e) Cables. All electrical cables from the tower base on all connected facilities are to conform to 527 CMR

12.00, Massachusetts Electrical Code, as promulgated by the Massachusetts Board of Fire Prevention regulations in accordance with MGL c. 143, § 3L and as directed by the Inspector of Wires in accordance with MGL c. 166, § 32.

- (2) Construction, operation and maintenance.
 - (a) An application for a wind energy system. A review for a wind energy system (WES) shall include a plan for the general procedures for safe and effective operation and maintenance of the facility and the following:
 - [1] SWES: a schematic plan to scale showing placement of the tower, distance to all property lines and abutting dwellings, proposed elevations, public and private roads, above-ground utility lines, any other significant features and any measures designed to mitigate the impact of SWES. Any portion of these requirements may be waived by the Planning Board, if, in its opinion, the engineering/manufacturing information submitted is sufficient for the Board to make a decision.
 - [2] CWES: a site plan, which is prepared to scale, stamped by a professional land surveyor, registered landscape architect or licensed civil engineer, showing, in addition to other applicable requirements for a site plan, the location of the proposed WES and any associated buildings or appurtenances, distances to all property lines and abutting dwellings, existing and proposed structures, existing and proposed elevations, public and private roads, including temporary access roads, above- and below-ground utility lines, any other significant features or appurtenances, and any measures designed to mitigate the impacts of the WES. Any portion of these requirements may be waived by the Planning Board, if, in its opinion, the engineering/manufacturing information submitted is sufficient for the Board to make a decision.
 - [3] A plan for the construction, operation, maintenance and removal of wind facilities, which shall be consistent with all other applicable Town, state and federal requirements, including all applicable health and safety regulations, shall be submitted to the Planning Board. Evidence shall be submitted to the Planning Board that the utility has been informed of the customer's plans and approval for an intertie agreement has been obtained.
 - (b) Codes. Wind energy systems and structures shall comply with 780 CMR, Massachusetts State Building Code, in accordance with MGL c. 143.
 - (c) Noise. Wind energy systems shall comply with the Massachusetts noise regulations (310 CMR 7.10).
 - (d) Height. WES towers shall comply with the above applicable section or with applicable FAA regulations, whichever is more restrictive.
 - (e) Abandonment. Unless authorized by written approval from the Planning Board, a WES shall be considered to be abandoned if it is not operated for a period of two years, and shall be removed. If it is designated a safety hazard by the Building Commissioner, the owner shall correct the hazard or remove the WES within 90 days. If the property owner fails to correct the safety hazard or to remove the wind energy system in accordance with the requirements, the Town may physically remove the WES at the owner's expense.
 - (f) Removal. Removal of a WES, any equipment shelters, and security barriers from the subject property

requires proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations and restoration of the location of the WES to a stable condition with vegetation sufficient to prevent erosion and sedimentation.

(g) Fees.

[1] SWES. The applicant shall pay all costs, including application fee, review and inspecting fees as deemed appropriate by the Planning Board Fee Schedule.

[2] CWES. The applicant shall pay all costs, including application fee, peer review and inspecting fees as determined by the Planning Board Fee Schedule.

(h) Insurance. Evidence of insurance coverage for all potential damages relating to a CWES shall be provided prior to construction.

(i) Inspections. Annual inspections to determine certification, safety and appearance shall be performed by the Building Commissioner.

(j) Bonds. An original bond for a CWES shall be required to cover the cost of construction. An annual maintenance bond shall be posted as directed by the Planning Board Fee Schedule.

(3) The applicant shall furnish all necessary data for a permit that shall be granted by the Building Commissioner. In the event that a development plan review by the Planning Board involves a solar project, the Building Commissioner shall refer to the Planning Board's development plan review report. The Planning Board shall include the Building Commissioner, Electrical, and Plumbing Inspectors as well as other departments in the review process.

(4) As-built plans shall be submitted prior to final inspection.

G. Waste disposal, water supply and water quality. Regulations of the Department of Public Health, Commonwealth of Massachusetts and the Lunenburg Board of Health relative to water disposal, water supply and water quality shall be met and, when required, approval shall be indicated on the application for a building permit.

(1) In no case shall discharge cause the waters of the receiving body to exceed the limits assigned by the Commonwealth of Massachusetts, Water Resources Commission, Division of Water Pollution Control, as published and entitled "Water Quality Standards," filed with the Secretary of State on September 21, 1978, and amendments thereto, for streams and water bodies within the Town.

(2) Water use shall not cause a reduction in the groundwater supply used by abutting residents or reduce the supply so that the Water District needs to reduce or limit service residents of the district.

(3) Materials used in exterior or cleanup of structures or vehicles or of any equipment shall be disposed of in accordance with the regulations of the Board of Health.

(4) No sewage leaching field shall be located within 100 feet of the normal bank of any waterway or land subject to flooding. Sewage leaching fields shall be constructed in compliance with the regulations of

the Lunenburg Board of Health.

- (5) Any activity within 100 feet of a wetlands, subject to the protection of the bylaw, including point source discharges, will be subject to normal wetlands procedures.
- H. Storage. Unless otherwise approved in the development plan review process, all materials, supplies and equipment shall be stored in accordance with the Fire Prevention Standards of the National Fire Protection Association and shall be screened from view from public ways or abutting properties.
- I. Exterior lighting.
- (1) No exterior lighting shall shine on adjacent properties or toward any street.
 - (2) Exterior illumination of buildings or grounds in Residential and Outlying Districts, except as may be permitted for required parking areas, shall:
 - (a) Be permitted only for noncommercial uses open to the public, such as a church or playground; and
 - (b) Shall be shown on an approved development plan.
 - (3) Any lighting shall be continuous, nonflashing and permanently mounted.
- J. Building construction. All buildings shall be of construction prescribed in the State Building Code. No building permit shall be granted unless the application for such permit is filed in accordance with the Building Code.
- K. Hazardous materials.
- (1) No use shall be allowed which would create clear or unlawful hazard through emission of dangerous elements into the air, any water body, or the ground; through vehicular egress at points of constricted visibility; through use of storage of toxic, hazardous, inflammable, radioactive or explosive materials without evidence of compliance with all applicable regulations; or through lack of security measures to prevent exposure to potentially hazardous structural or site conditions.
 - (2) All hazardous materials in connection with a permitted use, used, created, stored, processed, disposed of by processing, diluting, burying or containment, leaching or any other manner or transported (including piping) in the Town shall be used, stored or transported in accordance with all applicable federal, state and local regulations.
 - (3) A notice for use, creation, storage, processing, disposal and transport shall be filed with the **Select Board (Board of Selectmen)**, the Fire Department, Planning Board, and the Board of Health, on such forms as they shall require. Notification shall include, as a minimum, identification of material, the amount involved, the process, if any, the routes of transport, carrier and conveyance, if any. The **Select Board (Board of Selectmen)** may require some assurance, as determined by the Board, to cover any and all possible damage to persons, property and environment.
- L. Erosion control.

- (1) Whenever the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the runoff of water to or from abutting properties, and shall be suitably landscaped.
 - (2) No use shall be allowed if it will leave the earth exposed for greater than 14 days, unless erosion control measures as defined in "Guidelines for Soil and Water Conservation in Urbanizing Areas of Mass." 1977, United States Department of Agriculture, Soil Conservation Service, and conservation controls within 100 feet of wetlands and water bodies, are employed.
 - (3) No use shall be allowed which will damage or harm adjoining properties, waterways or public utilities through uncontrolled erosion and sedimentation.
- M. Dish antennas and radio antenna towers. Accessory dish antennas and radio antenna towers shall be located in the rear yard, shall be set back a distance at least the height of the antennas from all property lines, principal buildings and accessory buildings, and shall not have a diameter greater than 1/3 of the required rear yard, except that the Planning Board may approve a special permit for a roof antenna or a telecommunication or cellular tower, provided that telecommunication and cellular towers, not including amateur radio towers, are located, erected, constructed, maintained and operated in accordance with the Rules and Regulations of the Lunenburg Planning Board for Cellular and Telecommunication Towers dated March 4, 1996, and as amended April 22, 1996, and as may from time to time be amended.
- N. Electrical interference. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises.
- O. Fencing, screening and landscaping.
- (1) Boundary fences, walls or hedges shall be permitted, provided that they do not exceed six feet in height and provided that no fence which obstructs vision shall exceed 36 inches in height within 20 feet of the street line or within 12 horizontal feet of habitable rooms in an abutting dwelling. Open storage, loading or service areas and parking lots for six or more cars shall be screened from any adjacent residence or public way by a wall, fence or densely planted trees or shrubs at least three feet in height or shall be equivalently obscured by natural vegetation.
 - (2) Junk, trash or debris shall be confined out of sight.
 - (3) No more than 50% of a required front yard shall be covered by impervious surfaces and except for walkways, driveways and walls, impervious surfaces shall not be within 10 feet of the right-of-way line.
 - (4) Any site on which construction has begun, but is not completed within 24 months, or such other time as approved under the development plan review, subdivision plan approved by the Planning Board or special permit, if any, or within such other period of time as is approved by the Planning Board or other appropriate special permit granting authority, unless an extension has been requested by the owner and approved by the Planning Board or other appropriate special permit granting authority, shall be restored to its natural state, pre-constructed state or other state as approved by the Planning Board or other appropriate special permit granting authority within such time as the Planning Board or other appropriate special permit granting authority shall specify.

- P. Signs. Signs shall be located in conjunction with § **250-6.5** of this bylaw.
- Q. Fire protection. All construction and use of structures and land shall be in accordance with 527 CMR, Commonwealth of Massachusetts Regulations, NFPA, the State Building Code, the rules and regulations of the Lunenburg Fire Department and other pertinent Town of Lunenburg rules and regulations. The Fire Department shall certify to the Building Commissioner that the plans and construction comply with its regulations before the Building Commissioner issues an occupancy permit.

Article VII Nonconforming Uses, Structures and Lots

§ 250-7.1 **Nonconforming lots.**

Increased requirements respecting lot area, frontage, width, yard and similar dimensions provided in this bylaw or amendments thereto, shall be subject to the exceptions provided in MGL c. 40A, § 6 and shall not apply to a lot for single- and two-family residential use which at the time of the recording or endorsement, whichever occurs sooner, was not held in common ownership with adjoining land, conformed to the then-existing requirements and had less than the proposed requirement but had at least 5,000 square feet of area and 50 feet of frontage.

§ 250-7.2 **Buildings, structures and uses already in existence; abandonment.**

- A. A nonconforming building or structure, or a nonconforming use of a building, structure or land, which has been abandoned, or which has not been used for more than a period of two years shall not be resumed, provided that where the nonconforming use is agriculture, horticulture or floriculture, non-use shall not constitute abandonment under this bylaw, and the nonconforming use may otherwise be resumed, unless such non-use was maintained for a period of more than five years.
- B. Voluntary demolition of a nonconforming structure without permission of the Zoning Board of Appeals shall constitute abandonment.

§ 250-7.3 **Nonconforming uses.**

- A. A lawfully nonconforming use of a building, structure, or land shall not be altered, extended, changed or substantially extended, except to a conforming use, unless authorized by the Board of Appeals pursuant to Subsection B.
- (1) Alterations to a legally nonconforming use that: a) do not reflect the nature and purpose of the original use; or b) result in a use different in quality, character, or degree from the original use and not ordinarily and reasonably adapted to the original use; or c) result in a use that is different in kind in its effect on the neighborhood than the original use shall constitute a change or substantial extension of the original use.
- (2) A nonconforming use has been substantially extended if the total of all floor area plus open ground area devoted to such use on the premises has been increased by more than 50% over the total so devoted at the time the use first became nonconforming. This section shall not apply to residential use of single- and two-family structures.
- B. No nonconforming use shall be extended, altered, or changed unless approved via a special permit issued by the Zoning Board of Appeals upon its finding that such extension, alteration or change will not be substantially more detrimental than the existing nonconforming use to the neighborhood.

§ 250-7.4 **Nonconforming structures.**

- A. Except as provided in Subsection **B**, a lawfully nonconforming building or structure shall not be reconstructed, extended or altered except pursuant to special permit issued by the Zoning Board of Appeals upon its finding that such reconstruction, extension or alteration will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.
- (1) Any reconstruction, extension or alteration of a nonconforming structure that increases an existing nonconformity or results in the creation of an additional nonconformity shall require a special permit from the Zoning Board of Appeals in addition to the finding set forth in Subsection **A** above.
- B. Reconstruction, extension, alteration or structural change to a single- or two-family residential, nonconforming structure may be allowed, upon a determination provided that such reconstruction, extension, alteration, or structural change meets all current zoning requirements, is not more substantially detrimental to the neighborhood, and does not increase the nonconforming nature of the structure.
- (1) Notwithstanding Subsection **B** above, reconstruction, extension, alteration or structural change (collectively "alteration") of a single- or two-family residential, lawfully nonconforming structure shall be deemed not to increase the nonconforming nature of said structure and shall be eligible for a building permit without review by the Zoning Board of Appeals, if:
- (a) The structure is located on a conforming lot and the proposed alteration will comply in all respects with the bylaw; or
- (b) The structure is located on a lawfully nonconforming lot and the proposed alteration will not result in new or increased violation of any of the dimensional requirements of this bylaw.
- C. No reconstruction, extension, or alteration to a nonconforming structure shall be permitted that results in lot coverage greater than 30%, except for determination by the Zoning Board of Appeals.
- D. No conforming building or structure devoted to a nonconforming use (whether in whole or in part) shall be moved, reconstructed, replaced or substantially altered, except as authorized by a finding of the Zoning Board of Appeals, pursuant to Subsection **A**.
- E. A building or structure devoted to a nonconforming use (whether in whole or in part) and a building or structure nonconforming as to height, setback or yards may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot, to the same or lesser dimensions, and used as before, without a finding as provided in either Subsection **A** or **B**, provided that such repair or reconstruction is substantially completed within two years of said damage or destruction; otherwise, such building shall be repaired, reconstructed and used only in conformity with the provisions of this bylaw. The Board of Appeals may, however, in a specific case, authorize the extension of the two-year time limit or authorize a special exception from the requirement of conformity, where, in the opinion of the Board of Appeals, such limit or requirement will impose undue hardship.

Article VIII Administration

§ 250-8.1 Permits.

No building shall be built, erected, reconstructed, moved, placed, externally altered or changed in use without a permit from the Building Commissioner. With each application for such a permit, there shall be filed a plan as described in § 250-6.3. Construction or operations covered by the permit which are not begun within six months of the issuance of the permit or construction not continued through to completion as continuously and expeditiously as is reasonable shall conform to any subsequent applicable amendment to this bylaw.

§ 250-8.2 Enforcement; violations and penalties.

- A. The Building Commissioner shall issue no permit for a building, structure or use which would be in violation of this bylaw. Where authorization by the Board of Appeals or the Planning Board is also required, no permit shall be issued until such authorization is granted and any conditions imposed by said Board shall be made a part of the permit.
- B. The Building Commissioner shall take appropriate action in the name of the Town of Lunenburg to prevent, correct, restrain or abate violations of this bylaw. Any person violating any of the provisions of this bylaw shall be subject to a fine not exceeding \$300 for each offense. Each day that such violation continues shall constitute a separate offense.
- C. Noncriminal disposition. In addition to the procedures for enforcement described above, the provisions of this Zoning Bylaw may also be enforced by the Building Commissioner, by noncriminal disposition pursuant to the provisions of MGL c. 40, § 21D. Each day on which a violation exists shall be deemed to be a separate offense. The penalty for violation of any provisions of this bylaw shall be \$25 for the first offense; \$50 for the second offense; \$100 for the third offense; and \$200 for the fourth and each subsequent offense.
- D. Special permit granting authority.
 - (1) Unless otherwise designated in this bylaw, the Board of Appeals is the special permit granting authority.
 - (2) When the Planning Board or **Select Board Selectmen** are designated the special permit granting authority, they shall act as provided by Chapter 40A of the General Laws, the rules and regulations they have adopted in accordance with Chapter 40A and the provisions established in this section for the Board of Appeals acting as the special permit granting authority.

§ 250-8.3 Board of Appeals.

- A. Establishment. There is hereby established a Board of Appeals of five members and three associate members, who shall be appointed by the **Select Board (Board of Selectmen)** in accordance with the provisions of MGL c. 40A, § 12, as amended.
- B. Powers. The Board of Appeals shall have the following powers:
 - (1) To hear and decide appeals in accordance with MGL c. 40A, § 8, as amended, from any person aggrieved by reason of his inability to obtain a permit or enforcement action from the administrative officer or board in the Town or from the regional planning agency, abutting city or town or other administrative official.

- (2) To hear and decide in accordance with the provisions of MGL c. 40A, § 9, as amended, application for special permits. including:
 - (a) Permits for uses requiring authorization of the Board of Appeals as specified in §§ 250-4.2B, 250-4.3D, 250-4.5C, and 250-4.6C.
 - (b) Permits for lots with lot areas, setbacks or yard areas less than those otherwise required or provided in §§ **250-5.1E**, **250-5.2B(1)** and **250-5.2G**.
 - (c) Permits to change, alter, extend and/or repair a nonconforming use/structure as provided in §§ **250-7.3** and **250-7.4**, subject to such conditions as the Board may impose in accordance with Subsection **C(2)** below.
 - (d) The Board of Appeals may grant a special permit to vary dimensional requirements upon its determination that the exception will not create undesirable conditions caused by overshadowing or loss of privacy, that access to utility and public services will be adequate, and within the standards listed below. Dimensional requirements may be exceeded by special permit so as to conform to the average height, setbacks or other relevant dimensions of existing principal buildings fronting on the same street or within 500 feet of the premises.
 - [1] Standards. In granting the special permit, the Board shall find that the permit may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this bylaw (see §§ 250-4.2B, 250-4.5C, 250-4.6C and Subsection **B** of this section), and shall find that:
 - [a] The specific site is an appropriate location for such building or alteration;
 - [b] The proposed building or alteration is compatible with the existing neighborhood with regard to size, location and architecture;
 - [c] The granting of the special permit will not adversely affect the neighborhood;
 - [d] The granting of the special permit will not unreasonably diminish the available light, air, sunlight, and other amenities; and
 - [e] There will be no nuisance or serious hazard to vehicles or pedestrians.
 - [2] Conditions. The Board of Appeals may impose any conditions deemed necessary to achieve the purpose of this bylaw, such as, but not limited to, the following:
 - [a] Greater than minimum yard requirements;
 - [b] Modification of exterior appearance;
 - [c] Limitation of size, occupancy, or extent of facilities;
 - [d] Regulation of traffic and site plan features, including additional off-street parking;

- [e] Screening of parking areas or other premises from view by use of appropriate wall, fence, or planting;
 - [f] Control of the number, location, size, and lighting of signs;
 - [g] Additional design and siting modifications where appropriate.
- (3) To hear and decide petitions for variances in accordance with MGL c. 40A, § 10, as amended, from the terms of this bylaw where the Board specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw, provided that:
- (a) No variance within the Water Supply Protection District will be allowed through the Zoning Board of Appeals without a written advisory report from the Board of Health. Review and recommendation of the Planning Board and the Conservation Commission shall also be considered in the granting of the variance.
- (4) To hear and decide appeals as provided in Chapter 40B of the General Laws.

C. Procedure.

- (1) In exercising the powers granted by Subsection **B** above, the Board of Appeals shall act in accordance with the provisions of M.G.L. c. 40A, §§ 9, 11, 14, 15 and 16. **[Amended 11-13-2018 STM by Art. 12]**
- (2) In granting any special permit, the Board of Appeals shall assure that the proposed use:
 - (a) Will not be injurious or dangerous to the public health or unduly hazardous because of traffic congestion, danger of fire or explosion or other reasons.
 - (b) Will not have a material adverse effect on the value of land and buildings in the neighborhood or on the amenities of the neighborhood.
 - (c) Will be operated with reasonable regard for order and sightlines if an open use.
 - (d) Will not produce noise, vibration, smoke, dust, odor, heat or glare observable at the lot lines in amounts clearly detrimental to the normal use of adjacent property.
- (3) Any approval granted by the Board of Appeals for a special permit shall lapse within two years from the grant thereof and time for an appeal as provided in MGL c. 40A, § 17, if a substantial use thereof has not sooner commenced or, in the case of a permit for construction, if construction has not begun by that date. A special permit is further limited by the six-month period provided in § **250-8.1**.

§ 250-8.4 Site plan approval.
[Amended 5-7-2016 ATM by Arts. 37 and 40]

- A. Purpose. The purpose of the Site Plan Review Bylaw hereby established is to protect the safety, public

health, convenience and general welfare of the inhabitants of the Town by ensuring that the design and layout of certain developments permitted by right or by special permit will constitute suitable developments and will not result in a detriment to the neighborhood or the environment.

B. Applicability. Projects requiring site plan review: [Amended 8-22-2016 STM by Art. 9]

- (1) New construction or exterior expansion of any nonresidential building or multifamily dwelling containing more than four units. "Expansion" shall include a floor space increase of 5,000 square feet or 25% or more within any ten-year period, whichever is less.
- (2) The construction or enlargement of any multifamily dwelling containing more than four units, or buildings accessory to such dwellings, including such dwellings on contiguous lots under the same ownership.
- (3) The construction or rehabilitation of a building involving 10 or more parking spaces.
- (4) The construction, reconfiguration or renovation of parking facilities, with the exception of normal maintenance.
- (5) Any use designated that is granted a special permit or variance by the Zoning Board of Appeals.
- (6) Any change of use within an existing building or site.
- (7) Any child-care facility.

C. Procedure.

- (1) Applications are to be prepared in accordance with the Planning Board Rules and Regulations for Site Plan Approval and Special Permit. These plans are to be submitted to the Planning Office in the number outlined in the aforementioned document.
- (2) Public hearing on site plans.
 - (a) The Planning Board shall hold a public hearing within 65 days of the receipt of a complete application and shall take final action within 90 days from the time of the hearing, as provided for in MGL c. 40A, §§ 9 and 11.
 - (b) The Planning Board's final action, rendered in writing, shall consist of either:
 - [1] Approval of the site plan based upon determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this bylaw; or
 - [2] Disapproval of the site plan based upon a determination that the proposed plan does not meet the standards set forth in this bylaw; or
 - [3] Approval of the site plan subject to any condition, modification or restriction required by the Planning Board which will ensure that the project meets the standards set forth in this bylaw.

- (3) Failure of the Board to take final action upon an application for site plan review within the time specified above shall be deemed to be approval of said application. Upon issuance by the Town Clerk of an appropriate certification that the allowed time has passed without Planning Board action, the required building permits may be issued.
- D. Site design principles. All site plan review applicants shall adhere to the following general principles when designing a site plan for land within the Town of Lunenburg.
- (1) Landscaping within the setbacks. Applicants are expected to design setbacks with landscaping, maintain the landscaping and replace any landscaping that has not fully established itself. Front yard setback landscaping shall consist of street trees, low-level plantings and other visually unobtrusive flora. Landscaping shall be situated in a manner such that vehicular and pedestrian sight lines are not restricted.
 - (2) Driveways and curb cuts. Entrance and exit location shall be designed to facilitate safe traffic movement both on and off the site as well as internally. Curb cuts are limited to as few as practicable for the length of street frontage with adequate separation from adjacent parcels, other curb cuts and intersections.
 - (3) Service roads/connection of parking lots. To minimize turning movements onto adjacent public ways, developers are encouraged to provide internal circulation systems (service roads) that connect to adjacent developments (parking area to parking area). Site plans that propose service roads and/or connection of parking areas shall show on the plan how the connection of parking areas will be achieved and have a deeded agreement and easement from the abutter.
 - (4) Parking and loading areas.
 - (a) Access locations shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.
 - (b) Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas.
 - (c) Parking facilities shall be designed to prevent parked cars from damaging trees, shrubs and curbing, and shall not disrupt pedestrian walkways.
 - (d) Walkways shall be separated from areas of vehicular traffic and designed to minimize stormwater runoff while maximizing access.
 - (e) These facilities shall include appropriate landscaping, pedestrian access and multi-modal parking accommodations.
 - (5) Storm water management (grading and drainage). All site plans shall be designed to comply with DEP (Department of Environmental Protection) Storm water Management Standards. Furthermore, the use of low-impact development, infiltration of storm water and reduction of impervious surface are strongly encouraged.
 - (6) Lighting. Lighting designs shall be Dark Sky compliant. This includes all exterior lights being designed

and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Developments shall eliminate glare onto adjacent properties through the use of lighting shields, earthen berms, addition of new landscaping and/or retention of existing natural vegetation.

- E. Standards for site plan review. In reviewing a site plan application, the Planning Board shall take the following items into consideration:
- (1) Compliance with all applicable provisions of the Lunenburg Protective Bylaw; Planning Board Rules and Regulations for Site Plan Approval and Special Permit; and Subdivision Regulations.
 - (2) Traffic safety and ease of access at street and highway entrances and exits, to be determined by:
 - (a) The adequacy of grades;
 - (b) The presence of sight distances that are appropriate for the design speed of the road, as determined by AASHTO;
 - (c) Minimum safe distance between such exits and entrances; and
 - (d) The existence of proper alignment or safe distance from proximal existing street(s) and driveway entrances.
 - (3) Safety and adequacy of driveway layout and pedestrian walkways; off-street parking areas; off-street loading areas for materials and products; to be determined by:
 - (a) Adequate access for service and emergency vehicles;
 - (b) Proper separation of pedestrian and vehicular facilities;
 - (c) The presence of separate facilities for delivery of goods; and
 - (d) Acceptable traffic patterns to/from the site entrance/exit and within the parking facilities.
 - (4) Safe and adequate means of disposal of sewage, garbage and rubbish.
 - (5) Safe and adequate water supply and distribution; including sufficient water and facilities for firefighting on the site.
 - (6) Safe and adequate storm drainage consistent with:
 - (a) Building and surface coverage;
 - (b) Grade and slopes;
 - (c) Soils; and
 - (d) Water table.

All of which shall result in zero increase in the rate of runoff from the site, as measured by the two-year (twenty-four-hour) and ten-year (twenty-four-hour) storm event standards; and there will be no negative impacts to downstream property owners in a one-hundred-year (twenty-four-hour) storm event. The storm water system shall meet all the requirements and standards of the Massachusetts Storm water Management Standards, as amended.

- (7) Prevention of soil erosion during and after construction; provisions for an increase in the volume of runoff of surface water from the site and the protection of adjacent areas against detrimental or offensive uses on the site by the provision of adequate buffers against light, sight, sound, dust and vibrations.
 - (8) Open space provisions and landscaping, including the maximum retention of on-site natural features.
 - (9) Placement of underground utilities, night lighting and signs.
 - (10) Compatibility of soil and subsoils to type and intensity of development.
 - (11) No exterior lighting shall shine directly on adjacent properties, or in such a manner as to create a nuisance on such properties or a hazard on public ways. To ensure exterior lighting conforms to this provision the following conditions shall be met:
 - (a) For the proposed use, all lighting installed shall conform to the standards outlined in The Illuminating Engineering Society of North America Lighting Manual.
 - (b) All lighting, with the exception of security lighting, shall be turned on no earlier than one-half hour prior to the business opening and turned off no later than one-half hour after the business closing.
 - (c) The lighting plan shall meet the requirements outlined in the "Lighting Plan Submissions" section of the Dark Sky Society's 2009 Guidelines for Good Exterior Lighting Plans, as amended.
 - (d) All fixtures using LED lighting shall be in the range of "warm-white" or shall be filtered LEDs that meet the standard of CCT < 3,000 K or have an S/P ratio of < 1.2.
 - (12) Snow storage areas shall be shown on the site plan and shall not interfere with sight distances at points of ingress/egress to a site or pedestrian/vehicle circulation, nor shall they adversely impact surrounding water bodies, streams, wetlands, or other resource areas as defined in MGL c. 131, § 40, and the Lunenburg Wetlands Bylaw, as amended.
- F. Modifications to an approved site plan. Once a site plan has been approved by the Planning Board, said plan shall not be changed, amended or modified without approval of the Board. There shall be only one final site plan in effect for a parcel of land at a time.
- G. Construction of an approved site plan.
- (1) Construction on a site with an approved site plan must be started within one year from the date of the Planning Board's approval of the site plan. Site plan approval may be extended for one year at the discretion of the Board after receipt of a written request from the landowner, showing good cause. If one year has elapsed from the date of approval, and no extensions have been granted, or if one year has elapsed since the granting of said extension, the final site plan approval shall become null and void

without requiring any further action by the Planning Board. This time period shall not include delays resulting from litigation.

- (2) No permit to build, alter or expand any building or structure, or change of use requiring site plan review under this bylaw, shall be issued by the Building Commissioner; nor shall any construction commence before a written statement of approval or approval with conditions has been issued by the Planning Board.
- (3) The Building Commissioner may inspect a site under construction for compliance with the approved site plan.

H. Enforcement.

- (1) It shall be the duty of the Building Commissioner to administer and enforce the provisions of this bylaw.
- (2) The Planning Board shall provide a schedule of inspection fees to be paid by the applicant prior to the start of construction.
- (3) The Planning Board may use inspection fees paid by the applicant to offset the cost of hiring any additional engineers or inspectors necessary to monitor all phases of construction covered by an approved site plan.
- (4) If work is not performed per the approved plan, including all conditions, the Building Commissioner has the authority to issue a cease-and-desist order per the Planning Board Rules and Regulations for Site Plan Approval and Special Permits, as amended.
- (5) "As built" plans, certified by a registered professional and noting any change from the approved plan, shall be filed with the Building Commissioner and the Planning Board before a certificate of completion shall be issued.
- (6) The Building Commissioner shall issue a certificate of completion when all construction has been performed and all other requirements have been met in compliance with the approved site plan. A copy of the certificate of completion will be filed with the Planning Board.
- (7) No certificate of occupancy shall be issued for any structure or use subject to site plan review unless a certificate of completion has been issued.
- (8) The Building Commissioner may issue a temporary certificate of occupancy for a period of one year if the required construction has been substantially completed and the permitted uses of the development can be carried on in a safe and convenient manner.

I. Rules and regulations.

- (1) The Planning Board may adopt such rules and regulations for carrying out its duties under this section. The Board may, where such action is allowed by law, in the public interest and not inconsistent with the purpose and intent of this bylaw, waive strict compliance with any requirement of this Site Plan Review Bylaw or its rules and regulations.

(2) The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this Site Plan Review Bylaw, by majority vote of the Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven days prior to the hearing date.

J. Appeals procedure. Any person aggrieved by any decision of the Planning Board or Building Commissioner regarding a site plan review application may appeal that decision per MGL c. 40A, § 17, as amended.

§ 250-8.5 Applicability.

A. Effective date. The effective date of this bylaw or any amendment thereof shall be the date such bylaw or amendment is adopted by vote of Town Meeting.

B. Other regulations. Nothing contained in this bylaw shall be construed as repealing any existing bylaw or regulation of the Town, but shall be in addition thereto; provided that whenever this bylaw imposes greater restrictions upon the construction of buildings or structures, or upon the use of buildings, structures or land than other bylaws or regulations, such greater restrictions shall prevail.

C. Invalidity. The invalidity of any section or provision of this bylaw or of any district or part thereof as shown on the Protective Bylaw Map shall not affect the validity of any other section or provision of said bylaw or of another district or part thereof on said map.

§ 250-8.6 Adoption of amendments.

This bylaw shall be adopted and may be from time to time changed by amendment, in accordance with the provisions of MGL c. 40A, § 5.