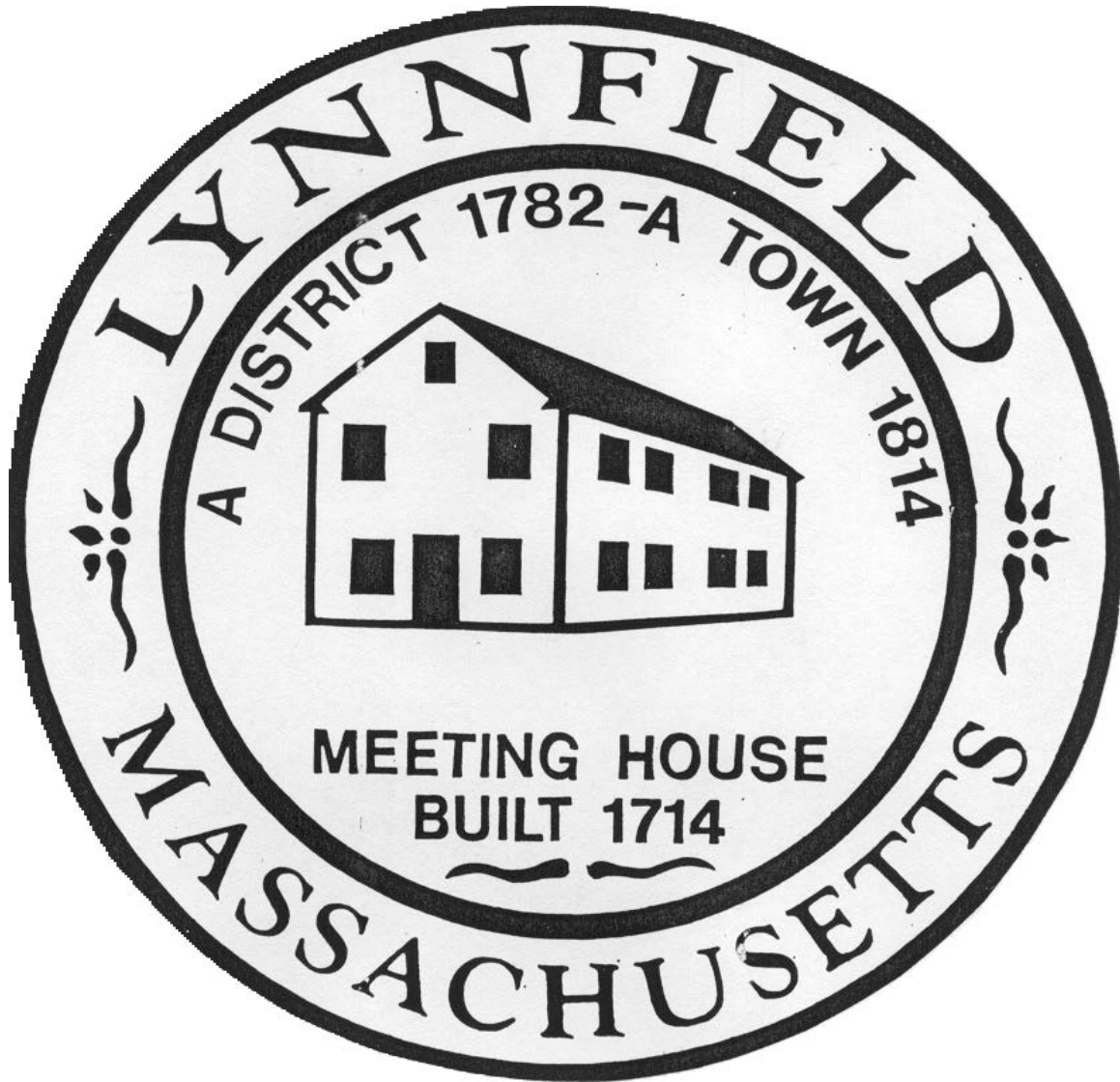


# ZONING BYLAWS

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



OCTOBER 17, 2016

Price \$15.00



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## 1. SCOPE

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

### 1.1 *Title*

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

### 1.2 *Authority*

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

### 1.3 *Purpose*

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

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

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

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

S.T.M. October 21, 1996

## 2. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Massachusetts General Laws Chapter 272, Section 31.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Building**

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

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

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

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

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

**Constructed**

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

**Dwelling**

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

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

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

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

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

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

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

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

**Family**

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

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

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

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

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

**House, one-family detached**

A detached dwelling designed for and occupied by one family.

**Housing for the Elderly**

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

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

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

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

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

**Lot**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Person**

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

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

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

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

An RFT that provides Personal Wireless Services to subscriber.

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

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

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

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

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

**Premise**

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

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

Means a single lot as well as a single building.

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

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

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

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

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

Any installation for the purpose of Radio Telecommunication.



**Recharge Area**

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

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

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

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

**Resident**

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

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

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

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

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

**Street**

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

**Structure**

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

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

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

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

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

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

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

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

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

### 3. DISTRICTS

#### 3.1 *Establishment of Districts*

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

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

#### 3.2 *Location of Districts*

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

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

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

#### 3.3 *Location of Boundaries*

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

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

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

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

## 4. USE REGULATIONS

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

### 4.1 *Single Residence District Uses*

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **4.3 General Business District Uses**

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

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



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

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

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

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

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

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

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

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

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

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

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

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

11. Accessory use as hereinafter limited and defined.

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

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

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

#### **4.6 Housing for the Elderly District**

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

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

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

#### **4.7 Office Park District Uses**

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

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

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

In a Municipal District, the following uses are permitted:

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

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

## 5. ACCESSORY USES

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

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

### 5.1 *Accessory Uses in Residence Districts*

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

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

### **5.1.1 Home Occupation**

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

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

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

#### *5.1.2.1 Purpose and Intent*

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

#### *5.1.2.2 District Location*

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

#### *5.1.2.3 Owner Occupancy Requirement*

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

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

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

#### *5.1.2.4 Yearly Renewal*

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

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

#### *5.1.2.5 Apartment Location*

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

#### *5.1.2.6 Apartment Size*

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



#### *5.1.2.7 Dwelling Size*

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

#### *5.1.2.8 Limited Units*

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

#### *5.1.2.9 Approval*

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

#### *5.1.2.10 Required Information*

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

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

See “Accessory Uses in General Business Districts”

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

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

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

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

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

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

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

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

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

#### **5.7 Accessory Use in Office Park Districts**

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

## 6. SIGN REGULATIONS

### 6.1 *Signs in Single Residence Districts*

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

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

### 6.2 *Signs in Limited Business Districts*

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

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

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

### **6.3 Signs in General Business Districts**

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

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

### **6.4 Signs in Commercial Districts**

See "Signs in General Business Districts"

### **6.5 Signs in Limited Industrial Districts**

See "Signs in Limited Business Districts".

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

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

### **6.7 Signs in Office Park Districts**

See "Signs in Limited Business Districts".

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

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

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

## **7. SPECIAL PROVISIONS IN ALL DISTRICTS**

### **7.1 *Enclosure and Screening***

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

#### **7.1.1 Residential Districts**

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

#### **7.1.2 Limited Business District**

1. All those uses listed in "Residential Districts".
2. Accessory outdoor dining areas.
3. Plants growing in the soil.
4. Parking lots for passenger automobiles.
5. Exterior signs, as hereinafter permitted.
6. Exterior lights installed in compliance with subsection 7.6, entitled "Lighting Provisions".  
A.T.M. 04/26/99
7. The dispensing of fuels, lubricants or fluids at automobile service stations. S.T.M. 06/26/67

#### **7.1.3 General Business District**

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

#### **7.1.4 Commercial District**

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

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

#### **7.1.5 Limited Industrial District**

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

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

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

None, unless specified elsewhere in the Zoning Bylaw

#### **7.1.7 Office Park Districts**

None unless specified elsewhere in the Zoning Bylaw

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

#### **7.2 Off-Street Parking**

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

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

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

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

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

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

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

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

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

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

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



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

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

A.T.M. 03/12/62

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Parking.** There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment.

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

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

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

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

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

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

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

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

#### **7.6.1 Definitions**

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

Type I - No light cutoff

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

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

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

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

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

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

##### 7.6.3.1 Height Limitations

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

Maximum luminaire mounting height (to Bottom of luminaire)

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

##### 7.6.3.2 Overspill Limitations

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

Maximum Off-site overspill (foot candles, FC)

LB District	All Other Districts
-------------	---------------------

Fixture Type I	0.2 FC	-
Fixture Type II	0.5 FC	0.5 FC
Fixture Type III	0.5 FC	1.0 FC

#### **7.6.4 Maximum Light**

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





## 8. SPECIAL PERMITS

### 8.1 *Time Lapse*

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

### 8.2 *Scientific Use*

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

### 8.3 *Earth Removal*

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

## 8.4 *Green Belt Zoning*

### 8.4.1 Purpose

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

### 8.4.2 Hearing

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

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

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

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

#### **8.4.3 Conditions**

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

##### *8.4.3.1 Planning Board Report*

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

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

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

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

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

#### **8.4.5 Required Compliance**

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

#### **8.4.6 Other Provisions**

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

#### **8.4.7 Procedure**

1. The procedure set forth herein for making application for a Special Permit for Green Belt Zoning is meant to be complementary and supplementary to the Rules of the Board of Appeals and the following should be interpreted to render the same harmonious with said Rules.

2. In single Residence Districts, Green Belt Zoning shall be allowed with a Special Permit issued by the Board of Appeals. A.T.M. 4/29/74

3. Thirty (30) days or more prior to application to the Board of Appeals for a Special Permit for Green Belt Zoning under this Section the applicant shall submit the subdivision plan referred to in the "Purpose" Section to the Lynnfield Planning Board by filing the same with the Clerk of the Planning Board, together with an application to obtain its approval with reference to the layout, construction and installation of streets, utilities and drainage facilities together with all other subjects within the proper jurisdiction of the Planning Board. Said approval shall not be given by the Planning Board unless and until the applicant has furnished the Town with such adequate security for performance of the applicant's obligations under the said plan and application as the Planning Board may require under its Regulations, as the same may from time to time exist. The Planning Board shall file a report concerning the Site Plan (hereinafter referred to) together with its recommendations as required by this Section with the Clerk of the Board of Appeals within forty-five (45) days from the date of application to said Planning Board, and shall send a copy of same to

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

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

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

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

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

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

#### **8.4.9 Changes**

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

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

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

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

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

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

#### **8.5.2 Definitions**

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

#### **8.5.3 Special Permit**

##### **8.5.3.1 Authority**

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

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

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

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

##### **8.5.3.3 Application**

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



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

#### *8.5.3.4 Signage*

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

#### *8.5.3.5 Zoning Bylaw Requirements*

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

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

### ***8.6.1 Purpose and Intent.***

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

### **8.6.2 Definitions**

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

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

### **8.6.3 Special Permit**

#### **8.6.3.1 Authority**

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

### 8.6.3.2 *Number of Residents*

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

### 8.6.3.3 *Location*

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

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

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

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

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

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

S.T.M. 10/20/03

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

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

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

**8.7.1 Purpose and Intent Special Permit**

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

**8.7.2 Location**

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

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

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

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

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

**8.7. 3 Definitions**

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

#### 8.7.4 Special Permit

##### 8.7.4.1 Authority

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

#### 8.7.5 Approval Requirements

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

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

#### 8.7.6 Application

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

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

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

#### 8.7.7 Exclusions

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

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

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

#### 8.7.8 Annual Renewal

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

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

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

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

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

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

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

#### 8.7.9 Severability

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



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

### **8.8.1 Preface**

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

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

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

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

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

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

### **8.8.2 Purpose**

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

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

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

#### 8.8.3 Scope of Authority:

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

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

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

#### 8.8.4 Special Permit Granting Authority (SPGA)

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

##### 8.8.4.1 Location

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

#### 8.8.5 Personal Wireless Service Facilities (PWSFs)

##### 8.8.5.1 Applicability

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

##### 8.8.5.2 Exemptions

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

##### 8.8.5.3 PWSF Preference Installation Types

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

###### 8.8.5.3.1 First Preference Type (highest)

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

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

#### 8.8.5.3.2 Second Preference Type

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

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

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

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

#### 8.8.5.3.3 Third Preference Type:

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

#### 8.8.5.3.4 Waiver of Preferences

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

#### 8.8.5.4 *General*

##### 8.8.5.4.1 Use.

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

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

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

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

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

##### 8.8.5.4.2 Demonstration of Need.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **8.8.5.4.4 Height and Setbacks**

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

##### **PWSF Non-Residential.**

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

##### **Non Residential Height.**

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

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

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

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

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

##### **Non-Residential Setbacks.**

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

**PWSF Residential:**

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

**Residential Height.**

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

**Residential Setbacks.**

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

**Additional Required Setbacks.**

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

**8.8.5.4.5 Special Permits Criteria.**

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

**8.8.5.5 Application Procedures.**

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



**Timing.**

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

**Completeness Review.**

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

**Final Action.**

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

**Modification to Existing PWSF.**

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

**Site Plan Review**

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

**Consultant Review**

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

**8.8.5.6 Decision**

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

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



**8.8.5.6.1 Required Findings.**

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

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

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

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

#### 8.8.5.6.2 Form of Decision

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

##### Approval

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

##### Approval with Conditions

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

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

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

##### Denial

Any denial shall be in writing and supported by substantial evidence

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

#### 8.8.5.6.3 Waivers

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

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

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

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

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

#### 8.8.6 Severability

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

## 9. OVERLAY DISTRICTS

### 9.1 FLOOD PLAIN DISTRICT

#### 9.1.1 Purpose

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

#### 9.1.2 Location April 30, 2012

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

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

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

#### 9.1.3 Relationship to Other Districts

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

#### 9.1.4 Permitted Uses in Flood Plain Districts

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

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

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

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

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

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

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

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

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

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

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

**9.2.2 Location**

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

**9.2.3 Relationship to Districts**

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

**9.2.4 Permitted Uses In A Buffer Zone**

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

1. Municipal recreation, public or private water supply, drainage or flood control uses, orchard, truck garden nursery, or similar open use of the land for raising of agricultural or horticultural crops, commercial golf course, residential garages and sheds, as long as such use is permitted in the underlying district in which the land is classified, and if authorized by the Board of Appeals, non-profit social, civic or recreational use (but not including any use the chief activity of which is one customarily conducted as a business), but no dumping, filling or earth transfer, or relocation operation except for utility trenches, driveways, landscaping, accessory building foundations, or municipal or public facilities enumerated above.

2. Dwellings, or dwellings under construction, lawfully existing prior to the adoption of these provisions, shall be allowed to be enlarged or extended, and Accessory Uses permitted by the underlying Zoning District shall be allowed in conformity to the Section of this Zoning Bylaw entitled “Non-Conforming and Temporary Use.” S.T.M. 10/21/91

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

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

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

#### **9.3.1 Purpose**

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

#### **9.3.2 Scope of Authority**

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

#### **9.3.3 Definitions**

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

##### **Acre**

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

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

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

#### **9.3.5 District Boundary Disputes**

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



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

### **9.3.6 Use Regulations**

In the Groundwater Protection District the following shall apply:

#### *9.3.6.1 Permitted Uses*

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

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

#### *9.3.6.2 Prohibited Uses*

The following uses are prohibited:

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

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

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

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

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

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

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

### **9.3.7 Procedures for Issuance of Special Permit**

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

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

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

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

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

#### **9.3.8 Severability**

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

## 9.4

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

## 9.5.1 Purposes

The purposes of the PVDD are:

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

## 9.5.2 Authority and Applicability

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

local moratorium on the issuance of such permits, or to other building permit or Dwelling Unit limitations.

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

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

#### 9.5.4 Definitions

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 9.5.5 Permitted uses

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

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

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

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

## 9.5.6 Prohibited Uses or Activities in the PVDD

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

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

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

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

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

#### 9.5.7 Dimensional and other requirements

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



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

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



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

#### 9.5.8 Parking

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

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

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

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

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

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

#### 9.5.9 Design Standards

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

#### 9.5.10 Transportation Network

1. Design and location.

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

2. Ownership and maintenance.

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

3. Plans.

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

#### 9.5.11 Affordable Housing

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

- (a) The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by DHCD shall apply;
- (b) For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one; and
- (c) Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

4. Design and construction.

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

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

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

- (a) Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied;
- (b) A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which

are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.

- (c) The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- (d) The name and address of an Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction;
- (e) Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan shall provide for local preferences in resident selection to the maximum extent permitted under applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size;
- (f) A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- (g) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;
- (h) A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household shall be given to the Administering Agency;
- (i) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;
- (j) Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Lynnfield, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;
- (k) Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- (l) Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Administering Agency, in a form specified by that agency, certifying

compliance with the provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;

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

## 7. Administration.

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

- i. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- ii. Income eligibility of households applying for Affordable Units is properly and reliably determined;
- iii. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
- iv. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- v. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Southern Essex District Registry of Deeds or the Southern Essex Registry District of the Land Court.

- (b) Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Project Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.
- (c) Failure of the Administering Agency. In the case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board of Selectmen or, in the absence of such designation, by an entity designated by the Department of Housing and Community Development.

#### 9.5.12. Site Plan Review

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

##### 1. Pre-application Review.

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

##### 2. Application Procedures.

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



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

### 3. Public Hearing.

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

### 4. Site Plan Approval decision.

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



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

- (e) The decision of the Planning Board, together with the detailed reasons therefor, shall be filed with the Town Clerk, the Board of Appeals and the Building Inspector. A certified copy of the decision shall be mailed to the owner and to the Applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing; and
- (f) Effective date. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the Planning Board to timely act, the Town Clerk shall make such certification on a copy of the notice of application. A copy of the decision or notice of application shall be recorded with the title of the land in question in the Southern Essex District Registry of Deeds, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question or the Applicant.

**5. Criteria for approval.** The Planning Board shall approve the Development Project upon the following findings:

- (a) The Applicant has submitted the required fees and information as set forth in applicable regulations;
- (b) The proposed Development Project as described in the application meets all of the requirements and standards set forth in this Section 9.5 and applicable Design Standards, or a waiver has been granted therefrom; and
- (c) Any extraordinary adverse potential impacts of the Development Project on nearby properties have been adequately mitigated.

For a Development Project subject to the Affordability requirements of Section 9.5.11, compliance with condition (b) above shall include written confirmation by the Approving Authority that all requirements of that Section have been satisfied. Prior to the granting of Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Lynnfield.

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

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

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

#### 9.5.13. Waivers

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

#### 9.5.14. Project Phasing

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

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

1. Minor Change. After Site Plan Approval, an Applicant may apply to make minor changes in a Development Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the Town Clerk.
2. Major Change. Those changes deemed by the Approving Authority to constitute a major change in a Development Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the Approving Authority as a new application for Site Plan Approval pursuant to this Section 9.5.

#### 9.5.16 Fair Housing Requirement

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

#### 9.5.17 Annual Update

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

#### 9.5.18 Notification of Issuance of Building Permits

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

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

#### 9.5.19 Date of Effect

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

#### 9.5.20 Severability

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

## 10. DIMENSIONAL REGULATIONS

### 10.1 *Building Heights*

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

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

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

### 10.2 *Height Projections*

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

### 10.3 *Lot Area and Frontage*

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

<u>District</u>	<u>Lot Area Required</u>	<u>Lot Frontage Required</u>
Single Residence A	15,000 sq. ft.	110 ft.
Single Residence B	30,000 sq. ft.	150 ft.
Single Residence C	40,000 sq. ft.	180 ft.
Single Residence D	60,000 sq. ft.	210 ft.
Elderly Housing District	4 acres	200 ft. S.T.M. 04/29/82; S.T.M. 3/7/05
Office Park District	3 Acres	200 ft on a Public Way or 50 ft on a Private Way or right of way that:
A.T.M. 04/24&27/89		
a) has been determined to be adequate and appropriate for access by the Planning Board;		
b) has been constructed in accordance with the Planning Board Regulations then applicable to construction of public ways;		
c) has been specifically designed for Office Park use; and		
d) will be privately maintained by the owner of the Office Park Site.		

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

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

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

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

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

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

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

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

#### 10.4 *Lot Width*

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

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

S.T.M. 10/16/06

#### 10.5 *Lot Shape*

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

#### 10.6 *Lot Size Exceptions*

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

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

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

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

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

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

### 10.7 *Lot Coverage*

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

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



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

### 10.8 *Set Backs and Yards*

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

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

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

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

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

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

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

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

#### 10.10 *Reduction of Occupied Lots*

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

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

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

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

### 11.2 *Existing Buildings*

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

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

A.T.M. 04/25/77

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

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

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

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

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

S.T.M. 10/21/96

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

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

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

#### 11.5 *Temporary Uses*

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

## 12. INSTALLATION OF UTILITIES

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

### 12.1 *Fines*

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



## 13. ADMINISTRATION AND ENFORCEMENT

### 13.1 *Enforcement Authority*

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

### 13.2 *Zoning Administrator*

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

### 13.3 *Occupancy Permit*

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

### 13.4 *Appeal Procedure*

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



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

### **13.5 *Board of Appeals Provision***

#### **13.5.1 Construct**

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

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

#### **13.5.2 Authority**

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

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

#### **13.5.3 Permit Issuance**

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

#### **13.5.4 Repeal**

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

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

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

#### 14. APPLICATION: VALIDITY

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



## 15. AMENDMENTS

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



**Chapter 1**  
**GENERAL PROVISIONS**





## GENERAL PROVISIONS

### ARTICLE I

#### **Adoption of Code**

**[The Code of the Town of Lynnfield, as renumbered, recaptioned and revised, was adopted 10-19-2015 ATM by Arts. 10, 11 and 12.]**

LYNNFIELD CODE

**Chapter 7**

**BOARDS, COMMISSIONS AND COMMITTEES**

## ARTICLE I

**Finance Committee****[Adopted 3-10-1958 ATM (Ch. 2, Sub. A, Para. 1, of the Bylaws)]****§ 7-1. Persons eligible for appointment.**

No person receiving or entitled to receive salary, wages, fees or other compensation from the Town for services as an officer of the Town, either elective or appointive, or as a full-time or part-time employee of the Town, shall be eligible to appointment as a member of the Finance Committee. This provision, however, shall not apply to members of the Civil Defense Organization, nor shall it prevent the secretary of the Finance Committee from being a member of the Finance Committee and also being compensated for services as such secretary. No person shall be appointed to the Finance Committee unless he or she shall be a registered voter of the Town.



## ARTICLE II

**Council on Aging**

**[Adopted 4-30-1973 ATM (Ch. 2 Sub. B, Para. 24, §§ 1-4, of the Bylaws)]**

**§ 7-2. Appointment; purpose.**

The Board of Selectmen shall appoint a Council on Aging for the purpose of coordinating or carrying out programs designed to meet the problems of aging, in cooperation with programs of the Department of Elder Affairs established under MGL c. 19A.

**§ 7-3. Membership; terms of office; compensation.**

Upon acceptance of this bylaw, the Board of Selectmen shall appoint the Council on Aging consisting of seven members. The Board shall appoint three members for three years; two members for two years; two members for one year; and afterward each member shall be appointed for a three-year term. The members of the Council shall serve without pay.

**§ 7-4. Vacancies.**

Whenever a vacancy shall occur in the membership of the Council by reason of death, resignation or inability to act, or for any other reason, the vacancy shall be filled by appointment by the Board of Selectmen for the remainder of the term.

**§ 7-5. Annual report.**

The Council shall prepare and submit an annual report of its activities to the Town, to be included in the Town Report, and shall send a copy thereof to the Department of Elder Affairs.

**§ 7-6. Private nature of certain information.**

The release of certain information regarding elderly persons shall comply with the provisions of MGL c. 40, § 8B, as amended from time to time. The use of these records shall comply with MGL c. 19A, § 14 et seq., as a condition of receiving a government contract, program grant or other benefit, or as otherwise required by law.

## **Chapter 16**

### **EMERGENCY MANAGEMENT**

#### **§ 16-1. Department of Emergency Management.**

There is hereby established a Department of Emergency Management (hereinafter called the "Department"). It shall be the function of the Department to have charge of emergency management as defined in Section 1, Chapter 639, Acts of 1950 and to perform civil defense functions as authorized or directed by said Chapter 639 or by any and all executive orders or general regulations promulgated thereunder, and to exercise any authority delegated to it by the Governor under said Chapter 639.

#### **§ 16-2. Director of Emergency Management; acceptance of gifts and grants.**

- A. The Department shall be under the direction of a Director of Emergency Management (hereinafter called the "Director"), who shall be appointed as prescribed by law. The Director shall have direct responsibility for the organization, administration and operation of the Department, subject to the direction and control of the appointing authority. The Director may, within the limits of the amount appropriated therefor, appoint such experts, clerks and other assistants as the work of the Department may require and may remove them, and may make such expenditures as may be necessary to execute effectively the purposes of Chapter 639, Acts of 1950.
- B. The Director shall also have authority to appoint district coordinators and may accept and may receive, on behalf of the Town, services, equipment, supplies, materials or funds by way of gift, grant, or loan, for purposes of emergency management, offered by the federal government or any agency or officer thereof or any person, firm, or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. The Director shall cause appropriate records to be kept of all matters relating to such gifts, grants or loans.

#### **§ 16-3. Aid to other municipalities.**

The Police Department is hereby authorized to go to aid another city or town at the request of said city or town in the suppression of riots or other forms of violence therein.

#### **§ 16-4. Termination of bylaw.**

This bylaw shall remain in force during the effective period of Chapter 639, Acts of 1950 and any act in amendment or continuation thereof or substitution thereof.

**§ 16-5. Applicability of statutory provisions.**

All references to Chapter 639, Acts of 1950, as now in force, shall be applicable to any act or acts in amendment or continuation of or substitution for said Chapter 639.

**Chapter 22****FINANCES**





ARTICLE I

**Sale of Property**

**[Adopted 3-9-1953 ATM (Ch. 2, Sub. A, Para. 4, of the Bylaws)]**

**§ 22-1. Sale by department heads.**

The head of a Town department may sell, or otherwise dispose of, any item or article of property over which he has jurisdiction, to the value of \$1,000 or less upon prior written authorization from the Board of Selectmen.



## ARTICLE II

**Treasurer****[Adopted as Ch. 2, Sub. B, Paras. 7-9, of the Bylaws]****§ 22-2. Sale of foreclosed property. [Added 1-27-1941 STM]**

Authority is given to the Town Treasurer, with the approval of the Selectmen, to sell at public or private sales any property acquired by the Town under tax title procedures upon which the right of redemption has been foreclosed.

**§ 22-3. Employment of special counsel. [Added 3-14-1949]**

The Town Treasurer, for the purpose of perfecting foreclosure proceedings on property held by the Town under tax title procedures, is authorized to engage special counsel.

**§ 22-4. Board of Commissioners for Trust Funds. [Added 3-10-1949 ATM]**

Authority is given for the creation of a Board of Commissioners for Trust Funds. (Town Treasurer is custodian of trust funds under MGL c. 41, § 46.)



ARTICLE III

**Contracts for Maintenance of Public Highways**  
**[Adopted 3-14-1960 ATM (Ch. 2, Sub. B, Para. 5, of the Bylaws)]**

**§ 22-5. Authority to enter into contracts.**

The Board of Selectmen shall, whenever necessary, enter into contracts with the Massachusetts Department of Transportation for the construction and maintenance of Chapter 90 public highways.



## ARTICLE IV

**Payment of Fees**

**[Adopted 3-12-1962 ATM (Ch. 2, Sub. B, Paras. 10-11, of the Bylaws)]**

**§ 22-6. Building and inspection fees.**

All fees for permits and inspections under the jurisdiction of the Inspector of Gas Piping and Gas Appliances in Buildings, Building Inspector, Plumbing Inspector, Wire Inspector and Board of Health shall be paid to the appropriate Town department, and no permit shall be issued until the permit fees have been paid.

**§ 22-7. Violations.**

Failure to comply strictly with this bylaw may be considered sufficient grounds for suspension or removal from Town service.





## ARTICLE V

**Payments for Off-Duty Police Department Details  
[Adopted 4-30-1973 ATM (Ch. 2, Sub. A, Para. 3, of the Bylaws)]****§ 22-8. Payment and disposition of funds.**

All moneys paid for off-duty details of members of the Police Department shall be paid to the Town and shall be deposited in the treasury, shall be kept in a separate fund or other property, and shall be expended without further appropriation, at the direction of the Chief of Police, for the purpose of paying the Town's police officers for such off-duty work details.



## ARTICLE VI

**Statements of Appropriations****[Adopted 3-10-1913 ATM (Ch. 2, Sub. B, Para. 6, of the Bylaws)]****§ 22-9. Duties of Town Clerk.**

It shall be the duty of the Town Clerk, immediately after every Town Meeting, to furnish the Auditor, or Town Accountant, and the Board of Assessors with a statement of all moneys appropriated by the Town at such meeting, and of the purposes for which moneys were respectively appropriated.

## **Chapter 40**

### **LEGAL AFFAIRS**

#### **GENERAL REFERENCES**

**Treasurer's authority to appoint special counsel — See Ch. 22, Art. II.**

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#### **§ 40-1. Appointment of Town Counsel; compensation.**

The Board of Selectmen shall appoint an attorney-at-law to act as Town Counsel, who shall be paid such compensation for his services as the Board may determine.

#### **§ 40-2. Authority of Selectmen.**

The Selectmen shall have full authority, as agents of the Town, to employ counsel to institute and prosecute suits in the name of the Town, and appeal for and defend suits brought against it, unless otherwise specially ordered by a vote of the Town.

## **Chapter 45**

### **MEETINGS**

#### **GENERAL REFERENCES**

**Town Meeting — See Charter, Ch. 2.**

## ARTICLE I

**Town Meeting Warrant****[Adopted 7-23-1913 STM (Ch. 2, Sub. B, Para. 12, of the Bylaws)]****§ 45-1. Submission of appropriation articles to Finance Committee.**

It shall be the duty of the Selectmen, within three days after drawing a Town warrant, to transmit a copy of the same to the Finance Committee; and said Committee shall consider all articles under which an appropriation of money may be made and report thereon at the meeting called in the warrant or any adjournment thereof. A public hearing may be given upon such articles, and in such case the person whose name appears attached to an article shall be notified of the time and place of the hearing thereon.



## ARTICLE II

**Committee Reports****[Adopted 3-10-1969 ATM (Ch. 2, Sub. B, Para. 25, of the Bylaws)]****§ 45-2. Filing of reports; Selectmen review.**

The Chairman of every Town committee shall at least as often as quarterly, on a calendar-year basis, report to the Selectmen in writing the number of meetings of the respective committee called and/or scheduled, the number of said meetings actually held and the names or members who are not present to attend a majority of meetings called and/or scheduled. The Selectmen shall then determine whether the best interests of the Town require the discharge of a committee, the replacement of any member thereof or any other suitable action, and shall act thereon within 30 days after receipt of such report or the date upon which such report was due.





## ARTICLE III

**Polling Hours; Notice of Town Meetings**  
**[Adopted 4-24-1978 ATM (Ch. 1 of the Bylaws)]****§ 45-3. Polling hours.**

The polls shall be opened at 7:00 a.m. and closed at 8:00 p.m.

**§ 45-4. Notice of Town Meetings.**

- A. Notice of the Town Meeting required by Section 2-3-1 of the Charter shall be given by posting a copy of the Warrant calling the same in compliance with MGL c. 30A, § 20, and in at least six public places in the Town, and such other places as the Selectmen may designate, at least seven days before the time of holding of said meeting.
- B. Notice of every other Town Meeting, including that required by Section 2-3-2 of the Charter, shall be given by posting a copy of the Warrant calling the same in compliance with MGL c. 30A, § 20, and in at least six public places in the Town, and such other places as the Selectmen may designate, at least 14 days before the time of the holding of said meeting.

**Chapter 51**  
**OFFICERS AND EMPLOYEES**

## ARTICLE I

**Wire Inspector****[Adopted 3-9-1953 ATM (Ch. 2, Sub. B, Para. 19, of the Bylaws)]****§ 51-1. Appointment, compensation and duties.**

The Board of Selectmen shall annually appoint an Inspector of Wires, who shall be paid such compensation for services as the Board of Selectmen may determine. The Inspector shall exercise the powers and duties of an Inspector of Wires as provided by the Chapter 166 of the General Laws.



## ARTICLE II

**Gas Inspector**

**[Adopted 3-12-1962 ATM (Ch. 2, Sub. B, Paras. 20-22, of the Bylaws)]**

**§ 51-2. Appointment and duties.**

The Board of Selectmen shall annually appoint an Inspector of Gas Piping and Gas Appliances in Buildings, whose duty shall be the enforcement of the rules and regulations adopted by the Board of State Examiners of Plumbers and Gas Fitters established under MGL c. 13, § 36, and as promulgated under MGL c. 142, § 4.

**§ 51-3. Compensation.**

The Inspector shall be paid such compensation for services as the Board of Selectmen shall determine.

**§ 51-4. Fees.**

Fees for permits and inspections made by the Inspector shall be established by the Board of Selectmen.

**Chapter 58****PENALTIES AND ENFORCEMENT****§ 58-1. Violations and penalties. [Amended 4-27-1981 ATM]**

Every violation not otherwise provided for, of any of the Town bylaws, shall be punished by a fine of not less than \$50 nor more than \$200, to be recovered by complaint before any court having jurisdiction, and all penalties shall inure to the Town.

**§ 58-2. Complaints.**

Any citizen may, and the Selectmen, police officers and constables shall, prosecute every violation of the Town bylaws, by complaint before any court having jurisdiction.

**§ 58-3. Noncriminal disposition of violations. [Amended 4-27-1981 ATM]**

- A. Any Town official who takes cognizance of a violation of a specific bylaw, rule and/or regulation of the Town which said official is empowered to enforce (hereinafter referred to as the "enforcing person") may, but shall not be required to, as an alternative to initiating criminal proceedings, give the offender a written notice to appear before the Clerk of the District Court having jurisdiction thereof at any time during the office hours of said court, not later than 21 days after the date of such notice.
- B. Said notice and the noncriminal disposition of the violation shall be in conformity with MGL c. 40, § 21D, as amended. The specific sum to be paid by any offender under this procedure shall be the minimum sum of money as may be fixed at the time of the violation by the bylaw, rule or regulation as the penalty for violation of the same but shall not exceed the maximum amount permitted by said MGL c. 40, § 21D, as amended.

### Schedule of Violations, Fines and Enforcing Officers

Violation of the following bylaw sections, rules and regulations may be enforced in the manner provided in MGL c. 40, § 21D. For the purpose of this section, the specific penalty which is to apply for violation of each such section shall be as listed below and the municipal officers or employees whose titles are listed under each section shall be deemed to be enforcing officers for each such section.

<b>Section</b>	<b>Offense</b>	<b>Fine</b>	<b>Enforcement Agent</b>
Chapter 111	Public Drinking Bylaw	\$20	Police officers
Chapter 115, Article II, §§ 115-1 through 115-6	Dog Control Law	\$10	
	First offense	Warning	
	Second and succeeding offenses	\$10	Dog Control Officers
			Police officers
Chapter 115, Article II, § 115-7	Dog Licensing Bylaw <b>[Amended 10-21-1996 ATM]</b>	\$25	Dog Control Officers
			Police officers
Chapter 161, Article I	Junk and unregistered used motor vehicles	\$50	Zoning Enforcement Officer
			Police officers
Chapter 217, Article II	Breaking, obstructing, digging up of streets	\$20	Police officers
Chapter 217, Article IV	Snow and Ice Bylaw	\$20	Police officers
Chapter 260	Planning and Zoning Bylaw	\$100 per day	Zoning Enforcement Officer
			Police officers
Chapter 213, Article I	Stormwater Management Bylaw <b>[Added 4-27-2010 ATM by Art. 14]</b>		Department of Public Works
	First violation	Written warning	

### **Schedule of Violations, Fines and Enforcing Officers**

Violation of the following bylaw sections, rules and regulations may be enforced in the manner provided in MGL c. 40, § 21D. For the purpose of this section, the specific penalty which is to apply for violation of each such section shall be as listed below and the municipal officers or employees whose titles are listed under each section shall be deemed to be enforcing officers for each such section.

<b>Section</b>	<b>Offense</b>	<b>Fine</b>	<b>Enforcement Agent</b>
Chapter 213, Article II	Second violation	\$50	Conservation Commission
	Third violation	\$100	
	Subsequent violations	\$200	
	Stormwater Management Bylaw <b>[Added 4-27-2010 ATM by Art. 14]</b>		
	First violation	Written warning	
	Second violation	\$50	
	Third violation	\$100	
	Subsequent violations	\$200	
	Regulations Affecting Access of Tobacco Products to Minors <b>[Amended 10-22-2001 ATM]</b>		
	Permit holder:		
Board of Health	First offense	\$100	Health Agent  Tobacco Control Program Director
	Second and subsequent offenses within 24 months of first offense	\$300	
	Employee of permit holder:		
	First offense	\$50	
	Second offense	\$75	



### **Schedule of Violations, Fines and Enforcing Officers**

Violation of the following bylaw sections, rules and regulations may be enforced in the manner provided in MGL c. 40, § 21D. For the purpose of this section, the specific penalty which is to apply for violation of each such section shall be as listed below and the municipal officers or employees whose titles are listed under each section shall be deemed to be enforcing officers for each such section.

<b>Section</b>	<b>Offense</b>	<b>Fine</b>	<b>Enforcement Agent</b>
Board of Health	Third and subsequent offenses	\$100	
	Regulations Affecting Smoking in Certain Places		Health Agent
	<b>[Amended 10-22-2001 ATM]</b>		Tobacco Control Program Director
			Police officers
	Second offense	\$100	
	Third offense within 12 months of first offense	\$200	
	Fourth and subsequent offenses within 12 months of first offense	\$300	

## **Chapter 62**

### **PERSONNEL POLICIES**



ARTICLE I  
**Purpose and Policies**

**§ 62-1. Purpose and intent.**

- A. It is the purpose of this bylaw to provide to all covered employees the policies and procedures for assuring maintenance of an equitable personnel management system in the Town of Lynnfield. The policies and procedures for personnel administration set forth herein have, as their purpose, to promote the efficiency and economy of government; to ensure that the quality of services offered to the taxpayers is enhanced; to promote the morale and well being of Town employees; and to promote equal employment opportunity for all employees and candidates for employment, thereby avoiding employment litigation.
- B. The personnel policies are based on the following principles:
- (1) Recruiting, selecting, and developing employees on the basis of their abilities, knowledge, and skills.
  - (2) Providing equitable compensation.
  - (3) Training employees as needed to assure high-quality performance in delivering quality services to the public.
  - (4) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose performance does not adequately improve.
  - (5) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, age, sex, sexual preference, creed, handicap, disability, or any other non-merit factor, except where such factor is a bona fide occupational requirement, and with proper regard for their privacy and constitutional rights as citizens; prohibiting discrimination against any person on the basis of such non-merit factors.
  - (6) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for any purpose other than those duties and responsibilities directly associated with their positions in Town government.



ARTICLE II  
**Equal Employment Opportunity**

**§ 62-2. Discrimination prohibited.**

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action because of political affiliation, race, creed, color, national origin, age, sex, sexual preference, handicap, disability, or any other non-merit factor will be prohibited except where such factor is a bona fide occupational requirement. Any employee who feels aggrieved may process an appeal in accordance with the grievance procedure at Article XVIII within.



ARTICLE III  
**Applicability**

**§ 62-3. Covered positions.**

This bylaw applies to all current Town positions (excluding positions in the Lynnfield Public Schools) that are not covered by a collective bargaining agreement as well as all such positions established hereafter. While positions covered by a collective bargaining agreement are not directly covered by this bylaw, the recruitment and selection of employees (Article XIV) and disciplinary action (Article XVII) articles of the bylaw impact those positions as those articles direct department heads in the hiring and disciplinary processes.

**§ 62-4. Authority of Selectmen.**

These policies shall serve as a guide to the administration of a personnel system of the Town of Lynnfield in keeping with basic merit principles. The policies are not all-inclusive; notwithstanding anything in this bylaw to the contrary, final discretion as to interpretation and as to the appropriate course of action concerning a particular personnel matter shall vest with the Board of Selectmen. The Board of Selectmen may, where appropriate, vote to provide benefits to an employee or employees that are greater or lesser than those provided in this bylaw. Unless otherwise authorized by vote of the Board of Selectmen, department heads shall adhere to the provisions of this bylaw in the provision of benefits to employees in their departments. Failure to comply with the provisions of the bylaw will be cause for appropriate corrective action.





ARTICLE IV  
**Definitions**

**§ 62-5. Terms defined.**

As used in this bylaw, the following words and phrases shall have the following meanings unless a different construction is clearly required by the context or by the laws of the commonwealth.

**APPOINTMENT** — The placement of a person in a position.

**CIVIL SERVICE LAW** — Chapter 31 of the General Laws of the Commonwealth, as said chapter and said rules and regulations may be amended from time to time.

**CLASSIFICATION** — A group of positions sufficiently similar in duties and responsibilities such that the same employment standards may be applied to all incumbents or applicants and the same pay grade may be applied.

**CLASSIFICATION STUDY** — The collection, analysis and evaluation of data by the Town to determine the proper value of a classification and/or the proper classification of an individual position.

**COMPENSATION** — The salary or wages earned by any employee by reason of service in the position, but does not include allowances for expenses authorized and incurred as incidents to employment.

**COMPENSATION PLAN** — A schedule of compensation for all pay grades in the classification plan, including any successive pay rate steps established for each grade. All positions allocated to one grade will be paid according to the salary range established for that grade.

**CONTINUOUS EMPLOYMENT** — Employment uninterrupted except for required military service, or other authorized leave of absence not to exceed one year.

**DEPARTMENT** — Any department, board, committee, commission, or other agency of the Town subject to this bylaw.

**DEPARTMENT HEAD** — The officer, board, or other body having immediate supervision and control of a department; in the instance of a department serving under the supervision and control of the Selectmen, the officer, board, or other body immediately responsible to the Board of Selectmen for the administration of the department.

**EMERGENCY EMPLOYMENT or EMERGENCY APPOINTMENT** — Employment or appointment made for a specified time without requisition to cover an unforeseen emergency; no such employment shall be for a period longer than three consecutive calendar weeks nor shall any person be employed on an emergency basis more than twice in any calendar year except by specific written permission of the Town Administrator.

**EMPLOYMENT DATE** — The date on which an employee commences performance of paid duties and is placed on the payroll.

**FULL-TIME EMPLOYEE** — An employee engaged for full-time employment.

FULL-TIME EMPLOYMENT — Employment for not less than 35 hours per week for 52 weeks per year, minus legal holidays and authorized leaves of absence.

JOB DESCRIPTION — The written description of a position, approved by the Town Administrator, including the title, a statement of the nature of the work, examples of duties and responsibilities, and the minimum qualification requirements that are necessary for the satisfactory performance of the duties of the position.

LAYOFF — The separation of an employee because of lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee.

LEAVE OF ABSENCE WITH PAY — Any authorized leave with pay from scheduled work.

LEAVE OF ABSENCE WITHOUT PAY — Any authorized absence from scheduled work without pay.

ON-CALL — Available to be called back to work outside officially scheduled work hours.

PART-TIME EMPLOYEE — Any employee who is employed for less than full-time.

PART-TIME EMPLOYMENT — Any employment that is less than full-time employment.

PAY GRADE — The pay range for a classification or classifications of positions.

PAY WEEK — Sunday through Saturday.

POSITION — A group of current duties and responsibilities assigned or delegated by appropriate authority to one person.

PROBATIONARY PERIOD — A working test period, following an appointment, during which an employee is required to demonstrate, by conduct and actual performance of the duties, fitness for the position to which appointed.

PROMOTION — The movement of an employee from a position in one pay grade to a position in another pay grade with a higher maximum pay rate.

RECLASSIFICATION — The assignment of a position to a classification different from the one to which it was previously assigned.

REGULAR EMPLOYEE —

- A. Any employee retained on a continuing basis in a regular position as defined below; or
- B. Any employee holding a permanent appointment under the Civil Service Law to a position deemed permanent within the meaning of said law.

REGULAR POSITION — Any position in the Town service which at the time of employment is intended by the Town to require the services of an

employee without interruption, for an indefinite period of time, which shall in no event be less than one year, either on a full-time or part-time basis.

SEASONAL/CASUAL EMPLOYMENT — Employment limited to particular seasons of the year (e.g., summer recreation and Public Works workers).

SENIORITY — An employee's uninterrupted, continuous length of service as a permanent employee with the Town.

STEP INCREASE — An increase in pay from one step to a higher step in the pay range of a pay grade.

TEMPORARY EMPLOYEE —

- A. An employee retained in a temporary position as defined below; or
- B. Any employee holding a temporary appointment under the Civil Service Law who does not also have permanent status thereunder or under this bylaw.

TEMPORARY POSITION — Any position in the Town service which at the time of employment is intended by the Town to require the services of an employee for a fixed term of less than one year.

TOWN — The Town of Lynnfield.

TRANSFER — The movement of an employee from one position to another position within the same classification.



ARTICLE V  
**Personnel Board**

**§ 62-6. Membership, appointment and terms.**

The Personnel Board shall consist of five members who shall be appointed by the Board of Selectmen and shall serve without pay; the original appointees shall be appointed for the following terms of office: two for three years, two for two years and one for one year. No regular employee or elected or appointed official of the Town shall be eligible for appointment to the Board. Except as provided in the next section, the term of each appointee shall commence on the first day of July in each year and as the terms of the respective members expire, the Board of Selectmen shall make appointments to fill the vacancies. Except for the original appointees, all members shall be appointed for a term of three years.

**§ 62-7. Vacancies.**

If any member of the Personnel Board shall resign or otherwise vacate his/her office before the expiration of his/her term, the vacancy so created shall be filled in accordance with MGL c. 41, § 11. Each member of the Board shall serve until his/her successor has been appointed and qualified.

**§ 62-8. Officers; meeting dates.**

At the first meeting of each fiscal year, the Personnel Board shall meet and organize and elect its own Chairman and Vice Chairman and appoint a regular monthly meeting date and shall notify the Board of Selectmen, Town Accountant and Town Clerk of the results of said election.

**§ 62-9. Clerk; expenses.**

The Board shall be authorized to obtain the services of a Clerk, who shall keep a record of its official proceedings and actions. The Board, subject to the appropriation therefor, may make such expenditures as may be necessary or appropriate for the performance of its duties.

**§ 62-10. Regular and special meetings.**

The Personnel Board shall meet regularly (once a month in at least 10 months of every year) for the transaction of business under this bylaw, and it shall hold such special meetings as may be called by the Chairman, or directed by vote of the Board.

**§ 62-11. Quorum.**

A majority of the total membership of the Board shall constitute a quorum for the transaction of the business of the Board, and the vote of a majority of the members attending and voting shall be necessary for any official act of the Board.

**§ 62-12. Office space.**

The Selectmen shall furnish the Personnel Board with such office space as it may require for the performance of its duties and the storage of its property and records.

**§ 62-13. Advisory capacity.**

The Board may serve in an advisory capacity to the Town in all matters relating to salary, rate or classification changes for any position subject to this bylaw.

**§ 62-14. Budget.**

During the budget cycle of each year, the Personnel Board Chairperson and the Finance Committee shall meet jointly to review the financial effects of the recommendations of the Personnel Board budget.

**§ 62-15. Publication of recommendations.**

The recommendations of the Personnel Board shall be published in the publication of the Finance Committee's recommendations to the Town Meeting concerning warrant articles.

ARTICLE VI  
**Role of Town Administrator**

**§ 62-16. Administrator responsibilities.**

The Town Charter delegates the day-to-day administration of the Town's personnel operations to the Town Administrator. Among the responsibilities of the Town Administrator under this bylaw are the following:

- A. Administration of the Classification and Pay Plan, including a continuing analysis and evaluation of the jobs and positions subject to this bylaw.
- B. Maintenance of a salary and rate structure schedule for the Town.
- C. Maintenance of formal job descriptions for the positions subject to this bylaw.
- D. Coordination of the recruitment, testing, selection, and hiring of all employees.
- E. Enforcement of policies and procedures for personnel administration.
- F. Maintenance of personnel systems, forms and procedures.
- G. Review and approval of appointments, promotions, demotions, discipline, and other actions in accordance with the provisions of Articles XIV and XVII of this bylaw.
- H. Coordination of employee orientation, training, counseling, and career development in conjunction with department managers.
- I. In conjunction with the Board of Selectmen and the Personnel Board, administration of these personnel policies.
- J. Performance of any other lawful acts which are necessary to carry out the provisions of this bylaw.





ARTICLE VII  
**Role of Department Heads**

**§ 62-17. Department head responsibilities.**

Department heads shall have responsibility to select, retain, transfer, and promote personnel in accordance with established Town policies. They are expected to effectively supervise their employees, evaluate performance of their subordinates, notify the Town Administrator of changes in duties of their employees in order that the classification plan will be maintained, and recommend salary increases, which will be acted upon by the Town Administrator.

**§ 62-18. Pay adjustments for budget purposes.**

At the direction of the Town Administrator, each department head shall include in the regular annual department budget a pay adjustment section, setting forth the name of each employee, any recommended change in step or grade, the reasons therefor, and the amounts which he/she believes will be required for proposed pay adjustments in accordance with the resulting compensation scale during the ensuing year.



## ARTICLE VIII

**Employment, Promotion and Transfer of Non-Civil Service  
Personnel****§ 62-19. Procedural requirements.**

The following provisions shall apply to the employment, promotion, and transfer of Town personnel not subject to the provisions of the Civil Service Law, who shall be regulated as follows:

- A. No employment in or transfer to a paid appointive position in the Town service shall take effect until the same has been presented by the appropriate department head to the Town Administrator for analysis for determination of compliance with the requirements of the Classification Plan, Compensation Plan and other provisions of this bylaw; and if such employment or transfer is in compliance as aforesaid, the Town Administrator shall approve the same in writing and may make such approval retroactive when necessary.
- B. No proposed promotion to a position subject to this bylaw or raise in compensation shall be acted upon by the Town Administrator until it shall first have been submitted to the elected or appointed officer or board having the supervision and control of the department in which the employee is employed.



ARTICLE IX  
**Classification Plan**

**§ 62-20. New or changed positions.**

All positions subject to this bylaw shall be assigned to a classification. Each classification shall, in turn, be allocated to a pay grade. When a new position is proposed, the applicable department head shall file with the Town Administrator a written request for classification of that position. When a position has changed substantially as to the kind and/or level of work, the department head may file with the Town Administrator a request for (or, alternatively, the Town Administrator may initiate the process for) a classification change. In either event, the request shall be accompanied by a proposed job description for the position. The Town Administrator shall evaluate the position and shall make a decision concerning the appropriate classification of the position. The Town Administrator's decision shall be accompanied by documentation substantiating the decision and, with respect to reclassification requests, shall include an analysis of the changes to the position.



ARTICLE X  
**Compensation Plan**

**§ 62-21. Maintenance of plan.**

The Town Administrator shall maintain a uniform and equitable pay plan which shall consist of minimum and maximum rates of pay for each pay grade as well as such intermediate steps between the minimum and maximum rates as are deemed appropriate. The Town Administrator shall periodically prepare an analysis of prevailing rates of pay for positions comparable to those covered by this bylaw.

**§ 62-22. Hiring rates.**

An employee hired by the Town will normally be placed at the minimum step of the pay grade to which his/her position is assigned. However, in instances in which it proves difficult to hire a qualified applicant at the minimum rate, the employee may be hired at a higher step of the pay grade, provided that the department head documents the efforts made to hire a candidate at the minimum rate and submits such documentation to the Town Administrator for review and approval.

**§ 62-23. Step increases.**

- A. Step increases within an established pay grade are not automatic but require certification by the employee's department head that the employee is performing at an acceptable level of competence, as demonstrated in the performance evaluation system. More particularly, no employee will receive a step increase unless he/she has received an overall written evaluation of at least "Satisfactory" in his/her annual evaluation. All employees shall receive written evaluations in December or January of each year. Step increases based on a satisfactory evaluation shall be effective July 1.
- B. Employees hired between July 1 and December 31 will be evaluated in December or January and eligible for a step increase July 1; employees hired between January 1 and June 30 will not be eligible for a step increase until July 1 of the next calendar year.
- C. Employees promoted will be eligible for consideration for a step increase (based on "Satisfactory" evaluation or better) the following July 1.
- D. An employee who is on an unpaid leave of absence (or is otherwise not in pay status) for more than six months during the preceding fiscal year (July 1 through June 30) shall not be eligible for a step increase on July 1 but shall, instead, be required to wait until the following July 1 to receive a step increase.

**§ 62-24. Promotions.**

Upon promotion to a position with a higher pay grade, the employee shall be placed at the step of that grade that is closest to (but higher than) the rate at which the employee was being paid prior to the promotion.



ARTICLE XI  
**Probationary Period**

**§ 62-25. Purpose.**

The probationary period provides the department head with an opportunity to observe and evaluate an employee's initial fitness for a position.

**§ 62-26. Effect of probationary status on grievance procedure.**

While all employees covered by this bylaw are "at will" employees who may terminate their employment or be terminated from their employment at any time and for any legal cause, any employee who has completed his/her probationary period may challenge the employee's termination through the grievance procedure provided at Article XVIII herein. A probationary employee, on the other hand, may, during the probationary period, be removed from his/her position at any time without recourse to the grievance procedure.

**§ 62-27. Term for new hires.**

The probationary period for a new hire shall extend for six months from his/her first day of employment with the Town.

**§ 62-28. Promoted employees.**

An employee who is promoted to a new position shall also serve a probationary period. This probationary period shall extend for three months from the first day that he/she is compensated at the higher pay grade. An employee who is removed from his/her promotional position during the probationary period will, if feasible, be returned to the position that he/she occupied prior to taking the promotional position. However, if that previous position has been filled or if the Town has decided not to fill the previous position, the employee will be offered any vacant position within the department for which he/she is qualified or will be placed on a preferential hiring list for any vacancies for which he/she is qualified that occur within 24 months of his/her removal from the promotional position.

**§ 62-29. Completion of probationary period.**

When an employee completes the applicable probationary period, the department head will be required to provide the Town Administrator with written certification of satisfactory performance by the employee during that period.



ARTICLE XII  
**Performance Evaluation System**

**§ 62-30. Annual written evaluations.**

All employees covered by this bylaw shall be subject to annual written evaluation. Each employee will be evaluated by his/her department head in December or January of each fiscal year.

**§ 62-31. Evaluation forms.**

The Town Administrator will be responsible for providing evaluation forms for use by the various department heads. These forms will provide for analysis of employee performance in relevant performance categories as well as an overall performance category. The annual appraisal is the summary of the supervisor's observations of the employee during the past year and a summary of the employee's performance in terms of a variety of job-related factors. The appraisal will also include a plan to develop strengths and identify and improve weak areas.

**§ 62-32. Evaluation process.**

During the applicable time frame for evaluation, the department head shall meet with the employee to review the written evaluation form that has previously been prepared by the department head. The department head and the employee will discuss areas in which the employee's performance could be improved, and will discuss any concerns with the evaluation that the employee may have. Unless the department head and employee agree that an area or areas of the evaluation should be modified, the employee shall sign the evaluation form in the space provided at the end of the discussion. The employee's signing shall not signify agreement with the content of the evaluation but shall merely acknowledge that the form was received and discussed. (If the department manager and employee have agreed to changes to the evaluation, the department manager will make the agreed-to changes and again meet with the employee to review the evaluation. The employee shall then sign the evaluation.) After the employee has signed the evaluation, the department head will forward it to the Town Administrator for placement in the employee's personnel file. The employee may prepare a written rebuttal to any provisions of the evaluation with which the employee disagrees. The written rebuttal should be submitted to the Town Administrator, with a copy to the department head. The Town Administrator shall attach the written rebuttal to the evaluation form and the rebuttal, like the evaluation form, will become part of the employee's permanent personnel record.



ARTICLE XIII  
**Conditions of Employment**

**§ 62-33. Hours of work.**

The regular workweek for full-time employees covered by this bylaw shall be 40 hours or such lesser number of hours as is set by the employee's department head with the written approval of the Town Administrator. In no event, however, shall the regular workweek for a full-time position be less than 35 hours. The actual hours to be worked by employees shall be scheduled by the applicable department head.

**§ 62-34. Overtime.**

An employee who is not exempt from the provisions of the Fair Labor Standards Act will be compensated at a rate of 1 1/2 times his/her regular hourly rate for all hours worked in excess of 40 during a payroll week or eight in a day. Hours of paid leave taken during a week other than paid sick leave shall be considered as "hours worked" in determining whether an employee is eligible for overtime compensation for that week. No employee shall be permitted to work beyond his/her regular work hours without the explicit authorization of his/her department head.

**§ 62-35. Insurance benefits.**

- A. Health insurance. Any employee who receives compensation from the Town for his/her services and who regularly works no less than 20 hours per week for the Town may participate in the Town's health insurance program. The Board of Selectmen is responsible for determining the health plans that will be offered as well as the contribution that will be paid by the Town toward the premium expense for such coverage, which contribution will be no less than 50%. Details of the program may be obtained from the Treasurer.
- B. Life insurance. Employees who are eligible for participation in the Town's health insurance program are also eligible for participation in the Town's life insurance program. The Town offers coverage with 50% of the premium cost paid by the Town and the remainder by the employee. Details of the program may be obtained from the Treasurer.

**§ 62-36. Longevity.**

- A. Permanent full-time employees in clerical positions will be entitled to payments based on years of continuous full-time service with the Town, payable at the end of the first full pay period of each fiscal year, per the following schedule:
  - (1) Employees who have at least five years of employment at the commencement of the fiscal year, but less than 10 years, shall receive a payment of \$350.

- (2) Employees who have at least 10 years of employment at the commencement of the fiscal year, but less than 15 years, shall receive a payment of \$425.
  - (3) Employees who have at least 15 years of employment at the commencement of the fiscal year, but less than 20 years, shall receive a payment of \$475.
  - (4) Employees who have at least 20 years of employment at the commencement of the fiscal year, but less than 25 years, shall receive a payment of \$525.
  - (5) Employees who have least 25 years of employment at the commencement of the fiscal year shall receive a payment of \$575.
- B. Permanent part-time clerical employees who, on average, work 20 hours per week or more shall be eligible to receive longevity payments on a proportional basis as their average weekly hours compare to the number of hours in the full-time work week for the employee's position.

**§ 62-37. Leave for full-time employees.**

A. Vacation leave.

- (1) All employees who have been employed for at least one full year of continuous full-time employment as of July 1 of any year, but less than five full years of continuous full-time employment, shall be entitled as of that July 1 to 10 working days of vacation with pay. An employee who has worked less than one year as of July 1 will be entitled to one day of vacation for each full month worked, but not to exceed five working days. Employees who have been employed for at least five full years of continuous full-time employment as of July 1 in any year, but less than 10 full years of continuous full-time employment, shall be entitled as of that July 1 to 15 days of vacation. Employees who have been employed for at least 10 full years of continuous full-time employment as of July 1 in any year, but less than 20 full years of continuous full-time employment, shall be entitled as of that July 1 to 20 days of vacation. Employees with 20 years or more of continuous full-time employment as of July 1 in any year shall be entitled as of that July 1 to 25 days of vacation.
- (2) Vacation time accrued as of July 1 of each year shall be taken in the twelve-month period thereafter, and will not be carried beyond June 30 of the following year.
- (3) The department heads shall schedule all vacations at such time as will best serve the public interest, but the employee shall have the right to take his/her vacation between May 15 and September 15 of each year.

- (4) Preference of vacation periods shall be given on the basis of seniority whenever possible, and shall be scheduled within departments as follows:
  - (a) Employees so entitled may take one day to 10 consecutive days of vacation.
  - (b) Selection of the 11th to 15th days of vacation shall be deferred until the initial ten-day selection of other employees.
  - (c) Selection of the 16th to 20th days of vacation shall be deferred until the initial ten-day selection and 11th to 15th day selection of other employees.
- (5) Upon the death of an employee, payment shall be made in an amount equal to the vacation allowance earned as of the preceding July 1 and not taken, and a further allowance of one day for each month accrued since July 1, subject to the limitations of Subsection A(1) above. The department head, with the approval of the Town Accountant, will authorize payment in the following order of precedence:
  - (a) To the surviving beneficiary or beneficiaries, if any, lawfully designated under the Essex County Retirement System.
  - (b) If there be no such designated beneficiary, to the estate of the deceased.
- (6) Persons who resign after giving two weeks' notice, or whose services are terminated by dismissal except for cause, shall be paid for vacation time accrued as of the date of resignation or dismissal. Persons who enter military service for a period of not less than six months shall be paid for accrued vacation.
- (7) When a paid holiday occurs during an employee's vacation, he/she shall either receive holiday pay or shall be entitled to a day's vacation at a time approved by the appropriate department head.
- (8) The Treasurer shall be notified by the department head of all leave taken on forms provided for such purpose.

B. Sick leave.

- (1) Upon completion of 120 calendar days of permanent full-time employment, an employee will be credited with five days of sick leave. Thereafter, the employee will earn sick leave on the basis of 1 1/4th days of sick leave for each month of full-time service. Sick leave not used in any year may be accumulated, but not to exceed 180 working days in the aggregate.
- (2) Accrued sick leave will be determined from attendance records since January 1, 1957. Upon termination of employment, employees

shall not be entitled to any direct or indirect payment for unused sick leave.

- (3) Sick leave will be granted to employees only under the following conditions:
    - (a) When incapacitated by sickness or injury.
    - (b) When, because of exposure to contagious disease, the presence of the person at work would jeopardize the health of others.
  - (4) With the department head's approval, vacation time may be converted to sick leave if no sick leave time is available.
  - (5) A medical certificate may be required as proof of sickness, injury or exposure to contagious disease. Failure to report absence promptly or to obtain a required certificate within seven calendar days after request will provide the department head with sufficient reason for disapproving a sick leave request.
  - (6) If any employee is injured while performing his/her duty, and such accident is covered by workers' compensation, he/she shall receive sick leave up to the extent of his/her credits until payment under Workers' Compensation Law begins. In addition, he/she may use accrued sick leave to satisfy the difference between compensation payments and his/her regular salary. Any absence resulting from such injury that is in excess of available sick leave or vacation credits shall be deemed leave of absence without pay.
  - (7) Traffic supervisors shall be allowed one working day of sick leave for each month of service, not to exceed seven working days per year.
  - (8) No sick leave will be granted to temporary employees.
  - (9) Unauthorized absence or abuse of sick leave shall be grounds for disciplinary action by the Town up to discharge of the employee.
  - (10) A regular full-time employee (other than the Town Administrator) who does not use any sick leave during a particular calendar quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30, or October 1 through December 31) shall be granted one day of personal leave, provided the employee had used no more than six days of sick leave during the twelve-month period that preceded the commencement of the calendar quarter.
- C. Funeral leave. In case of death in the immediate family (husband, wife, children, parents, stepparents, grandparents, brothers, sisters, mothers-in-law, fathers-in-law) employees, will be granted up to three calendar days in each instance without loss of pay. Such funeral leave may extend to one day after the funeral.



## D. Personal leave.

- (1) Regular full-time employees, excluding temporary employees, shall be entitled to be absent from work for three days per fiscal year without loss of their regular straight-time pay to attend to personal business.
- (2) Such absence shall be requested of the department head not later than three working days in advance of its occurrence. The scheduling of such absence for personal business shall be at the reasonable discretion of the department head. Such personal day shall not be used to extend vacations.

## E. Holidays.

- (1) Regular full-time employees shall receive their regular straight-time pay for the following legal holidays falling on a regular day of work.

## (a) The holidays are:

January 1	Columbus Day
Martin Luther King, Jr. Day	November 11
Presidents' Day	Thanksgiving Day
Patriots' Day	Day after Thanksgiving
Memorial Day	1/2 day before Christmas
July 4	Christmas Day
Labor Day	

- (b) To be eligible for such holiday pay, an employee shall have worked or have satisfactorily presented himself/herself for work on the regularly scheduled work day before the holiday and the first one after it unless absence on either or both days is approved by the department head.
- (2) If required to work on a holiday enumerated above, exclusive of the day after Thanksgiving, an employee who is not exempt from the Fair Labor Standards Act shall receive, in addition to regular holiday pay, time and one-half (1 1/2) for hours worked. The day after Thanksgiving is a non-premium holiday and such an employee, if required to work, would receive, in addition to regular holiday pay, straight time for hours worked.
- (3) Traffic supervisors will receive regular straight-time pay for school holidays.
- (4) When a holiday under Subsection E(1) falls on a Saturday, the Friday immediately preceding shall be observed; and when it falls on a Sunday, the Monday immediately following shall be observed.

- F. Discretion to grant greater leave entitlement. Upon hiring an individual into a department head or administrative position, the Board of Selectmen may, in appropriate situations, elect to provide the individual with a greater leave entitlement than would be required under the previous subsections.

**§ 62-38. Leave for part-time employees.**

A. Eligibility.

- (1) Permanent part-time employees (other than call firefighters) who, on the average, work 17 1/2 hours per week or more shall be eligible to receive the following benefits, on the basis provided below:
  - (a) Vacation leave.
  - (b) Sick leave.
  - (c) Holidays.
  - (d) Funeral leave.
- (2) The above-listed benefits (and longevity for clerical employees) are the only fringe benefits available to part-time employees, except for any health insurance entitlement pursuant to MGL c. 32B.
- (3) Call firefighters are not eligible for any benefits under this bylaw regardless of how many hours they work.
- (4) Seasonal employees, and part-time employees who, on the average, work fewer than 17 1/2 hours per week, shall not be eligible for any benefits.

- B. Vacation leave. Vacation entitlement for part-time employees shall be calculated as of July 1 by dividing the average number of hours worked by the employee on a weekly basis since the previous July 1 (or, if hired after the previous July 1, since the employee's employment date) by the number of hours in the full-time work week for the employee's position and then multiplying that fraction by the number of days of vacation to which a full-time employee who has the same length of continuous service to the Town would be entitled pursuant to § 62-37A above.

- C. Sick leave. Upon completion of 120 calendar days of employment with the Town, an eligible part-time employee will thereafter earn sick leave on a proportionate basis as the employee's average weekly hours compare to the number of hours in the full-time workweek for the employee's position. For example, an employee who worked 20 hours per week in a part-time clerical position for which the full-time work week was 35 hours would have his/her monthly sick leave entitlement calculated as follows:

$$20 \div 35 \times 8.75 \text{ hours} = \text{monthly sick leave entitlement}$$

- D. Holidays. An eligible part-time employee who is regularly scheduled to work on the day of the week on which any one of the holidays listed at § 62-37E, above, is observed shall be paid for the number of hours that he/she was regularly scheduled to work on such day, provided that he/she has worked his/her shift immediately prior to the holiday and his/her shift immediately after the holiday (unless absence on either or both days is approved by the department head).
- E. Funeral leave. In case of death in the immediate family (husband, wife, children, parents, stepparents, grandparents, brothers, sisters, mothers-in-law, fathers-in-law), employees will be granted three calendar days in each instance without loss of pay. Such funeral leave may extend to one day after the funeral.

### **§ 62-39. Leaves of absence.**

Except as otherwise provided in this bylaw, all leaves of absence shall be without compensation or other benefits and shall be subject to the approval of the department head. When a leave of absence is occasioned by the medical disability of an employee, as ascertained under § 62-37B of this bylaw, after exhausting all available sick leave and vacation leave, the full-time employee shall be granted one day of additional sick leave for each month of such disability and a part-time employee shall be granted one part-time day for each month of such disability.

- A. Leave without pay. Upon approval of the Board of Selectmen, or its designee, an employee may be granted leave without pay for a specified period of time not to exceed one year. At the expiration of a leave without pay, the employee shall return to the position or to a similar position. Failure of the employee to report promptly at the expiration of such leave shall be considered a resignation. Leave without pay shall not constitute a break in service. However, during leave without pay vacation, personal leave, and sick leave shall not accrue.
- B. Jury service. Full-time employees shall be allowed leave to fulfill jury duty. If the jury fees, exclusive of travel allowances, received by said employee for such jury duty shall be less than the regular pay received by him/her from the Town, the difference between said fees and regular pay shall be paid to such employee by the Town. However, as a condition to receiving such payment, the employee agrees that if during such jury duty he/she is discharged for the day or major portion thereof during regular work hours, he/she will report to his/her supervisor for such work as may be assigned. An employee performing such jury duty and who desires the benefit of this subsection shall be required to present weekly to his/her department head a certificate by the court or any duly authorized representative as to the time spent by the employee in such jury duty during such week.
- C. Regular military service; re-employment. Leaves without pay shall be granted to permanent full-time and part-time employees, excluding temporary employees, who enter military service in accordance with

the provisions of the Acts of 1941, Section 708, as amended (Appendix to General Laws Chapter 33), for the duration of a single enlistment which, except for a national emergency as declared by the President of the United States, will not exceed four years.

- D. Military training leave. Any member of the Reserve Forces of the United States who, in order to receive military training not exceeding 17 days in any one calendar year, leaves a position of regular full-time employment with any Town department and who first shall give notice to his/her department head of the date of departure and date of return for the purpose of military training, and who shall give evidence to his/her department head of the satisfactory completion of such training immediately thereafter, shall be entitled to treat such time of absence for military training as military leave time and be compensated therefor by the Town in an amount equivalent to the difference between his/her normal rate of pay from the Town and the base pay received by him/her from his/her reserve unit. Such employee shall provide evidence satisfactory to his/her department head of the base pay he/she received from said reserve unit during said period of time. The employee's absence for military training shall not affect the employee's right to receive normal vacation, sick leave, advancement and other advantages of his/her employment normally to be anticipated in the employee's particular position. In lieu of military leave time and compensation therefor as provided above, the employee shall be entitled to treat such time of absence for military training as part or all of the vacation time to which he/she is entitled and be paid in full for said time upon request prior to departure, notice of date of departure and date of return for the purpose of military training being first given by the employee to his/her department head.
- E. Family and medical leave. Under the Family and Medical Leave Act of 1993 (FMLA), eligible employees are entitled to take up to 12 weeks of unpaid, job-protected leave during a twelve-month period for specified family and medical reasons.
- (1) Eligibility.
- (a) An employee who has been employed by the Town for at least 12 months and has worked at least 1,250 hours in the Town's service over the previous 12 months is eligible for FMLA leave.
  - (b) Purposes for which FMLA leave may be taken. FMLA leave may be taken for the following purposes:
    - [1] For the birth and care of the newborn child of the employee;
    - [2] For placement with the employee of a son or daughter for adoption or foster care;
    - [3] To care for an immediate family member (spouse, child, or parent) with a serious health condition; or

[4] To take medical leave when the employee is unable to work because of a serious health condition.

- (c) Leave for birth and care, or placement for adoption or foster care must conclude within 12 months of the birth or placement.

(2) Twelve-month period.

- (a) The twelve-month period in which the 12 weeks of FMLA leave may be taken is a "rolling" twelve-month period measured backward from the date an employee uses any FMLA leave. Thus, each time an employee takes FMLA leave, the remaining leave entitlement would be any balance of the 12 weeks that has not been used during the immediately preceding 12 months.

- (b) For example, if an employee has taken eight weeks of leave during the past 12 months, an additional four weeks of leave could be taken. If an employee used four weeks beginning February 1, 1994, four weeks beginning June 1, 1994, and four weeks beginning December 1, 1994, the employee would not be entitled to any additional leave until February 1, 1995. However, beginning on February 1, 1995, the employee would be entitled to four weeks of leave, on June 1 the employee would be entitled to an additional four weeks, etc.

(3) Serious health condition. As used in the FMLA, the term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either:

- (a) Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or

- (b) Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

[1] A health condition (including treatment therefor, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:

[a] Treatment two or more times by or under the supervision of a health care provider; or

[b] One treatment by a health care provider with a continuing regimen of treatment; or

- [2] Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
  - [3] A chronic serious health condition, which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
  - [4] A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
  - [5] Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).
- (4) Intermittent leave. Under some circumstances, employees may take FMLA leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.
- (a) If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is permissible only with prior approval of the Board of Selectmen.
  - (b) FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.
- (5) Use of paid leave time. An employee may choose to use accrued vacation leave or personal leave to cover some or all of the FMLA leave. Also, to the extent that the circumstances of the leave meet the Town's usual requirements for the use of sick leave, the employee may elect to use accrued sick leave. For example, an employee whose FMLA leave is due to his/her own "serious health condition" would be able to elect to use accrued sick leave during the FMLA leave. However, an employee whose FMLA leave is for the purpose of caring for his/her sick parent would not be able to use paid sick leave during his/her FMLA leave since under the Town's policies sick leave may not be used for family illness.
- (6) Maintenance of health benefits. During the period that an employee is on FMLA leave, the Town will maintain its usual contribution toward the premium expense of the health insurance coverage in which the employee is enrolled. The employee will be required to make arrangements with the Town Treasurer for paying his/her share of the premium expense during such leave.
- (7) Notice requirements and certifications.

- (a) Employees seeking to use FMLA leave are required to provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. When the approximate timing of the need to take FMLA leave is not foreseeable, the employee will be expected to provide notice to the Town as soon as practicable under the facts and circumstances of the particular case.
  - (b) The Town may also require employees to provide:
    - [1] Medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;
    - [2] Second or third medical opinions (at the Town's expense) and periodic recertification; and
    - [3] Periodic reports during FMLA leave regarding the employee's status and intent to return to work.
  - (c) When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the Town's operation.
- (8) Job restoration.
- (a) Upon return from FMLA leave, an employee will be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment.
  - (b) In addition, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before using FMLA leave, nor be counted against the employee under a "no fault" attendance policy.
- (9) Further information. The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, has issued detailed regulations that explain the rights of employees and employers under the FMLA. A copy of these regulations is available at the Town Administrator's office.





ARTICLE XIV  
**Recruitment and Selection of Employees**

**§ 62-40. Policy.**

To assure a high quality of service to the public, selection will be from among the most competent individuals. Selection and appointment to all positions will be based solely upon job-related requirements and the applicant's demonstration that he/she possesses the skills, knowledge, abilities and other characteristics necessary for successful job performance.

**§ 62-41. Recruitment procedures.**

- A. When a vacancy occurs in a department or when the department head anticipates a vacancy in the department, and the Town Administrator determines that the position should be filled, the department head will review the duties and responsibilities of the vacant position, as well as the organizational needs of the department, to determine if the position (or job description therefor) needs to be revised. Any proposed changes to the position or its job description shall be discussed with the Town Administrator. If, after review, the Town Administrator concludes that changes should be made only to the job description and those changes do not warrant a change in the position's classification, he/she may approve the changes to the job description. If, however, the Town Administrator concludes that the proposed changes to the job description should be made but warrant a change in the position's classification, he/she shall make the appropriate reclassification.
- B. Initial consideration in the selection process for a position shall be given to qualified "in-house" employees, as a method of advancement and upward mobility. "In-house" employee means any permanent full-time or part-time employee. Vacancies will be posted for in-house consideration for three days.
- C. If no in-house candidate is selected for the vacant position, the department head will be required to publicize the vacancy. All vacancies in regular positions will be advertised in a newspaper with general circulation within the area. Positions with administrative classifications shall, in addition, be advertised in professional publications and/or a newspaper with broad circulation.
- D. To allow sufficient time for qualified candidates to apply for the position, recruitment efforts will be conducted for at least 10 days prior to the selection of a candidate (unless an in-house candidate is selected in accordance with Subsection B above).
- E. Interview/Selection.
  - (1) After the close of the application period, the department head will review the applications and select candidates to be interviewed for

the position. Where appropriate, the department head may utilize testing procedures to aid in the selection process.

- (2) Once all interviews and other selection procedures have been completed, the department head will make a selection from among the applicants subject to the review of the Town Administrator. Prior to making that selection, the department head will have contacted the candidate's former employers and references for background checks.
- (3) Upon making the selection, the department head will notify the successful candidate that he/she has been selected for the position conditional upon satisfactory completion of a Town-sponsored medical examination.

#### **§ 62-42. Pre-employment medical examination.**

Prior to starting work, and after a conditional offer of employment has been extended, the applicant shall undergo a pre-employment medical examination by a physician(s) designated by the Board of Selectmen and at the Town's expense. Following the examination, the physician(s) shall notify the Town Administrator whether the prospective employee, with reasonable accommodation, is capable of performing the essential functions of the position for which he/she is being considered.

#### **§ 62-43. Notification requirements.**

From the date of the adoption of this bylaw forward, all department heads hiring employees are required to notify the Treasurer and Town Accountant of such employment, including whether the employee is regular, temporary, part-time or full-time.

- A. Documentation of selection process. The interview and selection process shall be appropriately documented by the department head. Upon the hiring of a candidate, the department head shall provide all such documentation to the Town Administrator for filing. Any records relating to the applicant's pre-employment medical examination shall be placed in the employee's personnel file.
- B. Seasonal positions. All seasonal positions shall be filled in compliance with the provisions of this section, except that the advertising requirements for such positions will be satisfied by advertisement in a newspaper or newspapers with circulation limited to the Town. An individual who has previously served in a seasonal position will be required to reapply for such position if he/she wishes to be employed for another season.
- C. False or misleading statements in the application process. False or misleading statements made on an application or in other aspects of the selection process shall be grounds for rejecting a candidate's

application and, if discovered after the candidate has been hired, shall be considered grounds for dismissal.



ARTICLE XV  
**Personnel Records**

**§ 62-44. Files for individual employees.**

An individual personnel file of all Town employees, both elected and appointed, except employees of the School Department, shall be prepared and kept by the Treasurer in his/her office. It shall be the duty of each Town officer and employee to furnish to the Town Administrator forthwith, upon request, all information needed for the completion of this file. Such files shall be available to the Board of Selectmen and Personnel Board at all reasonable times, but such files shall not be public records.

**§ 62-45. Records defined.**

As used in this article, a personnel record shall include any record that identifies an employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment, promotion, transfer, additional compensation or disciplinary action. However, a personnel record shall not include information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of such other person's privacy.

**§ 62-46. Required information.**

All of the following written information or documents regarding an employee shall be included in the personnel record for that employee: the name, address, date of birth, job title and description; rate of pay and any other compensation paid to the employee; starting date of employment; the job application of the employee; resumes or other forms of employment inquiry submitted to the Town by the employee; all employee performance evaluations, including, but not limited to, employee evaluation documents; written warnings of substandard performance; lists of probationary periods; waivers signed by the employee; copies of dated termination notices; any other documents relating to disciplinary action regarding the employee.

**§ 62-47. Employee review.**

The Town Administrator shall provide an employee with an opportunity to review his/her personnel file within five days of the employee's request. A copy of his/her personnel file will be provided to an employee within five days of his/her written request.

**§ 62-48. Revised records.**

If there is a disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining the employee's position, which shall thereupon be contained therein and shall become a

part of such employee's personnel record. The statement shall be included when said information is transmitted to a third party as long as the original information is retained as part of the file. Information contained in a personnel record may be removed from the personnel file upon mutual agreement of the Town and the employee for any reason.

**§ 62-49. Record retention.**

Except for any information that is removed by mutual agreement of the Town and the employee, the Town shall retain the complete personnel record of an employee without deletions or expungement of information from the date of employment of such employee to a date three years after the termination of employment by the employee with such employer. In any cause of action brought by an employee against the Town in an administrative or judicial proceeding, the Town shall retain any personnel record required to be kept under this section which is relevant to such action until the final disposition thereof.

ARTICLE XVI  
**Code of Conduct**

**§ 62-50. Employee responsibilities.**

Town employees are expected to perform their work responsibilities in a thorough and conscientious manner. They are required to comply with:

- A. All of the policies and operating procedures of the department in which employed; and
- B. All of the directives of their supervisors.

**§ 62-51. Ethics.**

Each person employed by the Town occupies a position of public trust. As a result, Town employees must always be mindful of their ethical responsibilities. An employee must avoid taking any action that might result in or create the reasonable basis for the impression that he/she was:

- A. Using public office for private gain;
- B. Giving preferential treatment to any person or entity; or
- C. Conducting Town business in an other than impartial manner.

**§ 62-52. State law requirements.**

Chapter 268A of the Massachusetts General Laws governs the conduct of public officials and employees, and provides a comprehensive set of guidelines for the performance of a municipal employee's duties. In general, those guidelines may be reduced to the following principles:

- A. An employee may not ask for or accept anything (regardless of its value) which is offered in exchange for the employee agreeing to perform or not perform an official act.
- B. An employee may not ask for anything nor accept anything of more than nominal value from anyone with whom the employee has official dealings.
- C. Unless an employee makes a proper public disclosure, including all of the relevant facts, to the appropriate municipal official(s), the employee may not take any action that could create an appearance of impropriety, or could cause an impartial observer to believe that the employee's official actions were tainted with bias or favoritism.
- D. An employee may not use his/her official position to obtain unwarranted privileges, or any type of special treatment, for himself/herself or anyone else. For example, an employee may not use public resources (e.g., Town offices, supplies or equipment, staff labor, sick time) for personal purposes.

- E. Unless an employee qualifies for an exemption (see MGL c. 268A, § 20), the employee may not have a financial interest in a Town contract or hold more than one position with the Town.
- F. An employee may not hire, promote or supervise members of the employee's or his/her spouse's immediate family, or take any other type of official action which would affect such relatives' financial interests.
- G. An employee may not take any official action affecting the employee's own financial interest, or the financial interest of a business partner, private employer, or any organization for which the employee serves as an officer, director or trustee.

**§ 62-53. Prohibited conduct.**

Consistent with the prohibitions contained in Chapter 268A, Town employees are expected to abide by the following requirements:

- A. No employee shall engage in any business other than his/her official Town duties during regular working hours.
- B. No employee shall engage in any form of outside employment that interferes with the employee's proper and effective performance of his/her position with the Town, nor shall an employee engage in any form of outside employment that would create the appearance of a conflict of interest with the employee's position with the Town.
- C. No employee shall use confidential information obtained in his/her official capacity as a Town employee for his/her own financial advantage, nor shall he/she provide relatives, friends, business associates, or others with such confidential information.
- D. No employee shall use, or allow the use of, Town property (of any kind) for other than official Town business.



ARTICLE XVII  
**Disciplinary Action**

**§ 62-54. Employee responsibilities.**

It is the responsibility of all employees to adhere to the Town's policies and regulations, as well as to the laws of the commonwealth, and to follow the directives of their supervisors. In those instances where violations of those policies, regulations, laws or directives occur, disciplinary measures must be taken.

**§ 62-55. Progressive discipline.**

The Town is committed to a system of progressive discipline. The progressive discipline system uses successive levels of increasing sanctions to address most disciplinary violations. Those levels will include oral reprimand, written reprimand, suspension and discharge.

- A. Under the Town's system, disciplinary action for the less serious types of disciplinary infractions will normally be initiated by the issuance of an oral reprimand to the offending employee. In such case, the supervisor issuing the oral reprimand will make a notation in the employee's personnel file documenting the issuance of the reprimand. If additional disciplinary infractions occur, a higher level of disciplinary sanction will be imposed. If the second infraction is one that would normally warrant only an oral reprimand for a first offense, the supervisor would impose a written reprimand for that second infraction. A third infraction involving that degree of seriousness might result in an additional written reprimand and/or a suspension.
- B. While many disciplinary infractions will be processed through the successive levels of the system, more serious offenses will warrant the immediate imposition of the more serious levels of discipline. For example, there are certain infractions that would result in the immediate discharge of the employee, even if the employee had no prior disciplinary infractions. Other offenses might, because of their seriousness, require the imposition of a suspension for a first offense. It shall be within the discretion of the supervisor/department head to decide at what level of the system a particular disciplinary infraction should be processed.

**§ 62-56. Written warnings and suspension notices.**

Written warnings and suspension notices should include: the specific behavior and the dates of the behavior that support the discipline, and a warning of the disciplinary sanctions that the employee may expect for future disciplinary infractions. A written suspension notice will ordinarily be provided to the employee within one working day of the effective date of the suspension. All written warnings and suspension notices will be placed in the employee's personnel file.

**§ 62-57. Discharges.**

- A. No department head or supervisor will discharge an employee or suspend an employee for more than five working days without prior consultation with the Town Administrator or, in his/her absence, the Chair of the Board of Selectmen.
- B. No department head or supervisor will discharge an employee until he/she has provided the employee with:
  - (1) Written notice of the proposed reasons (charges) for the employee's discharge;
  - (2) An explanation of the evidence upon which the charges are based; and
  - (3) An opportunity to present his/her response to the charges and the evidence.

ARTICLE XVIII  
**Grievance Procedure**

**§ 62-58. Steps.**

It shall be the policy of the Town that there shall be a grievance procedure available for the use of its employees. The purpose of the grievance procedure shall be to settle employee grievances as expeditiously and fairly as possible to insure efficiency and high employee morale. It shall be the responsibility of all parties to come to a quick and amicable solution; grievances shall be taken up at such times as to minimize loss of productive work. Any grievance must be presented in or within five calendar days of the occurrence of the alleged grievance.

- A. Step I: Whenever an employee has a grievance relating to his/her employment, he/she shall orally make it known to his/her immediate superior that he/she is presenting a grievance in accordance with this clause. His/Her superior shall attempt to resolve the grievance and shall verbally respond to the employee within five working days of being told of the grievance. If the grievance is not satisfactorily resolved, the employee may then take Step II.
- B. Step II: The employee shall put his/her grievance in writing on a form to be supplied by the Board of Selectmen (hereinafter referred to as "the grievance form") and present it to his/her department head, who may be the same person as in Step I. The submission of the grievance in writing at this step must be within 12 working days of the occurrence of the alleged grievance. If the grievance is not filed in writing at this step within that period, the grievance shall be considered to be waived. The department head shall attempt to resolve the grievance and shall submit an answer in writing on the grievance form to the employee within five working days of the receipt of the grievance. If the grievance is not satisfactorily resolved hereunder, the employee may then take Step III.
- C. Step III: The employee shall file with the Town Administrator a written statement of his/her grievance on the grievance form within five working days of the employee's receipt of the department head's answer at Step II. The Town Administrator shall attempt to resolve the grievance and shall submit an answer in writing on the grievance form to the employee within five working days of the Town Administrator's receipt of the grievance. If the grievance is not resolved to the employee's satisfaction at this step, the employee may then take Step IV.
- D. Step IV: The employee shall file a written statement of his/her grievance on the grievance form with the Board of Selectmen and request an informal hearing before the same at its next regular meeting, or at a special meeting if the Board deems this advisable. The Board shall notify the appropriate department head and/or superior to be present at said hearing. All parties, including the Board, shall be entitled to

be represented by a duly authorized representative. Within 15 days of the hearing, all parties shall be notified in writing of the decision of the Board, which decision shall be in writing. The decision of the Board of Selectmen shall be final and binding on all parties with regard to all grievances (except as may be otherwise provided in contracts negotiated between the Town and a certified bargaining unit of employees.)

ARTICLE XIX  
**Miscellaneous Provisions**

**§ 62-59. Privately owned automobiles.**

- A. When use of a person's private car is necessary, and has been authorized by the head of the department, the approved mileage rate as established from time to time by the Board of Selectmen will be allowed.
- B. Reimbursement for travel by private car will require a voucher showing the purpose of the trip, the point of origin, and the point of destination and the number of miles traveled.
- C. Reimbursement for travel in any manner other than as provided above shall require the approval of the Personnel Board and the Finance Committee of a lump-sum payment for travel and/or transportation in lieu of reimbursement on a mileage basis.

**§ 62-60. Meals.**

- A. Except as otherwise stated by the applicable statute, all full-time employees shall be reimbursed for meals when on full travel status, which is defined as being temporarily absent from their homes on assignment to duty for more than 24 continuous hours.
- B. When travel status begins before 6:00 a.m., the person will be entitled to breakfast, mid-day and evening meals. When travel status begins between 6:00 a.m. and 12:00 noon, the person will be entitled to mid-day and evening meals. When travel status begins between 12:00 noon and evening, the person will be entitled to the evening meal. Notwithstanding the above, all employees who attend conferences of municipal officers or employees which pertain to the employees' duties shall be reimbursed any necessary expenses of attending the same.
- C. Reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed reasonable levels as approved from time to time by the Board of Selectmen.

**§ 62-61. Additional compensation for Assessors.**

Any Assessor who has completed the necessary courses of study and training and has been awarded a certificate by the Association of Massachusetts Assessors as a Certified Massachusetts Assessor (C.M.A.) shall receive as compensation in addition to any regular compensation received as an Assessor, the amount of \$300 per year; provided, however, that such additional compensation shall not be a part of the base upon which any cost-of-living adjustment shall be calculated.



## ARTICLE XX

**Amendment to Consolidated Personnel Bylaw****§ 62-62. Procedure.**

The Consolidated Personnel Bylaw may be amended in the same manner in which the Town bylaws may be amended; provided, however, that no amendment to the bylaw shall be made until it has been presented by signed petition addressed to and submitted to the Personnel Board at least 60 days prior to the commencement of Town Meeting. Upon receipt of such a written petition, the Board, after giving the petitioners, the heads of the departments and employees affected at least three days' written notice, shall hold a hearing of the parties interested to consider the proposed amendment. If the Personnel Board shall fail to act on an amendment so presented within 15 days after the hearing thereon, the Personnel Board shall be deemed to have disapproved the amendment. The petition may then be presented to the Town Meeting for consideration and action, if so desired. The Personnel Board may of its own motion after a similar hearing of or conference with the parties interested propose an amendment to the bylaw.





ARTICLE XXI  
**Civil Service Law**

**§ 62-63. Conflicts with state law.**

Nothing in this bylaw shall be construed to conflict with Chapter 31 of the General Laws.



## ARTICLE XXII

**Severability****§ 62-64. Provisions to be severable.**

In the event that any provision of this bylaw (or any application of a provision) shall be held to be invalid by a court or administrative tribunal of competent jurisdiction, such action shall not affect the validity of any other provision of this bylaw [or any application of such provision(s)].

**Chapter 67**  
**PUBLIC PROPERTY**

## ARTICLE I

**Use of Public Buildings****[Adopted 4-27-1981 ATM (Ch. 5, § 10, of the Bylaws)]****§ 67-1. Authority to promulgate rules and regulations.**

The Board of Selectmen shall have authority to make reasonable rules and regulations in regard to the use of all public buildings under its jurisdiction in the Town, such rules and regulations to be printed and posted in conspicuous places in or on said buildings.

**§ 67-2. Violations and penalties.**

Any persons violating any rule or regulation made as aforesaid shall be liable to a penalty as set forth in Chapter 58, Penalties and Enforcement.



ARTICLE II

**Display of Flags on Town Common**

**[Adopted 4-24-2001 ATM (Ch. 4, § I, Para. 11, of the Bylaws)]**

**§ 67-3. Flags to be displayed.**

The flags of the Commonwealth of Massachusetts and Town of Lynnfield, as adopted by the Board of Selectmen, shall be flown over the Town Common.

## **Chapter 103**

### **ADVERTISING**

#### **GENERAL REFERENCES**

**Peddling and soliciting — See Ch. 192.**

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#### **§ 103-1. Bill posting upon fences, walls and buildings.**

No person shall post or affix, or paint, print or write in any manner a placard, notice, advertisement or bill upon a fence, wall or building in the Town unless he has previously obtained the consent of the person or persons having possession of such fence, wall or building.

#### **§ 103-2. Bill posting in public places.**

No person shall, without first having obtained the written consent of the Selectmen, post up or affix in any manner a placard, notice or bill, either written or printed, upon a curbstone, sidewalk or tree in a street or public place in the Town, or upon a wall, telegraph pole, lamppost, fence or building belonging to the Town.

#### **§ 103-3. Violations and penalties.**

Each violation of this bylaw shall be punishable by a fine as set forth in Chapter 58, Penalties and Enforcement.

## **Chapter 107**

### **ALARMS**

#### **§ 107-1. Selectmen authorized to establish rules and regulations.**

The Board of Selectmen is authorized to establish rules and regulations and schedules of fees for the installation, operation and maintenance of fire and intrusion alarm systems.

## **Chapter 111**

### **ALCOHOLIC BEVERAGES**

#### **§ 111-1. Public consumption prohibited.**

No person shall consume any alcoholic beverage in any public place, including, but without limiting the generality of the foregoing, streets, ways, parks, recreation areas and playgrounds, within the Town of Lynnfield, excepting such premises as may be duly licensed to serve alcoholic



beverages, including licenses issued for the service of beer and/or wine for one day.

**§ 111-2. Violations and penalties.**

Each violation of this bylaw shall be punishable by a fine as set forth in Chapter 58, Penalties and Enforcement.

**Chapter 115**

**ANIMALS**

**GENERAL REFERENCES**

**Parks and recreational areas — See Ch. 184.**



## ARTICLE I

**Cattle at Large****[Adopted 4-27-1981 ATM (Ch. 5, § 6, of the Bylaws)]****§ 115-1. Pasturing on public property prohibited.**

No owner or person having charge of any horse, cow, swine, sheep, goat or other grazing animal shall permit the same to go at large or pasture in any street or way within the Town, either with or without a keeper, under a penalty as set forth in Chapter 58, Penalties and Enforcement, provided that this bylaw or regulation shall not affect the rights of any person to the use of land within the limits of such way adjoining his own premises.



## ARTICLE II

**Dogs and Other Domesticated Animals**  
**[Adopted as Ch. 5, §§ 17 and 17A, of the Bylaws]****§ 115-2. Nuisances prohibited.**

No person shall own or keep in this Town any dog which by biting, barking, howling or in any other manner disturbs the peace or quiet of any neighborhood or endangers the safety of any person.

**§ 115-3. Animals at large prohibited.**

- A. No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash or is under the control of its owner, keeper, or his agent. As used in this section, the term "control" shall include, but shall not be limited to, oral or visual commands to which the dog is obedient.
- B. No person shall permit a dog owned or kept by him, his agent or servant in any school building or school grounds, any place of business, or any place of public assembly unless held firmly on a leash.
- C. No person shall permit a dog or other domesticated animal owned or kept by such person, his or her agent or servant on any artificial turf field within the Town.

**§ 115-4. Dog waste. [Amended 4-27-1998 ATM]**

No person owning, harboring or having custody and control of a dog or other animal shall suffer, permit or allow such a dog or other animal to leave feces in any park, playground, beach, public common, municipal recreation area, street, sidewalk, public area or any private property of someone other than the owner within the Town. Any person having custody and control of a dog or other animal in any park, playground, beach, public common, municipal recreation area, street, sidewalk, public area or any private property of someone other than the owner within the Town shall remove and dispose of any feces left thereon by his or her dog. Any person having custody or control of a dog or other animal in any park, playground, beach, public common, municipal recreation area, street, sidewalk, public area or any private property of someone other than the owner within the Town shall carry with him or her proper equipment for the removal of such feces. For purposes of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces. This section shall not apply to a guide dog accompanying a disabled person.

**§ 115-5. Dangerous dogs.**

- A. The Dog Officer may order the restraint or muzzling, for a period not to exceed 30 days, of any dog which he finds has:

- (1) Bitten or threatened the safety of any person.
  - (2) Killed or maimed any domesticated animal or farm animal.
  - (3) Chased any vehicle upon any public way or other way open to public travel in the Town.
  - (4) Disturbed the peace, damaged property or committed any other act which is a violation of § 115-2 of this article.
  - (5) Violated § 115-3 or 115-4 hereof.
- B. The owner or keeper of any dog that has been ordered to be restrained or muzzled under the provisions of this section may request the Dog Officer, in writing, to vacate such order. If such order is not vacated, the owner or keeper of such dog may bring a petition in the District Court within the Judicial District of Peabody praying that the order of restraint may be reviewed by the court as provided in MGL c. 140, § 157, as amended.

#### **§ 115-6. Violations and penalties.**

- A. The penalty for a first violation of this bylaw within a calendar year shall be \$25, and for second and succeeding violations shall be \$50. **[Amended 10-22-2001 ATM]**
- B. An owner reclaiming a dog held by the dog officer as a result of a violation of §§ 115-2 through 115-5 shall pay an administrative fee of \$20 plus \$25 boarding charge for each day that the dog is held in such custody. **[Amended 10-16-2000 ATM]**

#### **§ 115-7. Dog licensing and fees. [Amended 10-22-2001 ATM; 10-19-2009 ATM by Art. 7; 10-20-2014 ATM by Art. 17]**

- A. All dogs must be licensed on or before March 1 of each license period in accordance with the requirements of MGL c. 140, § 137, as amended. The license period is from January 1 through December 31.
- B. No application for licensing of a dog shall be accepted by the Town Clerk unless it is accompanied by a certificate of vaccination against rabies, which shall comply with the requirements of MGL c. 140, § 145B, as amended.
- C. License fees for dogs are as follows:
- (1) Neutered males and spayed females: \$10. **[Amended 10-19-2015 ATM by Art. 9]**
  - (2) Intact dogs: \$15. **[Amended 10-19-2015 ATM by Art. 9]**
  - (3) Kennels. The owner or keeper of a pack or collection of more than four dogs, three months old or older, on a single premises shall

obtain one of the below types of kennel licenses, as defined in MGL c. 140, § 136A, and pay the required annual fee.

	<b>4 Dogs or Less</b>	<b>5 to 10 Dogs</b>	<b>11 or more Dogs</b>
Commercial boarding or training kennel	\$100	\$200	\$300
Commercial breeder kennel	\$100	\$200	\$300
Domestic charitable corporation kennel	No fee if incorporated exclusively for purposes outlined in MGL c. 140, § 137A(c).		
Personal kennel	\$40	\$100	\$200
Veterinary kennels	\$100	\$200	\$300

(a) A kennel license shall be in lieu of licensing dogs individually.

(b) No kennel license shall be issued or renewed until the premises have been inspected and approved by the Animal Control and/or Board of Health.

D. Any owner or keeper of a dog who shall fail to comply with the provisions of this section by March in any year shall be subject to a penalty of \$10 per dog. **[Amended 10-19-2015 ATM by Art. 9]**

## **Chapter 120**

### **BUILDING CODE**

#### **§ 120-1. Applicability of state code.**

The State Building Code, adopted by Chapter 802 of the Acts of 1972, applies to the Town of Lynnfield.

#### **§ 120-2. Fees.**

Fees for all construction are as set from time to time in accordance with the provisions of MGL c. 40, § 22F.

## **Chapter 126**

### **CRIMINAL RECORD BACKGROUND CHECKS**

#### **GENERAL REFERENCES**

**Alcoholic beverages — See Ch. 111.**

**Licenses and permits — See Ch. 168.**

**Junk and junk dealers — See Ch. 161.**

**Peddling and soliciting — See Ch. 204.**

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#### **§ 126-1. Purpose and authorization.**

- A. In order to protect the health, safety and welfare of the inhabitants of the Town of Lynnfield, and as authorized by MGL c. 6, § 172B 1/2, this bylaw shall require:
- (1) Applicants for certain Town licenses permitting the conduct of specific occupational activities within the Town as enumerated in § 126-2, below, to submit to fingerprinting by the Lynnfield Police Department;
  - (2) The Police Department to conduct criminal record background checks based on such fingerprints; and
  - (3) The Town to consider the results of such background checks in determining whether or not to grant a license.
- B. The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (the "DCJIS") and the Federal Bureau of Investigation (the "FBI"), as may be applicable, to conduct on behalf of the Town and its Police Department fingerprint-based state and national criminal record background checks, including of FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize records of the State Police, the DCJIS and the FBI in connection with such background checks, consistent with this bylaw.



**§ 126-2. Applicant's submission to fingerprinting by Police Department.**

- A. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Lynnfield Police Department within 10 days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:
- (1) Hawker and peddler.
  - (2) Liquor license.
  - (3) Manager or alternate manager of a liquor license.
  - (4) Solicitors and canvassers.
  - (5) Dealers in junk, secondhand articles and antiques.
  - (6) Secondhand motor vehicle dealer.
  - (7) Hackney carriage (taxi) operator.
  - (8) Ice cream truck vendor.
- B. At the time of fingerprinting, the Police Department shall notify each individual who is fingerprinted that his or her fingerprints will be used to check such individual's FBI and state criminal history records.

**§ 126-3. Processing of background checks; communication of results.**

- A. The Police Department shall transmit fingerprints it has obtained pursuant to § 126-2 of this bylaw to the Identification Section of the Massachusetts State Police, the DCJIS and/or the FBI as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in said section.
- B. The Police Department shall provide the applicant with a copy of the results of his or her fingerprint-based criminal record background check and supply the applicant the opportunity to complete, or challenge the accuracy of, the information contained in it, including in the FBI identification record. The Police Department shall also supply applicants with information regarding the procedures for obtaining a change, correction or updating of a criminal record, including a copy of 28 CFR Part 16.34 pertaining to FBI identification records. In no event shall the Police Department render a suitability evaluation pursuant to the subsection below until it has taken the steps detailed in this subsection and otherwise complied with any other procedures required by any Town policy applicable to licensing-related criminal record background checks.

- C. The Police Department shall communicate the results of fingerprint-based criminal record background checks to the applicable licensing authority within the Town. The Police Department shall, in addition, render to the licensing authority its evaluation of the applicant's suitability for the proposed occupational activity based upon the results of the criminal records background check and any other relevant information known to it. In rendering its evaluation, the Police Department shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability. The Police Department shall indicate whether the applicant has been convicted of, or is under pending indictment for, a crime that bears upon his or her suitability, or any felony or misdemeanor that involved force or the threat of force, controlled substances or a sex-related offense.

#### **§ 126-4. Use of information.**

Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in § 126-2 above. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. The licensing authority shall not deny a license based on information in a criminal record unless the applicant has been afforded a reasonable time to correct or complete the record or has declined to do so.

#### **§ 126-5. Implementation; regulations; confidentiality of information.**

Implementation of this bylaw and the conducting of fingerprint-based criminal record background checks by the Town shall be in accordance with all applicable laws, regulations and Town policies. The Board of Selectmen is authorized to promulgate regulations for the implementation of this bylaw. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

#### **§ 126-6. Fees.**

The fee charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be \$100. A portion of the fee, as specified in MGL c. 6, § 172B 1/2, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town for costs associated with the administration of the fingerprinting system.

### **Chapter 132**

**DIESEL FUEL****§ 132-1. Site assignment and operating permit for diesel burning sites required.**

No commercial, industrial or business property that involves in any way the burning or use of diesel fuel or involves the regular use and operation of vehicles using or burning diesel fuel ("diesel burning site") shall be constructed, built, operated or maintained in the Town of Lynnfield without a diesel burning site assignment as set forth herein and without first obtaining from the Town of Lynnfield Board of Health an operating permit for the right to construct, operate and maintain a diesel burning site; and in any case, no diesel burning site as defined herein shall be established within a proximity of 1,000 feet of a residential area.

**§ 132-2. Site assignments.**

No commercial, industrial or business site within the Town of Lynnfield shall be used, established, maintained or operated until such site has been assigned by the Board of Health of the Town of Lynnfield in accordance with MGL c. 111, §§ 31C and 143. The assignment of a place as a diesel burning site shall be subject to such limitations with respect to the extent, character, and nature of the operations as may be necessary to protect the public health. The Board of Health may prohibit any diesel burning site as a whole whenever, by any of the methods employed, it has become or may become a nuisance, offensive, or possibly injurious to the public health or safety.

**§ 132-3. Existing sites.**

All diesel burning sites operating within the Town of Lynnfield at the time of adoption of this bylaw are exempt from the requirements of this bylaw. Any expansion of or addition to such existing site will be subject to the requirements of this bylaw.

**§ 132-4. Rules and regulations.**

The Board of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this bylaw.

**Chapter 138****EXCAVATIONS****GENERAL REFERENCES**

**Streets and sidewalks — See Ch. 217.**

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**§ 138-1. Protective barriers required.**

Owners of land which has been excavated must erect barriers or take other suitable measures within two days after such owners have been notified in writing by the Selectmen that in their opinion such excavation constitutes a hazard to public safety.

**§ 138-2. Violations and penalties.**

The penalty for violation of this bylaw shall not exceed \$200 per day for every day such person is in violation of such notice, commencing with the fourth day thereof.

**Chapter 143****FEES****GENERAL REFERENCES**

**Dog license fees — See Ch. 115, Art. II.**

ARTICLE I  
**Town Clerk Fees**  
**[Last amended 4-25-1988 ATM]**

**§ 143-1. Fee Schedule.**

The fees of the Town Clerk for the services, licenses, permits or other documents hereinafter set forth shall be the sum of money set opposite each:

Service or document charge.

- A. For filing and indexing assignment for the benefit of creditors: \$10.
- B. For entering amendment of a record of the birth of an illegitimate child subsequently legitimized: \$10.
- C. For correcting errors in a record of birth: \$10.
- D. For furnishing certificate of birth: \$10.
- E. For entering delayed record of birth: \$10.
- F. For filing certificate of a person conducting business under any title other than his real name: \$25.
- G. For filing by a person conducting business under any title other than his real name, or statement of his change of his residence, or of his discontinuance, retirement or withdrawal from, or of a change of location of such business: \$15.
- H. For furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business: \$10.
- I. For recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the commonwealth: \$25.
- J. For correcting errors in a record of death: \$10.
- K. For furnishing a certificate of death: \$10.
- L. For issuing and recording licenses to keepers of intelligence offices: \$100.
- M. For issuing and recording licenses to junk dealers: \$200.
- N. For issuing and recording license to junk collector: \$100.
- O. For issuing and recording pawnbrokers license: \$250.
- P. For issuing and recording licenses to keepers of billiard saloons, pool or sippio rooms, tables, or bowling alleys:

- (1) First table or lane: \$50.
- (2) Each additional table or lane: \$25.
- Q. For entering notice of intention of marriage and issuing certificates thereof: \$25.
- R. For entering certificate of marriage filed by persons married out of the commonwealth: \$10.
- S. For issuing certificate of marriage: \$10.
- T. For correcting errors in a record of marriage: \$10.
- U. For recording power of attorney: \$15.
- V. For recording certificate of registration granted to a person to engage in practice of optometry: \$60.
- W. For issuing a certified copy of a certificate of registration granted to a person to engage in the practice of optometry: \$15.
- X. For recording the name of the owner of a certificate of registration as a physician or osteopath in the commonwealth: \$50.
- Y. For recording order granting locations of poles, piers, abutments or conduits, alterations or flat-rate transfers thereof and increase in number of wires and cable or attachments under the additional fee provisions of MGL c. 166, § 22: \$100.
- Z. For examining records or papers relating to birth, marriage or death upon application of any person, the actual expense thereof: \$20.
- AA. For copying any manuscript or record pertaining to a birth, marriage or death: \$5.
- BB. For receiving and filing of a complete inventory of all items to be included in a "closing out sale," etc.: \$5 per page.
- CC. For filing a copy of written instrument or declaration of trust by the trustees of an association or trust, or any amendment thereto (MGL c. 182, § 2): \$25.
- DD. Recording any other documents: \$10 per page.
- EE. Voter's card: \$5.

### **§ 143-2. Underground gasoline storage.**

The fees of the Town for the licensing and registration of underground gasoline storage shall be the sum as set forth in the following schedule:

- A. Original license:
  - (1) One gallon to 20,000 gallons: \$200.

(2) Each additional 1,000 gallons or fraction thereof: \$20.

B. Annual renewal fees shall be 1/2 of the above schedules.





ARTICLE II  
**Board of Health Fees**  
**[Adopted 4-30-2012 ATM by Art. 19]**

**§ 143-3. Fee Schedule.**

The fees to be charged by the Board of Health for the services, licenses, permits and the like furnished by it and its agents shall be as follows:

- A. Animal permit (for up to five birds, horses or other animals subject to a permit requirement): \$25.
- B. Body piercing.
  - (1) Initial permit: \$200.
  - (2) Annual renewal: \$100.
- C. Bottled water permit: \$105.
- D. Camp license (state-mandated): \$50.
- E. Food catering permit: \$30.
- F. Food establishment permit (for-profit only; fee waived for nonprofits): \$200.
  - (1) Frozen dessert manufacturer: \$35.
  - (2) Residential kitchen:
    - (a) Initial permit: \$85.
    - (b) Permit renewal: \$50.
  - (3) Retail.
    - (a) Less than 1,000 square feet: \$75.
    - (b) One thousand square feet or more: \$125
  - (4) Supermarket: \$475.
  - (5) Temporary food establishment permit (for-profit only; fee waived for nonprofits): \$35.
- G. Food establishment plan reviews:
  - (1) New or renovated food establishment.
    - (a) Up to 25 seats: \$100. If due to change of ownership or minor modification: \$50.
    - (b) More than 25 seats but fewer than 100 seats: \$150. If due to change of ownership or minor modification: \$75.

- (c) One hundred or more seats: \$200. If due to change of ownership or minor modification: \$100.
- (2) New or renovated supermarket: \$350. If due to change of ownership or minor modification: \$175.
- H. Food hazard analysis critical control point plan review: \$35.
- I. Food mobile license: \$75.
  - (1) Mobile vendor and/or caterer plan review: \$50.
- J. Food retail license: \$75.
- K. Permit for removal or transportation of garbage, offal or other offensive substances: \$100.
- L. Lodging, motel or hotel (per unit): \$5.
- M. Septic systems.
  - (1) Disposal system construction permit:
    - (a) Permit for new single-family, residential construction of up to four bedrooms: \$250.
      - [1] Each additional bedroom: \$100.
    - (b) Commercial: \$500.
    - (c) Extension (only one allowed per state law): \$100.
    - (d) Permit revision for change in installer: \$15.
  - (2) Installer's license: \$100.
    - (a) Installer's exam: \$50.
  - (3) Soil/Percolation test (up to four hours): \$200.
    - (a) Each additional hour: \$65.
  - (4) Deep hole observation for groundwater determination: \$65.
  - (5) Disposal of septage (per truck): \$100.
  - (6) Disposal system plan review:
    - (a) Up to four bedrooms: \$125.
    - (b) More than four bedrooms: \$200.
    - (c) Revision due to technical deficiency or relocation of component: \$100.
- N. Swimming pools.

- (1) Permit for indoor swimming pool: \$200.
  - (2) Permit for outdoor/seasonal swimming pool: \$125.
  - (3) Permit for special purpose pool (wading, whirlpool, spa, etc.): \$100.
  - (4) Swimming pool plan review: \$125.
    - (a) If due to renovation: \$75.
- O. Tanning salon license: \$105.
  - (1) Additional tanning beds: \$30.
  - (2) Plan review: \$50.
    - (a) If due to renovation: \$25.
- P. Tobacco permit: \$200.
- Q. Well permit: \$100.
- R. Late fee (for any annual license or permit where application is received after expiration of prior license or permit): \$35.

## **Chapter 147**

### **FIREARMS AND EXPLOSIVES**

#### **§ 147-1. Discharge prohibited; exceptions.**

No person shall fire or discharge any firearm, rifle, shotgun or explosive of any kind except with the permission of the Board of Selectmen; provided, however, that this bylaw shall not apply to lawful defense of property against pests and predatory animals nor to the lawful defense of life, or property, nor to any law enforcement officer acting in the discharge of his duties.

#### **§ 147-2. Violations and penalties.**

Any person violating this bylaw shall be punished as set forth in Chapter 58, Penalties and Enforcement.

## **Chapter 154**

### **HISTORIC PRESERVATION**

#### **GENERAL REFERENCES**

**Zoning — See Ch. 260.**

**Subdivision regulations — See Ch. 375.**

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#### **§ 154-1. Intent and purpose.**

This bylaw is enacted for the purpose of preserving and protecting significant structures within the Town which constitute or reflect distinctive features of architectural, cultural, economic, political or social history of the Town and to limit the detrimental effect of demolition on the character of the Town. Through this bylaw, owners of preferably preserved structures are encouraged to seek out alternative options that will preserve, rehabilitate or restore such structures and residents of the Town are alerted to impending demolitions of significant structures. By preserving and protecting significant structures, streetscapes and neighborhoods, this bylaw promotes the public welfare by making the Town a more attractive and desirable place in which to live and work. To achieve these purposes, the Lynnfield Historical Commission is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant structures. The issuance of demolition permits for significant structures is regulated as provided in this bylaw.

#### **§ 154-2. Definitions.**

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

APPLICANT — Any person who, or entity which, files an application for a demolition permit. If the applicant is not the owner of the premises upon which the structure is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION — An application for the demolition of a structure.

BUILDING INSPECTOR — The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

BUSINESS DAY — A day which is not a legal municipal holiday, Saturday or Sunday.

COMMISSION — The Lynnfield Historical Commission.

DEMOLITION — The act of pulling down, destroying, removing, dismantling or razing a structure or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION BY NEGLECT — A process of ongoing damage to the fabric, viability and/or functionality of an unoccupied structure leading towards and/or causing its eventual demolition due to decay and/or structural failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the structure from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

DEMOLITION PERMIT — The building permit issued by the Building Inspector for the demolition of a structure, excluding a building permit issued solely for the demolition of the interior of a structure.

SIGNIFICANT STRUCTURE — Any building or other structure, or portion thereof, which:

- A. Is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application on said National Register;
- B. Is included in any historical or architectural inventory maintained by the Commission; or
- C. Has been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder, provided that the owner of such building or structure and the Building Inspector have been notified, in hand or by certified mail, within 10 days following such vote.

STRUCTURE — Materials assembled at a fixed location to give support or shelter, such as a building, framework, wall, reviewing stand, platform or the like.

### **§ 154-3. Procedures.**

- A. The Commission shall create, and from time to time shall revise, a list of significant structures within the Town, and shall supply an up-to-date copy to the Building Inspector.
- B. Within three business days after the receipt of a completed application for a demolition permit for a structure that is on the list of significant structures, the Building Inspector shall forward a copy of such application to the Commission for review. No demolition permit shall be issued at that time, except in the event of an emergency as set forth below. Within 14 days after receipt of such application by the Commission, the Commission shall determine whether the structure in question is potentially worthy of preservation. If the Commission determines that it is not, then the Commission shall give prompt written notice of such determination to the Building Inspector and the applicant, and the demolition permit may thereafter be issued. If the Commission determines that the structure in question is potentially worthy of preservation, then the Commission shall proceed as set forth in Subsection C below.
- C. The Commission shall fix a reasonable time and date for a hearing on any application for a demolition permit with respect to a structure that is on the list of significant structures within the Town and shall give public notice of the time, place and purpose of the hearing in a newspaper of general circulation within the Town at least 14 days before said hearing. At least seven days before said hearing, the Commission shall mail a copy of said notice to the applicant, to all owners of abutting property as they appear on the most recent local tax list and to such other persons as the Commission shall deem entitled to notice.
- D. The applicant shall be responsible for all costs associated with the mailing, posting or publishing of the required notices. The Commission may require the applicant to maintain on the property, which is the subject of a demolition permit application, a notice in a form designated by the Commission, visible from the nearest public way, of any hearing on the subject matter of such application.
- E. No less than five business days before the public hearing, the applicant shall submit to the Commission three copies of a demolition plan which shall include the following:
  - (1) An Assessors' map or plot plan showing the location of the structure to be demolished and the lot on which it is located with reference to the neighboring properties;
  - (2) Photographs of all facade elevations;
  - (3) A description of the structure to be demolished;
  - (4) The reasons for the proposed demolition and any data supporting said reasons; and

- (5) A brief description of the proposed reuse of the property on which the structure to be demolished is located.
- F. If, after such hearing, the Commission determines that the demolition of a structure appearing on the list of significant structures within the Town would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector and the applicant within 10 business days after making such determination. Upon receipt of such notification, or after the expiration of 15 days from the date on which the hearing closed if he has not received notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code, the Zoning Bylaws<sup>1</sup> and any other applicable laws, bylaws, rules and regulations, issue the requested demolition permit.
- G. If the Commission determines that the demolition of the significant structure would be detrimental to the historical or architectural heritage of the Town, such structure shall be deemed a preferably preserved significant structure. The Commission shall so advise the applicant and the Building Inspector, and no demolition permit may be issued until one of the conditions set forth in Subsection H, below, is met. The Commission shall offer the applicant (and the owner, if different) information about alternatives to demolition, and shall direct him to resources in the preservation field, including the Massachusetts Historical Commission and other interested parties that might provide assistance in preservation, funding and/or adaptive reuse.
- H. Conditions for issuing permits for preferably preserved structures.
- (1) The Building Inspector may issue a demolition permit for a preferably preserved significant structure at any time after:
- (a) He receives written notice from the Commission that it is satisfied that there is no reasonable likelihood that either the owner or some other person or entity is willing to purchase, preserve, rehabilitate or restore such significant structure; or
  - (b) He receives written notice from the Commission that it is satisfied that the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and/or restore the significant structure, and that such efforts have been unsuccessful; or
  - (c) A period of 12 months shall have elapsed since the date of the Commission's determination that the significant structure which is the subject of an application for a demolition permit is a preferably preserved significant structure.

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1. Editor's Note: See Ch. 260, Zoning.

- (2) As a condition of releasing the delay enforcement, the Commission may require the applicant to submit measured drawings or other documentation for the Town's historic records.
- I. The owner of record shall be primarily responsible for participating in the investigation of options to demolition by actively seeking alternatives with the Commission and any interested parties, by providing any necessary information, by allowing the Commission reasonable access to the property, and by securing the premises.

**§ 154-4. Demolition by neglect.**

- A. If the Commission has reason to believe, through visual inspection or other means, that a preferably preserved significant structure may be undergoing demolition by neglect, then the Commission shall notify the Building Inspector and the owner, and the Commission and the Building Inspector shall jointly hold a public hearing to determine whether or not the significant structure is undergoing demolition by neglect, which determination shall require the concurrence of the Commission and the Building Inspector. In furtherance of determining its condition, the Commission may, at any time, request an inspection of the structure by the Building Inspector.
- B. If the Commission and the Building Inspector both determine that the significant structure is undergoing demolition by neglect, the Commission and the Building Inspector shall attempt to negotiate a voluntary agreement with the owner for appropriate and timely repairs sufficient to structurally stabilize the significant structure and/or prevent further deterioration.
- C. In the event that the Commission and the Building Inspector both determine that they are not able to negotiate such an agreement with the owner, for any reason, or that the owner has agreed to undertake but has failed satisfactorily to complete such repairs in a timely manner, then the Commission and the Building Inspector may take such action as is permitted under this bylaw, including seeking a court order that specific repairs be undertaken to secure the significant structure against the elements, vandals or vermin, to halt further deterioration, and/or to stabilize it structurally. The Commission may forbear from commencing an action in court for any reason.
- D. Upon completion of all repairs that have been agreed upon between the owner and the Commission and the Building Inspector or that have been ordered by the Commission and the Building Inspector or that have been ordered by the court, and upon certification by the Building Inspector that said repairs have been completed, the Commission shall certify that the structure is no longer undergoing demolition by neglect.



**§ 154-5. Emergency demolition.**

Nothing in this bylaw shall be construed to prevent the demolition of any structure or portion thereof which the Building Inspector shall certify is required by public safety because of an unsafe or dangerous condition. However, the Building Inspector shall endeavor to notify the Commission of his intention to cause or permit such demolition as early as possible.

**§ 154-6. Enforcement and remedies.**

- A. The Commission and the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary or appropriate to obtain compliance with the requirements of this bylaw and/or to prevent a threatened violation thereof.
- B. Any owner of a significant structure who demolished such structure without first obtaining a demolition permit in accordance with the provisions hereof shall be subject to a fine of not more than \$300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished significant structure is completed or unless otherwise agreed by the Commission.
- C. If a significant structure is demolished without first obtaining a demolition permit in accordance with the provisions hereof, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership or control unless the permit is for the faithful restoration referred to in Subsection B above, or unless otherwise agreed by the Commission.

**§ 154-7. Severability.**

In case any section, paragraph or part of this bylaw should be for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

**Chapter 161****JUNK AND JUNK DEALERS****GENERAL REFERENCES**

**Criminal record background checks — See Ch. 126.**

**Peddling and soliciting — See Ch. 192.**

**Solid waste — See Ch. 204.**

**Licenses and permits — See Ch. 168.**



## ARTICLE I

**Storage of Junk Vehicles**

**[Adopted 3-13-1967 ATM; amended 4-27-1981 ATM (Ch. 5, § 1, of the Bylaws)]**

**§ 161-1. Storage prohibited.**

No occupier or owner of land shall permit any junked, stripped, partially dismantled or wrecked motor vehicle, or parts thereof, debris, junk, scrap metals or other waste material or waste products to be stored, parked or placed on any premises owned or occupied by him unless the same shall be within a building or area such that the debris or other materials previously enumerated shall be unexposed to view of the public or abutters, or within an area operated by a properly licensed person or persons, or corporation for the purpose of selling the same and is not in violation of any other bylaw of the Town or rule or regulation of any Town agency or law of the commonwealth.

**§ 161-2. Unregistered motor vehicles.**

No occupier or owner of land shall permit more than one unregistered used motor vehicle within public view or the view of abutters on the land owned or occupied by him, unless such unregistered used motor vehicles are used regularly on the premises or unless such unregistered used motor vehicles are displayed by a properly licensed person or persons, or corporation for the purpose of selling the same.

**§ 161-3. Notice of violation.**

The Selectmen, either as a result of their own observations or of the receipt of a complaint from any individual, may, when a majority of the Board of Selectmen determines that a violation of this bylaw exists, notify in writing the occupier or owner of land on which such an offending vehicle, parts thereof or other material within the meaning of §§ 161-1 and 161-2 is permitted, to remove the same in or within five days from the date of the notice; delivery of such notice shall be made by mailing the same by ordinary mail, postage prepaid, to the last known address of said owner or occupier of such land. Every day that such an offending vehicle, or parts thereof, or other offending materials within the meaning of this bylaw shall be allowed to remain on the premises, commencing with the sixth day after the date of said notice, including Saturdays, Sundays and holidays, shall be considered a separate offense.

**§ 161-4. Violations and penalties.**

Each violation of this bylaw shall be punished as set forth in Chapter 58, Penalties and Enforcement.



ARTICLE II

**Junk Dealers**

**[Adopted 11-15-1929 STM (Ch. 5, § 13, of the Bylaws)]**

**§ 161-5. License required.**

No person shall act as a collector of, dealer in, or keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles in the Town of Lynnfield without first obtaining a license from the Selectmen.

**Chapter 168**

**LICENSES AND PERMITS**

**GENERAL REFERENCES**

**Criminal record background checks — See  
Ch. 126.**

## ARTICLE I

**Denial or Revocation for Failure to Pay Taxes  
[Adopted 4-27-1987 TM]****§ 168-1. Notice to licensing authority.**

The Tax Collector or other municipal officer responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the "Tax Collector," shall annually 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 for not less than a twelve-month period, 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.

**§ 168-2. Authority of licensing authority.**

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 purpose of such proceeding at law, except for an 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 municipality as of the date of issuance of said certificate.

**§ 168-3. 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.

**§ 168-4. Waiver of action.**

The 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/her immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.

**§ 168-5. Exceptions.**

This bylaw shall not apply to the following licenses and permits. All references in this § 168-5 to statutes are references to the General Laws of Massachusetts,

MGL c. 48, § 13	Open burning
MGL c. 101, § 33	Sale of articles for charitable purposes
MGL c. 149, § 69	Children work permits
MGL c. 140, § 21E	Clubs, associations dispensing food or beverage licenses
MGL c. 140, § 137	Dog licenses
MGL c. 131, § 12	Fishing, hunting, trapping licenses
MGL c. 207, § 28	Marriage licenses
MGL c. 140, § 181	Theatrical events, public exhibition permits



**Chapter 175****NEWSRACKS****GENERAL REFERENCES**

**Streets and sidewalks — See Ch. 217.**

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**§ 175-1. Findings.**

The unregulated installation, use or maintenance of newsracks in public streets and private streets to which the public has a right of access will result in the obstruction of sidewalks that will interfere with the public's right to unhampered passage thereon, will create traffic congestion or illegal parking or stopping by motorists in order to purchase newspapers, will damage municipal property because of the chaining of newsracks to poles, traffic standards or other fixtures, will interfere with the performance of required municipal services, will create unsightly conditions and will endanger the safety and welfare of the inhabitants of the Town of Lynnfield.

**§ 175-2. Word usage; definitions.**

- A. When not inconsistent with the context, words used in the present tense include the future; words in the plural include the singular; and words in the singular include the plural.
- B. For the purposes of this bylaw, the following words and phrases shall have the meanings given herein:

**DISTRIBUTOR** — Any person responsible for the installation, use or maintenance of a newsrack in a public street.

**NEWSRACK** — Any self-service or coin-operated box, container, storage unit or other dispenser installed, used or maintained for the display and sale of newspapers, periodicals or other printed matter.

**ROADWAY** — That portion of a highway, street or way improved, designed or ordinarily used for vehicular travel, exclusive of tire berm or shoulder.

**SIDEWALK** — That portion of a street between the curblines or lateral lines of a roadway and the adjacent property lines, intended for use by pedestrians, including any grass or unpaved strip between the roadway and the portion intended for use by pedestrians.

**STREET** — The entire width between the boundary lines of every way publicly maintained and private way to which the public has a right of access when any part thereof is open to the use of the public for purposes of vehicular travel, and it includes any publicly owned alley or public grounds in the Town of Lynnfield.

**§ 175-3. Permit required; conditions for issuance.**

- A. No person, firm, corporation or other entity shall install, use or maintain any newsrack without first obtaining a written permit therefor from the Board of Selectmen.
- B. No such permit shall be issued until after receipt by the Board of Selectmen of a written application therefor made on forms provided by the Selectmen and signed by the applicant or his authorized representative.
- C. No such permit shall be issued until after the applicant has filed with the Town a certificate of insurance in the amount of \$1,000,000 conditioned substantially that the applicant shall indemnify and save harmless the Town of Lynnfield and its officers from all suits and actions of every kind brought against said Town and its officers for or on account of any injuries or damages received or sustained by any person or damages suffered by the Town in consequence of, or resulting from the installation, use or maintenance of each such newsrack, or the failure of any applicant to conform to the requirements of this Chapter 175 of the Town's bylaws.
- D. No permit shall be issued for a newsrack unless all requirements of this Chapter 175, as well as all other applicable provisions of the Town's bylaws, are fully met by the proposed newsrack and its location. Any issued permit may be revoked by the Selectmen upon their determination that the newsrack to which it applies, as installed or maintained, violates any provisions of the Town's bylaws. **[Amended 3-1-1985]**
- E. Nothing herein contained shall be construed to relieve any applicant from any obligations or liabilities to the Town of Lynnfield.

**§ 175-4. Prohibitions; standards.**

- A. No person shall install, use or maintain any newsrack which projects onto, into or over any part of the roadway of any public street.
- B. No person shall install, use or maintain any newsrack which in whole or in part rests upon, in or over any sidewalk or other public place when such installation, use or maintenance endangers the safety of persons or property or when such site or location is used for public utility purposes, public transportation purposes or government use or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, sidewalk or street cleaning and/or snow removal, the ingress into or egress from any residence, place of business or any legally parked or stopped vehicle or the use of poles, posts, traffic signs or signals, hydrants, mailboxes or other objects permitted at or near said location.

- C. Any newsrack which in whole or in part rests upon, in or over any sidewalk or other public place shall comply with the following standards:
- (1) No newsrack shall exceed four feet in height, 30 inches in width or two feet in depth.
  - (2) No newsrack shall be chained, bolted or otherwise attached to any property owned or maintained by the Town of Lynnfield, except that it may be bolted to a sidewalk, in which case, upon its removal, the distributor shall restore the sidewalk to its condition prior to such installation.
  - (3) No newsrack shall be placed, installed, used or maintained:
    - (a) Within three feet of any crosswalk;
    - (b) Within 15 feet of any fire hydrant;
    - (c) Within five feet of any fire or police call box or other emergency facility;
    - (d) Within five feet of any driveway, public or private;
    - (e) Within three feet ahead or 15 feet to the rear of any designated bus stop, taxi stand or place marked for handicapped parking;
    - (f) Within three feet of any bus bench or shelter;
    - (g) At any location whereby the clear space for the passageway of pedestrians is reduced to less than four feet;
    - (h) Within three feet of any display window of any building abutting the sidewalk or other public place in such a manner as to impede or interfere with the reasonable use of such window for display purposes.
  - (4) No newsrack shall be used for advertising signs or publicity purposes other than that which is essential to identify, on no more than two sides of the newsrack, the newspaper, periodical or other printed matter offered for sale therein. No letter thereon shall exceed two square inches in size. Advertising signs, promotional decorations, banners and moving signs shall not be permitted on the newsrack, except as otherwise provided in this section.
  - (5) Each newsrack shall be maintained in a clean and neat condition and in good repair at all times, and it shall be one color that does not unnecessarily contrast with the immediate surroundings, except that the lettering permitted in Subsection C(4) and (6) of this section may contrast with such one color. Neither such one color nor any of the permitted lettering shall employ reflectorized paint, day-glo, fluorescent or scotchlite reflective materials or materials of like nature.

- (6) Every person who places or maintains a newsrack on the streets of the Town of Lynnfield shall have his name, address and telephone number affixed thereto in a place where such information may easily be seen.

**§ 175-5. Applicability; time limit for compliance; violations and penalties; appeals.**

The provisions of this bylaw shall apply to existing newsracks within the Town of Lynnfield, except that the distributors thereof shall have 30 days within which to comply with said provisions or within such additional time as may be allowed in the discretion of the Board of Selectmen.

- A. If any distributor violates any provisions of this article, it shall be the duty of the Chief of Police to determine whether or not such a violation has occurred and thereafter to notify the distributor to correct the violation within five days thereafter. Such notification and direction shall be in writing; it shall specify the nature of the violation and whether or not it warrants removal of the newsrack if not corrected within five days, and it shall direct correction; it shall be served upon the distributor in the same manner as a summons; or it shall be telephoned to the distributor at the telephone number designated by the distributor as provided in § 175-4C(6) above and confirmed in a written notice, mailed by certified mail with return receipt requested to the address designated by the distributor as provided in § 175-4C(6) above. During such five-day period, the distributor shall have a right to a hearing before the Chief of Police or his duly designated representative to determine whether or not such violation warrants removal prior to final determination. At such hearing, the distributor shall have the right to examine the evidence upon which the Chief of Police acted, to cross-examine any witnesses who may have appeared before him and to offer any evidence which may tend to show that the subject newsrack does not violate any provisions of this bylaw and that the claimed violation is not of a nature which warrants removal prior to final determination. The hearing officer shall promptly review such evidence, notify the distributor of his decision with respect thereto, and, if necessary, afford the distributor a reasonable opportunity to comply with such determination.
- B. If said violation is not corrected within such five-day period or such further reasonable period as may be contained in a superseding notice by the Chief of Police, the Department of Public Works shall be directed by the Chief of Police to remove such newsrack and place it in storage in a secure place. The cost of removal and storage shall be billed to the Distributor, and in the event of nonpayment, a civil suit for money damages may be brought by the Town Counsel in the name of the Town.
- C. If such newsrack is not claimed within 30 days, it shall be treated as abandoned property and disposed of as provided by law.

- D. Any distributor who, having been notified and directed as provided herein to correct a violation of the provisions of this bylaw, fails to correct such violation as provided in such notice shall be guilty of a violation and shall be subject to punishment as provided in Chapter 58, Penalties and Enforcement, of the bylaws of the Town of Lynnfield.
- E. Any distributor or other person aggrieved by a finding, determination, notice, or action taken under the provisions of this section may appeal to the Board of Selectmen. An appeal shall be made in writing, and it must be filed within five days after the receipt of written notice of any protested decision or action with the office of the Board of Selectmen by a letter of appeal briefly stating therein the basis for such appeal. A hearing thereon shall be scheduled to be held on a date no more than 15 days after receipt of such letter. The appellant shall be given at least five days' notice of the time and place of hearing. The Board of Selectmen shall give the appellant or any other interested person a reasonable opportunity to be heard in order to show cause why the determination or action appealed from should not be upheld. The Board of Selectmen shall make a final determination at the conclusion of the hearing or as soon thereafter as is practicable. In the event that a distributor is successful in reversing a determination that the claimed violation was of a nature which warranted removal pending a final determination, no fee shall be imposed for the removal and storage of the newsrack which was the subject of the appeal, and failure to comply with such determination shall not serve as a basis for prosecution under Subsection D of this section.
- F. Nothing contained in this bylaw shall be interpreted to limit or impair the exercise by the Town of Lynnfield of its police power in the event of an emergency to remove any newsrack which presents a clear and present danger of imminent personal injury or property damage to users of the public streets of this Town.

#### **§ 175-6. Severability.**

In the event that any provisions of this Chapter 175 of the Town's bylaws shall be held invalid, such invalidity shall not affect the validity of any other provision thereof.

#### **§ 175-7. Repeal of conflicting regulations.**

All bylaws or regulations in apparent conflict with this Chapter 175 of the Town's bylaws shall be construed in a manner which renders the same compatible, but if such construction is impossible, the portions of said conflicting bylaws or regulations are hereby repealed.

## **Chapter 179**

### **NOISE**

#### **GENERAL REFERENCES**

**Vehicles and traffic — See Ch. 230.**

**Traffic regulations — See Ch. 380.**

## ARTICLE I

**Compression Brakes****[Adopted 3-9-2009 STM (Ch. 4, § J, of the Bylaws)]****§ 179-1. Prohibited use.**

Except in the case of an emergency, it is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated, within the Town limits of the Town of Lynnfield, any compression brake, engine brake, dynamic brake or mechanical exhaust device designed to assist in the deceleration or braking of any motor vehicle, if such device or devices result in excessive, loud or otherwise unusual noise.

**§ 179-2. Violations and penalties.**

Violation shall be punishable as set forth in Chapter 58, Penalties and Enforcement.

**Chapter 184**

**PARKS AND RECREATIONAL AREAS**



## ARTICLE I

**Pillings Pond****[Adopted 3-11-1957<sup>2</sup> (Ch. 5, § 16, of the Bylaws)]****§ 184-1. Adoption and approval of regulations.**

The Board of Selectmen of Lynnfield, acting under the authority of Chapter 656 of the Acts and Resolves of the Legislature of Massachusetts of the year 1956, adopted the following rules and regulations on May 1, 1958. The rules and regulations relative to fishing have been approved by the Division of Fisheries and Game of the Department of Natural Resources, and all other rules and regulations have been approved by the State Department of Public Works, as required by this chapter.

**§ 184-2. Nuisance behavior prohibited.**

No person shall annoy another person, or utter any profane, threatening or abusive language or loud outcry, or solicit any subscription or contribution; or have possession of or drink any intoxicating liquor; or play any game of chance; or have possession of any instrument of gambling; or do any obscene or indecent act; or make an oration or harangue, or any political or other canvass or solicitation on the waters of Pillings Pond.

**§ 184-3. Restrictions on conduct.**

No person shall throw any stone or other missile, or have possession of any firecracker, torpedo or fireworks; or, except with the written authority of the Board of Selectmen, engage in business, sell or give away any goods, wares or circulars; or post, paint, affix or display any sign, notice, placard or advertising device; or have possession of or discharge any firearm on or over the waters of Pillings Pond.

**§ 184-4. Swimming restrictions.**

No person shall bathe in the waters of Pillings Pond except in a costume proper for bathing purposes and either at a place designated therefor or with the consent of the owner or person in possession of the land immediately adjoining such place. All public bathing shall end at 8:00 p.m.

**§ 184-5. Solid waste; mooring restrictions.**

No person shall throw, drop or place in the waters of Pillings Pond any wastepaper, rubbish, brush, leaves, or refuse; or, without a written permit from the Board of Selectmen, permanently moor any vessel, boat, canoe, raft or float outside private property or locations designated for the purpose by buoys or markers set under the direction of said Board of Selectmen.

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2. Editor's Note: These rules and regulations were approved by the Department of Public Works 6-23-1958.

**§ 184-6. Ice fishing.**

Whoever shall at any time make an opening in the ice of Pillings Pond exceeding 12 inches in diameter shall properly guard such opening by lights, ropes or brush so as to prevent accidents.

**§ 184-7. Registration of boats and vehicles.**

Every owner of, or person in control of, a motor boat or boat propelled by other than muscular power upon the waters of Pillings Pond, or iceboat or any motor-driven vehicle upon the pond when frozen, shall register the same with the Board of Selectmen, which registration shall state the length, the size, the seating capacity and condition of the boat, the character of the motor power, horsepower, number of cylinders, and shall state what equipment, if any, is provided in said boat, for the purpose of reversing the same, and all other appliances required by law. No person in control of any boat shall permit more persons on board than the seating capacity provides. The holders of each permit issued as aforesaid shall provide the number assigned by the Commonwealth of Massachusetts to the Board of Selectmen, which shall appear on the vessel in accordance with the requirements of the Commonwealth of Massachusetts.

**§ 184-8. Motorboat speed and operation.**

No person operating a craft propelled by other than muscular power shall pass another craft within 50 feet nor circle around any craft in a manner as to annoy or endanger the occupants of other craft, nor pass between moored rafts or floats and the shore. No craft shall operate at a speed that endangers the life, limb or property of any person. No towline shall exceed 50 feet from the point of contact on towboat to object being towed. The Board of Selectmen may on application issue permits for parades, races, or special events on stated occasions.

**§ 184-9. Operation of nonmotorized vessels; rentals.**

No person shall row or paddle a boat or canoe unless able to control or handle the same with safety to himself and others; or in such a manner as to annoy or endanger the occupants of other boats or canoes; or neglect or refuse to stop the same or to place the same when stopped as directed by a police officer in uniform or who displays his badge; or abandon a hired boat or canoe or leave the same unattended by some person or fail or neglect to return the same to the place from which it was hired except with the written consent of the owner; and no boats or canoes of any description shall be rented to any person under the influence of intoxicating liquors.

**§ 184-10. Nighttime operation of vessels.**

No person shall operate a motor or other power boat of any description during the period of from one hour after sunset until one hour before sunrise at a speed exceeding 10 miles per hour and there shall be attached to the same a white light aft to show all around the horizon. No other lights

are permitted except by written permission of the Board of Selectmen. Said boat shall be equipped with a proper muffler or underwater exhaust. All craft shall operate at a reasonable speed on Pillings Pond.

**§ 184-11. Passing vessels.**

When any person having charge of a vessel, canoe, boat or motorboat meets another such vessel in a head-and-head manner, that is, head on, or nearly so, it shall be the duty of each craft to pass on the right side of the other. But, if the course of such vessel, canoe, boat or motorboat is so far on the left side of each other as not to be considered as meeting head and head, each shall pass on the left side of each other. When any person, having charge of a vessel, canoe, boat or motor boat, overtakes another vessel, canoe, boat or motorboat, it shall be the duty of the person in charge of the overtaking boat to pass on the left side.

**§ 184-12. Boat and canoe rental permits.**

Persons engaging in the business of renting boats and canoes to be used upon the waters of Pillings Pond shall obtain a permit, to cost \$5. Said permit shall be in force for one year.

**§ 184-13. Violations and penalties; permits.**

- A. Any person who violates any rule or regulation or order of said Board of Selectmen or any provision of the Act shall be punished by a fine of not more than \$20.
- B. Application for a permit must be made by the boat owner or his agent and can be obtained from the Clerk of the Board of Selectmen.
- C. The Board of Selectmen shall use its discretion as to issuing permits in consideration of the comfort and well being of residents of the Pond, and has the right to revoke or suspend the registration of any boat it deems detrimental to the safety and comfort of the residents of the Pond.
- D. Permits will cost \$2 and expire on the following December 31.
- E. These regulations are made up with the consideration that Pillings Pond is an artificial pond.

**Chapter 188****PEACE AND GOOD ORDER****GENERAL REFERENCES**

**Streets and sidewalks — See Ch. 217.**

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**§ 188-1. Rude and disorderly behavior.**

- A. No person shall behave in a rude and/or disorderly manner or use any indecent, profane or insulting language, gestures or objectionable sounds, or assemble in a disorderly manner with others:
- (1) In any public way, lane, alley or other public place; or
  - (2) In or near any dwelling house, building or other place to which the public has the right of access as invitees.
- B. Violation of this bylaw shall be punished in accordance with Chapter 58, Penalties and Enforcement.

**§ 188-2. Obstruction of sidewalks and street crossings.**

No person shall stand upon or near any sidewalk or street crossing so as to obstruct free passage for foot passengers; and any person or persons obstructing any sidewalk or street crossing shall move on immediately after a request made by one of the Selectmen, the Chief of Police, or any constable or police officer; and any person neglecting or refusing to move when so requested shall be liable to a penalty in accordance with Chapter 58, Penalties and Enforcement.

**§ 188-3. Obstruction of sidewalks with teams or merchandise.**

No person shall place or cause to be placed upon any sidewalk in the Town a horse, carriage, automobile or any goods and merchandise, or other obstruction or any team, except for the purpose of loading or unloading the same, or drive or lead any horse or neat cattle thereon, under a penalty in accordance with Chapter 58, Penalties and Enforcement.

**Chapter 192**

**PEDDLING AND SOLICITING**

**GENERAL REFERENCES**

**Advertising — See Ch. 103.**

**Junk and junk dealers — See Ch. 161.**

**Criminal record background checks — See Ch. 126.**

**Licenses and permits — See Ch. 168.**

**Streets and sidewalks — See Ch. 217.**



## ARTICLE I

**Fruit, Vegetable and Food Vendors**

**[Adopted by the Board of Selectmen 8-22-1932 (Ch. 5, § 12, of the Bylaws)]**

**§ 192-1. License required; fee.**

- A. No persons, unless duly licensed by the Director of Standards of the Commonwealth, shall go from place to place in this Town selling, or bartering, or carrying or exposing for sale or barter any meat, butter, cheese, fish, fresh fruits or vegetables, in or from any cart, wagon or other vehicle, or in any other manner, without a license therefor from the Board of Selectmen; provided, however, that this section shall not apply to any person who sells only fruits or vegetables raised or produced by himself or by his family, or fish which is obtained by his own labor or the labor of his family.
- B. The Board of Selectmen shall have authority to grant such license. Said licenses, unless sooner revoked by the Board of Selectmen, shall expire on the 30th day of April after the granting thereof, and each person so licensed shall pay therefor a fee of \$10. **[Amended 4-28-1975 ATM]**

**§ 192-2. Vehicle and receptacle identification.**

Every vehicle or other receptacle used by a licensee while peddling shall have plainly printed on each side thereof, the name of the licensee and the number of his license.

**§ 192-3. Disturbing the peace prohibited; maintenance of vehicles and receptacles.**

No person hawking, peddling or carrying or exposing any articles for sale shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the Town, or otherwise than in vehicles and receptacles which are neat and clean and do not leak.

**§ 192-4. Revocation of license.**

Any license granted under these regulations or any regulations amendatory or additional thereto may be revoked by the Selectmen.

**§ 192-5. Violations and penalties. [Amended 10-19-1981 ATM]**

Whoever violates any provision of these regulations shall be punished as set forth in Chapter 58, Penalties and Enforcement.

**§ 192-6. Door-to-door sales. [Amended 4-28-1975 ATM]**

Unless the requirements of this Article I are specifically waived by the Selectmen, this article will apply to all so-called "door to door" vendors.





## ARTICLE II

**Solicitors and Canvassers****[Adopted 4-27-1981 ATM (Ch. 5, § 23, of the Bylaws)]****§ 192-7. Permit and license required.**

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the corporate limits of the Town of Lynnfield without first obtaining a permit and license therefor in compliance with the provisions of this bylaw.

**§ 192-8. Exceptions. [Added 10-20-2014 ATM by Art. 16]**

The provisions of this bylaw shall not apply to the following persons:

- A. Any person duly licensed under Chapter 101 of the General Laws or any persons exempted under Chapter 101, Chapter 149, § 69, Chapter 180, § 4, or any other General Law;
- B. Any officer or employee of the Town, county, state or federal government on official business; or
- C. Route salespersons or others having established customers making periodic deliveries to such customers or making calls upon prospective customers to solicit orders for periodic route deliveries, including but not limited to news carriers.
- D. Any person or persons canvassing or soliciting for political, religious and philanthropic purposes.

**§ 192-9. Hours of operation. [Amended 10-21-1985 TM]**

It shall be unlawful for any solicitor or canvasser, as defined in § 192-10 of this bylaw, to engage in such business within the Town of Lynnfield before the hour of 8:00 a.m. in the morning and (a) after the hour of 8:00 p.m. in the evening during the period when Eastern Standard Time is in effect, and (b) after 9:00 in the evening during the period when Daylight Savings Time is in effect.

**§ 192-10. Definitions.**

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

**CANVASSER OR SOLICITOR** — Any individual, whether resident of the Town of Lynnfield or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, distributing sales information in any manner, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future or soliciting information opinions for surveys or polls, whether or not such

individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not; provided that such definition shall include any person who, for himself, or for another person, firm, or corporation, hires, leases, uses, or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place with the Town for the sole purpose of exhibiting samples and taking orders for future delivery. All census enumerators employed by the United States of America, or the Commonwealth of Massachusetts, or the Town of Lynnfield shall not be included in this definition of canvassers and solicitors.

**§ 192-11. Application for permit; fee.**

A. All solicitors or canvassers who engage in activities described in § 192-10 hereof for more than one day per month within Lynnfield must file with the Town Clerk a sworn application in writing (in duplicate) on a form to be furnished by the Town Clerk, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Permanent home address and full local address of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold, if any;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, and the proposed method of delivery;
- (7) A photograph of the applicant, taken within 60 days immediately prior to the date of filing of the application, which picture shall be two inches by two inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor; and
- (9) If applicant is operating or being transported by a motor vehicle, the year, make, model, color, registration number, state of registration, owner's name and address of each such vehicle.  
**[Added 10-20-2014 ATM by Art. 16]**

B. At the time of filing the application, a fee of \$10 shall be paid to the Town Clerk to cover the cost of investigation of the facts stated therein.

**§ 192-12. Investigation and issuance of permit and license.**

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same, and return the application to the Town Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application to the Town Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such soliciting or canvassing. The Clerk shall keep a permanent record of all licenses issued.

**§ 192-13. Fees.**

- A. The license fee which shall be charged by the Town Clerk for such license shall be \$10 per day, \$7 per week or part thereof, \$30 per month, \$300 per year, per each solicitor.
- B. The annual fees herein provided shall be assessed on a calendar-year basis, and on or after July 1 the amount of such fee for annual license shall be 1/2 the amount stipulated above the remainder of the year.
- C. None of the license fees provided for by this bylaw shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the Selectmen for an adjustment of the fee so that it shall not be discriminatory, unreasonable, or unfair as to such commerce. Such application may be made before, at, or within six months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his method of business and the gross volume or estimated gross volume of business and such other information as the Selectmen may deem necessary in order to determine the extent, if any, of such undue burden on such commerce.

The Selectmen shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which they shall determine whether the fee fixed by this bylaw is unfair, unreasonable or discriminatory as to applicant's business and shall fix as the license fee for the applicant an amount that is fair, reasonable and nondiscriminatory, or, if the fee has already been paid, shall order a refund of the amount over and above the fee so fixed.

#### **§ 192-14. Badges.**

The Town Clerk shall issue to each licensee at the time of delivery of his license a badge which shall contain the words "Licensed Solicitor," the period for which the license is issued and the number of the license, in letters and figures easily discernible from a distance of 10 feet. Such badge shall, during the time such licensee is engaged in soliciting, be worn constantly by the licensee on the front of his outer garment in such a way as to be conspicuous.

#### **§ 192-15. Exhibition of license.**

Solicitors and canvassers are required to exhibit their licenses at the request of any citizen.

#### **§ 192-16. Residential property. [Added 10-20-2014 ATM by Art. 16]**

No person shall engage in solicitation or canvassing in or upon any residential property upon which is displayed a sign prohibiting trespassing or solicitation or canvassing.

#### **§ 192-17. Enforcement.**

It shall be the duty of any police officer of the Town of Lynnfield to require any person seen soliciting or canvassing, and who is not known by such officer to be duly licensed, to produce his solicitor's or canvasser's license and to enforce the provisions of this bylaw against any person found to be violating the same.

#### **§ 192-18. Records.**

The Chief of Police shall report to the Town Clerk all convictions for violation of this bylaw, and the Town Clerk shall maintain a record for each license issued and record the reports of violation therein.

#### **§ 192-19. Revocation of license.**

A. Permits and licenses issued under the provision of this bylaw may be revoked by the Board of Selectmen of the Town of Lynnfield after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for license;

- (2) Fraud, misrepresentation, or false statement made in the course of carrying on business as a solicitor or as a canvasser;
  - (3) Any violation of this bylaw;
  - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
  - (5) Conducting the business of soliciting, or of canvassing, in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

#### **§ 192-20. Appeals.**

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the denial of a permit or license as provided in § 192-12 of this bylaw or the action of the Selectmen in the assessing of the fee as provided in § 192-13C of this bylaw shall have the right of appeal to the Board of Selectmen. Such appeal shall be taken by filing with the Selectmen, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Selectmen shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in § 192-19 of this bylaw for notice of hearing on revocation. The decision and order of the Selectmen on such appeal shall be final and conclusive.

#### **§ 192-21. Expiration of license.**

All annual licenses issued under the provisions of this bylaw shall expire on December 31 in the year when issued. Other than annual licenses shall expire on the date specified in the license.

#### **§ 192-22. Renewal of license. [Added 10-20-2014 ATM by Art. 16]**

A license issued under the provisions of this bylaw may be renewed by the Chief of Police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such information and pay such fees as is required to obtain an initial license.

#### **§ 192-23. Violations and penalties.**

Any person violating any of the provisions of this bylaw shall, upon conviction thereof, be punished in accordance with Chapter 58, Penalties and Enforcement.

**§ 192-24. Severability.**

The provisions of these regulations are declared to be severable, and if any section, sentence, clause, or phrase of this bylaw shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this bylaw, but they shall remain in effect, it being the legislative intent that this regulation shall stand notwithstanding the invalidity of any part.

**§ 192-25. Repeal of conflicting regulations.**

All ordinances or parts of regulations inconsistent with the provisions of this bylaw shall be and the same are hereby repealed.

**§ 192-26. Effective date.**

These regulations shall take effect from and after May 8, 1981.

**Chapter 200****SMOKING****§ 200-1. Definitions.**

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

RESTAURANT — A restaurant with a seating capacity of 100 or more persons.

SMOKING — The lighting of or the having in one's possession of any lighted cigar, cigarette, pipe or other tobacco product.

**§ 200-2. Smoking in restaurants prohibited; exception.**

No person shall smoke in any restaurant except in specifically designated smoking areas. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the restaurant.

**§ 200-3. Smoking areas.**

Smoking areas may be designated by proprietors or other persons in charge of restaurants, except in places in which smoking is prohibited by the Fire Marshal or by other law or regulation. Smoking areas designated by proprietors or other persons in charge of restaurants shall comprise no more than 75% of the seating capacity of the restaurant. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke on persons in adjacent no-smoking areas in the case of restaurants consisting of a single room. The provisions of the bylaw shall be considered met if one side of the room is reserved and posted as a no-smoking area, provided that the no-smoking area comprises no less than 25% of the seating capacity of the restaurant.

**§ 200-4. Enforcement by proprietors.**

The proprietor or other person in charge of a restaurant shall make reasonable efforts to prevent smoking in the no-smoking areas of the restaurant by:

- A. Posting appropriate signs;
- B. Arranging seating to provide a smoke-free area;
- C. Asking smokers to refrain from smoking upon request of a client or employee suffering discomfort from the smoke; or
- D. Any other means which may be appropriate.

**§ 200-5. Rules and regulations.**

The Board of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this bylaw.

**§ 200-6. Violations and penalties.**

Any person who smokes in a no-smoking area shall be subject to a fine in accordance with Chapter 58, Penalties and Enforcement.

**§ 200-7. Injunctive relief.**

The Board of Health or any person aggrieved by the willful failure of the proprietor or other person in charge of a restaurant to comply with any provision of this bylaw shall be entitled to injunctive relief in any court of competent jurisdiction against such proprietor or other person in charge of a restaurant.

**§ 200-8. Effect on other prohibitions.**

Nothing in this bylaw shall make lawful smoking in any area in which smoking is or may hereafter be prohibited by law.

**Chapter 204****SOLID WASTE****GENERAL REFERENCES**

Advertising — See Ch. 103.

Junk and junk dealers — See Ch. 161.



## ARTICLE I

**Deposits on Streets****[Adopted as Ch. 5, § 7, of the Bylaws; amended 4-28-2008 ATM]****§ 204-1. Prohibited conduct; violations and penalties.**

No person shall cast at large any handbills in any street, or put or cause to be put or placed in any street, pond, stream, brook or drain or any public or private place within the Town, any dirt, garbage, carrion, shavings, filth, oyster shells, offal, or any kind of rubbish except in such places and in such manner as shall be directed or permitted by the Selectmen, or by the Board of Health, on pain of forfeiting and paying for each offense a sum of not less than \$50 nor more than \$1,000. In case any person so offending shall refuse or neglect to remove such matter or thing without delay, after notice is given to him or her by the Selectmen or Board of Health to so remove the same, such person shall forfeit and pay a further sum of not less than \$50 nor more than \$1,000 for each offense.



## ARTICLE II

**Discarded Appliances****[Adopted 4-27-1981 ATM (Ch. 5, § 20, of the Bylaws)]****§ 204-2. Outdoor storage prohibited.**

Except when put out for an authorized collection of rubbish including such articles, no occupier or owner of land shall permit any discarded appliances, such as a refrigerator, freezer, stove, washing machine, clothes dryer or furniture, or luggage to be stored, parked, or placed on any premises owned or occupied by him unless the same shall be within a building or area such that the appliance, furniture, or luggage shall be unexposed to view or access of the public or abutters.

**§ 204-3. Removal of doors.**

If any of the above articles are discarded, those having enclosed spaces with latchable or lockable lids, covers, or doors must have such door, lid, cover or other part which closes over the enclosed space removed.

**§ 204-4. Notice of violation.**

The Selectmen, either as a result of their own observations or of the receipt of a complaint from any individual, may, when a majority of the Board of Selectmen determines that a violation of this bylaw exists, notify in writing the occupier or owner of land on which such an offending article is found, to remove the same immediately upon receipt of notice; delivery of such notice shall be made by mailing the same by ordinary mail, postage prepaid, to the last known address of said owner or occupier of such land. Every day that such an offending article shall be allowed to remain on the premises commencing with the sixth day after the date of said notice, including Saturdays, Sundays, and holidays, shall be considered a separate offense.

**§ 204-5. Violations and penalties.**

Each violation of this bylaw shall be punished as set forth in Chapter 58, Penalties and Enforcement.

**Chapter 209****STORAGE TANKS, UNDERGROUND****§ 209-1. Additional regulations.**

The requirements of this bylaw shall be in addition to and not in substitution for the requirements of regulations concerning this subject matter of the Board of Selectmen, the Lynnfield Fire Department and the Fire Prevention Regulations of the Commonwealth of Massachusetts, as the same may be amended from time to time.

**§ 209-2. Inspection of fuel oil and diesel fuel tanks.**

- A. All fuel oil and diesel fuel underground storage tanks installed prior to the effective date of this bylaw must be equipped with an appropriate inspection port or access in or within 120 days of said effective date. Such equipping shall be done at the expense of the owner or one in control of the premises in which the tank is located and must be done in a good and workinglike manner and pass an inspection to be performed by the Fire Department to determine that the port affords proper access for inspection.
- B. All fuel oil and diesel fuel underground storage tanks which have been installed for more than 10 years shall be inspected annually for leaks and structural integrity by a person or firm with appropriate qualifications approved by the Fire Department; such inspection shall be completely reported to the Fire Department. The landowner or the person in control of the premises shall bear the expense of such inspection and report. The method of inspection shall be approved in advance by the Fire Department and shall follow accepted engineering practice.
- C. Any tank found to be leaking shall be repaired in a manner which restores its structural integrity and which is in conformity with accepted engineering practice and all applicable local and state law. In the alternative, or if said repairs are unsuccessful, the tank shall be immediately removed or emptied, filled with an inert material, sealed and rendered inoperative.

**§ 209-3. Inspection of underground gasoline tanks.**

When the daily inventory check required by state and/or local law reveals that there is a leak or a probability of a leak or loss of structural integrity of the tank, a "Kent-Moore Test" or a test recognized by accepted engineering practice as its equivalent or better must be scheduled in cooperation with the Fire Department within 24 hours and performed at the earliest possible time, not to exceed 10 days. Until the satisfactory completion of the test, no gasoline shall be added to the tank except for the purposes of the test. In

the event the tank fails to satisfactorily pass the test, it shall be immediately emptied and removed.

**§ 209-4. Removal of gasoline storage tanks.**

All gasoline underground steel storage tanks must be removed immediately after the 20th yearly anniversary of their installation.

**§ 209-5. Severability.**

The invalidity of any section or provision of this Chapter 209 shall not invalidate or otherwise affect any other section or provision hereof.

**§ 209-6. Registration.**

- A. From and after March 1, 1994, any person who owns, leases, or otherwise controls any parcel of land wherein an underground storage tank, including a buried fuel oil storage tank, or container has been installed shall register such tank or container with the Fire Chief. This requirement shall only apply to tanks which are exempt from the registration requirements of 527 CMR 9. Any change in the information on the registration form must be reported within 30 days of the change. As part of the registration process, such person shall furnish to the Fire Chief the following information on the tank or container: size, type of construction, type of fuel or hazardous material being stored, location on the premises (including a sketch map), address and location of property, and evidence of age. The evidence of tank or container age must be deemed sufficient by the Fire Chief to establish the date of installation of said tank or container. If sufficient evidence is not provided to establish the installation date or the tank was installed 20 years prior to the effective date of this bylaw or the tank is not registered as provided herein, then the tank must be immediately tested at the owner's expense. The Fire Chief must provide prior approval of the testing method to be used.
- B. All owners of underground storage systems registered with the Fire Department under this bylaw must affix a tag to the fill pipe of the tank. Such tags will be provided by the Fire Department. Tags must be placed in such a location on the fill pipe of the tank as to be visible to any inspector authorized by the Town, or by an oil dealer. If, on making a delivery, a fuel dealer finds an underground tank without a tag, the dealer is required to provide the tank owner with a notice of the owner's obligation to register the tank with the Fire Department. Such notices will be provided by the Fire Department.

**Chapter 213**  
**STORMWATER MANAGEMENT**

**GENERAL REFERENCES**

**Wetlands protection — See Ch. 240.**

**Zoning — See Ch. 260.**

**Conservation Commission regulations — See Ch. 320.**

**Subdivision regulations — See Ch. 375.**

ARTICLE I  
**Non-Stormwater Discharges**

**§ 213-1. Findings and purpose.**

- A. Increased and contaminated stormwater 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; and flooding.
- B. Regulation of illicit connections and discharges to the municipal storm drainage system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety and welfare and the environment.
- C. The objectives of Article I are:
  - (1) To prevent pollutants from entering the Town's municipal storm drainage system (sometimes hereinafter referred to as the "MS4," an abbreviation for "municipal separate storm sewer system");
  - (2) To prohibit illicit connections and unauthorized discharges to the MS4;
  - (3) To require the removal of all such illicit connections;
  - (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
  - (5) To establish the legal authority to ensure compliance with the provisions of Article I through inspection, monitoring, and enforcement.

**§ 213-2. Definitions.**

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

**AUTHORIZED ENFORCEMENT AUTHORITY** — The Department of Public Works, its employees, officers, or agents are designated to enforce Article I, Non-Stormwater Discharges.

**BYLAW** — Refers to Chapter 213, Stormwater Management, of the Town of Lynnfield Charter and Bylaws.

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), as hereafter amended.

**COMMONWEALTH** — The Commonwealth of Massachusetts.

**DISCHARGE OF POLLUTANTS** — The addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the United States, the Commonwealth, or the Town of Lynnfield.

GROUNDWATER — Water beneath the surface of the ground.

ILLICIT CONNECTION — A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drainage 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 drainage system that is not composed entirely of stormwater, except as exempted in § 213-8. The term does not include a discharge in compliance with a NPDES stormwater discharge permit or a surface water discharge permit, or resulting from fire-fighting activities exempted pursuant to § 213-8.

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.

MS4 — Municipal storm drainage system or municipal separate storm sewer system.

MUNICIPAL STORM DRAINAGE SYSTEM (MS4) — The system of conveyances designed or used for collecting or conveying stormwater, 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.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT — A permit issued by United States Environmental Protection Agency (EPA) or jointly with the commonwealth that authorizes the discharge of pollutants to waters of the United States.

NON-STORMWATER DISCHARGE — Discharge to the municipal storm drainage system not composed entirely of stormwater.

OWNER — A person with a legal or equitable interest in property.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the commonwealth, the federal government, or the Town of Lynnfield 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 waters of the commonwealth, or the Town of Lynnfield. Pollutants shall include, without limitation:

A. Paints, varnishes, and solvents;



- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and
- K. 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.

STORMWATER — Stormwater runoff, snowmelt 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.

TOXIC OR HAZARDOUS MATERIAL OR WASTE — Any material which, because of its quantity, its concentration, or its 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 or 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, by-product 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.

WATERS OF THE TOWN OF LYNNFIELD — All waters within the jurisdiction of the Town of Lynnfield, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, and groundwater.

WETLANDS — Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to MGL c. 131, § 40, and 310 CMR 10.00 et seq.

### **§ 213-3. Applicability.**

This Article I shall apply to flows entering the municipal storm drainage system.

### **§ 213-4. Authority.**

This Article I is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to MGL c. 83, §§ 1, 10, and 16, and the regulations of the federal Clean Water Act found at 40 CFR 122.34

### **§ 213-5. Administration.**

The authorized enforcement authority shall administer, implement and enforce this Article I, and any rules and regulations adopted thereunder. Any powers granted to or duties imposed upon the authorized enforcement authority may be delegated in writing by the authorized enforcement authority to employees or agents of the authorized enforcement authority.

### **§ 213-6. Regulations.**

The authorized enforcement authority may promulgate rules and regulations to effectuate the purposes of this Article I. Failure by the authorized enforcement authority to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Article I.

### **§ 213-7. Prohibited activities.**

- A. Illicit discharges. No person shall dump, discharge, or cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drainage system (MS4), into a watercourse, or into the waters of the commonwealth or the Town of Lynnfield.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drainage system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

- C. Obstruction of municipal storm drainage system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drainage system without prior written approval from the authorized enforcement authority.

**§ 213-8. Exemptions.**

- A. Any discharge or flow resulting from fire-fighting activities is exempt from the prohibitions set forth herein.
- B. The following non-stormwater discharges or flows are exempt from the prohibitions set forth herein, provided that the source is not a significant contributor of a pollutant to the municipal storm drainage system:
- (1) Water line flushing;
  - (2) Flow from potable water sources;
  - (3) Springs;
  - (4) Natural flow from riparian habitats and wetlands;
  - (5) Diverted stream flow;
  - (6) Rising groundwater;
  - (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
  - (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
  - (9) Discharge from landscape irrigation or lawn watering;
  - (10) Water from individual residential car washing;
  - (11) 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;
  - (12) Discharge from street sweeping;
  - (13) Dye testing, provided verbal notification is given to the authorized enforcement authority prior to the time of the test;
  - (14) Non-stormwater discharge permitted under a 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; and

- (15) Discharge for which advanced written approval is received from the authorized enforcement authority as necessary to protect the public health, safety or welfare or the environment.

**§ 213-9. Emergency suspension of municipal storm drainage system access.**

The authorized enforcement authority may suspend municipal storm drainage 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 or welfare or the environment. In the event any person fails to comply with an emergency suspension order, the authorized enforcement authority may take all reasonable steps to prevent or minimize harm to the public health, safety or welfare or the environment.

**§ 213-10. 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, waters of the commonwealth or the waters of the Town of Lynnfield, 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 Fire and Police Departments, Board of Health, and the Department of Public Works. In the event of a release of nonhazardous material, the reporting person shall notify the authorized enforcement authority no later than the next business day. The reporting person shall provide to the authorized enforcement authority 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 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.

**§ 213-11. Enforcement.**

The Director of the Department of Public Works or his or her appointed designee shall enforce this Article I and all regulations, orders, violation notices, and enforcement orders issued thereunder and may pursue all civil and criminal remedies for such violations.

- A. Civil relief. If a person violates the provisions of this Article I, or any regulation, permit, notice, or order issued thereunder, the authorized enforcement authority 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.

B. Orders.

(1) The authorized enforcement authority may issue a written order to enforce the provisions of this Article I 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; and
- (d) Remediation of contamination in connection therewith.

(2) If the authorized enforcement authority 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 completion by the Town of 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 authorized enforcement authority 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 authorized enforcement authority 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.

C. Criminal penalty. Any person who violates any provision of this Article I, regulation, order or permit issued thereunder shall be punished as set forth in Chapter 58, Penalties and Enforcement. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition

procedure set forth in MGL c. 40, § 21D, and adopted by the Town as Chapter 58, § 58-3, of the General Bylaws, in which case the authorized enforcement authority of the Town shall be the enforcing person. The penalty for the first violation shall be a written warning. The penalty for the second violation shall be \$50. The penalty for the third violation shall be \$100. The penalty for the fourth and subsequent offenses shall be \$200. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- E. Entry to perform duties under this Article I. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the authorized enforcement authority and its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations thereunder and may make or cause to be made such examinations, surveys or samplings as the authorized enforcement authority deems reasonably necessary.
- F. Appeals. The decisions or orders of the authorized enforcement authority shall be final. Further relief shall be to a court of competent jurisdiction.
- G. Remedies not exclusive. The remedies listed in this Article I are not exclusive of any other remedies available under any applicable federal, state or local law.

#### **§ 213-12. 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.

## ARTICLE II

**Construction and Post-Construction Stormwater Management for  
New Developments and Redevelopments****§ 213-13. Findings and purpose.**

- A. Regulation of discharges to the municipal storm drainage system (MS4) is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety and welfare and the environment. Increased and contaminated stormwater 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. In addition, land disturbances can cause harmful impacts due to:
- (1) Soil erosion and sedimentation.
  - (2) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater.
  - (3) Contamination of drinking water supplies.
  - (4) Erosion of stream channels.
  - (5) Alteration or destruction of aquatic and wildlife habitat.
  - (6) Flooding.
  - (7) Overloading or clogging of municipal catch basins and municipal storm drainage systems.
- B. Therefore, this Article II establishes stormwater 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. In addition, this Article II establishes stormwater management standards for land disturbances that have harmful impacts, including soil erosion and sedimentation.
- C. The objectives of this Article II are:
- (1) To require practices to control the flow of stormwater from new and redeveloped sites in order to prevent flooding and erosion;
  - (2) To protect groundwater and surface water from degradation;
  - (3) To promote groundwater recharge and infiltration;
  - (4) To prevent pollutants from entering the Town's municipal storm drainage system (MS4) and to minimize discharge of pollutants from the MS4;
  - (5) To ensure adequate long-term operation and maintenance of stormwater-related structures so that they work as designed;

- (6) To require practices that eliminate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbances;
- (7) To ensure that soil erosion and sediment control measures and stormwater runoff control practices are incorporated into the site planning and design process and are implemented and maintained;
- (8) To require practices to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
- (9) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (10) To establish the Town's legal authority to ensure compliance with the provisions of this article.

#### **§ 213-14. Definitions.**

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

**ABUTTER** — The owner(s) of land abutting the activity.

**ALTERATION OF DRAINAGE CHARACTERISTICS** — Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater in the area.

**APPLICANT** — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision of the commonwealth or the federal government to the extent permitted by law requesting a stormwater management permit for proposed land disturbances.

**APPLICANT'S TECHNICAL REPRESENTATIVE** — A registered professional engineer (P.E.) hired by the applicant to certify that design and construction are completed in accordance with the applicable local, state, and federal stormwater requirements.

**AUTHORIZED ENFORCEMENT AUTHORITY** — The Town's authorized agent to enforce construction and post-construction runoff controls as specified in this Article II and the stormwater management rules and regulations. The Conservation Commission is designated as the authorized enforcement authority.

**BEST MANAGEMENT PRACTICE (BMP)** — An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.



BYLAW — Refers to Chapter 213, Stormwater Management, of the Town of Lynnfield Charter and Bylaws.

CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC) — A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.

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

CLEARING — Any activity that removes the vegetative surface cover.

COMMONWEALTH — The Commonwealth of Massachusetts.

DEVELOPMENT — The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISCHARGE OF POLLUTANTS — The addition from any source of any pollutant or combination of pollutants into the municipal storm drainage system or into the waters of the United States, the commonwealth, or the Town of Lynnfield.

EROSION — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENT CONTROL PLAN — A document containing narrative, drawings, and details developed by a registered professional engineer (P.E.) or a certified professional in erosion and sediment control (CPESC), which includes BMPs or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction-related land disturbances. The plan is required as part of the application for a stormwater management permit.

GRADING — Changing the level or shape of the ground surface.

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.

LAND DISTURBANCE — Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel, or similar earth material.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection (DEP), and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and Massachusetts Clean Waters Act, MGL c. 21, §§ 23 through 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MS4 — Municipal storm drainage system or municipal separate storm sewer system.

MUNICIPAL STORM DRAINAGE SYSTEM (MS4) — The system of conveyances designed or used for collecting or conveying stormwater, 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.

OPERATION AND MAINTENANCE PLAN — A plan setting up the functional, financial, and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

OWNER — A person with a legal or equitable interest in property.

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

POINT SOURCE — Any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

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 non-point source, that is or may be introduced into any sewage treatment works or waters of the commonwealth or the Town of Lynnfield. Pollutants shall include, without limitation:

- A. Paints, varnishes, and solvents;
- B. Oil and other automotive fluids;
- C. Nonhazardous liquid and solid wastes and yard wastes;
- D. Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, accumulations and floatables;
- E. Pesticides, herbicides, and fertilizers;
- F. Hazardous materials and wastes; sewage, fecal coliform and pathogens;
- G. Dissolved and particulate metals;
- H. Animal wastes;
- I. Rock, sand, salt, soils;
- J. Construction wastes and residues; and

K. Noxious or offensive matter of any kind.

PRE-CONSTRUCTION — All activity in preparation for construction.

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

REDEVELOPMENT — Development, rehabilitation, expansion, demolition, or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF — Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT — Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

SEDIMENTATION — The process or act of deposition of sediment.

SITE — Any lot or parcel of land or area of property where land disturbances are, were, or will be performed.

SOIL — Any earth, sand, rock, gravel, or similar material.

STORMWATER — Stormwater runoff, snowmelt runoff, and surface water runoff and drainage.

STORMWATER MANAGEMENT PLAN — A plan required as part of the application for a stormwater management permit.

STREAM — A body of running water, including brooks, creeks, and other watercourses, which moves in a definite channel in the ground due to a hydraulic gradient. A portion of a stream may flow through a culvert, be naturally obscured, or run beneath a bridge. A stream's flow may be intermittent (i.e., does not flow throughout the year) or perennial.

WATERS OF THE COMMONWEALTH — All waters within the jurisdiction of the commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WATERS OF THE TOWN OF LYNNFIELD — All waters within the jurisdiction of the Town of Lynnfield, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

WETLANDS — Coastal and freshwater wetlands, including wet meadows, marshes, swamps, and bogs, as defined and determined pursuant to MGL c. 131, § 40, and 310 CMR 10.00 et seq.

#### **§ 213-15. Authority.**

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and

pursuant to MGL c. 83, §§ 1, 10, and 16, and the regulations of the federal Clean Water Act found at 40 CFR 122.34.

**§ 213-16. Applicability.**

- A. No person may undertake a construction activity, including clearing, grading, and excavation, that results in a land disturbance that will disturb an acre of land or more or will disturb less than one acre of land but is part of a larger common plan of development or sale that will ultimately disturb an acre of land or more draining to the Town's MS4 without a stormwater management permit from the authorized enforcement authority. After the initial common plan construction activity is completed for a particular parcel, any subsequent development or redevelopment of that parcel would be regarded as a new plan of development. For example, after a house is built and occupied, any future construction on that lot (e.g., reconstructing after fire, adding a pool or parking area, etc.) would stand alone as a new common plan for purposes of calculating acreage disturbed to determine if a stormwater management permit is required. Construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or purpose of the site.
- B. Exemptions. The following are exempt from the provisions of this Article II:
- (1) Construction activities waived from permit coverage under the NPDES General Permit for Stormwater Discharges from Construction Activities;
  - (2) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations, 310 CMR 10.04;
  - (3) Maintenance of existing landscaping, gardens or lawn areas associated with a single-family dwelling;
  - (4) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
  - (5) Construction of utilities other than drainage (e.g., gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
  - (6) As authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the activities identified in this Article II that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an order of conditions issued by the Conservation Commission; and

- (7) Stormwater discharges resulting from the development or construction relating to any project, or portion thereof, that has received any of the following:
  - (a) Site plan approval or subdivision approval or a special permit from the Planning Board, or a Green Belt special permit from the Zoning Board of Appeals under § 260-8.4 of the Zoning Bylaws; and
  - (b) Emergency work to protect life, limb, or property.

#### **§ 213-17. Administration.**

- A. The authorized enforcement authority shall administer, implement, and enforce this Article II. Any powers granted to or duties imposed upon the authorized enforcement authority may be delegated in writing by the authorized enforcement authority to its employees and agents.
- B. Rules and regulations. The authorized enforcement authority may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this Article II after public notice and public hearing. Failure by the authorized enforcement authority 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 Article II.

#### **§ 213-18. Permits and procedures.**

Permits and procedures shall be defined and included as part of any rules and regulations promulgated as permitted in this Article II.

#### **§ 213-19. Fees.**

- A. Application and review fee.
  - (1) The authorized enforcement authority shall collect with each submission an application and review fee to cover expenses connected with the review of the application for stormwater management permit. The fee shall be as set from time to time by the authorized enforcement authority.
  - (2) The applicant must hire a registered professional engineer (P.E.) to certify that the plans are in accordance with the Town's standards. The authorized enforcement authority is authorized to retain professional outside consultants to review the plans and to advise the authorized enforcement authority concerning them, and to apply funds paid by the applicant for the application and review fee to defray the cost of hiring such consultants. All unused funds remaining from this fee after approval or denial of the application shall be returned to the applicant.
- B. Inspection fee.

- (1) The authorized enforcement authority shall collect an inspection review fee to cover expenses connected with the inspection of the applicant's compliance with the Stormwater management permit. The fee shall be in an amount as set from time to time by the authorized enforcement authority.
  - (2) The purpose of this fee is to cover all professional inspection costs from the time of the beginning of construction until the certificate of completion has been issued. The authorized enforcement authority is authorized to retain professional outside consultants to inspect the work and to advise the authorized enforcement authority concerning the same, and to apply funds paid by the applicant for the inspection fee to defray the cost of hiring such consultants.
  - (3) The inspection fee shall be paid by the applicant prior to any construction activity. All unused funds remaining from this fee after completion of the project shall be returned to the applicant.
- C. Provisions applicable to fees. The following provisions shall apply to funds collected by the authorized enforcement authority as application and review fees and inspection fees:
- (1) If the applicant contests the authorized enforcement authority's selection of an outside consultant on the ground that such consultant has a conflict of interest and/or lacks the minimum required qualifications (consisting of either an educational degree in, or related to, the field at issue, or three or more years of practice in the field at issue or a related field), then the applicant may, within five days after notice by the authorized enforcement authority to the applicant of its selection of such consultant, file a written appeal with the Board of Selectmen, which shall schedule and conduct a hearing on such appeal with reasonable promptness. If the Selectmen vote to overturn the authorized enforcement authority's selection, then the authorized enforcement authority shall select an alternative consultant and give notice thereof to the applicant, who shall have a right to contest such selection on the same grounds and by means of the same procedure set forth above. Any time limits for action by the authorized enforcement authority hereunder or under any other applicable law shall be extended by the duration of said administrative appeal (i.e., from the time the applicant files a written appeal with the Board of Selectmen to the time when the Selectmen vote thereon).
  - (2) All such fees shall be maintained in an interest-bearing account established by the Town Treasurer and shall be kept separate and apart from other monies. The funds in such account shall be expended at the direction of the authorized enforcement authority without further appropriation, provided that such funds are to be expended by it only in connection with carrying out its responsibilities hereunder.

- (3) Any excess amount in the account attributable to an applicant's application and review fees or inspection fees, including accrued interest, shall be repaid to the applicant or the applicant's successor in interest, as the case may be, after approval or denial of the application (with respect to the application and review fees) or issuance of a certificate of completion (with respect to the inspection fees).
- (4) A final report of said account shall be made available to the applicant or the applicant's successor in interest, as the case may be, after project completion. The Town Accountant shall annually submit a report of the special account created hereunder to the Board of Selectmen and Town Administrator for their review, and such report shall be published in the Town's Annual Report. The Town Accountant shall also annually submit a copy of such report to the Director of the Commonwealth's Bureau of Accounts.

**§ 213-20. Waivers.**

- A. The authorized enforcement authority may waive strict compliance with any requirement of this Article II or the rules and regulations promulgated hereunder, where:
  - (1) Such action is not prohibited by federal, state and/or local statutes and/or regulations;
  - (2) Such action is in the public interest; and
  - (3) Such action is not inconsistent with the purpose and intent of this Article II.
- B. 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 this Article II does not further the purposes or objectives of this Article II.
- C. All waiver requests shall be reviewed by the authorized enforcement authority and, if necessary, discussed with other Town departments.
- D. If, in the authorized enforcement authority's opinion, additional time or information is required for review of a waiver request, the authorized enforcement authority may continue a 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.

**§ 213-21. Enforcement.**

- A. The authorized enforcement authority or an authorized agent of the authorized enforcement authority shall enforce this Article II, and all regulations, orders, violation notices, and enforcement orders issued

thereunder, and may pursue all civil and criminal remedies for such violation.

B. Orders.

- (1) The authorized enforcement authority or an authorized agent of the authorized enforcement authority may issue a written order to enforce the provisions of this Article II or the regulations thereunder, which may include requirements to:
  - (a) Cease and desist from construction or land disturbance until there is compliance with this Article II, and an approved stormwater management permit, including the stormwater management plan and the erosion and sediment control plan;
  - (b) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
  - (c) Perform monitoring, analyses, and reporting; and
  - (d) Remediate adverse impacts resulting directly or indirectly from malfunction of the stormwater management system.
- (2) If the enforcing person determines that abatement or remediation of adverse impacts is required, the order shall set forth a deadline by which such abatement or remediation must be completed by the violator or property owner. 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 the property owner shall reimburse the Town's expenses.
- (3) Within 30 days after completion by the Town of all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall 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 authorized enforcement authority 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 authorized enforcement authority 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.

C. Criminal penalty. Any person who violates any provision of this Article II, or any regulation, order or permit issued thereunder, shall be



punished as set forth in Chapter 58, Penalties and Enforcement. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

- D. Noncriminal disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the noncriminal disposition procedure set forth in MGL c. 40, § 21D, and adopted by the Town as Chapter 58, § 58-3, of the General Bylaws, in which case the authorized enforcement authority of the Town shall be the enforcing person. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the authorized enforcement authority shall be final. Further relief shall be to a court of competent jurisdiction.
- F. Remedies not exclusive. The remedies listed in this Article II are not exclusive of any other remedies available under any applicable federal, state, or local law.

**§ 213-22. Severability.**

If any provision, paragraph, sentence, or clause of this Article II shall be held invalid for any reason, all other provisions shall continue in full force and effect.

**Chapter 217**

**STREETS AND SIDEWALKS**

**GENERAL REFERENCES**

**Excavations — See Ch. 138.**

**Zoning — See Ch. 260.**

**Newsracks — See Ch. 175.**

## ARTICLE I

**Use Restrictions****[Adopted as Ch. 4, § B, C and D, of the Bylaws]****§ 217-1. Sidewalk obstructions.**

Whenever any sidewalk becomes obstructed or made impassable by reason of the erecting or repairing of any building, or of doing any work, the person doing or causing the same to be done shall place a good and convenient walk around such obstruction.

**§ 217-2. Projections over sidewalks.**

No person shall place or keep on any sidewalk of the Town, in front of any building, any awning, shade or other projection less than 7 1/2 feet above the sidewalk at the lowest part thereof, nor shall any such awning, shade or projection extend beyond the exterior line of the sidewalk.

**§ 217-3. Gates.**

No gate, either for the use of persons, horses, cattle, carriages or vehicles of any kind, constructed in any fence abutting in the highways of the Town shall open outward over the sidewalk or highway.



## ARTICLE II

**Street Openings and Obstructions**

**[Adopted 3-10-1969 ATM; amended 4-29-1985 TM (Ch. 4, § A, of the Bylaws)]**

**§ 217-4. Permit required; rules and regulations.**

- A. No person, firm, corporation, public utility or agency other than the Selectmen or the Director of Public Works in the lawful performance of their duties, or those acting under their orders, except such other persons as are or may be authorized by statute, shall break or excavate the ground in any street or public way in the Town, or dig below the surface thereof, or place any obstruction thereon, or construct a driveway entrance from any street, without first obtaining a written permit therefor from the Selectmen.
- B. The Selectmen may promulgate and adopt rules and regulations concerning the issuing hereunder of the permits and the requirements for the satisfactory performance of the work authorized under such permit, together with such other matters reasonably related thereto and to implementation and enforcement of the provisions of this bylaw. Prior to adoption of the same, the Selectmen shall hold at least one public hearing on the same, which hearing shall be duly advertised in any newspaper of general circulation in the Town. Copies of the regulations shall be published and made available for sale to the public at a price reasonably calculated by the Selectmen to recover all of the costs of preparing and distributing the same.

**§ 217-5. Application for permit.**

No such permit shall be issued until after receipt by the Board of Selectmen of a written application therefor made in writing on forms provided by the Selectmen and signed by the applicant or his authorized representative.

**§ 217-6. Safety requirements.**

All persons acting under such permit shall put up and maintain a suitable railing or fence around the part of the street affected so long as the same shall remain unsafe or inconvenient for travelers, and such person shall keep one or more lighted lanterns fixed to such railing or fence, or in some other way exposed, every night from dusk through the entire night.

**§ 217-7. Surety bond.**

No such permit shall be issued until after the applicant has deposited with the Selectmen a surety bond or security deposit, in form and amount acceptable to the Selectmen, guaranteeing that any road surface worked upon thereunder will be restored without cost to the Town.

**§ 217-8. Certificate of insurance.**

No such permit shall be issued until after the applicant has filed with the Town a certificate of insurance in amounts acceptable to the Selectmen conditioned substantially that the applicant shall indemnify and save harmless the Town of Lynnfield and its officers from all suits and actions of every kind brought against said Town and its officers for or on account of any injuries or damages received or sustained by any person in consequence of, or resulting from, any work performed by or negligence of said applicant, his servants, agents or employees.

**§ 217-9. Fee for permit.**

The fee for permits issued under this bylaw shall be set from time to time by the Selectmen and may be waived by them in their discretion.

**§ 217-10. Issuance of permit.**

Upon the filing of an application and security as aforesaid, and payment of any fee, the Selectmen shall cause to be issued, on forms provided by them, a permit specifying the nature and location of the work to be done, the terms and conditions of such work imposed to preserve public safety and convenience, and the time within which such work is to be completed, but such time shall not be longer than one year from the date of said permit. Notwithstanding such other conditions as may be imposed, it shall be a condition of each permit issued under this bylaw that the applicant shall, for a period of one year from the date of issuance of such permit, save harmless the Town of Lynnfield from any and all claims for damages arising from or in consequence of any work performed by or any act or omission of the applicant under such permit or of the applicant's servants, agents or employees.

**§ 217-11. Expiration of permit.**

Permits issued under the provisions of this bylaw shall expire as follows: Upon completion of all work specified on the permit, including the restoration of any excavation and the removal of any obstruction, the applicant may present the permit to the Board of Selectmen, which shall cause the Director of Public Works to inspect such work. If the work has been completed to the Board's satisfaction, and in accordance with the terms and conditions of said permit, the Selectmen shall certify the same and the expiration of the permit thereon.

**§ 217-12. Inspections; order to correct violations.**

The Selectmen and the Director of Public Works are authorized to inspect, or cause to have inspected at any time, any or all work performed under a permit issued hereunder. If, in the opinion of the Selectmen and/or the Director of Public Works, the public safety and welfare so warrant, they or he may order the applicant to fill and resurface any excavation or remove any obstruction within 12 hours of such notice; and if such order is not

complied with within such time, he or they may cause such work to be done and the applicant shall be responsible for the cost thereof.

**§ 217-13. Exceptions.**

- A. Section 217-7 of this bylaw shall not apply to public utilities or service companies which elect, in lieu of a bond, to enter into a legally binding agreement with the Town of Lynnfield securing said Town as provided therein.
- B. Nothing in this bylaw shall be construed to prevent or unduly delay the making of any necessary excavation or the performance of any work related thereto by any public service company in the event of an emergency, and in such cases such public service company may proceed with such work without regard for the provisions of this bylaw, provided that within a reasonable period of time after the cessation of such emergency, and not longer than 10 days, all provisions of this bylaw shall become effective with respect to such work.

**§ 217-14. Legal obligations.**

Nothing herein contained shall be construed to relieve any applicant from any obligations or liabilities to the Town of Lynnfield.

**§ 217-15. Violations and penalties.**

Any person, firm or corporation violating any provisions of this bylaw shall be punished as set forth in Chapter 58, Penalties and Enforcement. Each day such a violation shall continue after notice to the offender shall constitute a separate offense.

**§ 217-16. Severability.**

In the event that any provision of this bylaw shall be held invalid, such invalidity shall not affect the validity of any other provision thereof.





ARTICLE III  
**Drain Connections**  
**[Adopted 3-10-1969 (Ch. 4, § F, of the Bylaws)]**

**§ 217-17. Permit required.**

No person shall connect a drain from any property to a Town or common drain without first obtaining a written permit from the Board of Selectmen by following the procedure hereinafter set forth:

- A. The applicant shall file a written application for said permit with the Selectmen which shall state in detail the proposed location, material, size, construction, depth and gradient of the drain and at the same time shall file copies thereof with the Board of Health and Director of Public Works. Said Board of Health and Director shall report in writing to the Selectmen their recommendations on said application within 14 days.
- B. The Board of Selectmen shall act upon said application within 30 days of its receipt unless the applicant shall extend said time in writing.
- C. Upon approval of the application, the applicant shall submit a bond or security deposit, in form and amount acceptable to the Selectmen, to indemnify and hold harmless the Town from any and all loss, damage, cost and expense it may sustain by the reason of the work permitted or the negligence or any act of the applicant, his servants, agents or employees in performing the same.
- D. In addition, the applicant shall prepare and file an easement, in form satisfactory to the Selectmen, which shall enable Town to repair, clean, maintain and replace such drain.

**§ 217-18. Issuance of permit; conditions.**

Upon receipt of the foregoing, the Selectmen shall issue such permit with such terms and conditions as they may determine to be in the best interests of the Town.

**§ 217-19. Prohibited conduct.**

Until such permit has been issued and delivered, no person shall cut into or in any way interfere with such Town or common drain or allow anything to be discharged therein.

**§ 217-20. Maintenance of drains.**

The cleaning, maintaining, repairing and replacement of a drain permitted hereunder, and the cost thereof, shall be the responsibility of the owner of the land from and through which said drains runs. In the event of the owner's failure to clean, maintain, repair and replace such drain, the Selectmen may, in their discretion, cause the same to be done and recover

the cost thereof in action of contract. The provisions of this section shall be included in every application and assented to by the applicant.

**§ 217-21. Compliance with other regulations.**

All persons acting under such permit shall comply with all other provisions of this bylaw as well as all other applicable regulations of the Town.

**§ 217-22. Severability.**

In the event any provision of this bylaw shall be determined to be invalid, such invalidity shall not affect the validity of any other provision of this bylaw.

## ARTICLE IV

**Snow and Ice Removal****[Adopted 10-16-1978 ATM (Ch. 4, §§ G and H, of the Bylaws)]****§ 217-23. Blocking public ways prohibited.**

No person shall move or remove snow or ice from private lands upon any public street, sidewalk or common land of the Town in such a manner as to obstruct or impede the free passage of vehicular or pedestrian traffic upon a way, sidewalk or common land of the Town.

**§ 217-24. Blocking fire hydrants prohibited.**

No owner or occupant of land or other person shall move or place, or cause to be moved or placed, snow and/or ice to any place, in such manner as to result in such snow or ice blocking or impeding access to or use of public fire hydrants. This section shall not apply to plowing or snow removal performed by the Department of Public Works of the Town.

**§ 217-25. Violations and penalties.**

Violations of any provisions of this bylaw shall be punished as set forth in Chapter 58, Penalties and Enforcement. Each day such violation continues shall be considered a separate offense.



## ARTICLE V

**Temporary Repairs to Private Ways  
[Adopted 10-15-1979 ATM (Ch. 4, § I, Para. 1-10, of the Bylaws)]****§ 217-26. Authority to order repairs.**

The Director of Public Works shall have the discretion to cause repairs to be made to private ways within the Town, said discretion to be exercised in conformity to the following standards.

**§ 217-27. Type and extent of repairs; materials.**

Temporary repairs may include the filling and grading of holes and repairs to the surface. Materials used shall, when practical, be the same as, or similar to, those used for the existing and surrounding surface but may also include bituminous concrete or other materials.

**§ 217-28. Drainage.**

Installation or repair of existing drainage may be done if practical and necessary.

**§ 217-29. Public convenience and necessity.**

The Director of Public Works shall not make such repairs unless he has first made a determination that both the public convenience and public necessity require the same. In making such determination, he shall consider all pertinent factors, including, without limiting the generality of the foregoing, the cost of the repairs and the benefit to the general public resulting therefrom.

**§ 217-30. Abutter's petition.**

Repairs amounting to an upgrading of a private way shall not be made without the written request of no less than two-thirds of the landowners whose property abuts the private way.

**§ 217-31. Betterment assessment.**

There shall be no assessment of costs of temporary repairs.

**§ 217-32. Limit on Town liability.**

The Town of Lynnfield shall not be liable for damage caused by said temporary repairs.

**§ 217-33. Term of public use.**

No private way shall be repaired hereunder unless and until it has been open to the use of the public for no less than six years.

**§ 217-34. Cash deposit.**

No cash deposit shall be required.

**§ 217-35. Severability.**

In the event any provision of this bylaw shall be held invalid, such invalidity shall not affect the validity of any other section.

ARTICLE VI  
**Scenic Roads**  
**[Adopted 4-27-2015 ATM by Art. 19]**

**§ 217-36. Purpose.**

The purpose of this bylaw is to allow at Town Meeting the recognition of specific roads in Lynnfield as "scenic roads." By so doing, the public right-of-way along these roads shall not be altered, improved, or reconstructed without approval. For a road designated a scenic road, any repair, maintenance, reconstruction, paving or construction of an additional driveway; cutting or removal of trees; the tearing down, burial, relocation, or destruction of stone walls by any person, public or private, shall require written consent of the Planning Board. No privately owned properties shall be subject to this bylaw.

**§ 217-37. Authority.**

The enactment of this bylaw is authorized by MGL c. 40, § 15C.

**§ 217-38. Definitions.**

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

APPLICANT — Any person or entity that undertakes an action requiring prior written consent pursuant to this bylaw who is therefore required to file an application with the Planning Board.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK — Any such work done within the public right-of-way by any person or entity, public or private, including the roadway and/or construction of an additional driveway.

SCENIC ROAD — The entire area within the boundaries of the public right-of-way other than a state highway or a numbered route.

STONE WALL — A structure of natural stone constructed to enclose, divide, or define an area, and located at least partially within the boundaries of the public right-of-way.

TREE — A tree located within the public right-of-way that is larger than six inches DBH (diameter at breast height).

**§ 217-39. Designation of scenic roads.**

- A. Considerations for scenic road designation. The determination of which roads or portions of roads shall be recommended as scenic roads shall consider these criteria:
- (1) Overall scenic beauty of the public way.
  - (2) The contribution of any vegetation, stonewalls, fences, shoulders or tree canopy.

- (3) The potential for lessening of scenic beauty, aesthetic value or historical significance.
- B. Procedures to designate scenic roads. Upon recommendation or request of the Planning Board, Conservation Commission, or Historical Commission, any road shall, upon vote of a majority of the voters present and voting at any Annual or Special Town Meeting, become a scenic road subject to the provisions in this bylaw. A public hearing regarding the proposed roads shall be conducted prior to Town Meeting.

**§ 217-40. Procedure for actions on scenic road.**

- A. Determination of applicability. The applicant shall submit a written request to the Town Engineer, who shall determine the boundaries of the public right-of-way relative to the location of any specific tree(s) and any specific stonewall(s) to determine the applicability of the bylaw. A copy of the written request shall also be filed with the Planning Board and the Director of Public Works and/or Tree Warden.
- B. Scope of work. The applicant shall deliver to the Planning Board an application with a clear and legible site plan, together with a written description detailing the scope of the proposed work, which will cause the Planning Board to schedule a public hearing within a reasonable amount of time.
- C. Public hearing notice. A notice of public hearing shall be advertised in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing, the cost of which shall be borne by the applicant.
- D. Director of Public Works and/or Tree Warden. Whenever feasible, Planning Board hearings shall be held in conjunction with those to be held by the Director of Public Works and/or Tree Warden acting pursuant to this bylaw. Consent to an action by the Planning Board shall not be construed as implying consent by the Director of Public Works and/or Tree Warden, or vice versa.
- E. Decision of Board. Within 45 days after submission, the Planning Board shall conduct a hearing and take final action thereon by approving, modifying, or disapproving the application. Failure of the Board to take final action within the time allotted shall be construed as constructive approval. Extension of time may be agreed upon at the written request of the applicant.
- F. Appeals process. The applicant can appeal the decision of the Planning Board to the Board of Selectmen within 21 days. The appeal shall be submitted in writing in which the reasons for the appeal are itemized.
- G. Enforcement.



- (1) Without waiving any other enforcement authority, violations of the Scenic Road Bylaw shall be punishable by a fine of \$300. In addition, the property owner and whoever is responsible for the violation shall be required within 60 days to:
  - (a) Restore any altered stone walls to the condition they were in prior to the alterations; and
  - (b) Plant tree(s) of similar and native species to those which may have been cut or removed; or
  - (c) Implement other mitigating measures as may be directed by the Planning Board.
- (2) The failure of the property owner to restore or mitigate as directed by the Planning Board shall be deemed a subsequent and separate violation. The Planning Board may assess further penalties of up to \$300 for each fourteen-day period during which any violation has not been corrected as directed by the Planning Board.

**§ 217-41. Actions that do not require approval.**

- A. Emergency repair. Nothing in this bylaw shall prevent any work being performed as the result of emergency conditions that threaten the lives, health, and/or safety of the public.
- B. Normal repair. The provisions of this bylaw will not restrict either the Department of Public Works or any utility companies from conducting normal maintenance or repairs.
- C. Stonewall repair. A property owner's repair of a stonewall using natural stones and of similar appearance to the original wall shall not be restricted.

**§ 217-42. Severability.**

If any section or subsection of this bylaw is found to be unconstitutional or contrary to the laws of the Commonwealth of Massachusetts or the United States of America, then that section or subsection shall be stricken from this bylaw, and the remainder of this bylaw shall remain in full force and effect.

## **Chapter 221**

### **SWIMMING POOLS**

#### **GENERAL REFERENCES**

**Building Code — See Ch. 120.**

**Zoning — See Ch. 260.**

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#### **§ 221-1. Definitions.**

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

**FAMILY SWIMMING POOL** — A swimming pool located in the Town and used or intended to be used solely by the owner, operator, lessee, or tenant thereof and his family, and by persons invited or allowed to use it without payment of any fee or charge in the form of money or other consideration for the privilege of using it.

#### **§ 221-2. Interference with neighboring property owners prohibited.**

No family swimming pool shall be installed, erected, designed, operated, used, or maintained so as to interfere unduly with the right of the owner or possessor of adjoining land or other land in the neighborhood to use and enjoy his land.

#### **§ 221-3. Lighting.**

Lights used to illuminate any family swimming pool shall be arranged and shaded in order that they may be reflected away from all adjacent premises.

#### **§ 221-4. Noise.**

No person shall make or continue or cause to be made or continued in or about a family swimming pool any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, nor shall any person, in connection with or incidental to the use or existence of a family swimming pool, play or operate or suffer to be played or operated any radio, receiving set, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such manner as to disturb the peace, quiet and comfort of the neighborhood.

#### **§ 221-5. Violations and penalties.**

Whoever violates any provision of this bylaw shall be punished as set forth in Chapter 58, Penalties and Enforcement.

**Chapter 230**

**VEHICLES AND TRAFFIC**

**GENERAL REFERENCES**

**Use of compression brakes — See Ch. 179, Zoning — See Ch. 260.  
Art. I.**

**Traffic regulations — See Ch. 380.**



## ARTICLE I

**Speed Limits****[Adopted 4-27-1981 ATM (Ch. 5, § 5, of the Bylaws)]****§ 230-1. Horses and carriages.**

No person shall ride any horse, or drive any horse or horses attached to a carriage of any description, either of burden or pleasure, or cause the same to be driven in any street, lane, alley, or other way, or over any bridge in the Town at a gait faster than eight miles an hour, or so as to endanger or expose to injury any person or persons standing, walking or riding in or upon the same, under a penalty as set forth in Chapter 58, Penalties and Enforcement.



ARTICLE II

**Fire Lanes**

**[Adopted 2-1962 ATM (Ch. 4, § E, of the Bylaws)]**

**§ 230-2. Lanes established.**

For the purpose of providing free access to buildings for fire apparatus, the leaving of vehicles unattended within the limits of the following private ways is prohibited:

Upton Lane





## ARTICLE III

**Overnight Parking of Commercial Vehicles in Residential Areas  
[Adopted 4-25-2005 ATM (Ch. 5, § 28, of the Bylaws)]****§ 230-3. Parking restricted.**

It shall be unlawful to park a commercial vehicle upon any public way, or any private way to which the public has a right of access, for more than one hour after 6:00 p.m. and before 6:00 a.m. in any residentially zoned area of the Town.

**§ 230-4. Definitions.**

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

COMMERCIAL VEHICLE — Includes any vehicle that qualifies as a:

- A. "Commercial vehicle," "taxicab," "hearse," "livery vehicle" or "bus" under the definitions set forth in 540 CMR 2.05, as the same may be amended from time to time; and/or
- B. "Semi-trailer," "trailer," "school bus," "house trailer" or "auto home" as defined in MGL c. 90, § 1, as the same may be amended from time to time.

RESIDENTIALLY ZONED AREA — Includes any area within the Single Residence A, B, C or D Districts or the Housing for the Elderly District as defined by the Zoning Bylaws of the Town.<sup>3</sup>

**§ 230-5. Exceptions.**

This bylaw shall not apply to the temporary parking of any vehicle while actually engaged in snow plowing or the provision of emergency services. This bylaw shall also not bar the overnight parking of any vehicle used in connection with the provision of repairs, maintenance and/or improvements of residences or utilities, provided that the Selectmen shall have issued a permit therefor, on such terms, for such period and in consideration of such standard fee as the Selectmen may determine.

**§ 230-6. Violations and penalties.**

Every day on which a violation of this bylaw occurs shall be punishable as a separate violation. Each violation shall be punishable by a fine of \$50. At the discretion of the Police Department, any vehicle parked in violation of this bylaw may be towed.

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3. Editor's Note: See Ch. 260, Zoning.

**Chapter 236****WELLS****§ 236-1. Covering or filling.**

The owners of land whereon is located an abandoned well or a well in use must either provide a covering for such well capable of sustaining a weight of 300 pounds or fill the same with solid fill to the level of the ground.

**§ 236-2. Violations and penalties.**

The penalty for violation of this bylaw shall be a fine of not less than \$100 nor more than \$500.

**Chapter 240****WETLAND PROTECTION****GENERAL REFERENCES**

**Stormwater management** — See Ch. 213.

**Wetlands regulations** — See Ch. 320, Art. I.

**Zoning** — See Ch. 260.

**Subdivision regulations** — See Ch. 375.

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**§ 240-1. Purpose.**

The purpose of this bylaw is to protect the wetlands, water resources and adjoining land areas in the Town of Lynnfield by controlling activities deemed by the Conservation Commission likely to have a significant effect, singly or cumulatively, upon resource area values as defined under § 240-8. This bylaw is intended to utilize the Home Rule authority of this municipality to protect additional resource areas, for additional values, with additional standards and procedures more protective than those of the Wetlands Protection Act (MGL c. 131, § 40) and the regulations of the Department of Environmental Protection thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the commonwealth.

**§ 240-2. Jurisdiction.**

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 resource areas as defined in § 240-8. Said resource areas shall be protected whether or not they border surface waters. This bylaw shall apply only to projects for commercial or industrial use; for residential projects including two or more dwelling units; and for construction of single-family homes on newly created lots. Without limiting the generality of the foregoing, this bylaw shall apply to all of the

land included in any subdivision approved by the Planning Board, and all of the land included in any division of land pursuant to a plan endorsed under MGL c. 41, § 81P, after the enactment hereof, regardless of whether the lots so created are constructed simultaneously or one at a time.

**§ 240-3. Exemptions and exceptions.**

- A. This bylaw shall not apply to any individual residential lot for single-family use, created before the enactment hereof. This bylaw shall not apply to the repair, renovation, reconstruction, extension or improvement of any single-family home existing on the date of enactment hereof.
- B. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural use as defined by the Wetlands Protection Act Regulations at 310 CMR 10.04.
- C. The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and 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 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 by 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.

**§ 240-4. Applications and fees.**

- A. Written application shall be filed with the Conservation 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 application and plans under this bylaw any application 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 such information and plans as are deemed necessary by the Commission.
- D. At the time of an application, 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 and regulations.
- E. Upon receipt of an application, or at any point during the hearing process, 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 resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations and hydrogeologic and drainage analysis; and researching environmental or land use law.
- F. If a municipal revolving fund has been established, pursuant to MGL c. 44, § 53G, or a special act, for deposit and Commission use of filing and/or consultant fees described above, then such filing and/or consultant fees shall be deposited therein, for uses set out in the vote establishing the fund. This account shall be kept separate from the account established for filing fees paid under the state Wetlands Protection Act.
- G. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information available only through outside consultants is necessary for the making of an objective decision. 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.
- H. The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit or other application or RFD filed by a government agency, including an agency of the Town of Lynnfield.
- I. 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.
- J. The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

<b>Project Cost</b>	<b>Maximum Fee</b>
\$0 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) may be charged not more than an additional \$2,500 maximum fee per increment.

- K. The "project cost" means the estimated entire cost of the project, including but not limited to resource area delineation, building design and construction, site preparation, landscaping and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid 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 affect payment of the consultant fee.

#### **§ 240-5. Notice and hearings.**

- A. Any person filing a permit or other application, but not an RFD, with the Conservation Commission shall also provide notification to the owners of any property within 100 feet of the property line of the land where the activity is proposed, including any in another municipality or across a public or private street or a body of water, such persons being referred to herein as "abutters." The applicant shall provide notification at the mailing addresses shown on the most recent applicable tax list from the Assessors' office. Notification shall be at the applicant's expense. The notification shall state where copies of the application or request, with plans, may be examined and copied and where information on the date, time and location of the public hearing may be obtained. The applicant shall notify abutters by certified mail, return receipt requested, or by certificates of mailing. Mailing at least seven days prior to the public hearing shall constitute timely notice. The applicant shall present either the certified mail receipts or certificate of mailing receipts for all abutters at the beginning of the public hearing. The presentation of the receipts for all abutters identified on the tax list shall constitute compliance with abutter notification requirements. When a person requesting a determination is other than the owner, the request, the notice of hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request. **[Amended 10-18-2010 STM by Art. 6]**
- B. The Commission shall conduct a public hearing on any permit application or abbreviated notice of resource area delineation ("ANORAD") with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of

general circulation in the municipality. The Commission shall conduct a public meeting on a RFD application with written notice given at the expense of the applicant in a newspaper of general circulation in the municipality.

- C. The Commission shall commence the public hearing/meeting within 21 days from receipt of a completed permit application, ANORAD or RFD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing/meeting to a specific date announced at the hearing/meeting, for reasons stated at the hearing/meeting, which may include the need for additional information from the applicant or others deemed necessary by the Commission in its discretion.
- D. The Commission shall issue its permit, other order 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).

#### **§ 240-6. Permits and conditions.**

- A. If the Conservation 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 effect, individually or cumulatively, 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.
- B. Where no conditions are adequate to protect those resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: 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; or for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. 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 200 feet of rivers, and lands within 100 feet of ponds, lakes, vernal pools (whether certified or uncertified), isolated wetlands,

and other resource areas, are presumed important to the protection of these resource areas because activities undertaken in close proximity have a high likelihood of adverse impact upon these areas, 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 erosion, siltation, loss of groundwater recharge, poor water quality and loss of wildlife habitat. The Commission may therefore establish performance standards for protection of such lands, including strips of continuous, undisturbed vegetative cover within the two-hundred-foot or one-hundred-foot area, or other form of work limit or setback to buildings, roads, landscaping and other features, 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. The specific size of each type of protected area may be established by regulations of the Commission.

- D. In the review of areas within 200 feet of rivers, 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 the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (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 purpose (e.g., residential, institutional, commercial or industrial purpose), 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. The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or possible presence of rare species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).
- G. The Commission shall presume that all areas meeting the definition of "vernal pools" under § 240-8 of this bylaw, including the adjacent area,

perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual meeting the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

- H. 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. Any permit may be renewed for additional one- to three-year periods, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify 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.
- I. For good cause, the Commission may revoke any permit, other order, determination or other decision issued under this bylaw after notice to the holder of the permit, the public, abutters and Town boards, pursuant to § 240-5, and a public hearing. Amendments to permits or determinations shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.
- J. The Commission in an appropriate case may combine the decision issued under this bylaw with the order of conditions, order of resource area delineation ("ORAD"), determination of applicability or certificate of compliance issued under the Wetlands Protection Act and regulations.
- K. No work proposed in any application shall be undertaken until the permit or ORAD 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 document has been recorded. If the applicant fails to perform, the Commission may record the documents itself at the applicant's expense.

#### **§ 240-7. Regulations.<sup>4</sup>**

- A. After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the Town Clerk. 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.

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**4. Editor's Note: See the Conservation Commission's wetland protection regulations in Ch. 320, Art. I.**



- B. 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.

**§ 240-8. Definitions.**

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

ALTER — Includes the following activities when undertaken upon, within or affecting resource areas protected by this bylaw:

- (1) Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
- (2) Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics;
- (3) Drainage or other disturbance of water level or water table;
- (4) Dumping, discharging or filling with any material (including, without limitation, bituminous material and concrete) which may degrade water quality;
- (5) Placing of fill, or removal of material, which would alter elevation;
- (6) Driving of piles, erection, expansion or repair of buildings or structures of any kind;
- (7) Placing of obstructions or objects in water;
- (8) Destruction of plant life, including cutting or trimming of trees and shrubs;
- (9) Changing temperature, biochemical oxygen demand or other physical, biological or chemical characteristics of any waters;
- (10) Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater;
- (11) Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw; and
- (12) Destruction of wildlife habitats or state and federally listed rare plant species.

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 the 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 Town, and any other legal entity, its legal representatives, agents or assigns.

POND — Shall follow the definition of 310 CMR 10.04, except that the minimum size threshold shall be 5,000 square feet.

RARE SPECIES — Includes, without limitation, all vertebrate and invertebrate animal and all plant species listed as endangered, threatened or of special concern by the Massachusetts Department of Fish and Game and the U.S. Fish and Wildlife Service, regardless of whether the site in which they occur has been previously identified by the Division.

RESOURCE AREA — Includes any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of defined size; rivers; streams; creeks; beaches; estuaries; lands under water bodies; lands subject to flooding or inundation by groundwater or surface water; lands subject to flooding; and lands abutting any of the aforesaid resource areas.

RESOURCE AREA VALUES — Includes public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, including water quality, water pollution control, fisheries, wildlife habitat, rare species habitat, including rare plant species, agriculture, aquaculture, and recreation values deemed important to the community.

VERNAL POOL — Includes, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Department of Fish and Game. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression, but shall not include existing lawns, gardens or landscaped or developed areas.

- B. Except as otherwise provided in this bylaw or in regulations of the Conservation Commission, the definitions of terms and procedures in this bylaw shall be as set forth in the Wetlands Protection Act (MGL c. 131, § 40) and regulations (310 CMR 10.00).

#### **§ 240-9. 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 Conservation 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; or
- 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 the Town of Lynnfield 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.

**§ 240-10. 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, except pursuant to a permit with conditions issued by the Conservation Commission; nor shall any person 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 Conservation Commission, its agents, officers and employees shall have authority to enter upon privately owned land, after reasonable notice to the owner, 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, noncriminal citations under MGL c. 40, § 21D, 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 Board of Selectmen and Town Counsel shall take legal action for enforcement under civil law, which may include an action for injunctive relief. 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 regulations, permits or administrative orders issued hereunder, shall be punished by a fine of \$100 for a first offense; \$200 for a second offense committed within 12 months of the first offense; and \$300 for the third and any subsequent offense committed within 12 months of a first offense. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits or administrative orders violated shall constitute a separate offense.
- G. 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, which has been adopted by the Town in Chapter 58 of the General Bylaws.
- H. If the Commission commences any enforcement action with respect to this bylaw, or any applicant appeals from a decision or action of the Commission under this bylaw, whether by means of an action in the nature of mandamus or otherwise, and such action results in a judgment for the Commission to any extent at all, then the Commission shall recover from the party against whom enforcement was sought, or from the appellant, as the case may be, the Commission's reasonable attorneys' fees and costs so incurred. It shall not be a defense to the collection of such fees that the work of the Commission's attorney overlapped to any extent with enforcement action or defense of an appeal under the commonwealth's wetland protection regulations.

#### **§ 240-11. 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 permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

#### **§ 240-12. Appeals.**

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

#### **§ 240-13. 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 (310 CMR 10.00) thereunder.

**§ 240-14. 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, approval or determination which previously has been issued.

**Chapter 260****ZONING**

**[The Zoning Bylaw is currently under review and will be included as Chapter 260 upon adoption at Town Meeting. The current Zoning Bylaw is available from the Town offices or on the Town website: [www.town.lynnfield.ma.us](http://www.town.lynnfield.ma.us).]**

**Chapter 305****BOARD OF APPEALS****GENERAL REFERENCES**

**Building Code — See Ch. 120.**

**Zoning — See Ch. 260.**

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**§ 305-1. Membership; terms.**

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

**§ 305-2. Associate members.**

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

**§ 305-3. Jurisdiction.**

The Board established hereunder shall act as the Board of Appeals under the local building and zoning bylaws respectively, and under MGL c. 41, § 81-2.

**§ 305-4. Powers and duties.**

The Board of Appeals shall have all of the powers and perform all of the duties inferred or imposed upon it under the applicable provisions of the General Laws of the Commonwealth of Massachusetts.

**§ 305-5. Repeal of prior provisions. [Added 3-10-1941 ATM]**

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

**Chapter 310****BOARD OF HEALTH REGULATIONS****Kindergarten Regulations**

~~The Town of Lynnfield Kindergarten the Laws of 1972) and MGL c. 143, §§ 1, 13 Regulations have been superseded by MGL c. and 21 (§ 21 was repealed by Ch. 802 of the 111, §§ 58 through 62 (repealed by Ch. 785 of Laws of 1972).~~

The Board of Health of the Town of Lynnfield, acting under the authority of General Laws and amendments and additions thereto, and by any other power thereto enabling, and acting thereunder and in accordance therewith, has, in the interest of and for the preservation of public health, duly made and adopted the following rules and regulations:

ARTICLE I  
**Control of Communicable Diseases**

**§ 310-1. Definitions.**

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

**BOARD OF HEALTH** — Includes the Board, Selectman or officer having like powers and duties in cities or towns.

**CARRIER** — A person who, without symptoms of a disease dangerous to the public health, harbors and may disseminate the specific microorganisms of that disease.

**CONTACT** — Any person known to have been sufficiently near an infected person or animal to have been presumably exposed to transfer of infectious material directly, or by articles freshly soiled with such material.

**IMMUNE** — An "immune" person is one who has had the disease, or has been artificially immunized against it, and is, presumably, protected against another attack.

**INCUBATION PERIOD** — The usual period of time which elapses between the exposure of a person to infection and the development of the symptoms of the disease to which he may have been exposed.

**ISOLATION** — The separation of persons suffering from any disease dangerous to the public health, or carriers of the infecting microorganism from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent to susceptible persons. [Note: In view of the various ambiguous and inaccurate uses to which the words "isolation" and "quarantine" are frequently put, it has seemed best to adopt arbitrarily the word "isolation" as describing the limitations put upon the movements of an individual (animal) known to be sick or be a "carrier," and the word "quarantine" as describing the limitations put upon individuals exposed ("contacts") to disease.]

**LAST EXPOSURE** — The date of the removal to a hospital, or the recovery or death of the patient, or the date on which the nonimmune contact leaves and remains out of the house where the patient is isolated.

**PLACARD** — An official notice, written or printed, posted as a warning of the presence of a disease dangerous to the public health on the premises or in the apartment or room so placarded.

**QUARANTINE** — The restriction to the premises, house or apartment of materials and persons that presumably have been exposed to a disease dangerous to the public health. [Note: In view of the various ambiguous and inaccurate uses to which the words "isolation" and "quarantine" are frequently put, it has seemed best to adopt arbitrarily the word "isolation" as describing the limitations put upon the movements of an individual (animal) known to be sick or be a "carrier," and the word "quarantine"

as describing the limitations put upon individuals exposed ("contacts") to disease.]

SUSCEPTIBLE or NONIMMUNE — A "susceptible" or "nonimmune" person is one who is not known to have acquired immunity to the particular communicable disease in question.

**§ 310-2. General information.**

- A. Definition of "adult." Any person who has reached his 18th birthday is considered to be an adult for purposes of these regulations.
- B. All of the above diseases except five should be reported to the local Board of Health. The five exceptions (chancroid, gonorrhea, granuloma inguinal, lymphogranuloma venereum and syphilis) should be reported directly to the State Department of Public Health on special forms provided upon request.
- C. Food handlers living in a household where a case of typhoid, cholera bacillary, dysentery, or paratyphoid fever exists shall be excluded from their occupation as long as they continue to live in the same house in which the case exists, and thereafter until freedom from infection, as judged by clinical and laboratory evidence, has been demonstrated to the satisfaction of the Department of Public Health. Food handlers living in a household with a recovered case which continues to excrete typhoid bacilli after convalescence shall be excluded from their occupations unless they have been inoculated with typhoid vaccine within two years.
- D. Contacts shall be quarantined until three weeks have elapsed from the date of last exposure unless immunized by a previous attack, by a recent successful vaccination, or showing the immune reaction.
- E. Patients who have lesions of primary or secondary syphilis on exposed parts of the body or in the mouth, and are employed in any occupation requiring regular, direct contact with other persons such as barber, hairdresser, manicurist, waiter, waitress, nursemaid, domestic, etc., shall be reported by name, address and occupation to the State Department of Public Health, unless the physician will assume responsibility for seeing that the patient discontinues such occupation until the lesions are healed.
- F. Tuberculosis.
  - (1) Patients with open tuberculosis should in most cases receive sanatorium treatment, both for the benefit of the individual and the protection of his family. Those who remain in their homes shall observe all precautions necessary to prevent infections of the members of their families and others with whom they may come in contact. This shall include approved methods of collection and disposal of the sputum, the sterilization of any articles of clothing and of toilet articles which may become contaminated by



the sputum, the use of separate dishes and eating utensils and proper sterilization of the same. The patient should sleep in a separate room.

- (2) For details concerning precautions in home care, a pamphlet of the Massachusetts Department of Public Health entitled "Home Care of Tuberculosis Patients" is available. As soon as a diagnosis of tuberculosis has been established, arrangements should be made for the examination, including an X-ray of the chest, of all members of the immediate family and of other persons with whom the patient has been in close contact; if the facilities are available through the various state, county and municipal sanatorium. Persons with suspicious findings and those who have had contact with a tuberculosis patient should be kept under medical observation as long as advised by the physician. It is the responsibility of the local Board of Health to provide hospital care for cases of tuberculosis, when needed, and to see that contacts are examined where such examinations have not been made through a private physician.
  - (3) When a case is reported, the public health nurse representing the Board of Health should visit the patient's home. She should instruct the family in the sanitary precautions described above, see that arrangements are made for the examination of contacts and if necessary provide transportation to the place where they are to be X-rayed, and should aid the patient in obtaining admission to a sanatorium if this has been recommended by his physician.
  - (4) Thereafter, the nurse should make visits to the home at least once in six months to determine whether the patient has moved, whether the above-mentioned precautions are still being observed, and whether any new measures are needed to control the spread of the disease. If the patient has moved to another town or state, the Massachusetts Department of Public Health should be notified. In cases where the physician wishes to exercise complete supervision, the nurse should obtain such information from him.
  - (5) The only acceptable reasons for the Board of Health failing to exercise the supervision outlined above are: refusal of the family physician to permit periodic visits by the nurse; or placing of the patient's name on the "inactive list" as a result of examination including X-ray.
  - (6) No person who has had or has tubercle bacilli in the sputum or other bodily discharges shall be allowed to engage in teaching, nursing, dairying or occupations involving food handling or the care of children until he has received a certificate from the Board of Health stating that his employment would not be dangerous to the public health.
- G. Persons living in a family in which a case of tuberculosis exists or has existed within two years, and whose occupations involve food handling

or contact with children, shall be required to have an X-ray of the chest to determine whether they shall be allowed to continue in such occupations.

### **§ 310-3. Physicians to give notice.**

According to MGL c. 111, § 111, as amended, "If a physician knows or has cause to believe that a person whom he visits is infected with a disease dangerous to the public health, he shall immediately give written notice thereof signed by him. . ." The act further provides, "The foregoing provisions of this section and the provisions of section one hundred and nine shall not apply to gonorrhea and syphilis, except in the case of eye infections in infants under two weeks of age. Any person having either of said diseases shall be reported to the local Boards of Health, either directly or through the department, in accordance with such special rules and regulations as the department may make, having due regard for the best interests of the public."

### **§ 310-4. Householders to give notice.**

When a householder knows that a person within his family or house is sick with a disease dangerous to the public health, he shall immediately give notice thereof to the Board of Health in the manner required by the statute (MGL c. 111, § 109, as amended by Chapter 265 of the Acts of 1938); provided, however, that in cases in which a physician has been called in, his notification will be accepted in place of the householder.

### **§ 310-5. Infectious diseases of the eye (Ophthalmia Neonatorum).**

MGL c. 111, § 110, as amended by Chapter 180 of the Acts of 1932: "If either eye of an infant becomes inflamed, swollen and red, or shows an unnatural discharge within two weeks after birth, the nurse, relative or other attendant having charge of such infant shall report in writing, within six hours thereafter, to the Board of Health of the town where the infant is, the fact that such inflammation, swelling and redness of the eyes or unnatural discharge exists. On receipt of such report, or of notice of the same symptoms given by the physician, or a hospital medical officer registered under Section nine of Chapter 112, as provided by the following section, the Board of Health shall take such immediate action as it may deem necessary, including so far as may be possible, consultation with an oculist and the employment of a trained nurse in order that blindness may be prevented."

### **§ 310-6. Placards.**

- A. Houses or portions of houses in which there is a person sick shall be placarded for those diseases dangerous to the public health, for which placarding is required under the minimum isolation and quarantine requirements of the State Department of Public Health. This card shall not be removed except on the authority of the Board of Health.

- B. In the case of tenement houses, apartment houses, apartment houses or like structures, as much of the building shall be placarded as in the judgment of the Board of Health is consistent with the best interests of the public.

**§ 310-7. Who may enter place of isolation.**

No person, except physicians, nurses, and those whose duty it is to minister to the patient, shall be allowed to enter the place of isolation during the continuance of the disease unless permitted to do so by the Board of Health or its agent.

**§ 310-8. Nurses.**

Nurses and others caring for a person isolated as above shall wash their hands thoroughly with hot water, soap and scrubbing brush immediately after handling the patient, his discharges or any article soiled by his discharges, before mingling with others. They shall change their outer clothing before going out.

**§ 310-9. Dishes, linens, and utensils.**

All eating utensils and linen used by the patient shall be boiled for at least five minutes immediately after being taken from the room. Upon release of the patient, woolen articles shall be exposed to sunlight and air for at least eight hours.

**§ 310-10. Discharges.**

The discharges of a person sick with typhoid fever, paratyphoid fever, or dysentery isolated in the house shall be mixed with chloride of lime or other disinfectant approved by the Board of Health and shall be kept in contact therewith for at least 30 minutes before being emptied into the hopper or privy unless permission for another method of handling is given by the Board of Health.

**§ 310-11. School certificates.**

- A. Children who have recovered from or have been exposed to any disease declared dangerous to the public health (see § 310-2) may return to school only after certification by the Board of Health or after examination by the school physician as prescribed in MGL c. 71, § 55, as amended by Chapter 265 of the Acts of 1938.
- B. The following regulations are promulgated under authority of MGL c. 111, § 31.
- C. Public schools are no longer required to exclude from schools children exposed to the diseases listed in this table unless the regulations of the local Board of Health require such exclusion. (MGL c. 71, § 55, as amended by Chapter 89 of the Acts of 1952).

NOTE: These requirements are subject to change to comply with Massachusetts Department of Public Health regulations.

ARTICLE II  
**Milk Regulations**

Passed under authority of MGL c. 94, § 146.

**§ 310-12. Certification or pasteurization required.**

- A. No person, firm or corporation shall sell, offer for sale, hold in possession with intent to sell, exchange, or deliver any milk or cream in the Town of Lynnfield, unless such milk or cream is certified according to provisions of the law, or pasteurized as provided for in MGL c. 94, § 1.
- B. This regulation shall not apply to milk intended to be delivered for the purpose of pasteurization.

**§ 310-13. Storage.**

All persons, firms or corporations engaged in the sale, delivery or distribution of milk, skim milk or cream shall provide adequate facilities for the proper storage of said milk, skim milk or cream at a temperature not above 50°.

**§ 310-14. Bacterial content.**

No person shall sell, exchange, deliver, or have in his custody or possession, with intent to do so, milk, skim milk or cream with a bacterial content which exceeds the standards set up by the Milk Regulation Board and the Massachusetts Department of Public Health as determined by the standard plate methods of the American Public Health Association in use at the time the examination is made.

**§ 310-15. Communicable diseases.**

Every person engaged in the production, storage, and transportation, sale, delivery or distribution of milk for sale shall notify the Board of Health on the occurrence of any case or cases of communicable disease, whether in himself or his family, or among his employees or associates, or within the building or premises where milk is stored or handled, and shall at the same time suspend the sale or distribution of milk until authorized to resume by the Board of Health. No utensil which is used or has been used on the premises where a communicable disease exists shall be used to hold or convey milk until it has been sterilized in a manner satisfactory to the Board of Health or its representative.

**§ 310-16. Suppliers and distributors.**

All persons, firms, or corporations engaged in the sale, delivery or distribution of milk shall furnish annually to the Board of Health a list of names and locations of the dairy farms from which the milk so distributed

or sold is obtained and shall notify the Board of Health before making any changes in their supply.

**§ 310-17. Processing and distribution facilities.**

All dealers, except licensed storekeepers, engaged in the sale, processing, and distribution of milk and cream shall provide a separate room or rooms well lighted, ventilated, and properly screened, in a location approved by the Board of Health in which the handling, bottling and storing of milk shall be carried on. All such milk rooms or plants shall have a smooth, tight floor with sewer connections, if possible, and smooth, clean walls and ceiling. The entire room or rooms and all appliances shall be kept clean at all times and be used for the handling of milk only. All bottles, cans or other receptacles used for holding milk shall be sterilized and shall be protected from contamination between the time of such sterilization and the time when they are filled. All bottles shall be filled at the place of production or processing of the milk and shall be capped with a Machine Keeper, the entire pouring lip of the bottle to be covered.

**§ 310-18. Individual receptacles.**

No persons shall serve or allow to be served any milk to be consumed on the premises where served unless such milk is contained in individual sealed receptacles, each receptacle to be filled at the place of production or processing of the milk and to contain only the quantity of milk intended for the use of the person served.

**§ 310-19. Dispensers.**

No milk dispenser shall be installed in the Town of Lynnfield without obtaining approval by the Board of Health. Said dispensers shall use homogenized refrigerated milk only.

**§ 310-20. Deliveries.**

No person, firm, or corporation shall deliver milk or cream within the limits of the Town of Lynnfield before 6:00 a.m.

ARTICLE III  
**Food Regulations**

**§ 310-21. Maintenance of storage and distribution facilities.**

Premises, vehicles, receptacles, utensils or refrigerators used for storage, sale, distribution or transportation of foodstuffs shall be maintained in a manner satisfactory to, and shall be open at all reasonable times for inspection by, the Board of Health or its agents. All floor display stands for raw foods shall be elevated at least 24 inches above floor level.

**§ 310-22. Protection from contamination.**

Every person, firm, or corporation engaged in the storage, sale, distribution or transportation of foodstuffs shall cause his wares, or those under his charge, to be properly protected against all sources of contamination. No person shall expose for sale candy, delicatessen products or other foodstuffs which cannot be properly washed before consumption unless said foodstuffs are protected by glass covers or dustproof containers.

**§ 310-23. Waste receptacles.**

All persons engaged in the storage, sale, distribution or transportation of foodstuffs shall provide adequate, covered containers for the reception of waste good products, and shall cause such containers to be emptied frequently and to be cleaned and sterilized at least once every week. The vehicles of street peddlers or vendors of "foodstuffs" shall be construed to be included in this regulation.

**§ 310-24. Toilet facilities.**

All persons occupying premises used for the sale, dispensing or distribution of foodstuffs shall cause such premises to be equipped with adequate toilet facilities for the employees and also adequate provisions for the cleansing of the hands; except that in the case of refreshment stands, the Board of Health may, in writing, waive this clause if in its judgment adequate provision is made for cleanliness.

**§ 310-25. Food handlers.**

Every person employed in the handling of food for public consumption shall maintain his or her person and clothes in a clean condition, and before beginning work and after using the toilet or water closets shall wash the hands and arms thoroughly, and rinse the same in clean water.

**§ 310-26. Storage restrictions.**

No person shall keep or store any foodstuffs intended for sale in any room used for living or sleeping purposes.

**§ 310-27. Utensils.**

The owner, proprietor or manager of any establishment selling or dispensing liquids, beverages, drinks, food or other refreshment for consumption in or about the place of sale or dispensing shall cause all glasses, cups, spoons, forks and other utensils used in such consumption to be thoroughly cleansed and scoured with a suitable detergent and rinsed in 170° water for two minutes, as approved by the Board of Health and subsequently protected from contamination before use by another person. Individual cups or containers made with paper or similar material may be employed in lieu of dishes and said cups or containers shall be destroyed after a single usage.

**§ 310-28. Bakeries and slaughterhouses.**

A. The operation of bakeries, slaughterhouses, and poultry slaughterhouses, and the manufacture of sausages and nonalcoholic beverages are regulated under the General Laws as follows:

- (1) Bakeries: MGL c. 94, §§ 2 through 10, both inclusive.
- (2) Slaughterhouses: MGL c. 94, §§ 118 through 139, both inclusive, as amended.
- (3) Poultry slaughterhouses: MGL c. 94, § 139A, as amended.<sup>5</sup>
- (4) Sausages: MGL c. 94, §§ 142 through 145, both inclusive.
- (5) Nonalcoholic beverages: MGL c. 94, §§ 10A through 10F, both inclusive.

B. Attention is also directed to the General Laws as follows:

- (1) Adulteration and misbranding: MGL c. 94, §§ 186 through 195, both inclusive, as amended.
- (2) Sanitary food laws: MGL c. 94, § 305A.

**§ 310-29. Ice.**

No person, by himself or by his agent, or as the servant or agent of any other person, firm or corporation, shall sell, exchange or deliver any ice from polluted sources, or ice which upon chemical or bacteriological examination shows evidence of sewage or other objectionable contamination, or which is visibly polluted or soiled by dirt, or ice in or upon which there is any foreign matter.

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5. Editor's Note: This section of state law was repealed by St. 1970, c. 891, § 1.



ARTICLE IV  
**Nuisances**

**§ 310-30. Maintenance of buildings and premises.**

Any person or person owning or having control of any building or premises shall keep the same in a clean condition, and any such person having control of any building or premises, in or upon which there is any substance or material, or any condition, which is or may become a source of danger to the public health or a nuisance, shall, when ordered by the Board of Health in writing, remove or abate the same within the time specified in said order.

**§ 310-31. Maintenance of private ways.**

Any person or persons owning or having control of any premises abutting on a private way, and having the right to use such private way, shall, when ordered by the Board of Health in writing, remove from or abate that part of said private way adjoining such premises, any substance, material or condition which is or may become a menace to the public health or a nuisance, and such removal or abatement shall take place within the time specified in such order.

**§ 310-32. Storage and disposal of solid waste.**

House offal, commonly called "garbage" or "swill," shall be placed in suitable watertight receptacles properly covered and so located that the house offal may be easily removed by persons authorized by the Board of Health. Receptacles used for the storing of house offal shall at all times be kept in a reasonably clean condition. No metal, glass, crockery, poisonous substance, or paper or substances other than house offal shall be placed in such receptacles.

**§ 310-33. Removal and transportation of solid waste; permit required.**

No person shall remove or transport garbage, offal or other offensive material through any public street, court, lane or way without first obtaining a permit from the Board of Health, and provided further that he shall remove and transport the material herein mentioned in accordance with such reasonable rules and regulations as may be established by said Board. All such permits shall expire on December 31 of the year in which they are issued, but may be renewed annually. They may be revoked by the Board at any time for cause. No permit shall be transferred except with the approval of the Board. Carts or vehicles used for transporting offensive material shall be watertight and shall be securely covered with a wood, iron or canvas cover. Nothing in this section shall be so construed as to prevent a householder from disposing of garbage, offal or other offensive material from his own household without a permit from the Board of Health, provided he shall remove, transport, or dispose of such garbage, offal or other offensive material in a manner satisfactory to the Board of Health.

**§ 310-34. Disposal of materials on public ways or in streams prohibited.**

No person or persons shall place or cause to be placed or left in or upon any public or private street or way, enclosure or grounds, or in any body or stream of water within the limits of this Town, the body of any dead animal, fowl, or any substance or material that is or may become offensive or cause a nuisance, or may tend to obstruct the flow of any stream.

**§ 310-35. Dumps.**

The owner, agent or lessee of any land or enclosure used as a dump, either public or private, shall cause all offensive matter dumped thereon to be immediately covered, and any other refuse matter dumped thereon to be kept leveled and the premises kept in such a manner as to cause no nuisance during the process of filling. No person shall dump any offensive material upon any dump unless permitted to do so by the Board of Health, and all such offensive materials shall be properly disposed of to the approval of the Board of Health. All possible care shall be used in preventing the escape of dust and papers from the dump and from the vehicle used in conveying waste material to the dump.

**§ 310-36. Sewer and groundwater protection.**

No owner, occupant or agent of any building or premises shall permit any sewage, garbage, contents or drainage of a privy vault, septic tank, cesspool or water closet or sink drain or any other filth to empty on the surface of the ground or enter into any drain designed for the removal of surface water or any ditch, brook, stream or body of water.

## ARTICLE V

**Cesspools, Septic Tanks, Privy Vaults and Public Sewers****§ 310-37. Connection of dwellings to public sewer required.**

The owner or other person or persons having control of any existing building or buildings hereafter erected or converted into a dwelling to be occupied by one or more families, and from which a public sewer is accessible, shall, in a manner and within a period of time satisfactory to the Board of Health, cause such building to be connected with such public sewer.

**§ 310-38. Connection of businesses to public sewer required.**

The owner or other person or persons having control of any existing building or buildings hereafter erected or converted into one or more stores or other places of business, and in which one or more persons are employed, shall provide sufficient toilet facilities, and wherever a public sewer is accessible, shall, in a manner and within a period of time satisfactory to the Board of Health, cause such stores or other places of business to be connected with such public sewer.

**§ 310-39. Permit required for private sewage disposal.**

No cesspool, septic tank, or other means of sewage disposal shall hereafter be constructed or installed in this Town until a permit has first been obtained from the Board of Health.

**§ 310-40. Building permits.**

No building permit for a dwelling house shall be issued until the Board of Health has approved the proposed lot as suitable from a sanitary point of view for human habitation. No building permit for a dwelling house shall be issued on an unsewered street until a permit for a sewage disposal installation has been obtained from the Board of Health.

**§ 310-41. Construction and installation of sewage disposal systems.**

All disposal works hereafter constructed or installed shall be of approved material and, unless otherwise specified by the Board of Health, shall be located not less than 20 feet from any dwelling, not less than 50 feet from any stream, and not less than five feet from the line of any street, court or passageway, and not less than five feet from the line of adjoining lots; all measurements being taken from the nearest portion of the sewage disposal works. Cesspools six feet by six feet by nine feet minimum shall be provided with a suitable removable metal cover of precast cement or built in place.

**§ 310-42. Inspection of sewage disposal systems.**

The owner, person or agent responsible for the construction of local sewage disposal works shall have such construction inspected by the Board of

Health or its agent before such construction is covered, and such covering shall thereafter be applied in a manner approved by the Board of Health.

**§ 310-43. Flush toilets required.**

No indoor toilet or water closet, except that which is provided with proper means of flushing with water at time of using, where water is available, shall be hereafter installed on any premises in this Town. Where water is not available for flushing, it may be installed under special permit of the Board of Health, if proper provision is made for the final disposal of the contents thereof.

**§ 310-44. Maintenance of private sewage disposal systems.**

Every owner, occupant, or agent of premises in which there is any private sewer, drain septic tank, or cesspool shall keep the same in a sanitary condition and shall have every septic tank and cesspool emptied and cleaned when necessary or at such times as ordered by the Board of Health. No privy vault, septic tank or cesspool shall be emptied except by such parties and in such manner as shall be especially authorized by the Board of Health. If the owner or occupant fails to comply with such order, the Board may cause the nuisance, source of filth, or cause of sickness to be removed, and all expenses incurred thereby shall be paid by the person who caused or permitted same, if he has had actual notice from the Board of Health of the existence thereof.

**§ 310-45. Private sewage disposal system specifications.**

All septic tanks hereafter constructed or installed shall have an effective capacity of at least 1,000 gallons and shall be constructed of precast cement or built in place of approved material. Each leaching drain shall have 400 square feet of drainage minimum and have three feet below and one above of tailings; covered with one thickness of tar paper; tested before filled.

**§ 310-46. Local sewage disposal works.**

- A. Defined. Local sewage disposal works consist of a house sewer and a cesspool or a septic tank with leaching or seepage works. The building or house sewer begins at the point where the connection nearest the house wall is made to the main drain and extends to the disposal works. The house drain must be constructed of bell and spigot pipe, the minimum size being four inches if cast iron is used or six inches if any other material such as tile pipe is used.
- B. House sewer. Beginning at a point approximately five feet from the inner wall, a minimum grade of 1% must be provided for the house sewer. A grade of 1/4 inch to one inch should be provided where feasible. Immediately preceding the septic tank or cesspool, the grade of the house sewer must not exceed 2% for the final 10 feet. Wherever the house sewer passes within 50 feet of any well or other source of water supply, cast iron pipe with properly caulked lead joints is

required. The same type of installation is required where earth covering the pipe is less than three feet under roadways or wherever traffic is permitted.

- C. Septic tanks. Septic tanks shall be rectangular, except precast which may be round or oval in shape with the length two times to three times the width. A water depth of four feet to six feet shall be provided in the septic tank with a free board fair space of six inches to nine inches. The tank shall be watertight and made of material which is not subject to excessive corrosion or decay such as brick or concrete. No steel or iron tanks are permitted.
- D. Inlet and outlet connections. Inlet and outlet connections in the septic tank must be constructed of cast iron sanitary tees and short sections of pipe. The inlet must extend 10 inches below the flow level in the tank. The outlet must extend downward 15 inches below the flow level vents on the sanitary tees must extend six inches above the flow level. The use of baffles in a septic tank is not necessary.
- E. Manholes. A manhole must be provided at the inlet end of the septic tank. If possible, a second manhole should be provided at the outlet end of the tank. The manholes should be located over the inlet and outlet tees to facilitate cleaning of the tank and the tees. Where the top of the tank is located more than 18 inches below the ground surface, the manhole or manholes should be built up to within 12 inches of the ground surface.

**§ 310-47. Septic tank capacity.**

- A. Minimum capacities for septic tanks shall be determined from the following table:

**Minimum Capacities for Septic Tanks**

<b>Number of Bedrooms</b>	<b>Number of Persons Served</b>	<b>Total Volume of Tank (gallons)</b>	<b>Approximate Liquid Capacity of Tank (cubic feet*)</b>
5 or fewer	10 or fewer	1,000	160
6	12	1,100	180
7	14	1,300	210
8	16	1,500	240
12	24	2,000	320

\* Total volume in cubic feet includes air space above liquid.

- B. The number of persons to be served by the disposal system should be estimated on the basis that two persons will occupy each bedroom in the proposed dwelling (Fig. 1).

**§ 310-48. Construction of subsurface disposal fields.**

- A. In subsurface disposal fields, the lateral pipe lines should follow the general contours of the ground. The disposal trench or trenches shall be at least 18 inches wide with a minimum of 24 inches of earth covering above the crown of the pipes.
- (1) Pipes must be laid on a thirty-six-inch layer of washed gravel or tailings.
  - (2) The pipes shall be surrounded by similar material to a height of one foot above the crown of the pipe.
  - (3) Field lines must be constructed with bell and spigot pipe at least four inches in diameter and laid with open points in the trench.
  - (4) Before backfilling the trench, one thickness of construction paper should be placed over the coarse gravel or stone, to prevent clogging of leaching field.
- B. Absorptive qualities of soil. The necessary length of the disposal field trench or trenches can be determined by a percolation test. This test determines the absorptive qualities of the soil and is conducted as follows:
- (1) Test procedure.
    - (a) At the site of the proposed disposal trench or trenches, excavate a hole one foot square to the depth of the proposed trenches, six feet to eight feet deep.
    - (b) Without disturbing the earth surfaces in the hold, thoroughly moisten the hole before conducting the test.
    - (c) Pour water gently into the excavated hole to a depth of 10 inches to 12 inches. Pouring the water over a board or piece of metal supported on rocks will avoid disturbing the earth bottom of the hole.
    - (d) Observe the time required for the water level to fall one inch.
    - (e) Where the disposal area is extensive, several separate tests should be made.
  - (2) With the time result obtained from the tests, the length of the four-inch pipe in the disposal field may be determined from the table shown below. The following table is based on average conditions.

<b>Time Required for Water Level to Fall One Inch (minutes)</b>	<b>Length of Four-Inch Bell and Spigot Pipe Required on the Disposal Field with Average Sewage Flow, Assuming 50 Gallons Per Person Per Day (feet per person)</b>
1/2 or less	8
1	12
2	17
3	20
4	24
5	27
10	35
30	60

- (3) Test reliability. This test is not reliable when run on frozen ground. The soil cannot be considered acceptable for subsurface disposal if 60 minutes or more are required for the water level to fall one inch. Where the ground water level is high, the soil cannot be considered acceptable for sewage disposal fields and sewage disposal works must be designed by a competent engineer.

#### **§ 310-49. Cesspools.**

- A. If leaching cesspools are to be provided instead of a septic tank and drainage field, the leaching surface area for cesspools must be based on percolation tests made as described previously. However, the test pit must be dug as deep as the bottom of the proposed cesspool. The following table gives the leaching area required in square feet, based on the percolation tests:

<b>Time Required for Water Level to Fall One Inch (minutes)</b>	<b>Effective Leaching Area Required (square feet per person)</b>
1/2 or less	12
1	18
2	26
3	30
4	36
5	41
10	53
30	90

- B. The cesspool pit should not extend into the water table. The use of a cesspool should be prohibited in areas where the ground water level is above the bottom of the proposed cesspool. The use of an abandoned well as a cesspool must be prohibited in areas where other wells are used as water supplies.
- C. Cesspool leaching areas.
- (1) The leaching areas of cesspools of different diameters may be determined from the following table:

<b>Diameter</b>	<b>Leaching Area per Foot of Effective Depth</b>
<b>(feet)</b>	<b>(square feet)</b>
3	9.3
4	12.6
5	15.7
6	18.8
8	25.1
10	31.4

- (2) The portion of the cesspool above the bottom of the inlet pipe should be omitted in determining the effective depth. The inlet to the cesspool must be 18 inches or more below the ground surface (Fig. 2). Leaching trenches shall be a minimum of 400 square feet.
- D. Multiple cesspools.
- (1) Main cesspools must be provided with a suitable manhole or removable cover of iron or concrete to give access for cleaning when required.
- (2) The above section is superseded by the State Sanitary Code, MGL c. 111, § 5, except where the Town code is more restrictive or where no provision is made by the State Sanitary Code.

### **§ 310-50. State law regulations.**

The Board of Health of the Town of Lynnfield, Massachusetts, has adopted Article XI of the State Sanitary Code of the Commonwealth of Massachusetts, Department of Public Health, as amended on August 15, 1966, as its regulation establishing the minimum requirements for the disposal of sanitary sewage in unsewered areas. Article XI has been adopted in total and verbatim except for the following modifications:

- A. Part I, Regulation 2.11, Volume of Sanitary Sewage, is modified to read:



Volume of Sanitary Sewage. No cooling water, groundwater, discharge of roof drains or other uncontaminated water shall be discharged to the sanitary sewage disposal system.

Each unit of the disposal system shall be designed to treat adequately the estimated ultimate volume of sanitary sewage to be discharged from the premises to be served. The volume of such flow shall be based on the estimated maximum contributory population and the resultant expected daily quantities of sewage as determined from the following table:

**Sewage Flow Estimates\***

<b>Type of Establishment</b>	<b>Per Person Per Day</b>
Single and multiple residence (2 persons per bedroom)	75
Apartment (2 persons per bedroom)	75
Cottage (2 persons per bedroom)	75
Rooming house	40
Motel or boardinghouse	50

\* Sewage flow estimates other than those listed will be considered in relation to actual meter readings of established flows from known or similar installations. Remaining sewage flow estimates correspond to Part I, Regulation 2.11, in Article XI of the State Sanitary Code.

- B. Part 1, Regulation 3.2, Distances, is modified to read:

Distances. The location of the disposal facilities shall be such as to provide between it and the components listed in the following table not less than the distances stated:

<b>Component</b>	<b>Leaching Field Seepage Pit and Cesspool</b>		
	<b>Septic Tank</b>	<b>Seepage Pit and Cesspool</b>	<b>Building Sewer</b>
	<b>(feet)</b>	<b>(feet)</b>	<b>(feet)</b>
Well or suction line	75	125	(a)
Water supply line	(b)	(b)	(b)
Property line	20	20	—
Dwelling	20	20	—
Surface water supplies (reservoirs) tributaries to reservoirs, including open and subsurface drains	125	125	125

<b>Component</b>	<b>Leaching Field</b>		
	<b>Septic Tank</b>	<b>Seepage Pit and Cesspool</b>	<b>Building Sewer</b>
	<b>(feet)</b>	<b>(feet)</b>	<b>(feet)</b>
Watercourses, including streams, ponds, open and subsurface drains	75	75	—
Edge of fill 1:10	—	75	—
Downhill slope steeper than 1 vertical to 3 horizontal	—	100	—

Note: No privies will be allowed.

- (a) Ten feet if constructed of durable corrosion-resistant material with watertight joints laid in Class B bedding, or 50 feet if any other type of pipe is used.
  - (b) It is suggested that disposal facilities be installed at least 10 feet from and 18 inches below water supply lines wherever sewer lines must cross water supply lines, both pipes shall be constructed of mechanical joint cast iron pipe and should be pressure tested to assure watertightness. One hundred twenty five feet is a minimum acceptable distance. The distance shall be increased where required by conditions peculiar to a location.
- C. Part I, Regulation 5.1, Capacities, is modified to read:
- Capacities. A septic tank shall have an effective liquid capacity of 150% of the average daily sewage flow estimated, but in no case less than 1,000 gallons. No septic tanks of greater than 20,000 gallons' capacity will be allowed, except with the specific approval of the Lynnfield Board of Health.
- Note: F.H.A. minimum property standards and the Veterans Administration may require a higher minimum liquid capacity.
- D. Part I, Regulation 7.2, Groundwater, is modified to read: Groundwater. Disposal field shall not be constructed in areas where the maximum groundwater elevation is less than four feet below the bottom of the disposal field. Groundwater determinations shall be made during the period of year when the groundwater table is at its highest elevation.
- E. Part I, Regulation 10, Privies and Chemical Toilets, is stricken out in its entirety. Neither privies nor chemical toilets are allowed.
- F. Part I, Regulation 14-1 (Percolation Test), General, is modified to read:

General. The suitability of the soil for sewage disposal purposes shall be determined from the results of tests conducted as described below, and from the type of underlying soil, maximum groundwater elevation, presence of ledge, drainage conditions, and other related data.

- a. At least one percolation test shall be performed at the site of each disposal area. More than one test will be required where the soil structure varies or where large disposal areas are required.
- b. Percolation tests as prescribed in this section shall be performed, at no expense to the Board of Health, by a registered professional engineer, registered sanitarian, or other person who, in the opinion of the Board of Health, is qualified to perform such tests. All percolation tests shall be performed in the presence of a representative of the Board of Health unless express, written permission has been obtained from the Board to conduct said test in the absence of said representative. The cost of labor and equipment necessary to dig test holes and the provision of water for the conduction of percolation tests shall not be at the expense of the Board of Health.
- c. Percolation tests shall not be made in test holes that have remained opened to the atmosphere for more than three days, nor shall they be made in frozen ground.
- d. Percolation tests shall not be made in filled ground unless the soil has been mechanically or hydraulically compacted or allowed to settle for a period of six months. Said mechanical or hydraulic compacting must be done in the presence of a representative of the Board of Health unless express written permission has been obtained from the Board to conduct such compacting in the absence of said representative.
- e. The minimum leaching area to be installed shall be determined from the following table, with the estimated daily sewage flow as determined in accordance with Regulation 2.10 of Article XI:

### Leaching Area Requirements

#### Percolation Rate\*

Minutes per Inch Drop	Square Feet per Gallon
2.0 or less	0.5
2.5	0.56
3.0	0.62
3.5	0.66
4.0	0.70
5.0	0.75
6.0	0.81
7.0	0.86
8.0	0.91

**Leaching Area Requirements****Percolation Rate\*****Minutes per Inch Drop****Square Feet per Gallon**

9.0

0.96

10.0

1.00

15.0

1.50

Over 15 minutes is unsuitable

The percolation test must be performed in accordance with the procedure outlined in Regulation 14.2 of Article XI.

## ARTICLE VI

**Animals****§ 310-51. Horses, cows, goats, swine, and poultry.**

- A. No person shall keep within the limits of this Town, in any building or on any premises of which he may be the owner, lessee, tenant or occupant, any cows, goats, swine, poultry, mink, chinchillas, game birds or horses without a permit from the Board of Health. All permits expire annually on December 31 and may be revoked by the Board at any time for cause.
- B. The owners or persons in control of any buildings or premises in which the above livestock are kept shall keep the buildings, and premises clean and free from decaying food, filth, dirt and stagnant water. The buildings and pens shall be whitewashed or disinfected and put in such condition as may be ordered by the Board of Health.
- C. The owner or other person or persons having control of any existing building or buildings hereafter erected or converted into a barn for the stabling of horses or other domestic animals shall keep the barn, stables and yards clean, and shall provide a pit constructed of cement or other suitable material for the reception of manure and other refuse matter. Whenever a public sewer is accessible, the Board of Health will decide as to the advisability of connecting such building with such public sewer.

**§ 310-52. Pigs and piggeries.**

- A. No individual or individuals, partnership, company or corporations shall keep a pig or swine within the limits of the municipality without first obtaining a permit from the Board of Health. All such permits shall expire on December 31 of each year unless sooner revoked. Any permit may be revoked at any time by the Board of Health for cause.
- B. All piggeries shall be suitably isolated and maintained in such a manner that no nuisance shall be created thereby. No pen or enclosure shall be located within 150 feet of any public highway.
- C. All piggeries will be examined frequently by a representative of the Board of Health, who will make such recommendations to the owner as are necessary to maintain the piggery in proper condition.
- D. Properly ventilated buildings of substantial construction, preferably painted white or whitewashed, well lighted, and so designed that accumulations of offensive material can be readily removed, shall be provided. For indoor pens, watertight troughs of cement or metal kept in good repair shall be provided for feeding purposes, and these troughs must be thoroughly cleaned every day.
- E. All buildings used for the housing of swine shall be kept in a clean and satisfactory condition. Brood houses shall be cleaned daily.

- F. If outdoor pens or runs are provided, the swine shall be fed from the platforms built of heavy watertight, material flat on the ground or on skids one foot above the ground so arranged that the platform can be readily moved and ground at the earlier location ploughed in. If the feeding platform is elevated, the space between the ground and the platform shall be kept clear and clean, and no food shall be allowed to accumulate about the platform or on the ground.
- G. A bin for receiving garbage shall be provided, which shall be covered during warm weather.
- H. Garbage cans, wagons and trucks shall be thoroughly cleansed after the garbage has been removed therefrom.
- I. Manure and refuse in outdoor pens shall be cleaned out at least twice weekly and must either be immediately removed from the premises or must be so kept that it will not constitute a nuisance and so that the pigs will not have access to it.
- J. If uneaten garbage, manure and refuse are collected in compost piles, they shall be treated or covered with earth, loam or other suitable material in sufficient amounts to eliminate any odor or nuisance. All such piles shall be at least 500 feet from any highway or dwelling. No garbage, manure or putrescible matter whatsoever shall, except in the cultivation and use of the soil in ordinary methods of agriculture, be put upon the ground within 250 feet of the high water mark of any source of water supply or within 250 feet of the high water mark of any open waters flowing directly or ultimately into said source of water supply. In addition, during the fly-breeding season, they shall be sprayed daily with some suitable coal-tar compound or other satisfactory insecticide.
- K. Manure shall be spread upon land only when such land is in condition to plough and any manure so spread shall be ploughed under within 48 hours.
- L. Wet muck in outdoor pens shall be removed and replaced with clean sand.
- M. A water supply adequate for cleaning purposes shall be provided.
- N. No pigs shall be kept within 50 feet of any room where milk is handled. No person who handles milk shall assist in the maintenance of pigs or the cleaning of pens.
- O. Adequate personnel shall be employed at all times for the proper maintenance and operation of the piggery.
- P. No piggery shall be located, constructed or maintained any part of which is within 250 feet of the high water mark of any source of drinking water supply or any tributary thereof, nor within 250 feet of the high water mark of any open waters flowing directly or ultimately into any source of water supply.

## ARTICLE VII

**Offensive Trades, Occupations and Practices****§ 310-53. Authority to prohibit certain trades.**

The Board of Health may prohibit the exercise of the following trades, or employments: those of slaughtering animals or rendering animal matter, of manufacturing fertilizers and soaps, of mixing or storing of refuse or vegetable substances, smoking or dehydrating fish or meat, of refining oils, of making egg dressing varnish, glue, gas, gasoline or any burning fluid, except at the place or places where such trades or employments are now lawfully established or which may hereafter be assigned by the Board, such trades, or employments being either nuisances or hurtful to the Town, attended by noisome odors or other injurious or dangerous to the public health.

**§ 310-54. Refuse storage prohibited.**

No old rags, old papers, or other refuse materials shall be brought into or allowed to remain within any building used as a dwelling if gathered from any source outside of such building.

**§ 310-55. Restrictions on sale of secondhand items.**

No person shall sell or offer for sale any secondhand wearing apparel, bedding, household furniture or household utensils that have been exposed to any communicable disease, or that is infected with vermin until the same has been cleansed and disinfected in a manner satisfactory to the Board of Health.





ARTICLE VIII  
**Collection and Disposal of Garbage**

**§ 310-56. Definition.**

"Garbage" is all waste animal, fish, fowl, fruit or vegetable matter produced from or resulting from the use of storage of food for human consumption.

**§ 310-57. Storage of wastes.**

Storage of garbage is to be well drained of free water, and stored in a watertight, tightly covered container. No broken glass, cans, paper, bottles or poisonous matters shall be placed in this container.

**§ 310-58. Location of containers.**

Containers for garbage shall be stored in a convenient location where collectors can reach them without undue effort or any hazard. Collectors shall not enter dwellings.

**§ 310-59. Private collections.**

- A. Private collectors, firms or corporations shall, before engaging in such business, be licensed by the Board of Health. There shall be a fee per year for each vehicle used in such service. Such licenses may be revoked by the Board of Health upon receipt of evidence that the nature of collection or disposal is not in conformity with the requirements of these rules and regulations or such further rules as may be adopted.
- B. Private scavenging on the streets is prohibited, and no person shall overhaul the contents of receptacles of refuse set upon sidewalks for collection.

**§ 310-60. Miscellaneous.**

- A. By incineration if no smoke or odors are produced that are classed as nuisances or hazards.
- B. By grinding of food wastes into water-carried pulp which is then transported to the household or commercial plumbing system and thence into the municipal sewer system or private sewer.



## ARTICLE IX

**Ice****§ 310-61. Sale of contaminated material prohibited.**

No person, by himself or his agent, or as the servant or agent of any other person, firm or corporation, shall sell, exchange or deliver, or have in his or their possession with intent to sell, exchange or deliver any ice from polluted sources, or ice which upon chemical or bacteriological examination shows evidence of sewage or other objectionable contamination, or which is visibly polluted or soiled by dirt, or ice in or upon which there is any visible foreign matter.



## ARTICLE X

**Recreational Camps, Overnight Camps or Cabins and Trailer Coach Parks****§ 310-62. Definitions.**

- A. As used in this article, the following terms shall have the meanings indicated:

OVERNIGHT CAMP OR CABIN — Any tract or parcel of land used either with or without payment, for public camping by transient guests or upon which cabins, tents, tent-houses, or similar facilities are provided for use by the public for temporary lodging purposes.

RECREATIONAL CAMP — A camp conducted primarily for recreational purposes whether as a day camp or on an overnight, weekly or monthly basis.

TRAILER COACH PARK — Any tract or parcel of land on which space available for three or more trailer coaches is rented or held out for rent, or on which free occupancy or camping for such number is permitted to trailer owners or users.

UNIT — A section of ground in any camp used, or designed for use, as a location for a single overnight cabin, tent or trailer.

- B. In the following regulations, unless otherwise specified, the word "camp" shall mean any recreational camp, overnight camp or cabin or trailer coach park as defined above.

**§ 310-63. Registrations and license.**

The management of any organized camp in this municipality covered by Chapter 140 of the General Laws, as amended, shall annually apply for a license in writing to the Board of Health. This application shall state the location and type of camp, the approximate maximum number of persons by whom it is to be used, the probable duration of occupancy, the proposed sources of water and milk supply for the camps and the proposed method of sewage and garbage disposal. If the camp is used the year round, such application shall be made annually not later than January 1 or, if used during only a portion of the year, at least 30 days in advance of the date when the requested license is desired to take effect.

**§ 310-64. Camp sites.**

- A. The camp site shall be such that it is practicable to provide and maintain proper sanitary facilities. Where local water supply and sewage disposal works are to be provided, the location shall be on porous, well-draining soil, and shall afford facilities for obtaining a good water supply and a safe method of sewage disposal.
- B. The camp site shall be of adequate size to prevent overcrowding. Each camping unit shall contain not less than 400 square feet of usable

space, and no unit shall be permitted to accommodate more than one overnight cabin or tent.

- C. No camp shall be established on the watershed of a public water supply until proper sanitary facilities have been provided and all sanitary facilities shall be in accordance with the rules and regulations for the sanitary protection of public water supplies made by the State Department of Public Health under the provisions of MGL c. 111, § 160.

**§ 310-65. Plan of camp.**

Every camp shall have available for inspection a plan or sketch indicating the location of all local sources of water supply and other sanitary facilities, including all toilets, cesspools and receptacles for garbage and refuse, and signs shall be posted indicating the location of such facilities.

**§ 310-66. Water supply.**

Every camp shall have a water supply of safe, sanitary quality sufficient in quantity for the maximum population using the camp at any time. Such water supply shall be easily obtainable from its source or from faucets or bubblers on a pipe distribution system. Dipping of receptacles into the source of supply shall not be permitted. Common drinking vessels shall not be provided or permitted.

**§ 310-67. Sewage and wastewater disposal.**

No camp shall be operated without facilities adequate for the proper disposal of the sewage and wastewater. There shall be separate accommodations for each sex, so located as to be easily accessible to all parts of the camp.

- A. Camps so located and equipped that water under suitable pressure and public sewers are available shall be equipped with flush toilets and connected with the public sewage system. Camps not so located shall be provided with facilities adequate for the disposal of the sewage and wastewater in a sanitary manner.
- B. There shall be at least one toilet seat for each 15 campers when the camp is operating to full capacity, and one urinal of vitreous material shall also be provided for each 25 men.
- C. No privy shall be located within 50 feet of any kitchen, dining room, mess hall or other place where food is prepared or served.
- D. Toilet structures shall be flytight, well lighted and ventilated.

**§ 310-68. Disposal of rubbish.**

Every camp shall be provided with suitable receptacles with tight covers for rubbish, and all wastepapers, bottles and tin cans shall be placed in them. The contents shall be removed at least twice a week when the camp is in

use and burned or otherwise disposed of in a sanitary manner under proper supervision.

**§ 310-69. Food.**

The quality and handling of all foods sold or offered for sale on the camp premises shall conform to the regulations of the Board of Health and to the Tercentenary Edition of the General Laws as amended or as may hereafter be amended.

**§ 310-70. Bathing places.**

No bathing place shall be established or used which is subject to dangerous contamination. Swimming and wading pools and bathing places shall be operated and maintained in accordance with the recommendations of the Joint Committee on Bathing Places of the Conference of State Sanitary Engineers and the American Public Health Association.

**§ 310-71. Shower baths.**

- A. Camps provided with shower baths shall have separate compartments for each sex. A minimum of one shower head for each sex shall be provided for camps up to 20 persons, and one additional head for each additional 20 persons or fraction thereof.
- B. Watertight floors of durable and impervious material and suitable wastewater disposal facilities shall also be installed.

**§ 310-72. Living quarters.**

- A. Living quarters, including dormitories, dining rooms, kitchens, and bath and toilet rooms, laundries, and other shelters shall be properly screened, well ventilated and lighted, free from vermin and insects, and the floors raised not less than 12 inches from the ground. Screen doors shall be of the self-closing type. The floors of all kitchens, dining rooms, bath, toilet and washrooms and laundries shall be watertight.
- B. No windows shall open directly into any enclosed garage space.
- C. All plumbing fixtures shall be properly trapped and vented and made sanitary in every particular, and all plumbing shall be in accordance with the plumbing rules of this municipality.

**§ 310-73. Caretaker; maintenance of sanitary conditions.**

- A. The camp shall be supervised by a capable manager or caretaker, who shall reside at the camp or visit it every day when it is occupied. It shall be the duty of the manager or caretaker to keep the camp and its equipment in a clean and sanitary condition.
- B. The owner or management of each camp shall assume responsibility for maintaining the camp in proper sanitary condition in accordance

with these rules and regulations, copies of which shall be posted at a conspicuous place in the camp.

- C. The camp, when closed for the season, shall be left clean and in a sanitary condition.

**§ 310-74. Communicable diseases.**

Whenever a case of disease dangerous to the public is discovered or any unusual amount of illness occurs in any camp, the person in charge shall at once notify the Board of Health. The patient shall be isolated and not removed from the camp except by order of the Board of Health.



## ARTICLE XI

**Penalties****§ 310-75. Violations and penalties.**

Whoever violates any of these rules and regulations shall forfeit a sum of not less than \$10 nor more than \$200, except as provided by law.

## **Chapter 315**

### **CEMETERY REGULATIONS**

#### **§ 315-1. Use of lots; supervision of burials.**

Cemetery lots shall not be used for any other purpose than as a place of burial for the dead; and all burials therein shall be under the personal charge of the Superintendent of the Cemetery, to whom shall be paid such fee for opening a tomb or digging a grave as shall be established by the Board of Commissioners, having the care, superintendence and management of said cemetery.

#### **§ 315-2. Placement of monuments and landscaping.**

The proprietor of any lot shall have the right to erect stone monuments, or sepulchral structures, and to cultivate shrubs and plants in the same; but no tree within the lot or border shall be set out, cut down or destroyed without the consent of said Commission.

#### **§ 315-3. Removal of trees or shrubs.**

If any trees or shrubs on any lot shall by means of their roots or branches, or otherwise, become detrimental to the adjacent lots, avenues or paths, or dangerous or inconvenient to passengers, it shall be the duty of said Commission for the time being, and they shall have the right to enter into the lot and remove the trees and shrubs or such part thereof as are thus detrimental, dangerous or inconvenient.

#### **§ 315-4. Removal of structures.**

If any monument or effigy, or any structure whatever or any inscriptions be placed in or upon any lot, which shall be determined by the major part of said Commission for the time being to be offensive or improper, the Commissioners, or major part of them, shall have the right, and it shall be their duty, to enter upon the lot and remove the improper object or objects.

#### **§ 315-5. Fencing and curbing.**

No fence or curbing shall, at any time, be erected or placed in or around any lot except with the approval of the Board of Cemetery Commissioners, and the establishment of the grade of any lot shall be subject to the approval of said Commissioners.

#### **§ 315-6. Tombs; burials for hire.**

No tomb shall be constructed or allowed within the bounds of the cemetery unless by special permission of the Board of Commissioners, and in such places and in such manner as the Commissioners shall direct. No proprietor shall suffer the remains of any person to be deposited within the bounds of his lot for hire.

**§ 315-7. Improvements.**

Lot owners making improvements on lots that are under perpetual care will be charged with any necessary expense of putting the lots in order, after such improvements are made.

**§ 315-8. Foundations of monuments and markers.**

All foundations of monuments, headstones, markers, or any other erections must be constructed by the Commissioners or their authorized agents, and all orders or specifications for the same must be made in writing.

**§ 315-9. Lot ownership. [Adopted 3-11-1929 ATM]**

All lots shall be held subject to the provisions of the laws of the commonwealth in relation to cemeteries and cemetery corporations and to all bylaws, rules and regulations made and to be made by the Board of Commissioners.

**§ 315-10. Lot size; sale of lots; endowments. [Adopted 3-9-1936 ATM]**

Lots shall be laid out in such sizes and sold for uniform prices as the Board and its successors in office shall from time to time deem expedient. Park and Cemetery Commissioners are authorized to accept money for endowment of cemetery lots, to be deposited by the Town Treasurer, and the interest only to be used for perpetual care.

**Chapter 320****CONSERVATION COMMISSION REGULATIONS****GENERAL REFERENCES**

**Wetland protection — See Ch. 240.**



ARTICLE I  
**Wetlands Protection**

**§ 320-1. Purpose and authority.**

On April 25, 2005, the Annual Town Meeting of the Town of Lynnfield adopted a Wetlands Protection Bylaw, which has been codified as Chapter 240 of the General Bylaws of the Town of Lynnfield (the "bylaw"). The purpose of the bylaw is to protect the wetlands, water resources and adjoining land areas in the Town of Lynnfield by controlling activities deemed by the Conservation Commission (the "Commission") likely to have a significant effect, singly or cumulatively, upon resource area values as defined in the bylaw. Section 240-7 of the bylaw provides that the Commission "shall promulgate rules and regulations to effectuate the purposes of [the Bylaw]." The regulations set forth herein are intended to do so.

**§ 320-2. No-disturb and no-build zones.**

Section 240-6 of the bylaw authorizes the Commission to establish performance standards for protection of areas within 200 feet of rivers and 100 feet of ponds, lakes, vernal pools (whether certified or not), isolated wetlands and other "resource areas," as defined in § 240-8 of the bylaw (hereinafter "resource areas"). Performance standards, under § 240-6 of the bylaw, may include "strips of continuous, undisturbed vegetative cover within the two-hundred-foot or one-hundred-foot area, or other form of work limit or setback to buildings, roads, landscaping and other features. . . . The specific size of each type of protected area may be established by regulations of the Commission."

- A. No-disturb zones. There shall be a no-disturb zone with a minimum depth of 100 feet measured horizontally from the border of any vernal pool and 25 feet measured horizontally from the border of any other resource area (the "no-disturb zone"). Vegetation in the no-disturb zone shall not be cut or trimmed in any manner. An applicant may request to remove dead or damaged trees which are safety hazards. The Commission will review the request on an individual basis. Dead trees do provide habitat for insects, birds and wildlife. Except for wetlands crossings specifically permitted by the Commission and except as otherwise specifically provided in these regulations or pursuant to a variance as set forth below, prohibited activities within the no-disturb zone include, but are not limited to, grading, landscaping, planting, harvesting, mowing, vegetation clearing, cutting, trimming, filling, depositing any materials (including yard waste and construction debris), composting, excavating, construction, fencing, and installation of roads, driveways and walkways. To maintain the perpetual integrity of the no-disturb zone and to prevent encroachments into it by applicants and future owners, the Commission may require the no-disturb zone to be marked on the ground, at the applicant's expense, with permanent markers. Such markers shall be

made of weather-resistant material approved by the Commission (e.g., granite). The Commission may determine the number, size and location of such markers, and may require one or more of them to bear a permanent plaque or engraving that shall read: "No Disturbance Beyond This Point by Order of the Lynnfield Conservation Commission." The Commission, in its sole discretion, may require a no-disturb zone of greater depth than the above-described minimums where there are site-specific conditions that, if altered, would be likely to result in degradation of a resource area.

- B. No-build zones. There shall be a no-build zone with a minimum depth of 100 feet measured horizontally from the border of any vernal pool and 50 feet measured horizontally from the border of any other resource area (the "no-build zone"). Except for wetlands crossings specifically permitted by the Commission and except as otherwise specifically provided in these regulations or pursuant to a variance as set forth below, prohibited activities within the no-build zone include, but are not limited to, construction of any structure, installation of any impervious surface, and any work requiring a building permit. Fences, swing sets and similar play structures may be permitted within the no-build zone (but not within the no-disturb zone) with the approval of the Commission. Without limiting the generality of the foregoing, there shall be no buildings, houses, garages, sheds, dumpsters, decks, porches, additions, tennis courts, swimming pools, retaining walls, septic systems, leaching fields, above- or belowground tanks, generators, air-conditioning equipment or asphalt surfaces within the no-build zone. The Commission, in its sole discretion, may require a no-build zone of greater depth than the above-described minimums where there are site-specific conditions that, if altered, would be likely to result in degradation of a resource area.

### **§ 320-3. Variances.**

- A. Section 240-6 of the bylaw provides that the performance standards adopted by the Commission, including specifically any no-disturb and no-build setbacks, shall apply "unless the applicant convinces the Commission that the area or part of it [within such setbacks] may be disturbed without harm to the values protected by the [bylaw]." The Commission may, in its discretion, grant a variance to an applicant with respect to the no-disturb and/or the no-build zones (a "variance") if the Commission determines, after hearing, that:
- (1) Literal compliance with these regulations would cause the applicant a substantial hardship because of conditions peculiar to the applicant's property and not shared generally by property owners within the Town of Lynnfield;
  - (2) The hardship is not one created by the applicant himself; and
  - (3) The variance will not result in any harm to the values protected by the bylaw.

- B. No applicant shall, under any circumstances, be deemed entitled to a variance.





ARTICLE II  
**Conservation Areas**

**§ 320-4. Applicability.**

These regulations apply to all areas in the Town of Lynnfield under the control of its Conservation Commission. Signs reading "Under Control of Conservation Commission of the Town of Lynnfield" shall be posted at public entrances to each such area if deemed appropriate by the Commission. These regulations shall be available at the Town Clerk's office, the Conservation Commission, and the Police Department.

**§ 320-5. Hours of operation.**

All persons are welcome to enjoy themselves without charge in conservation areas of the Town without permit from dawn to dusk.

**§ 320-6. Hunting and fishing.**

Discharge of firearms is prohibited on any conservation area. Fishing in season is allowed unless the area is posted.

**§ 320-7. Camping.**

- A. Overnight camping will be permitted with written permission and allocation of camp site from the Chairman or Secretary of the Conservation Commission for organized or family groups having an adult present at all times.
- B. Permission to camp may be denied at the discretion of the Conservation Commission for any reason relating to health, safety, morals, forest fire danger, absolute overcrowding, or prior violations of these rules by some or any of the group applying for the permit. Citizens of the Town may be given priority. Citizens of other towns may be required to present references.

**§ 320-8. Use of areas.**

Conservation areas are meant to be preserved in a natural state. Cans, bottles and garbage are to be placed in receptacles. If receptacles are not provided, trash is to be taken away. No growing trees, bushes, plants or flowers are to be defaced or cut nor paint applied. Fires are prohibited unless an authorized permit has been obtained from the Lynnfield Fire Department. Firewood should be provided by the camper, but deadwood on the site may be used.

**§ 320-9. Trails and structures.**

No trails may be cut or marked, dams built, or any other structure such as a lean-to, bridge, tower, or handrail constructed without Conservation Commission authorization in writing.

**§ 320-10. Reports of violations.**

Visitors to conservation areas are urged to leave them cleaner than they found them and to report violations of any of these rules and regulations to the Conservation Commission, any Selectman, or to the Chief of Police.

**§ 320-11. Vehicles.**

No cars, trucks, dirt bikes, or other powered vehicles or tools are allowed except on public roads and except for police, civil defense, fire and Public Works Department vehicles of the Town of Lynnfield without prior written approval by the Conservation Commission.

**§ 320-12. Commission liability.**

The Conservation Commission does not have the personnel to patrol conservation lands, and cannot assume for the Town any liability for injuries, damage to property, or other loss to persons going on such areas. Such persons assume, by reason of entry, all risks involved.

**§ 320-13. Violations and penalties.**

Violations of these regulations shall be punishable by fines of not less than \$10 nor more than \$10 for a first offense and not less than \$15 nor more than \$100 for a subsequent offense.

**Chapter 335****FIRE DEPARTMENT REGULATIONS****§ 335-1. Fire districts.**

For purposes of Fire Department service, the Town shall be considered as divided into two districts.

- A. District Number 1 shall comprise all that part of the Town lying south and east of the intersection of Summer Street and Walnut Street.
- B. District Number 2 shall comprise all that part of the Town not included in District Number 1.

**§ 335-2. Organization.**

The Fire Department organization shall consist of a Fire Chief and other officers and firefighters deemed necessary by the Fire Chief to complete the mission of the Fire Department.

**§ 335-3. Chief.**

The Chief shall be the executive officer of the Department and shall have full and absolute authority in all matters pertaining to its organization, maintenance and operation. He shall appoint a Deputy Chief and such other officers and firemen as are set forth in the preceding section covering organization and establish all rules and regulations for governing Department operation, in accordance with the provisions of Section 27, Chapter 591 of the Acts of 1920 of the Commonwealth of Massachusetts, accepted by the Town for the establishment and operation of the Fire Department.

- A. He shall establish proper supervision with respect to the care of all apparatus and equipment, as well as all operational functions of Department personnel.
- B. He shall have full control with regard to application of apparatus and equipment in case of fire or any other emergency requiring the services of the Department.
- C. He shall require a strict compliance with all regulations, together with full obedience of all orders affecting Department operation.
- D. He shall investigate all complaints, regardless of their nature, and shall take such action as shall be considered advisable for the good of the service.
- E. He shall maintain a complete record of all operations of the Department, place all requisitions for equipment and supplies and approve all bills and payrolls.

- F. He shall investigate all fires, seek to determine the causes and set an estimated value on all fire losses.
- G. He shall annually file a written report with the Town, complete and accurate as to detail and covering the operating of the Department during the preceding year. He shall, at that time, submit a budget for the ensuing year and make such recommendations as he deems essential toward maintaining or improving Department service.
- H. He shall be responsible for development appropriate job descriptions listing the qualifications, training, duties and responsibilities for all subordinates.

## **Chapter 360**

### **POLICE DEPARTMENT RULES AND REGULATIONS**

The Selectmen of the Town of Lynnfield do hereby make and adopt the following rules and regulations for the government of the Police Department of the Town of Lynnfield.

The Board of Selectmen is authorized to establish a Police Department under its direction and to appoint a Chief of Police and such other police officers as it deems necessary, and fix their compensation in an amount not in the aggregate exceeding the annual appropriation therefor.

The police appointed by the Selectmen are public officers of the commonwealth, sworn to obey and enforce the law of the commonwealth, the bylaws of the Town and these regulations. It is their duty at all times to know not only the letter but also the spirit of the law and of such bylaws and regulations, and to use intelligence and discretion in the discharge of their duty.

Upon the adoption of these regulations for the government of the Police Department, all rules, regulations and orders affecting the same that have been in force issued by the Board of Selectmen or the Chief of Police are hereby revoked.

#### **§ 360-1. Organization.**

- A. The Police Department of the Town of Lynnfield shall consist of a Chief of Police, superior officers of lesser rank, and such number of patrolmen, intermittent officers and special officers as may be appointed by the Selectmen.
- B. The title "Commanding Officer," when used in regulations or orders, shall apply to the officer regularly assigned to command; also, to an officer temporarily in command, whatever his grade, when and to the extent that the circumstances in which he is acting require.

**§ 360-2. Orders.**

Orders from the Board of Selectmen to the Police Department shall be in writing and will be given to the Chief or officer in charge in the absence of the Chief and by him carried into effect.

**§ 360-3. Chief of Police.**

The Chief of Police shall be the chief executive officer of the Department and shall have and exercise full authority over all members thereof, subject only to any applicable provisions of the law, to these rules and such other rules and regulations and general orders as may be made by the Board of Selectmen. He may issue such further orders and commands, not inconsistent with said rules, regulations and orders, as may be necessary for the efficient administration of the Department and the maintenance of discipline therein.

- A. He shall be responsible for the enforcement of all laws, Town bylaws and regulations which the Police Department has authority to enforce, the prosecution of complaints for violation thereof and the proper preparation and presentation of the cases in court, either personally or by a qualified officer designated by him.
- B. He shall, as far as possible, so organize his Department that at all times when he is absent it shall be under the command of a superior officer. He shall also establish a routine of daily duties which shall be performed by officers designated by him.
- C. He shall instruct the members of the Department, or cause them to be instructed, in all matters pertaining to their duties; shall see that each of them is provided with a copy of these rules and is familiar with them; shall read or cause to be read at the tour of duty next after issuance all additional rules and general orders made by the Board of Selectmen, or by him, and shall cause copies thereof to be posted on the bulletin board at headquarters; and it shall be his duty to require obedience to all such rules, regulations and orders.
- D. He shall inspect the officers or delegate such inspection to an officer of rank at each tour of duty, see to the correction of any negligence in attire, want of cleanliness or neatness, and any improper personal habit, and shall report to the Selectmen every case of misconduct, neglect or unfitness for duty.
- E. The appointing authority, the Chief of Police, or his subordinate to whom such authority has been delegated by him may suspend any police officer for cause, in accordance with the provisions of General Laws Chapter 31.
- F. In cases of riot or sudden emergency, he shall forthwith proceed to the scene of the disturbance with all the force that he can muster, and be vigilant in suppressing the disorder. If he shall have any doubt of his ability to preserve the peace or to restore order, he shall immediately

take whatever steps he deems necessary and report to the Board of Selectmen.

- G. He may, in his discretion, send any officer of the Department out of the Town or the state, in pursuit of any fugitive from justice, or to recover stolen property; but no liability for expense therefor shall be incurred on behalf of the Town without tentative approval of the Board of Selectmen, to be subsequently confirmed in writing.
- H. He shall keep himself informed of meetings, assemblies, and all gatherings of persons in large numbers within the Town, and when necessary in his judgment, or when so ordered by the Board of Selectmen, shall send thereto a sufficient number of officers to preserve order.
- I. He may detail officers for the performance of special duty, either in uniform or plain clothes subject to the provisions of these rules relating to special details, but no such detail shall extend beyond a period of one week except with the approval of the Board of Selectmen.
- J. He shall investigate and report to the Board of Selectmen all pertinent information in connection with all applications for licenses and permits referred to him by the Board and it shall also be his duty to note and report to the Board of Selectmen any violation of the conditions of licenses and permits issued by them.
- K. He shall note and make a record of all streetlights out of repair or not lighted at proper times.
- L. He shall promptly report to the responsible Town department, or public service corporation, every defect, obstruction in or want of repair of any highway or Town property and keep a record of the date and method of such report and the name of the individual notified. If such department or corporation does not remedy the condition within a reasonable time, he shall report the matter to the Board of Selectmen.
- M. It shall be the duty of the Chief of Police and, under his direction, the duty of any officer or officers assigned or detailed to assist him, whenever there shall be any accident involving injuries to persons or to property in or upon any public building or public grounds or caused or alleged to have been caused by any defect or obstruction, or want of repair of, any public way to forthwith investigate the same, collect the evidence thereto and the names and addresses of all persons involved and witnesses to the accident, and to report the same without delay to the Town Counsel, and also to perform such other services in connection therewith as may be requested by the Selectmen or the Town Counsel.
- N. He shall be responsible for the care and maintenance in good condition of headquarters and all departmental property and for the use of the same in strict conformity with these rules, and he shall make or cause to be made by a superior officer frequent inspections of the same.

- O. He shall be responsible for the proper keeping of the records and accounts of the Department and full entry therein of all matters of business and the activities of the Department, and he shall also keep or cause to be kept under his direction a full and complete record of all departmental property with the date of acquisition and the dates and circumstances of disposal. He will be accountable for all property and money received in his official capacity.
- P. He shall, at each regular meeting of the Board of Selectmen, submit a typed report of the general activities of the Department during the period since the previous meeting. He shall include the number of persons arrested, the offenses for which they were arrested, and the disposition made of each case, and a list of property reported as lost or stolen, and property so reported which has been recovered and the disposition thereof. The report shall also include the number of days in which any member of the Department was absent from duty and the reason therefor. He shall submit to the Board of Selectmen, no later than the date set by the Town Accountant, a typed report of the work of the Department during the year, to be printed with the annual reports of Town officers, in which the information relating to the arrests and lost and stolen property set forth in the weekly reports shall be consolidated and information shall be given as to the personnel of the Department and its equipment.

**§ 360-4. Sergeants.**

- A. A Sergeant shall have general charge of patrolmen, shall instruct, advise and assist them in the performance of their duties and shall be responsible for their general appearance, good order and discipline.
- B. A Sergeant, when placed in command of the Department, shall have all of the powers and be subject to all of the duties of the Chief.
- C. He shall immediately and carefully note and fully and promptly report in writing to the Chief or commanding officer every violation or neglect of duty by any patrolman, and failure so to report shall be sufficient cause for reduction in rank, suspension or discharge from the service.
- D. Inspections.
  - (1) The Sergeant shall inspect each patrolman on the tour of duty and see that he is in proper physical condition, neat in person and suitably and properly uniformed, and that he has with him his revolver and regulation equipment.
  - (2) He shall then read to them or give them orally all special instructions and orders, descriptions of persons to be apprehended and of vehicles reported as stolen, and give them other such general and particular instructions as are necessary.

- (3) Sergeants shall also once in each month specially inspect the revolver of each patrolman on their respective shift and record their findings in a book kept at headquarters for this purpose.
- E. When not on regular hours of duty, a Sergeant may be absent from the Town, but when absent he shall keep the officer in charge of headquarters informed of his whereabouts and how he can be reached by telephone.

**§ 360-5. Patrolmen.**

- A. Patrolmen shall fully acquaint themselves with all parts of the Town and the streets, buildings and structures therein. They shall also note all removals thereto or therefrom and observe the inhabitants sufficiently to be able to recognize them, but in so doing they shall not intrude upon the privacy of any person.
- B. They shall furnish such information and render such aid to all persons when requested as is proper and consistent with duty, and upon hearing a call for assistance shall proceed speedily to render it.
- C. They shall courteously and carefully inform travelers, upon request, as to the most direct and convenient routes to their places of destination.
- D. They shall see that the sidewalks are not obstructed to the inconvenience of travelers by persons loitering thereon, watch persons who improperly accost persons of the opposite sex and do all in their power to protect women and girls from insult or annoyance. They shall strictly observe the conduct of all persons of known bad character, fix such mental impressions as will enable recognition of them to be made when met on the street at night, note their movements and the premises they enter, learn their names, residences, occupations and report to the officer in charge at headquarters any and all information obtained.
- E. Every patrolman shall take particular notice of all places where intoxicating liquors are sold, dance halls and other places of public amusement, all licensed persons and places within the Town, and also all suspected gambling houses, prize fighting places, mock auction rooms, vendors of lottery tickets and houses of ill fame, and keep a list thereof in his book for reference and report fully to the Chief in relation thereto.
- F. Streets.
  - (1) Patrolmen shall be vigilant in observing the condition of the public streets to see that they are safe and convenient for the public travel, and that no defects, or obstructions are suffered to remain therein.
  - (2) Whenever a police officer discovers a defect or obstruction in a public street which may cause accidents, he shall at once remove



it or, if he cannot remove it, take immediate measures to prevent accidents by erecting suitable guards and displaying lighted lanterns at night and as soon as possible notify the Chief or the officer in charge at headquarters of the circumstances.

- (3) Patrolmen shall note and report all street lamps that are out of repair or are not lighted at proper times, or too early extinguished; examine all building construction, repair and alteration and all openings in public ways of every kind and nature and ascertain whether proper permits have been obtained and posted, and if noncompliance with the law be found report the same in writing; note and report any building where any noisome, dangerous or unwholesome trade is carried on; take notice of all ashes, garbage, dead animals, or other offensive matter thrown into the streets, streams or ponds; or where the streets are improperly obstructed ascertain the names of any persons offending and report the same to the Chief or to the officer in charge at headquarters; and report all nuisances and other matters affecting the safety and convenience of the public or the interests of the Town.
- G. They shall observe the condition of all dwellings, houses and other buildings on their patrol and be vigilant to protect them from injury and depredation. At least once on each tour of duty, they shall try the outer doors of closed stores and commercial buildings that are at the time not open for business, and at night, the outer doors of occupied dwelling houses whose occupants are known to be away from the Town. If no responsible person is in the building that is found unsecured, doors and/or windows shall be made fast and the owner, occupant or agent of the building promptly notified.
- H. When a way becomes blocked by vehicles, the patrolman at or near the place blocked shall use his best efforts to restore the flow of traffic and if the stream of travel is continuous, he shall open the way for foot travelers wishing to cross, attending especially to women, children and aged persons.
- I. When a patrolman has knowledge of any disturbance, he shall use his best efforts to restore peace and good order.
- J. No patrolman shall, during his tour of duty, enter any store, house, shop, or other building except in the performance of his duty and in such cases shall remain no longer than duty requires, nor shall any patrolmen have in his possession, without the consent of the Chief of Police, or other officer in charge at headquarters, a key to any premises upon or near his route.
- K. No patrolman or other officer of the Department shall, while on duty or while in uniform, drink intoxicating liquor (except in the immediate performance of his duty) or enter any place in which intoxicating liquor is sold or furnished. Smoking in any form while in uniform and either walking or standing on a public way is strictly prohibited.

- L. Any property which may come into the possession of a patrolman in his official capacity shall be carefully preserved, marked and delivered by him without delay to the officer in charge at headquarters.
- M. A patrolman may act officially in criminal matters only; he shall therefore render no assistance in any civil case whatever except to prevent a breach of the peace or to suppress a disturbance actually commenced. On such occasions, he shall merely take into custody persons disturbing the peace.
- N. Every patrolman shall keep a private daily record of his work and enter therein all matters of importance in work in which he is engaged in his official capacity, whether occurring on his route, at court, or elsewhere, and also any other matters of importance connected with his duty which comes to his knowledge.
- O. Every patrolman shall each day, at such times as shall be appointed, make report to the officer in charge at headquarters of all that he has done, and all important information that has come to him during the previous 24 hours, or since his last report, exhibiting his notebook, if requested.
- P. Any patrolman detailed for special duty who fails to report promptly therefor may be temporarily suspended, and if upon investigation it appears that there was no justifiable excuse or reason for such failure, charges shall be preferred against him.
- Q. He shall report to headquarters in time to receive his orders prior to going on his tour of duty, and shall not be absent without leave.

**§ 360-6. Special Police.**

- A. Every special police officer appointed by the Board of Selectmen shall, during the term of his appointment, wear the badge prescribed by the Chief and carry a copy of these rules with all amendments thereof, and shall return them to the Chief upon the expiration of such term.
- B. Special police officers are subject to these rules and regulations so far as they relate to general conduct and the performance of police duty, and when acting under orders of the Chief are subject to these rules and regulations in every respect.
- C. Special police officers are appointed subject to being ordered temporarily to regular police duty. While so acting, they shall have all the powers and be subject to all the duties of the permanent officers of the Department.
- D. Every special police officer shall make a written report at such intervals as shall be from time to time prescribed by the Chief, which shall contain a statement of every official act performed by him during the period of the report.

- E. Special police officers will be deprived of their appointment by the Board of Selectmen for violations of these rules and regulations, neglect of duty or unfitness for office.

**§ 360-7. Arrests; prisoners.**

- A. It is the duty of every police officer to be familiar with the law relating to arrest, whether with or without warrants, and he will be held to strict compliance therewith.
- B. An officer who has a warrant placed in his hand for execution should scrutinize it carefully to ascertain:
  - (1) Whether it is issued by a magistrate having jurisdiction of the subject matter.
  - (2) Whether it is properly sealed and directed.
  - (3) Whether he is authorized to execute it.
  - (4) What his powers are under it.
- C. All arrest warrants, except indictment warrants, remaining unserved for six months shall be returned to court, unless otherwise ordered by the Chief. Note of the return shall be made in the warrant book.
- D. In arresting a person, no more force shall be used than is absolutely necessary for the safe custody of the prisoner, or for overcoming any resistance made. Any abuse of prisoners, either by word or act, will be severely punished.
- E. If any officer finds his personal efforts insufficient to effect an arrest or if he has reason to believe that resistance will be made, he may, in the name of the commonwealth, demand the aid of any citizen present.
- F. Every person arrested for any cause shall be taken at once to headquarters or to an authorized place and registered.
- G. When any person charges another with a felony and insists that the person so charged shall be taken into custody, the officer, if he arrests the person so charged, shall require the accuser, if unknown to him, or if there is other sufficient reason, to go with the accused to headquarters.
- H. Every person taken into custody by an officer, with or without a written warrant, must be taken before the court at its next sitting. If taken on a warrant, the arresting officer must make a return over his own signature.
- I. Every person arrested has a right to know from the officer who arrests or claims to detain him the true ground on which the arrest is made; and an officer who refuses to answer a question relative to the reason for such arrest, or answers such questions untruly, or assigns to the

person arrested an untrue reason for the arrest, or neglects on request to exhibit to the person arrested, or to any other person acting in his behalf, the precept by virtue of which such arrest has been made, is punishable by fine or imprisonment.

- J. Every officer shall at all times have with him a book in which he shall enter the names of persons arrested by him, with such particulars as may be important in the trial of the case.
- K. Every person taken to headquarters under arrest shall be immediately placed before the officer in charge, who shall enter the arrest in the arrest book, search the prisoner and examine him for bruises, cuts and other injuries and see that he is placed in a cell with no more force than is necessary to overcome resistance and without unnecessary or improper talk. The officer in charge will be held strictly accountable for the thoroughness of the search of all prisoners and he shall see that any articles which might be used for self destruction are taken from them. He shall be responsible for property taken from prisoners, and the making of proper records thereof and also for compliance with the law relative to examination and report.
- L. When an arrested person is found to be suffering from injuries such as to require medical or surgical attention, a physician shall be called without delay.
- M. Persons under arrest shall be made as comfortable as possible; they shall be supplied with water to drink and the officer in charge of headquarters shall visit or cause to be visited all persons in custody at least once in every hour during the night.
- N. Every person under arrest shall be given proper facilities for notifying his family, friends or a bail commissioner, but no expense shall be incurred on behalf of the Town for such purpose, nor shall any member of the force accept a fee for rendering any service to such persons.
- O. No member of the Department shall recommend to a prisoner the employment of any person as attorney or counsel, or suggest or name any lawyer or other person to a prisoner with a view to his defense subsequent to the arrest.

**§ 360-8. Court attendance; evidence.**

- A. Every officer having a case in court shall have it properly prepared, the witnesses in attendance and all exhibits to be offered in evidence in the courtroom, properly and conveniently arranged for presentation, before the coming in of the court. When his presence in court is no longer required, he shall return promptly to headquarters and report to the officer in charge the disposition made of all cases in his charge.
- B. Every officer attending court shall be punctual in attendance, wear his regulation uniform and be clean and neat in appearance; except, however, that special police officers and officers detailed for special

service may, with the approval of the Chief, appear in plain clothes. He shall conduct himself with decorum and be attentive and respectful to the court and all persons present. When addressing the court, testifying or examining witnesses, he shall speak calmly and distinctly and so that he may be clearly heard not only by the court and jury, if any, but by all persons present in the courtroom. In testifying, he shall be explicit, strictly accurate and, while avoiding hearsay testimony and irrelevant facts, state the whole truth without understating or overstating the slightest particular and without fear or favor, being particularly careful that he be not influenced by ill will toward any defendant at whose hands he may have suffered injury. When examining witnesses and addressing the court, officers shall stand in front of the clerk's desk unless otherwise directed by the court.

- C. No officer shall testify in a civil or criminal case in any court unless legally summoned as a witness or unless he shall have received permission or order so to do from the Board of Selectmen or the Chief.
- D. No member of the Department shall give any information, except as a witness duly summoned, relating to any action or proceeding in which the Town is a party except with the approval of the Town Counsel or permission of the Board of Selectmen.

#### **§ 360-9. Fires.**

- A. Whenever an officer discovers or is made aware of a fire beyond his control, he shall immediately, and without first attempting to extinguish it, ring an alarm from the nearest fire alarm box, unless he knows that an alarm has already been rung, and shall notify police headquarters. He shall then see that by or by another trustworthy person left at the box the firemen are properly directed. However, if an alarm can be sounded in a shorter period of time by so doing, the officer discovering the fire shall, instead of ringing the nearest fire alarm box, immediately call police headquarters and notify the officer in charge to ring the alarm at police headquarters. He shall inform headquarters of the exact location of the fire and if possible the nature of the fire. The officer in charge shall immediately ring the alarm at headquarters and call fire headquarters and report the location and nature of the fire. He shall note the time of an alarm whenever given by himself or by another person in his presence, and any matters of seeming importance connected therewith or with the fire itself.
- B. When an alarm of fire is rung, the officer in charge of headquarters shall immediately dispatch to the fire such police force as may be available, it shall be the duty of the officer in command of such force, upon his arrival at the fire, to confer with the officer or firefighter in charge of the firemen and receive from him designated fire lines. The designated area shall then be cleared of vehicles and persons, and if necessary roped off in order that the firemen may not be obstructed in their work. In case of a second and general alarm, all officers not on street duty shall promptly report for duty at the fire. Patrolmen on

street duty shall immediately call headquarters. Upon arriving at the fire, each officer will report to the police officer in command, who shall take his name and report the same at police headquarters. The officer in charge of the police force at the fire shall see that proper police assistance is provided until the fire is extinguished or until dismissed by the officer or firefighter in charge; however, if because of a greater emergency the police force must leave the scene of a fire, such leave must not be taken before first reporting it to the officer of firefighter in charge.

**§ 360-10. Accidents; deaths.**

- A. In all cases of accidents, and of sickness occurring in the streets or other public places, the police are to render all needed assistance in their power by sending for medical aid, or by helping the sufferers to their homes or to hospitals, and they shall also notify headquarters if the ambulance or other vehicle appears necessary. Upon the arrival of a physician, the officer in rendering aid shall act under his instructions, but police officers are expected to be competent to render first aid in such cases, before the arrival of a physician.
- B. Police officers shall give particular attention to all cases of drowning or apparent drowning coming to their knowledge and use every means in their power to resuscitate persons taken from the water.
- C. Whenever an officer becomes aware of an accident involving a motor vehicle or vehicles on his route, or on an adjoining route if the officer patrolling it is not nearby, he shall go to the scene of the accident, follow the instructions in Subsection A and in addition take charge of the scene until the arrival of a superior officer and arrange and divert traffic to relieve and prevent congestion until the arrival of a superior officer.
- D. Whenever a police officer shall find a dead body or learn of any death by violence, he shall immediately notify the officer in charge at headquarters and take and follow his instructions in relation to further action. The officer in charge shall at once notify the medical examiner of the district.
- E. A police officer, upon discovering a dead body or a person who appears to have been injured by violence, shall, if the circumstances indicate the commission of a crime, at once note all particulars, take the names of all persons present, or who may have any knowledge of the affair, and if necessary detail for the time being any persons whose testimony in his judgment might be needed in establishing any fact or clearing any doubt in connection with the case, and as soon as possible notify the officer in charge at headquarters in relation thereto.
- F. Police officers shall make full reports in writing on accident blanks of all accidents and injuries to persons or property which come to their notice, and such reports shall be entered on the journal. When

it is alleged or it appears that an injury to persons or property has been caused or may have been caused by defects or obstructions in the public streets, they shall take immediate measures to obtain all information relating to the cause of the accident and the nature and extent of the defect or obstruction, if any, and cause the Director of Public Works to be notified.

**§ 360-11. Lost children.**

- A. Any patrolman who finds a child who has strayed or has been abandoned shall take or send it to its home if known and within the Town, or otherwise to headquarters.
- B. When a lost or abandoned child comes or is brought to headquarters, the officer in charge shall enter upon the journal a description of the child, the time when and the place where it was found, and such other particulars as may serve to identify it.
- C. He shall, if the child is identified while in his care, send notice immediately to its parents, guardian or relatives.
- D. If, after a reasonable time has elapsed, the child is not called for or identified, the officer in command shall notify at once the Department of Public Welfare to take over the custody of the child.

**§ 360-12. Uniforms and equipment.**

- A. The Chief shall, upon proper requisition, supply the members of the Department with badges, buttons, wreaths, numbers, belts, clubs, revolvers, uniforms, and other equipment, all of which shall remain the property of the Town and be returned to headquarters when the member of the Department having them in his possession shall cease to be a member, or whenever he shall be ordered to return them by the Chief, or as otherwise directed in these rules.
- B. All uniforms and parts of uniforms shall strictly conform to standard specifications and regulations established or approved by the Board of Selectmen.
- C. Each garment shall be inspected by the Chief to see that it conforms to the standard specifications and regulations before it is worn. Uniforms and parts of uniforms not made in accordance with the specifications and regulations will be rejected. The Chief or superior officer shall frequently examine the condition of uniforms worn on duty and condemn any that may be unfit for service, and shall cause such uniforms to be replaced.
- D. Every member of the Department shall wear upon both sleeves of his uniform coat a stripe for every five years of his service as a police officer of the Town.

- E. Every police officer shall carry his badge upon his person at all times, and when on duty it shall be worn on his uniform.

**§ 360-13. Headquarters.**

- A. The police building, referred to in these rules as "headquarters," is to be used exclusively for police business and for no other purpose except by direction of the Board of Selectmen and the Chief of Police. Headquarters shall not be left in charge of an officer who is unable to use the telephone and attend to the signal apparatus.
- B. Civility, courtesy and attention shall be shown to every person visiting the headquarters on proper business. Persons not having such business and those whose business has been finished will not be allowed to remain. No persons except police officers in charge or persons authorized by the Chief shall be allowed to enter behind the rail in the general office. No person shall be allowed in headquarters to sell goods or to offer them for sale, or to canvass or solicit for any purpose without written permission from the Board of Selectmen or the Chief. The officer in charge of headquarters for the time being shall be charged with the proper determination of any question arising under this rule and its enforcement.
- C. Telephones shall be used for police business only and the strictest economy, consistent with due regard for the comfort of the officers and proper transaction of business, shall be observed in the use of fuel, gas and electricity; and care shall be taken that the property of the Town is not wasted, injured or destroyed.
- D. There shall be no parking of vehicles in the driveway leading to police headquarters.
- E. No article of furniture, picture, print, statue or advertisement shall be brought into headquarters for use or used therein unless supplied by the Department or authorized by the Chief.
- F. No intoxicating liquor, other than such as may be held after search or as evidence, shall be brought into headquarters upon any pretext, except when ordered by a physician.
- G. No games of chance for stakes or wagers shall be played in headquarters and no officer, while on duty in charge thereof, shall play at any game.
- H. Cells shall be kept clean and well ventilated. Doors of cells in which prisoners are confined shall be carefully locked and bolted, and keys kept in the office. No person shall be allowed to visit the cells without permission of the officer in charge and accompanied by an officer designated for the purpose.
- I. No original books, records, or other property of the Department shall be given to any person or taken from the headquarters, except by



permission of the Chief or officer in charge. A record of any book, record or other property taken, together with the name of the person taking it and the time of taking, shall be recorded on the blotter; and an entry shall be made on the blotter when it is returned.

**§ 360-14. Garage; motor vehicles.**

- A. The Chief shall have charge of all motor vehicles assigned for use by the Police Department and shall designate routes for the patrol cars and other motor vehicles. He shall make a monthly report to the Board of Selectmen concerning the condition of each vehicle.
- B. The police garage shall be at all times kept clean and neat, and all motor vehicles shall be kept clean and well polished.
- C. No motor vehicle assigned for use by the Department shall be used for any purpose other than police work, nor shall any such motor vehicle be driven beyond the Town limits, except in emergency, or in line of duty and then only with the consent of the Chief or officer in charge.
- D. Any officer detailed for duty on, or using any motor vehicle, belonging to or in use by the Department shall be responsible for its cleanliness, careful use and good order, and it shall be his duty to see that it is properly equipped, has sufficient gasoline, oil and water, and that the tires are properly inflated, and to report forthwith to the Chief, superior officer or officer in charge upon the discovery of any mechanical defect or insufficient or defective equipment. If two officers are detailed for duty on or are using the same motor vehicle, the senior officer of the same rank shall be in charge.
- E. No taxicab or private automobile shall be hired for Department work except by direct order of the Chief.
- F. No person shall be allowed to ride in Department motor vehicles unless for police purposes. Patrol cars shall not be used to transport adult persons from one city or town to another, but children under 17 years of age who have run away from their homes may be carried therein. The officer in charge of the car shall report to his commanding officer in writing the name of any person, except officers of rank, riding in motor vehicles, together with the reason therefor and the length of time.
- G. No person except a member of the Department shall be allowed to remain in the garage without permission of a superior officer.

**§ 360-15. Pay; leaves of absence for outstanding performance.**

- A. Every officer shall be paid weekly for his services in accordance with these rules.
- B. No officer shall sell or assign his pay, or give a power of attorney for the collection thereof, except by permission of the Board of Selectmen.

- C. Upon recommendation of the Chief and by the approval of the Selectmen, for outstanding performance in the line of duty the Chief shall grant a member of the Department a leave of absence with pay not to exceed three days.

**§ 360-16. Special details.**

A. Assignment.

- (1) Officers detailed to attend civic, patriotic, political or other public meetings or assemblies, for the preservation of order, shall perform the duties assigned to them as a matter of duty. The Chief may, in his discretion, however, detail officers to attend private or semi-public meetings or assemblies at the request of the promoters thereof. Officers so detailed may, if the assignment is determined by the Chief to be a paying detail, receive pay from such promoters for their services.
- (2) If in any case the Chief shall be in doubt whether any assignment is properly a paying detail, he shall refer the matter to the Board of Selectmen for determination.

B. Staffing.

- (1) Intermittent and special officers shall be subject to the authority of the Chief of Police and shall be detailed by him for duty. In the case of special paid details, intermittent and special officers shall be used only after regular members of the Department who will be available have refused the assignment.
  - (2) Regular paid details shall be posted in the police station and shall be assigned to regular officers who will be available for the occasion. The list of officers shall be established with superior officers at the top followed by those patrolmen in the order of their length of service. The object of this section is to provide as near as equal distribution of paid details amongst the regular force as possible. Each officer assigned a detail must initial the detail sheet at least 48 hours in advance signifying his intent to accept the assignment. If a police officer refuses a detail or fails to initial the list, he shall be passed over until the list has been processed and it is his turn again. If a regular police officer fails to accept a paid detail or if no regular officers are available, the Police Chief shall then assign special or intermittent officers.
- C. The status of an officer assigned to a paying detail is not changed by the method of payment for his services. His duty is to preserve order and he is not to act as ticket-taker, door keeper or render other assistance except momentarily as courtesy may require.
  - D. In labor disputes and other cases where two or more private interests are opposed, details of officers shall be made in such force as to ensure the preservation of order and the protection of the legal rights and

property of all concerned. No charge shall be made for such service, but if any person or group of persons shall request police protection for his or its private premises in excess of that generally afforded, a paying detail may be made subject to the following conditions:

- (1) The protection of the general public shall not be reduced thereby.
  - (2) Officers so detailed shall be carefully instructed that notwithstanding the payment to be received they are under obligation to the person or persons paying them but are to perform their police duties with entire impartiality.
  - (3) Such officers shall accept no gratuities except refreshments when none can be bought by them within a reasonable distance from their posts.
- E. Payment for services on paying details shall be at rates to be established from time to time by the Board of Selectmen.
- F. Payment may be made to patrolmen or the Chief. If payment is received by the latter, he shall turn it over without delay or deduction to each officer entitled thereto, giving a receipt therefor to the payer and taking a receipt from the payee, which shall specify the dates, places and hours of service, the officer or officers rendering it, and the rates charged, and the Chief shall keep a separate account book containing the same information.

**§ 360-17. Offenses; charges; complaint against officers.**

A. Procedure.

- (1) Complaints against members of the force made by other members must be in writing. When the complainant is not the Chief, the complaint shall be entered in the journal, and the officer in charge shall within 24 hours thereafter make charges and specifications founded upon such complaint and forward them to the Chief for transmission to the Board of Selectmen.
- (2) Officers in charge shall similarly forward charges and specifications founded on matters within their own knowledge, or on information received by them touching supposed violations of the rules, to the Chief.

B. A member of the force who believes that his reputation has been injured by rumors or assertions without specific charges may apply to the Board of Selectmen in writing for an inquiry through the Chief.

C. Disposition.

- (1) Whenever a complaint is made at headquarters against a member of the force by a person who is not a member thereof, the officer in charge shall reduce it to writing, enter it in the journal and promptly refer it to the Chief. When such a complaint is made to

the Board of Selectmen, it may be referred, in the discretion of the Board, to the Chief for investigation and report.

- (2) If the nature of any complaint referred to the Chief is such that he cannot properly dispose of it under the authority vested in him by these rules, he shall present it in proper written form at the regular meeting of the Board of Selectmen next after the completion of his investigation.
- D. When so directed by the Board of Selectmen, the Clerk of the Board shall frame charges, based upon the report, and notify the complainant to appear and verify them by affidavit. Failure so to appear within four weekdays shall be regarded as an abandonment of the charges and unless further action in the interest of the Department is ordered by the Board of Selectmen, they shall be quashed and not made part of the officer's record.
- E. Punishment duty.
- (1) Punishment duty, when ordered as a penalty for an offense, shall be performed under the direction of the Chief or a superior officer designated by him. It shall be in addition to all duty and assigned special duty, and no officer performing punishment duty shall, on that account, be relieved of any regular or extra work which he otherwise would have done. Punishment duty must be useful, whether in the street or at headquarters, as an addition to the effective strength or as relief for other officers who have worked hard and faithfully. There must, however, be no favoritism in assignments or relief. Punishment duty shall be so assigned as not to subject the officer under punishment to undue fatigue or otherwise unfit him for his regular or special work; and except with his written consent, he shall not be compelled to perform more than seven consecutive hours of punishment duty at any time, more than 14 hours in four consecutive days, nor more than 21 hours in seven consecutive days, nor to perform such duty within two hours before or after a tour of regular or special duty.
  - (2) Whenever any portion of the punishment duty as ordered has been performed, the officer assigning it shall report to the Chief in the next daily return the name of the officer, the number of hours, and the character of the work done; and when the sentence has been completed, he shall so certify in such form as the Chief shall prescribe.
- F. Any police officer against whom a complaint has been made, who shall attempt, directly or indirectly, by threat, appeal, persuasion, or the payment or promise of money, to secure the withdrawal or abandonment of such complaint, or to prevent the attendance of witnesses, or who at any time before final judgment shall cause any person to intercede personally or by letter, in his behalf, with the

Board of Selectmen or with the Chief shall be deemed guilty of conduct unbecoming an officer.

**§ 360-18. Ambulance.**

- A. The ambulance owned by the Town of Lynnfield shall be assigned to the Police Department, which Department shall be held responsible for its care and maintenance.
- B. The Chief of Police will be responsible to the Board of Selectmen for the observance of these regulations and such other regulations as may be adopted by the Board of Selectmen from time to time governing the use of the ambulance.
- C. Ambulance service may be furnished to anyone in an emergency; and when no emergency exists but some sick person desires to be taken to a hospital, transportation shall be furnished only if the patient cannot be moved safely, or without suffering, by other available means. In other cases, residents of the Town should not request or expect the use of the Town ambulance. In no event shall the use of the ambulance be afforded except to take persons to hospitals in Lynnfield and adjoining towns. The greater the distance the greater shall be the emergency requiring it.

**§ 360-19. Duties in general.**

- A. Although certain hours are allotted to the respective members for the performance of duty on ordinary occasions, yet at all times they must be prepared to act immediately on notice that their services are required. Punctual attendance, prompt obedience to orders and conformity to the rules of the Department shall be rigidly enforced.
- B. Every member of the Department shall at all times be neat in person and keep his uniform clean and in presentable condition, the buttons, badge and metal trimmings bright, and his shoes clean. When his dress becomes soiled or disarranged, it shall be put in proper condition as soon as circumstances permit.
- C. Police officers shall be drilled in such manner, by officers, and at such hours and places, as the Chief may direct. When proceeding in a body to perform any duty, or when returning therefrom, they shall march in military order.
- D. No member of the Department shall fail to take action immediately necessary at any time or in any place for the preservation of the peace and good order or for the public safety because such action may be the assigned duty or duty or duty under the rule of another officer not present or who being present is unable or fails to act.
- E. Coolness and firmness will be required of every officer in all cases, and in time of extreme peril the police must be careful to act together and to protect each other in the restoration of peace. Whoever shrinks from

danger or responsibility when duty requires him to meet it is unworthy of a place in the service. Officers shall not use their clubs except in self defense or in cases of forcible or violent resistance to them in the discharge of duty.

- F. Every member of the Department shall in all things observe and comply with the law, conform strictly to the rules and regulations of the Department, respectfully and promptly obey the commands and orders of his superior officers and perform his duty with zeal, courage, discretion and fidelity. Every member of the Department shall, in his conduct and deportment, be quiet, civil and orderly, control his temper and exercise the utmost patience and discretion, at all times refrain from harsh, violent, coarse or profane language, and when questioned be courteously attentive and answer clearly and civilly, not unnecessarily prolonging the conversation, however. He shall treat his superiors with respect, and his demeanor to his associates on the force shall be courteous and considerate, guarding himself against jealousy, envy, or other unfriendly feeling and refraining from all communications to their discredit except to his superior officers, to whom it is his duty to report every neglect or disobedience of orders on their part that may come to his knowledge.
- G. Members of the Department shall avoid all religious and political discussions at headquarters or elsewhere while in uniform; they shall not interfere or make or attempt to make use of their influence in elections or political conventions; and in political matters they shall do no more than exercise the right of suffrage as citizens.
- H. No member of the Police Department shall be a member of or affiliated with any organization or association of organized labor except such independent organizations within the Department as may be approved by the Board of Selectmen.
- I. No member of the Police Department shall be a member of or affiliated with any organization the principles or practices of which are opposed to the laws or the enforcement of the laws of the United States or the Commonwealth of Massachusetts, or opposed to the established forms of government therein or are or may be prejudicial to the conscientious performance of the duties of a police officer or inimical to the discipline of the Department.

#### **§ 360-20. Radio patrol cars.**

- A. A patrolman assigned to radio-patrol car duty shall adhere to the rules prescribed for such type of service, and shall be subject to all rules and regulations prescribed for all police officers.
- B. Any police officer who operates a radio transmitter is subject to the rules and regulations of the Federal Communications Commission. The following three violations of the rules of that Commission are punishable by heavy fines or imprisonment, or both:

- (1) Willful damage to radio apparatus, or permitting radio apparatus to be damaged.
  - (2) Transmission of superfluous radio communications or signals, or radio communications containing profane, obscene or indecent language.
  - (3) Willful or malicious interference with other radio communications or signals.
- C. All transmissions on the air should be brief and to the point. Talk into the transmitter as if it were an ordinary telephone. Do not shout.
- D. Notify the dispatcher when you are going off the air, giving location of the car and the reason for going off the air.
- E. Officers shall report in writing to their commanding officer the names of any unauthorized persons riding in the radio-patrol car, together with the reason therefor, and the time.
- F. Officers assigned to the radio-patrol car shall have their receiving set in operation at all times during their tour of duty. They shall not leave the radio-patrol car unattended except after notifying the dispatcher and locking the car.
- G. The radio-patrol car shall proceed to an assigned location by the most direct route, and the speed of the car, at all times, shall be regulated with due regard to the safety of the public.
- H. A radio-patrol car shall be called three times only by the dispatcher. If the car fails to answer after the second call, the dispatcher will notify the Chief for an investigation and report.
- I. The radio-patrol car shall be equipped with a book, or similar permanent record, for entering therein the registration numbers of stolen cars, including those broadcast by the dispatcher. This record shall be properly kept and revised as certain stolen cars are reported as recovered. The Chief will inspect such record from time to time to ascertain if the record is proper and in order.
- J. All officers of the Department shall be licensed by the Registry of Motor Vehicles to operate motor vehicles.

**Chapter 375**

**SUBDIVISION REGULATIONS**

**GENERAL REFERENCES**

**Historic preservation — See Ch. 154.**

**Wetland protection — See Ch. 240.**

**Stormwater management — See Ch. 213.**

**Zoning — See Ch. 260.**

**Streets and sidewalks — See Ch. 217.**

**Conservation Commission regulations — See Ch. 320.**



## ARTICLE 1

**Purpose****§ 375-1.1. Purpose and intent.**

The Subdivision Control Law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and, in proper cases, parks and open areas. The powers of a Planning Board and of a Board of Appeal under the Subdivision Control Law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in case of fire, flood, panic and other emergencies; for ensuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provision for water, sewerage, drainage, electric power, fuel, communication, streetlighting and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions.



ARTICLE 2  
**Authority**

**§ 375-2.1. Statutory authority.**

Under the authority vested in the Planning Board of the Town of Lynnfield by MGL c. 41, § 81O, and by any other enabling laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Lynnfield. Such rules and regulations shall be effective on and after July 18, 1977.



## ARTICLE 3

**General****§ 375-3.1. Definitions.**

For the purpose of these rules and regulations, the following words and terms used herein are hereby defined or the meaning thereof is explained or limited as follows:

**APPLICANT** — The person who applies for the approval of a plan of a subdivision and his administrators, executors, heirs, devisees, successors and assigns.

**BOARD** — The Planning Board of the Town of Lynnfield.

**CERTIFIED BY** — As defined in MGL c. 41, § 81L, or any amendment thereof, addition thereto to or substitution therefor.

**DIAMETER AT BREAST HEIGHT (DBH)** — The diameter of a tree measured at 4 1/2 feet above the ground on the uphill side if a slope exists. **[Amended 4-21-2010]**

**FINAL APPROVAL** — Approval by the Board of a definitive plan of a subdivision.

**FRONTAGE** — The horizontal distance measured along that lot line adjacent to the street right-of-way, which is the front lot line, between the points of intersection of the side lot lines with this front lot line. For the purposes of these rules and regulations, this horizontal distance shall be considered an acceptable, or legal, frontage only if it is continuous and permits physical access across it to the affected lot. **[Amended 5-29-2002]**

**GENERAL LAWS** (abbreviated "MGL") — The General Laws of Massachusetts, Tercentennial Edition, and as the same may be amended. **[Amended 5-29-2002]**

**HARDWOOD TREE** — All deciduous tree species, including, but not limited to, the following: oak, beech, ash, maple, cherry, birch, and elm. **[Amended 4-21-2010]**

**LOT** — An area of land in one ownership, with definite boundaries, used or available for use as the site of one or more buildings.

**MUNICIPAL SERVICE** — As defined in MGL c. 41, § 81L, or any amendment thereof, addition thereto or substitution therefor.

**OWNER** — The owner of record as shown by the records in the Essex (South District) Registry of Deeds or in the Land Court.

**PERSON** — An individual, two or more individuals, a partnership, association or corporation.

**PLANNING BOARD INSPECTOR** — Any Town employee, agent or consultant authorized by the Planning Board to review subdivisions and administer the regulations. **[Amended 5-29-2002]**

RECORDED — As defined in MGL c. 41, § 81L, or any amendment thereof, addition thereto or substitution therefor.

REGISTERED MAIL — Registered or certified mail.

REGISTER OF DEEDS — As defined in MGL c. 41, § 81L, or any amendment thereof, addition thereto or substitution therefor.

REGISTRY OF DEEDS — As defined in MGL c. 41, § 81L, or any amendment thereof, addition thereto or substitution therefor.

ROADWAY or TRAVELED WAY — The portion of a street intended for vehicular use.

SIDEWALK — A way within the right-of-way of a street normally parallel to the street, designed for use by pedestrians. **[Amended 5-29-2002]**

SIGNIFICANT TREE — A tree designated by the Planning Board to be an important asset to the community that shall be protected by the applicant during the construction of the subdivision. **[Amended 4-21-2010]**

SOFTWOOD TREE — All evergreen tree species, including, but not limited to, the following: pine, fir, Douglas fir, cedar, and spruce. **[Amended 4-21-2010]**

STANDARD SPECIFICATIONS — The Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways and Bridges, 1995 Edition, as amended. **[Amended 5-29-2002]**

STREETS — All the land within the public right-of-way, including the traveled way, curbing, grass strips, sidewalks, drainage and other utilities. **[Amended 5-29-2002]**

- A. STREET, MAJOR — A street which, in the opinion of the Board, is being used as a thoroughfare within the Town of Lynnfield, which will connect communities or which will otherwise carry a heavy volume of traffic.
- B. STREET, SECONDARY — A street intercepting one or more minor streets and which, in the opinion of the Board, is used or will be used to carry a substantial volume of traffic from such minor street(s) to a major street or community facility, and normally including a principal entrance street to a shopping center, industrial park, planned unit development, or a large subdivision, or group of subdivisions, and any principal circulation street within such developments, or a street which will connect subdivisions.
- C. STREET, MINOR — A street which, in the opinion of the Board, is being used or will be used primarily to provide access to abutting lots and which will not be used for through traffic.

SUBDIVIDER — The person undertaking the subdivision of land.

SUBDIVISION — As defined in MGL c. 41, § 81L, or any amendment thereof, addition thereto or substitution therefor.

SUBDIVISION CONTROL LAW — Sections 81K to 81GG, inclusive, of Chapter 41 of the General Laws, and any acts in amendment thereof, in addition thereto or in substitution therefor.

SUBMITTED PLAN — A plan, along with the appropriate and properly executed submitted form and fee, shall be officially submitted by delivery at a regularly scheduled business meeting of the Planning Board or by registered or certified mail to the Planning Board. If so mailed, the date of receipt shall be the date of submission of the plan. In addition, written notice of such submission, on the appropriate form, shall be given by the applicant to the Town Clerk by delivery or by registered or certified mail.**[Amended 5-29-2002]**

TOWN — The Town of Lynnfield, Massachusetts.**[Amended 5-29-2002]**

TRAIL — A path or track made by or reserved for the passage of persons and/or animals, usually through undeveloped land.**[Amended 5-29-2002]**

UPLAND AREA — All that land upgradient of the wetlands boundary, expressed in a square-foot format.**[Amended 4-21-2010]**

WALKWAY — A passage designed for use by pedestrians, not necessarily parallel to a street.**[Amended 5-29-2002]**

WETLAND BOUNDARY — As specified as a boundary under the Wetlands Protection Act, MGL c. 131, § 40, and its associated regulations, 310 CMR 10.00. Said "wetland boundary" is that which may be submitted and evaluated by the Lynnfield Conservation Commission.**[Amended 4-21-2010]**

### **§ 375-3.2. Approval. [Amended 5-29-2002]**

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of public utilities therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Board as hereinafter provided or "Approval Under the Subdivision Control Law Not Required" has been endorsed on the plan.

### **§ 375-3.3. Fees.**

To partially defray the costs to the Town in conjunction with processing, review, and inspection, the following fee shall apply. Payment shall be made to the Town of Lynnfield. Said fee does not limit requirements specified elsewhere.

- A. Approval not required: a filing fee of \$100 for first two lots created, then \$100 each thereafter, regardless of size. **[Amended 5-30-2001]**
- B. Preliminary subdivision plan: no filing fee required.
- C. Definitive subdivision plan: a filing fee of \$600 plus \$300 per lot or portion of the land to be subdivided. When an approved preliminary

subdivision plan is valid at the time of filing, the additional \$300 fee will be reduced to \$200. **[Amended 5-30-2001]**

- D. Extension of time to complete subdivision: a filing fee of \$500 shall accompany each application for extension of time to complete a subdivision consisting of up to five lots. An additional fee of \$100 per lot shall be applied to each additional lot shown in a subdivision plan consisting of more than five lots. **[Amended 10-15-2012]**

**§ 375-3.4. Project review fees. [Amended 5-30-2001]**

- A. Applicability. In addition to any other fee(s) specified, the Board may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts. The Board shall require that applicant(s) pay a "review fee" consisting of the reasonable costs incurred by the Board for the employment of outside consultants engaged by the Board. In hiring outside consultants, the Board may engage engineers, planners, layers, urban designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.
- B. Review fee accounting.
- (1) Funds received by the Board pursuant to this section shall be deposited with the Town of Lynnfield Treasurer, who shall establish a special account for this purpose pursuant to MGL c. 44, § 53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been or will be collected from the applicant. Failure of an applicant to pay a review fee shall be grounds for denial of approval of the plan.
  - (2) Review fees may only be spent for services rendered in connection with the specific project for which they were collected. Accrued interest may also be spent for this purpose. At the completion of the project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest and a final report of said account shall be made available to the applicant or the applicant's successor in interest. For the purpose of this regulation, any person or entity claiming to an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.



- (3) The Town of Lynnfield Accountant shall submit annually a report of said special account to the Board of Selectmen and Town Administrator for their review.
- C. Appeal. Any applicant may take an administrative appeal to the Board of Selectmen in writing within 14 days from the selection of the outside consultant. The grounds for such an appeal shall be limited to the claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an education degree in, or related to, the field at issue for three or more years of practice in the field at issue or related field. The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand. **[Amended 7-9-1990]**
- D. Basic project review fee. The following schedule applies to the application of the definitive plan to the Board. **[Amended 4-21-2010]**

#### **Definitive Plan**

##### **Project Size**

<b>(number of lots/units)</b>	<b>Fee</b>
1 to 5	\$5,000
6 to 10	\$10,000
11 or more	See Note

Note: For each additional group of five lots/units, an additional \$5,000 will be assessed.

- E. Inspection project review fee.
- (1) After the granting of an application, but before final approval, the Planning Board will require a supplement to the project review fee for the purpose of ensuring the availability of funds during the inspection phase of the projects to hire a Clerk of the Works.
  - (2) An amount equal to \$2,000 for each lot within the subdivision shall be paid to the 53G Account for the cost of a Clerk of the Works and to defray, in part, the cost of required inspections. Said funds deposited for the purpose of inspections will be expended separately from any other project review fees.
  - (3) The inspection service fees portion, as established by the Planning Board, shall be paid by the applicant prior to any construction activity. The requirement to pay this inspection service fee portion shall be made part of the condition of approval and certification of vote relative to action taken on the plan/application.

- (4) The purpose of this fee portion is to cover all professional inspection costs, as required by the Planning Board, from the time of the beginning of construction until final "as-built" plans are approved by the Planning Board. Costs include but are not necessarily limited to on-site inspections; "Clerk-of-the Works" wages; consultations; engineering services and review of required plan revisions that may be ordered by the Board after endorsement and prior to the completion of construction; written reports relative to inspections; consultation and resolution of any problems arising from project construction; various testing performed on site as required by the Board; processing and reviewing required as-built plans and providing reports regarding such; and technical services required in the review of as-built plans.

F. Clerk of the Works inspection.

- (1) This subsection establishes the requirement for additional supervision to be provided by a Clerk of the Works ("clerk"). Such clerk(s) shall be a consultant hired by the Planning Board under the direction of the Director of Public Works and shall be funded as provided for in this section.

- (a) Appointment. The clerk(s) shall be appointed by the Planning Board after receiving a written recommendation by the Director of Public Works.

- (b) Duties.

- [1] The clerk(s) shall report to the Director of Public Works and may be required to attend Planning Board meetings and site visits.

- [2] The clerk(s) shall routinely and randomly visit all sites of ongoing development as directed by the Board or Director of Public Works. All site inspections will be at the sole discretion of the Planning Board.

- [3] The clerk(s) shall provide inspections as required in these rules and regulations.

- [4] The clerk(s) shall interact with other Town departments as required by the Director of Public Works.

- [5] The Clerk(s) of the Works shall monitor compliance with permit/approval conditions.

- (2) The applicant/developer shall notify the Director of Public Works at least 72 hours in advance that work has progressed to a stage that an inspection is required.

G. Replenishment project review fee. When the balance in the applicant's 53G Account falls below 25% of the initial fee, as imposed under Subsection D, Basic project review fee, the Board may consider

whether to require an additional deposit of funds to cover the remaining project review.



## ARTICLE 4

**Plan Believed Not to Require Approval (ANR)****§ 375-4.1. Submission. [Amended 4-21-2010]**

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law shall file with the Board the following.
- (1) One print of the plan on Mylar as well as four black and white prints of the plan, prepared as hereinafter described.
  - (2) Required filing fee as listed under Article 3, General, § 375-3.3, Fees.
  - (3) A properly executed application on Form A.<sup>6</sup>
  - (4) The necessary evidence to show that the plan does not require approval.
  - (5) Prior to final approval by the Planning Board, the applicant shall submit two copies of the approved version of the plan on media transfer approved by the Board in compliance with Article 13, Geographic Information System (GIS) Requirement. **[Amended 5-30-2001]**
- B. The plan and application shall not be deemed to have been submitted until delivered to the Board at a regular or special meeting thereof or received by registered mail at the Board's office.

**§ 375-4.2. Notice to Town Clerk.**

Thereafter, the person submitting the plan and application shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application.

**§ 375-4.3. Contents. [Amended 4-21-2010]**

The submitted plan(s) shall contain the following:

- A. Plan format. Each sheet shall comply with the following format:
- (1) Size of plan. The plan shall be 24 inches by 36 inches.
  - (2) Material.
    - (a) Original submission of plans and subsequent revisions shall be provided on twenty-pound bond.

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6. Editor's Note: Subdivision forms are available from the Town offices or on the Town website, [www.town.lynnfield.ma.us](http://www.town.lynnfield.ma.us).

- (b) Final plans shall be printed on single-matte "Mylar" with a thickness of 0.003 inch.
  - (3) Borders. Each plan shall have a three-quarter-inch border.
  - (4) Scale. The plan shall have a horizontal scale of one inch to 40 feet unless the Board approves another scale as more convenient.
  - (5) Stamp. All sheets of the plan shall be stamped by the Massachusetts professional land surveyor who is responsible for designing the subdivision.
- B. Title block. Each sheet of a submitted plan shall contain a title block in the lower right-hand corner such that when the plan is folded the name is readable. The title block shall contain the following fields:
- (1) Name:
    - (a) The name shall contain the address of the way that the lot presently fronts on.
    - (b) The font size of the name shall be equal to the largest size used in the title block.
    - (c) The last line in the name area shall contain the Assessor's map and parcel number(s).
  - (2) Owners: the names and addresses of the record owner of the land.
  - (3) Subdividers: the subdivider's names and addresses.
  - (4) Technical personnel: the names, addresses, and seals of the designer, engineer, and surveyor who made the plan.
  - (5) Revisions: a revision area sufficient to record a minimum of six changes.
  - (6) Approval: an area for Planning Board approval, signatures and date.
  - (7) Data: the scale, date, and North arrow, sheet number of plan, legend for all symbols used, list of all zoning districts in which the land lies, including all overlays. When multiple sheets are necessary, match lines shall be used and referenced, and an index plan, graphically indicating the arrangement of said multiple sheets, shall be submitted on one standard 24 inches by 36 inches sheet at a suitable scale. **[Amended 5-29-2002]**
  - (8) Coordinate system: The plan shall be produced and depicted using the Massachusetts State Plane Coordinate System (1927 Datum in feet) or the Massachusetts State Plane Coordinate System (1983 Datum in meters).

- (9) Certification: a statement that the plan is based upon an actual survey and the date thereof.

**§ 375-4.4. Required plan features. [Amended 4-21-2010]**

The approval not required plan shall contain the following:

- A. The length of each straight property line segment to the nearest one hundredth of a foot and the bearing thereof to the nearest five seconds.
- B. Names of all abutters, as determined from the most recent local tax list, including all abutting land owned by the applicant.
- C. Location of existing buildings within the parcel, including building setback, side yard and rear yard designations.
- D. Location of all permanent monuments, major features of the land, such as existing natural drainage courses, surface and subsurface drainage, walls, fences, outcroppings and ditches which exist at the time of survey, which may prevent access.
- E. All resource areas as defined by MGL c. 131, § 40, within the parcel which may impede access.
- F. Boundary lines, areas and dimensions of all proposed lots, with all lots designated numerically and in sequence.
- G. All zoning district boundaries and/or any notice of any decision of the Zoning Board of Appeals, including but not limited to variance and exceptions regarding the land or any building thereon. **[Amended 5-29-2002]**
- H. In the case of the creation of a new lot, all the remaining land area and frontage in the ownership of the applicant shall be shown. **[Amended 5-29-2002]**
- I. The name, status (private or public), and width of the right-of-way providing frontage and access to the lot(s) and the extent of the paved improvements within said way. **[Amended 5-29-2002]**
- J. Topography with two-foot contours a distance of 20 feet back from frontage.

**§ 375-4.5. Approval or disapproval.**

- A. Endorsement of plan not requiring approval. If the Board determines that the plan does not require approval, it shall, without a public hearing and within 21 days of submission, endorse on the plan the words "Lynnfield Planning Board approval under Subdivision Control Law not required." The plan shall be returned to the applicant and the Board shall notify the Town Clerk of its action.

- B. Determination that plan requires approval. If the Board determines that the plan(s) does require approval under the Subdivision Control Law, it shall, within 21 days of submission of said plan, so notify the Town Clerk and inform the applicant.



ARTICLE 5  
**Preliminary Plan**

**§ 375-5.1. Submission.**

- A. Any person, before submitting a definitive plan for approval, may submit to the Planning Board the following:
- (1) Ten black and white prints of the plan, prepared as hereinafter described.
  - (2) Required filing fee as listed under Article 3, General, § 375-3.3, Fees.
  - (3) A properly executed application on Form B.<sup>7</sup>
- B. In addition, the applicant shall provide one copy of the plan to the Board of Health. The plan and application shall not be deemed to have been submitted until delivered to the Board at a regular or special meeting thereof or received by mail to the Planning Board.

**§ 375-5.2. Notice to Town Clerk.**

Written notice shall be given to the Town Clerk by delivery or by registered mail, postage prepaid, that he has submitted such a plan. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor.

**§ 375-5.3. Contents. [Amended 4-21-2010]**

The preliminary plan shall show sufficient information, as listed below, about the subdivision to form a clear basis for review and discussion and for the preparation of the definitive plan. The submitted plan(s) shall contain the following:

- A. Plan format. Each sheet shall comply with the following format:
- (1) Size of plan. The plan shall be 24 inches by 36 inches.
  - (2) Material.
    - (a) Original submission of plans and subsequent revisions shall be provided on twenty-pound bond.
    - (b) Final plans shall be printed on single-matte "Mylar" with a thickness of 0.003 inch.
  - (3) Borders. Each plan shall contain a three-quarters-inch border.
  - (4) Scale. The plan shall have a horizontal scale of one inch to 40 feet unless the Board approves another scale as more convenient.

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7. **Editor's Note: Subdivision forms are available from the Town offices or on the Town website, [www.town.lynnfield.ma.us](http://www.town.lynnfield.ma.us).**

- (5) Stamp. All sheets of the plan shall be stamped by the Massachusetts professional land surveyor and professional engineer who is responsible for designing the subdivision.
- B. Title block. Each sheet of a submitted plan shall contain a title block in the lower right-hand corner such that when the plan is folded the name is readable. The title block shall contain the following fields; **[Amended 4-21-2010]**
- (1) Name:
    - (a) The name shall contain the word "Preliminary" and be named after one of the proposed ways in the subdivision.
    - (b) The font size of the name shall be equal to the largest size used in the title block.
    - (c) The last line in the name area shall contain the Assessor's map and parcel number(s).
  - (2) Owners: the names and addresses of the record owner of the land.
  - (3) Subdividers: the subdivider's names and addresses.
  - (4) Technical personnel: the names, addresses, and seals of the designer, engineer, and surveyor who made the plan.
  - (5) Revisions: a revision area sufficient to record a minimum of six changes.
  - (6) Approval: N/A.
  - (7) Data: the scale, date, and North arrow, sheet number of plan, legend for all symbols used, list of all zoning districts in which the land lies, including all overlays. When multiple sheets are necessary, match lines shall be used and referenced, and an index plan, graphically indicating the arrangement of said multiple sheets, shall be submitted on one standard 24 inches by 36 inches sheet at a suitable scale. **[Amended 5-29-2002]**
  - (8) Coordinate system: The preliminary plan shall be produced and depicted using the Massachusetts State Plane Coordinate System (1927 Datum in feet) or the Massachusetts State Plane Coordinate System (1983 Datum in meters).
  - (9) Certification: a statement that the plan is based upon an actual survey and the date thereof.

#### **§ 375-5.4. Required plans. [Amended 4-21-2010]**

The preliminary plan shall be comprised of the following sheets:

- A. Lotting plan.

- (1) Names of all abutters, as determined from the most recent local tax list, including all abutting land owned by the applicant;
- (2) The length of each straight property line segment to the nearest one hundredth of a foot and the bearing thereof to the nearest five seconds;
- (3) The length, central angle, radius, length of tangent for each curved property line segment to the same degree of precision as the straight lines and clearly identifying each non-tangent curve;
- (4) Boundary lines, areas, and dimensions of all proposed lots with all lots designated numerically and in sequence. Lots not conforming to the Zoning Bylaws<sup>8</sup> shall bear the following notation: "Lot # \_\_\_\_\_ shall not be used as a separate building lot";
- (5) The width and/or radius of the right-of-way;
- (6) At least two existing permanent benchmarks, being permanent stone bounds outside the construction area;
- (7) The location of recorded and proposed easements, along with their bearings and distances, within or abutting the project site, and/or other property rights affecting the development;
- (8) The location of any sections of the land to which the Town would be granted property rights, either by easement or transfer of ownership, for street, utility, conservation, recreation or other public purposes;
- (9) The proposed yard setback in feet for buildings and, if applicable, from a zoning district boundary, a brook or a pond, and, if applicable, the setback of a driveway or parking lot from lot lines;
- (10) Table of the following for each lot: the upland area, total lot area, frontage, district;
- (11) Proposed bounds, markers and/or monuments;
- (12) Zoning district boundary lines, including overlays and the Town boundary line; and
- (13) A locus of the subdivision, at a scale of 400 feet to the inch, showing the exterior lines of all proposed streets in the subdivision and their location in relation to one or more existing streets, or portions thereof, shown and readily identifiable as to locus on the "Map of the Town of Lynnfield, Massachusetts; July 1953, Prepared for the Lynnfield Planning Board," as most recently amended. (It is intended that this location plan be so drawn and oriented as to permit the later transfer of the new street lines directly from said

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**8. Editor's Note: See Ch. 260, Zoning.**

plan to the original copy of the aforementioned map of the Town.)  
**[Amended 5-29-2002]**

B. Proposed plan and profile.

- (1) The profile shall contain the following information:
  - (a) Existing and proposed center line, and proposed left and right gutter lines designated at fifty-foot intervals and labeled at one-hundred-foot intervals.
  - (b) The center-line grade of the proposed street designating the location of vertical curves and corresponding data.
  - (c) Elevations at the top and bottom of all even grades and at twenty-five-foot intervals along all vertical curves.
  - (d) The horizontal scale of the profiles shall be 40 feet to one inch; the vertical scale shall be four feet to one inch.
  - (e) Size and location of existing and proposed storm drains/culverts, water mains, and appurtenances thereto. All existing and proposed structures shall show the rim elevations, sump elevations, and all pipe invert elevations.
- (2) The plan shall contain the following information:
  - (a) Road center-line stations designated at fifty-foot intervals and labeled at one-hundred-foot intervals.
  - (b) Topography with two-foot contours. The Board may agree to waive this requirement for a particular subdivision.
  - (c) Proposed lot line and easement lines without bearings and distances.
  - (d) Existing, proposed, and temporary edge of roadway, curbing, and sidewalk locations. Roadway shall be designated with widths and radius.
  - (e) Existing and proposed house and driveway locations within or adjacent to the subdivision.
  - (f) Benchmark with control elevation indicated.
  - (g) Size and location of existing and proposed storm drains/culverts, other utilities and their appurtenances thereto within and adjacent to the subdivision. All existing and proposed structures shall show the rim elevations, sump elevations, and all pipe invert elevations.
  - (h) Proposed and existing water mains and services. If the subdivision is not supplied with water from one of the Town's water districts, suitable well locations will need to be shown.

- (i) Proposed septic system locations.
- (j) Proposed and existing gas mains and services.
- (k) Proposed and existing electrical, fire alarm, and telecommunication utilities and their associated appurtenances. This shall include all main conduits as well as services to individual lots.
- (l) Current, approved, and a nonappealed wetlands boundary, as detailed herein, including one-hundred-, fifty-, and twenty-five-foot buffer zones.
- (m) Location, DBH (diameter at breast height) and species of any hardwood tree with a DBH greater than 24 inches and softwood tree with a DBH greater than 36 inches within the proposed right-of-way, easement areas, or on neighboring properties within 10 feet of the proposed right-of-way or easement areas. All trees determined to be a significant tree by the Planning Board shall be noted on the definitive plan when submitted.
- (n) Proposed location and size of all street signs and regulatory signage.
- (o) Proposed street markings.

C. Detail sheet.

- (1) The following are the required details:
  - (a) Street and sidewalk cross section showing typical buried utilities.
  - (b) Catch basin structures, including proposed casting type.
  - (c) Manhole structures, including proposed casting type.
- (2) The Planning Board may require additional details if they have not already been provided or are different from Lynnfield Department of Public Works standards.

**§ 375-5.5. Approval or disapproval.**

Within 45 days after submission of a preliminary plan, each board shall notify by certified mail the applicant and the Clerk of the Town either that the plan has been approved, or that the plan has been approved with modifications suggested by the Board or agreed upon by the person submitting the plan, or that the plan has been disapproved and, in the case of disapproval, the Board shall state in detail its reason therefor. The Planning Board shall notify the Town Clerk of its approval or disapproval, as the case may be. Except as is otherwise expressly provided, the provisions of the Subdivision Control Law relating to a plan shall not be applicable to

the preliminary plan, and no Register of Deeds shall record a preliminary plan.

ARTICLE 6  
**Definitive Plan**

**§ 375-6.1. Submission. [Amended 4-21-2010]**

- A. Any person who submits a definitive plan of a subdivision to the Board for approval shall file with the Planning Board the following:
- (1) Thirteen black and white prints of the definitive plan, prepared as hereinafter described.
  - (2) Required filing fee as listed under Article 3, General, § 375-3.3, Fees.
  - (3) A properly executed application on Form C, and designer's certificate on Form D (see "Forms").<sup>9</sup> **[Amended 5-29-2002]**
  - (4) Stormwater computations in accordance with Article 8, Required Improvements, § 375-8.3, Storm drainage.
  - (5) Prior to final approval by the Planning Board, the applicant shall submit two copies of the approved definitive plan on media approved by the Board in compliance with the requirements of Article 13, Geographical Information System (GIS) Requirement.
- B. In addition, the applicant shall provide one copy of the plan to the Board of Health. The definitive plan shall not be deemed to have been submitted to the Planning Board until it and all the items required above have been delivered to the Planning Board and the Board of Health at a regular or special meeting thereof or by registered mail to the Planning Board.

**§ 375-6.2. Notice to Town Clerk.**

As required by statute, the applicant shall give written notice to the Town Clerk by delivery or by registered mail, postage prepaid, that he has submitted the definitive plan to the Board. If notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefor to the person who delivered such notice. Such notice shall describe the land to which the plan relates sufficiently for identification, and shall state the name and address of the owner and of the subdivider and the date when such plan was submitted.

**§ 375-6.3. Contents. [Amended 4-21-2010]**

The submitted plan(s) shall contain the following:

- A. Plan format. Each sheet shall comply with the following format:
- (1) Size of plan. The plan shall be 24 inches by 36 inches.

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**9. Editor's Note: Subdivision forms are available from the Town offices or on the Town website, [www.town.lynnfield.ma.us](http://www.town.lynnfield.ma.us).**

- (2) Material.
    - (a) Original submission of plans and subsequent revisions shall be provided on twenty-pound bond.
    - (b) Final plans shall be printed on single-matte "Mylar" with a thickness of 0.003 inch.
  - (3) Borders. Each plan shall have a three-quarters-inch border.
  - (4) Scale. The plan shall have a horizontal scale of one inch to 40 feet unless the Board approves another scale as more convenient.
  - (5) Stamp. All sheets of the plan shall be stamped by the Massachusetts professional land surveyor and professional engineer who is responsible for designing the subdivision.
- B. Title block. Each sheet of a submitted plan shall contain a title block in the lower right-hand corner such that when the plan is folded the name is readable. The title block shall contain the following fields:
- (1) Name:
    - (a) The name shall contain the word "Definitive" and be named after one of the proposed ways in the subdivision
    - (b) The font size of the name shall be equal to the largest size used in the title block.
    - (c) The last line in the name area shall contain the Assessor's map and parcel number(s).
  - (2) Owners: the names and addresses of the record owner of the land.
  - (3) Subdividers: the subdivider's names and addresses.
  - (4) Technical personnel: the names, addresses, and seals of the designer, engineer, and surveyor who made the plan.
  - (5) Revisions: a revision area sufficient to record a minimum of six changes.
  - (6) Approval: an area for Planning Board approval, signatures, the date of the application filed, final plan filed, hearing date, plan approved, and plan signed.
  - (7) Data: the scale, date, and North arrow, sheet number of plan, legend for all symbols used, list of all zoning districts in which the land lies, including all overlays. When multiple sheets are necessary, match lines shall be used and referenced, and an index plan, graphically indicating the arrangement of said multiple sheets, shall be submitted on one standard 24 inches by 36 inches sheet at a suitable scale.



- (8) Coordinate system: The definitive plan shall be produced and depicted using the Massachusetts State Plane Coordinate System (1927 Datum in feet) or the Massachusetts State Plane Coordinate System (1983 Datum in meters).
- (9) Certification: a statement that the plan is based upon an actual survey and the date thereof.

**§ 375-6.4. Required plans. [Amended 4-21-2010]**

The definitive plan shall be comprised of the following sheets:

A. Lotting plan.

- (1) Names of all abutters, as determined from the most recent local tax list, including all abutting land owned by the applicant;
- (2) The length of each straight property line segment to the nearest one hundredth of a foot and the bearing thereof to the nearest five seconds;
- (3) The length, central angle, radius, length of tangent for each curved property line segment to the same degree of precision as the straight lines and clearly identifying each non-tangent curve;
- (4) Boundary lines, areas, and dimensions of all proposed lots with all lots designated numerically and in sequence. Lots not conforming to the Zoning Bylaws<sup>10</sup> shall bear the following notation: "Lot # \_\_\_\_ shall not be used as a separate building lot";
- (5) The width and/or radius of the right-of-way;
- (6) At least two existing permanent benchmarks, being permanent stone bounds outside the construction area;
- (7) The location of recorded and proposed easements, along with their bearings and distances, within or abutting the project site, and/or other property rights affecting the development;
- (8) The location of any sections of the land to which the Town would be granted property rights, either by easement or transfer of ownership, for street, utility, conservation, recreation or other public purposes;
- (9) The proposed yard setback in feet for buildings and, if applicable, from a zoning district boundary, a brook or a pond, and, if applicable, the setback of a driveway or parking lot from lot lines;
- (10) Table of the following for each lot: the upland area, total lot area, frontage, district;
- (11) Proposed bounds, markers and/or monuments;

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**10. Editor's Note: See Ch. 260, Zoning.**

- (12) Zoning district boundary lines, including overlays and the Town boundary line; and
- (13) A locus of the subdivision, at a scale of 40 feet to the inch, showing the exterior lines of all proposed streets in the subdivision and their location in relation to one or more existing streets, or portions thereof, shown and readily identifiable as to locus on the "Map of the Town of Lynnfield, Massachusetts; July 1953, Prepared for the Lynnfield Planning Board," as most recently amended. (It is intended that this location plan be so drawn and oriented as to permit the later transfer of the new street lines directly from said plan to the original copy of the aforementioned map of the Town.)  
**[Amended 5-29-2002]**

B. Existing conditions and demolition plan.

- (1) Existing contours at two-foot intervals with clearly labeled intermediate and index contours designated;
- (2) The location of all existing planimetric features or all features visible above ground that are to remain, be abandoned or removed, including, but not limited to, building outlines, including abutting properties, granite street monuments, edges of pavement and concrete, curbing, berms, gutters, painted and curbed islands;
- (3) Pavement markings, directional signage, retaining walls, sidewalks, ramps and fences;
- (4) Steep slopes (15% or greater) highlighted;
- (5) Rock outcroppings, with visible area greater than 100 square feet;
- (6) Location, caliper and species of all existing trees within the Town's right-of-way;
- (7) Location, DBH (diameter at breast height) and species of any hardwood tree with a DBH greater than 24 inches and softwood tree with a DBH greater than 36 inches within the proposed right-of-way, easement areas, or on neighboring properties within 10 feet of the proposed right-of-way or easement areas. If any of these trees have been designated by the Planning Board as significant trees during the preliminary plan stage, they shall be noted as such. If the Planning Board designates one of these trees as a significant tree during its review, it shall be noted as such on the final approved definitive plan;
- (8) All regulated resource areas as indicated in the Massachusetts Wetlands Protection Act within 150 feet of the subdivision; and
- (9) All streams on and within 250 feet of the subdivision.

C. Proposed plan and profile.

- (1) The profile shall contain the following information:
  - (a) Existing and proposed center line, and proposed left and right gutter lines designated at fifty-foot intervals and labeled at one-hundred-foot intervals.
  - (b) The center line grade of the proposed street designating the location of vertical curves and corresponding data.
  - (c) Elevations at the top and bottom of all even grades and at twenty-five-foot intervals along all vertical curves.
  - (d) The horizontal scale of the profiles shall be 40 feet to one inch; the vertical scale shall be four feet to one inch.
  - (e) Size and location of existing and proposed storm drains/culverts, water mains, and appurtenances thereto. All existing and proposed structures shall show the rim elevations, sump elevations, and all pipe invert elevations.
- (2) The plan shall contain the following information:
  - (a) Road center-line stations designated at fifty-foot intervals and labeled at one-hundred-foot intervals.
  - (b) Proposed lot line and easement lines without bearings and distances.
  - (c) Existing, proposed, and temporary edge of roadway, curbing, and sidewalk locations. Roadway shall be designated with widths and radius.
  - (d) Existing and proposed house and driveway locations within or adjacent to the subdivision.
  - (e) Benchmark with control elevation indicated.
  - (f) Size and location of existing and proposed storm drains/culverts, other utilities and their appurtenances thereto within and adjacent to the subdivision. All existing and proposed structures shall show the rim elevations, sump elevations, and all pipe invert elevations.
  - (g) Proposed and existing water mains and services. If the subdivision is not supplied with water from one of the Town's water districts, suitable well locations will need to be shown.
  - (h) Proposed septic system locations.
  - (i) Proposed and existing gas mains and services.
  - (j) Proposed and existing electrical, fire alarm, and telecommunication utilities and their associated

appurtenances. This shall include all main conduits as well as services to individual lots.

- (k) Current, approved, and a nonappealed wetlands boundary, as detailed herein, including one-hundred-, fifty-, and twenty-five-foot buffer zones.
- (l) Proposed location and size of all street signs and regulatory signage.
- (m) Proposed street markings.

D. Topographic plan.

- (1) Proposed roadway and sidewalk locations designated with widths and radius.
- (2) Existing and proposed contours at one-foot intervals.
- (3) Lot line and easement lines without bearings and distances.
- (4) Location of proposed street trees.
- (5) Location, DBH (diameter at breast height) and species of any hardwood tree with a DBH greater than 24 inches and softwood tree with a DBH greater than 36 inches within the proposed right-of-way, easement areas, or on neighboring properties within 10 feet of the proposed right-of-way or easement areas. If any of these trees have been designated by the Planning Board as significant trees during the preliminary plan stage, they shall be noted as such. If the Planning Board designates one of these trees as a significant tree during its review, it shall be noted as such on the final approved definitive plan.
- (6) Benchmark with control elevation indicated.
- (7) Existing and proposed house locations, including finished floor and cellar floor elevations.
- (8) Elevations at the top and bottom of features such as curbing and retaining walls.
- (9) Proposed septic systems and test pit locations.
- (10) Existing and proposed street sign and traffic control signage.
- (11) Proposed stormwater management system. The stormwater system shall be shown as a detailed insert with spot elevations, one-foot contours, structure and pipe locations, and structure and pipe elevations.
- (12) Stopping and intersection sight distance for intersections at every major roadway. This may include existing and proposed spot

elevations shown at any critical location impacting the sight distance.

- (13) Current, approved, and a nonappealed wetlands boundary, as detailed herein, including one-hundred-, fifty-, and twenty-five-foot buffer zones.

E. Streetlighting plan.

- (1) All lot lines and easements within the subdivision without bearings and distances.
- (2) Proposed roadway and sidewalks;
- (3) Proposed houses and driveways;
- (4) Proposed drainage structures and hydrants;
- (5) All underground telecommunication, fire alarm, and electrical conduits, and their associated appurtenances;
- (6) All proposed and existing: streetlights, streetlight conduits, and lighting control pedestals; and
- (7) All proposed and existing street tree locations that may affect streetlight locations.

F. Erosion and sediment control plan.

- (1) The location of existing and proposed planimetric features or features visible above ground, including, but not limited to, building locations, granite street monuments, edge of pavement, curbing, berms, gutters, islands, retaining walls, sidewalks, ramps, and fences.
- (2) On-site drainage patterns and erosion and siltation controls both during and after construction phases.
- (3) Areas of soil disturbance.
- (4) Location, detail drawing, and specifications of controls used during construction to divert stormwater and to mitigate/eliminate sediments, contaminants, or pollutants. To be installed in accordance with, as updated from time to time, the "Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas, A Guide for Planners, Designers and Municipal Officials," prepared by Franklin, Hampden, Hampshire Conservation Districts, dated March 1997.
- (5) Drainage patterns and slopes anticipated after major grading activities are completed. (All slopes should indicate grading ratio and flow direction.)

- (6) Areas used for temporary storage (including measures to minimize run-on and migration): soil; materials storage; waste storage (hazardous, nonhazardous, dry, saturated).
- (7) Vehicle and equipment service and storage areas.
- (8) Location, detail drawings, and specifications for post-construction stormwater management practices, including, but not limited to:
  - (a) Landscaped areas and areas of hydroseeding.
  - (b) Drainage structures (open and closed).
  - (c) Detention/Retention/Infiltration ponds or underground chambers.
  - (d) Water quality inlets or gross particle separators.
  - (e) Catch basin hoods or oil/water separators.
  - (f) Other pollutant-removing structural and nonstructural best management practices (BMPs).

G. Detail sheet.

- (1) The following are the required details:<sup>11</sup>
  - (a) Street and sidewalk cross section showing typical buried utilities (see Details Appendix).
  - (b) Catch basin structures, including proposed casting type (see Details Appendix).
  - (c) Manhole structures, including proposed casting type (see Details Appendix).
  - (d) Drainage trench (see Details Appendix).
  - (e) Outlet control structure (if necessary).
  - (f) Level spreader.
  - (g) Spillway cross section.
  - (h) Detention basin embankment.
  - (i) Bituminous concrete cape cod berm (see Details Appendix).
  - (j) Sloped granite curb (see Details Appendix).
  - (k) Granite curb inlet and transition stone.
  - (l) Granite bound (see Details Appendix).

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**11. Editor's Note: The Details Appendix is available from the Planning Board.**

- (m) Wood/Steel guardrail installation (see Details Appendix).
  - (n) Siltation fence and hay bale installation.
  - (o) Typical tree planting (see Details Appendix).
  - (p) Wheelchair ramp (see Details Appendix).
  - (q) Streetlight pole base (see Details Appendix).
  - (r) Streetlight control box (see Details Appendix).
  - (s) Streetlight pole (see Details Appendix).
  - (t) Streetlight (see Details Appendix).
- (2) The Planning Board may require additional details if they have not already been provided or are different from Lynnfield Department of Public Works standards.

**§ 375-6.5. Approval or disapproval. [Amended 4-21-2010]**

- A. After the public hearing, the definitive plan will be studied by the Board to determine its conformity with any tentatively approved preliminary plan, and its compliance with the design standards and other requirements of these rules and regulations. Within 90 days after the submission of such plan, provided a preliminary plan has been filed and duly acted upon, or within 135 days after the submission of such plan, provided a preliminary plan has not been filed and acted upon, the Board will take final action thereon by approving, modifying and approving or disapproving such plan. Approval of the plan shall not be deemed to be the laying out or acceptance by the Town of any street shown thereon.
- B. The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk. After the definitive plan has been approved and endorsed, the applicant shall furnish the Board with nine black and white prints on paper and one print on Mylar.
- C. In the event of modification, amendment or rescission of approval of a plan of a subdivision, the notice of this action shall contain a statement by the Planning Board that such modification, amendment or rescission does not affect any lot or rights appurtenant thereto in such subdivision, which lot was conveyed or mortgaged in good faith and for valuable consideration subsequent to the approval of the subdivision plan.

- D. Proof of registration of a plan(s) and/or documents within 10 days of recording shall be provided to the Board.
- E. Prior to final approval by the Planning Board, the applicant shall submit two copies of the approved version of the definitive plan on media approved by the Board in compliance with Article 13, Geographic Information System (GIS) Requirement. **[Amended 5-30-2001]**

**§ 375-6.6. Verifications, approvals and special requirements.**

A. Agency information.

- (1) The applicant shall, 45 days from submission, obtain the following from the agency and for the facilities listed below: **[Amended 5-29-2002]**

- (a) Director of Public Works: **[Amended 4-21-2010]**

- [1] For streets, roadways, sidewalks, monuments, easements, and storm drainage facilities: verification of existing facilities shown on the definitive plan; approval of proposed facilities; detailed specifications for performing the required work, including any special construction requirements; approval of cost estimates for performing said work; authorization for any permitted deviations in improvement requirements.

- [2] For street trees: requirements as to size, species, location, and method of planting.

- [3] For streetlighting facilities: requirements for installing proposed facilities, authorization for any permitted deviations in requirements.

- (b) Water District Commissioners, for water mains, hydrants, and related facilities: verification of existing facilities shown on the definitive plan; approval of proposed facilities; detailed specifications for performing the required work, including any special construction requirements; approval of cost estimates for performing said work; authorization for any permitted deviations in improvement requirements.

- (c) Chief of the Fire Department, for any special water supply facilities for fire protection where there is to be no public water system: approval of proposed facilities; construction specifications; approval of cost estimates.

- (d) Board of Health, for the subdivision as a whole: tentative approval of the suitability of the land as building sites; for individual water supply; and individual sanitary facilities. **[Amended 4-21-2010]**



- (e) Wiring Inspector, for streetlighting underground circuits: requirements for installing proposed facilities; authorization for any permitted deviation from requirements.
  - (f) Gas utility serving area, for gas distribution lines: requirements for installing proposed facilities. **[Amended 12-7-1992]**
  - (g) Public utility supplying telephone service and cable service, for telephone and cable wire and appurtenances: requirements for installing proposed facilities. **[Amended 4-21-2010]**
  - (h) Division of Zoning Enforcement and Inspection, for all underground utilities and improvements: approval of proposed layout relative to each other and to the street.
  - (i) Other corporations or agencies, for facilities not listed above owned, operated or controlled by such bodies: requirements for installing such proposed facilities.
- (2) All such facilities listed above shall be shown on the definitive plan. **[Amended 4-21-2010]**
- (3) The specifications, standards, requirements and like referred to in this subsection, inclusive, shall be furnished to the Board and considered by it in its deliberations concerning the approval of the definitive plan, but none of the same shall be conclusively binding upon the decision of the Board.
- B. Agency approval. The verifications of existing facilities and the approval of proposed facilities required from any agency listed under Subsection A, Agency information, may be indicated by an appropriate statement from the agency addressed on its letterhead to the Board. Work specifications, installation requirements, special construction requirements, and any granted authorization for deviations in improvement requirements will be furnished to the applicant by the agency concerned in a written statement suitable for attachment to and incorporation with his application form written statement. **[Amended 5-29-2002]**
- C. Opinion of Board of Health as to suitability of the land.
  - (1) The applicant shall submit to the Planning Board and to the Board of Health a report from a qualified professional engineer registered in the Commonwealth of Massachusetts, engaged at the applicant's expense, and approved by the Planning Board, which contains at least the following:
    - (a) The definitive plan to which the report applies.
    - (b) Results of percolation tests at the site of the leaching bed of the septic tank on each lot, including an estimate of conditions likely to exist at periods of maximum wetness.

- (c) A summary of the minimum facilities required to assure that, without substantial altering of the landscape by filling or dredging, the sewage from a minimum of eight occupants can properly be disposed of without:
  - [1] Odor or liquid effluent appearing above ground or in storm drainage facilities.
  - [2] Contamination of any brook, pond, well field, reservoir, or wetland.
  - [3] Excessive operational problems to the occupant.
- (d) An estimate of the maximum height of the water table.
- (e) The minimum elevation of the lowest floor in the dwelling to avoid inundation in a fifty-year flood.
- (f) Any soil characteristics, such as recent filling, which might preclude a stable foundation.
- (g) A statement that, in the opinion of the engineer, all (or which) lots are suitable for building dwellings thereon, considering the above and other pertinent factors.
- (2) The Planning Board shall, within 10 days after submission of the definitive plan and engineer's report to it, consult with the Board of Health. If there is evidence that any of the lots in the subdivision cannot be used as building sites without injury to the public health or environment, the Planning Board shall not approve such lots for building purposes. The applicant shall be notified in writing of the Planning Board action within 30 days.

**§ 375-6.7. Erosion and sediment control practices. [Amended 4-21-2010]**

General erosion and sediment control practices shall be implemented during construction. A narrative of the erosion and sediment control practices shall be provided to the Planning Board and shall include:

- A. General practices and timing of implementation to match construction sequence.
- B. Soil stabilization.
- C. Methods to reduce tracking sediment onto private/public roads.
- D. Wind erosion control:
  - (1) Dust control.
  - (2) Sweeping.
- E. Methods to minimize contact with stormwater.

- (1) Construction vehicles and equipment:
  - (a) Maintenance.
  - (b) Fueling.
  - (c) Washing.
- (2) Materials:
  - (a) List of materials to be delivered and stored.
  - (b) Describe methods to minimize amounts of materials stored on site.
  - (c) Describe methods secondary containment.
  - (d) Describe chemical storage methods.

**§ 375-6.8. Requirement as to number of buildings for dwellings.**

Not 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 consent of the Board, and such consent may be conditioned upon the providing of adequate ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.

**§ 375-6.9. Public hearing.**

Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be scheduled and held by the Planning Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given at the expense of the applicant by advertisement in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication being not less than 14 days before the day of such hearing or, if there is no such newspaper in such Town, then posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of such hearing, and by sending, via certified mail with return receipt, a copy of such advertisement to the applicant and to all persons entitled under the provisions of Chapter 41 of the General Laws, as it may be amended from time to time. Return receipts evidencing such mailing by certified mail shall be presented by the applicant at the public hearing for review and retention by the Planning Board.

**§ 375-6.10. Health and safety requirements pending street acceptance.**

Until such time as all the streets and ways in the subdivision are accepted as public ways by Town Meeting, the general contractor, the developer, the owner, and each successor in interest to them, jointly and severally (hereafter referred to as the "development entities"), shall maintain all

areas of the subdivision in a safe and secure manner so as not to constitute a hazard to the health, welfare, or safety of the public.

A. It is the responsibility of the development entities to pay for and provide as follows:

- (1) The tracking of soil, dust, aggregate and other construction materials from the site onto private or public ways shall be minimized. In the event soil, dust, aggregate or other construction materials are tracked onto the public way, the DPW Director may order any contractor working at the site or any development entities to take such steps on the site that the DPW Director deems reasonable to clean or remove such materials or to prevent materials from tracking off the site.
- (2) Standing water shall be dispersed and drained or otherwise removed in a manner appropriate to environmental concerns.
- (3) Construction materials, hazardous materials, structures, tools and equipment shall be secured in such a manner so as not to damage or cause harm to any person or adjacent properties. Appropriate precautions shall be taken in the event of actual or forecast adverse weather conditions such as wind, rain, snow, or flooding.
- (4) Streets and ways shall be kept clear and passable so as to allow immediate access by emergency vehicles.
- (5) Streets and ways shall be plowed and sanded in a manner consistent with how and when public streets and ways are plowed and sanded. A twenty-four-hour contact phone number of the development entities' plow contractor shall be provided to the DPW Director in writing prior to December 1 of each year.
- (6) Refuse and trash removal shall be performed at least once per week at the driveway of each and every occupied premises within the subdivision.
- (7) Each street in the subdivision shall be illuminated by streetlights in the location shown on the definitive plan and in accordance with the Planning Board rules and regulations prior to the issuance of the first occupancy. All the streetlights shall be maintained in continuous working order.

B. These requirements are not waivable.

#### **§ 375-6.11. Street signs.**

Until such time as all the streets and ways in the subdivision are accepted as public ways by Town Meeting, the development entities shall erect and maintain street signs for each street and way within the subdivision designating the street name and clearly indicating that the street is a

private way. Such signs shall be in accordance with DPW standards or direction. This regulation is not waivable.

**§ 375-6.12. Notice.**

Each definitive plan shall contain the language of §§ 375-6.10 and 375-6.11. This regulation is not waivable.

**§ 375-6.13. Application for extension of time to complete subdivision.**

- A. All applications for extension of time to complete a subdivision must be in writing, signed by the developer and/or any successor in interest or his designated representative and shall include the filing fee as listed under Article 3, General, § 375-3.3, Fees.
- B. The application shall affirm that the subdivision plan and all construction thereunder complies with the Planning Board rules and regulations in effect at the time of submission of the definitive plan; otherwise, the applicant shall provide documentation establishing the time and manner in which compliance with said rules and regulations shall be achieved.
- C. The application shall also affirm the development entities have complied with the provisions of § 375-6.10 and 375-6.11. No application for extension of time shall be approved unless the developer and the subdivision conform to the applicable Planning Board rules and regulations and the aforementioned §§ 375-6.10 and 375-6.11.
- D. Each application for extension of time shall be accompanied by an itemization of all work completed and an itemization of all work remaining to be completed, with a good faith estimate of the cost of completion and completion date.
- E. Upon receipt of an application for extension of time to complete a subdivision, the Planning Board shall review the application to determine its conformity to the applicable Planning Board rules and regulations as well as the provisions related to any extension. The Planning Board shall also consider whether or not the developer has conformed to the plans, specifications, and like requirements.
- F. The Planning Board shall review the sufficiency of the bonding for the subdivision and shall require further security if the Board determines that additional security is reasonably required in light of the work remaining, inflationary factors, and any other criteria allowed by law.

**§ 375-6.14. Compliance.**

In the event of failure by the development entities to comply with the plans and specifications approved by the Board, or in the event of failure of the development entities to comply with the Planning Board rules and regulations, the Planning Board may conduct an administrative hearing and

shall make findings of fact and render a decision based upon such findings. Failure on the part of the developer and/or any successor in interest to comply with such decision shall be grounds to deny any extension and/or the rescission of the subdivision consistent with the provisions of MGL c. 41, § 81W, and/or the implementation of any other remedy available to the Planning Board.

ARTICLE 7  
**Design Standards**

**§ 375-7.1. Streets.**

A. Location and alignment.

- (1) All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel. Due consideration shall also be given to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.
- (2) The proposed streets shall conform to any Master or Study Plan adopted in whole or in part by the Board.
- (3) Streets shall be continuous and in alignment with existing streets, as far as practicable, and shall comprise a convenient system with connections adequate to insure free circulation of vehicular travel.
- (4) If adjoining property is not subdivided but is, in the opinion of the Board, suitable for ultimate development, provision shall be made for proper projection of streets into such property by continuing appropriate streets within the subdivision to the exterior boundary thereof. Said projections shall be built to meet all the requirements as specified in Article 8, Required Improvements.
- (5) Temporary dead-end streets, laid out to permit future projection, shall conform to the provisions of alignment, width, and grade that would be applicable to such streets if extended.
- (6) Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Board, such strips shall be in the public interest.
- (7) Street jogs with center-line offsets of less than 125 feet should be avoided.
- (8) The minimum center-line radii of curved streets shall be 100 feet. Greater radii may be required for principal streets.
- (9) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°.
- (10) Street lines at all intersections shall be rounded with a curve at each corner having a radius of not less than 25 feet. However, when the intersection of two streets varies more than 10° from a right angle, the radius of the curve at the obtuse angle may be less and at the acute angle shall be greater than 25 feet to the extent approved or required by the Board.

B. Width.

- (1) The minimum width of street rights-of-way shall be 50 feet for principal streets and 40 feet for all other streets.
- (2) Alleys with a minimum width of 20 feet may be required by the Board at the rear of any lots designated or zoned for nonresidential use.

C. Grade.

- (1) Grades of all streets shall be the reasonable minimum, but shall not be less than 1.0%. Grades shall not be more than 6.0% for principal streets or more than 9.0% for other streets.
- (2) Where the grade of any street at the approach to an intersection exceeds 6.0%, a leveling area shall be provided having not greater than a grade of 1.0% for a distance of 25 feet measured from the nearest exterior line of the intersecting street.

D. Dead-end streets.

- (1) Dead-end streets, if approved by the Planning Board, permanently designed as such, shall not be longer than 500 feet unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.
- (2) Dead-end streets, if approved by the Planning Board, permanently designed as such, shall be provided at the closed end with a turnaround having an outside property line diameter of at least 120 feet. Construction of an island within the turnaround is prohibited.

E. Adequate access from public way.

- (1) A way providing access to streets within a subdivision shall be considered to provide adequate access if such access way complies with the subdivision regulations for pavement, width, and maximum grade applicable within a subdivision (hereinafter "access way").
- (2) The Board may require, as a condition of its approval of a subdivision plan, that the developer construct or reconstruct an access way to comply with the subdivision regulations for pavement, width, and maximum grade applicable within a subdivision or compensate the Town for the cost of such improvement.
- (3) Waivers. The Board may waive compliance with these access regulations upon a determination that the way in fact will be otherwise sufficient to serve the needs for access to potential uses of land abutting on or served by the way in question.

**§ 375-7.2. Easements.**



- A. Easements for water mains and storm drains across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least 20 feet wide.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Board may require that there be provided a stormwater or drainage easement of adequate width to conform substantially to the lines of such watercourse, drainageway, channel or stream, and to provide for construction of other necessary purposes.
- C. Easements for underground electrical power, fire alarm or telephone lines across lots or centered on rear or side lot lines shall be provided as necessary. Such easements shall not be less than 10 feet in width.
- D. Easements for installation and maintenance of distribution transformers, streetlight metering or switching services and the like shall be provided as required. Such easements shall be centered on lot lines and adjacent to street lines and shall provide at least four feet of working space around the installed equipment.

### **§ 375-7.3. Lots.**

All lots shown on the plan shall comply with the requirements of the Zoning Bylaws of the Town of Lynnfield.<sup>12</sup>

### **§ 375-7.4. Open space.**

Before approval of a plan, the Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Board may, by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its written approval.

### **§ 375-7.5. Protection of natural features.**

- A. Due regard shall be shown for all natural features, such as large trees, stone walls, watercourses, scenic points, historic spots, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision, or to the Town.
- B. Special consideration shall be given to hardwood trees with a DBH (diameter at breast height) greater than 24 inches and softwood trees with a DBH greater than 36 inches within the proposed right-of-way, easement areas, or on neighboring properties within 10 feet of the proposed right-of-way or easement areas. The Board may designate hardwood trees with a DBH (diameter at breast height) greater than 24 inches or softwood trees with a DBH greater than 36 inches as

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**12. Editor's Note: See Ch. 260, Zoning.**

significant trees if the Board determines the tree serves as an important asset to the community. **[Amended 4-21-2010]**

- C. All trees designated by the Board to be significant shall be well marked with signage and protected by the developer during construction. Protection measures for these trees shall be determined by the Planning Board prior to construction. If the Planning Board permits the removal of a significant tree for the construction of the subdivision, the Board may require the applicant to replace or relocate said tree as deemed fit. **[Amended 4-21-2010]**

**§ 375-7.6. Aboveground utility system components, cases and supports.**

With the exception of fire alarm boxes, hydrants and streetlights, such items shall be painted a neutral green.

ARTICLE 8  
**Required Improvements**

**§ 375-8.1. General.**

- A. All improvements hereinafter specified shall be constructed or installed by the applicant in accordance with these rules and regulations and in conformity with the approved definitive plan and the specifications and other construction requirements of the agencies concerned, and to the satisfaction of such agencies.
- B. As provided in Article 6, § 375-6.6, Verifications, approvals and special requirements, Subsection B, Agency approval, the agencies concerned may require notice on the completion of specified items of construction and the inspection thereof by a competent engineer or other person employed at the applicant's expense.

**§ 375-8.2. Streets and roadways. [Amended 4-21-2010]**

- A. General.
  - (1) Each stage of work within the exterior lines of all streets in the subdivision shall be approved before the next stage is started.
  - (2) The entire area within the exterior lines of all streets in the subdivision shall be cleared, excavated or filled as necessary, and graded in accordance with the then current standard specifications of the Commonwealth of Massachusetts Department of Public Works Standard Specifications for Highways and Bridges.
- B. Specifications.
  - (1) Roadways shall be constructed for the full length of all streets in the subdivision. The center line of such roadways shall coincide with the center line of the street rights-of-way unless a variance is specifically authorized by the Director of Public Works. The minimum width of roadways between curblines shall be as follows:
    - (a) All principal streets: 32 feet.
    - (b) All other: 26 feet.
  - (2) Where a temporary dead-end street extends 150 feet or more beyond an intersection, there shall be constructed, as part of the roadway, a temporary turnaround located directly adjacent to the subdivision boundary and extending across the full width of the street right-of-way. Suitable provision shall be made for future extension of the street and of underground utilities.
  - (3) No grade or inclination of the surface of any street shall be in excess of 6% for main thoroughfares or 9% for minor streets, nor shall it be less than 0.5%. The line and profile of the street shall be acceptable to the Planning Board.

- (4) All roadways shall be brought to and include a finished grade as shown on the profiles of the definitive plan and shall be provided with a finished surface of their full width and length. All principal streets and all streets in residential zones shall be constructed with 12 inches of compacted subbase (M1.03.0 Type C Gravel Borrow or processed gravel) with a minimum of four inches of bituminous concrete pavement placed on top.
- (5) Bituminous concrete shall be constructed in two lifts, the first being 2.5 inches of compacted type "I" binder, the second being 1.5 inches of compacted type "I" top course in accordance with state specifications. All roadways shall be crowned three inches.
- (6) Cape cod bituminous concrete curbs shall be provided on all streets except where sloped granite curbs shall be provided on the radius of curves at all street intersections, landscaped islands (if permitted by the Board), and in culs-de-sac without landscaped islands. Granite curb inlets shall be installed behind every catch basin with a granite curb transition stone on either side of the throat to transition the curbline to the cape cod curb. **[Amended 3-23-1992; 5-29-2002]**
- (7) All areas between the exterior street lines and the curbline of the roadways thereon which are not occupied by sidewalks shall be graded, loamed with six inches of loam after compacting and seeded with grass seed. Where the final grade of the exterior street lines is above or below the grade of the adjacent land, walls or 2-1 slopes shall be constructed sufficient, in the opinion of the Director of Public Works, to support the street or the adjacent land, as the case may be.
- (8) Stone bounds shall be set on the exterior street lines at all angle points, at the beginning and end of all curves, and at all intersections. Such bounds shall be set in bank gravel with their tops at the proposed finished surface grade, unless the Director of Public Works directs otherwise. Bounds shall be of granite, not less than four feet long, and not less than six inches square, with the top surface hammer-dressed, to a six-inch area. They shall be set accurately on the street lines, and at such elevation as the Board may direct. A drill hole 1/2 inch by two inches shall be placed in the center of the top of each bound.
  - (a) The setting of the bounds and markings shall be supervised by a registered land surveyor. Upon completion of setting the required number of bounds, a written certification from a registered land surveyor shall be properly located on the as-built plan. Said certification shall state that he/she has placed the bounds with drill holes in accordance with the locations as shown on the approved plans. **[Amended 5-29-2002]**

- (b) In the case of "Green Belt land" as described in Chapter 260, Zoning, § 260-8.4, Green Belt zoning, stone bounds shall be set on the exterior lines of all "Green Belt land" at all angle points, at the beginning and end of all curves, at all intersections, and at intervals of 300 feet or less on straight boundary lines.
- (9) A minimum of three street trees per lot, of a minimum DBH (diameter at breast height) of 3.0 inches, and a species approved by the Director of Public Works/Tree Warden, shall be planted in the subdivision wherever, in the opinion of the Director of Public Works/Tree Warden, existing woodlands or suitable individual trees are not retained. Trees shall be located outside the street right-of-way lines at a distance not to exceed 20 feet and at such spacing and location as the Director of Public Works/Tree Warden shall specify. The subdivision's homeowners' association trust shall be made responsible for maintaining these trees in perpetuity.
- (10) Street signs and standards, of a design and material approved by the Planning Board and bearing the name of the street as indicated on the approved definitive plan and the intersecting street, shall be erected at all intersections of streets in the subdivision. At all points at which a private street within the subdivision intersects with an existing public way, there shall also be erected on the same standard and immediately below the street sign, of such size as the Director of Public Works may deem necessary, reading "Private Way."
- (11) Sidewalks, having a width of not less than five feet if on a principal street, or four feet if on any other street, shall be constructed along both sides of all streets. The sidewalks shall be constructed of three inches of hot top.

### § 375-8.3. Storm drainage.

#### A. General.

- (1) Storm drains, culverts and related installations, including catch basins, gutters, and manholes, shall be installed as necessary to provide adequate disposal of surface water from all streets within the subdivision and adjacent land. **[Amended 4-21-2010]**
- (2) Each subdivision, regardless of its size, shall have a stormwater management system compliant with the latest edition of the Department of Environmental Protection's (DEP) Stormwater Management Policy and the requirement of these regulations. **[Amended 4-21-2010]**
- (3) Proper connections shall be made with any existing drains in adjacent streets or easements. Where property adjacent to the subdivision is not subdivided, provision shall be made for proper projection of the drainage system by continuing appropriate drains

to the exterior boundaries of the subdivision at such size and grade as will allow for such projection. **[Amended 4-21-2010]**

- (4) The storm drainage system shall be laid out to the satisfaction of the Director of Public Works, who will require provision of such facilities and arrangement thereof as in his opinion are reasonably necessary.
- (5) The subdivision's stormwater management system shall be designed so as to not increase the peak rate of runoff of stormwater in the two-, ten-, and one-hundred-year storm events. Holding ponds, dry wells, or other equivalent permanent means shall be provided to prevent an increase in the rate of rainfall runoff due to the construction of roadways, driveways, other paved areas, building roofs, and grassed areas during these storm events. Computations prepared by a registered professional engineer in support of the design of the preventive shall be provided to the Planning Board. The Soil Conservation Method shall be used for runoff computations. **[Amended 4-21-2010]**
- (6) A stormwater management system operations and maintenance plan shall be submitted to and compliant with the Department of Environmental Protection's Technical Guide for Compliance with the Massachusetts Stormwater Management Standards. The subdivision's homeowners' association trust shall be made responsible for maintaining the stormwater management system in perpetuity and, if necessary, replacing the system if the system fails. **[Amended 4-21-2010]**
- (7) Plans shall show topographical information on all lots. **[Amended 5-29-2002]**

B. Specifications. **[Amended 4-21-2010]**

- (1) The minimum size of the all drains shall be 12 inches ID and shall be Class IV reinforced concrete pipe. At least three feet of cover will be required over all drains.
- (2) The catch basins shall be: a minimum of seven feet deep; constructed with a four-foot inside diameter; constructed with a four-foot sump; made of precast concrete with H-20 design strength; and furnished with a Lebaron LF246 or equivalent casting for a single catch basin, or a Lebaron LV2448-1 or equivalent for a double catch basin.
- (3) All manholes shall be: constructed with a four-foot inside diameter; made of precast concrete with an H-20 design strength; constructed with inverts made of (with) either cemented brick or concrete; and furnished with a Lebaron LA246 or equivalent casting.

- (4) Catch basins shall be built on both sides of the roadway at intervals no greater than 300 feet. They shall be built at all low points in the roadway.
- (5) Manholes shall be built at intervals no greater than 300 feet. The maximum distance between a catch basin and manhole shall be 300 feet.
- (6) Oil and gas traps shall be installed in all catch basins. All oil and gas traps shall be Lebaron L219-12 or equivalent.
- (7) Detention basins shall be designed to the following parameters:
  - (a) All standing water shall completely drain from the pond within 24 hours from the end of the storm event.
  - (b) Vehicle access to critical pond structures (inlet, outlet, forebays, sumps, etc.) shall be provided for ease of maintenance and inspection. "Access" is defined as the ability to drive a vehicle within three feet of the structure.
  - (c) A fence or vegetated barrier or other safety feature may be required by the Board for detention and retention areas for reasons of safety and aesthetics.

**§ 375-8.4. Water facilities.**

- A. Water mains, with hydrants, valves and other fittings, shall be constructed and installed within the subdivisions as necessary to provide to all lots therein adequate water supply for domestic and fire protection use.
- B. Proper connections shall be made with the existing water systems of the appropriate Water District. Where property adjacent to the subdivision is not subdivided, provision shall be made for proper projections of the system by continuing appropriate water mains to the exterior boundaries of the subdivision, at such size and grade as will allow for the projections.
- C. Service connections for water from the main structures in the street to the exterior lines thereof shall be installed for each lot shown on the plan, whether or not there is a building thereon. Any deviation of this requirement necessitated by unusual topographic or technical difficulties must have the specific approval of the Water Commissioners.
- D. The water system shall be laid out to the satisfaction of the Water Commissioners, who will require provision of such facilities and arrangement thereof as in their opinion are necessary to carry out the intent of Subsections A, B and C above.
- E. Where the subdivision is located outside a Water District or where, in the opinion of the Water Commissioners, reasonably accessible water mains are not available and will not become available within a

reasonable time, and the Commissioners so inform the Planning Board, the Board may waive the requirement of the construction of such mains. In such cases, however, each lot shall be provided with a source of domestic water supply satisfactory to the Board of Health, and the subdivision shall be provided with such special water supply facilities for fire protection as are deemed necessary by the Chief of the Fire Department.

### **§ 375-8.5. Streetlighting. [Amended 4-21-2010]**

#### **A. General.**

- (1) All work must be constructed in compliance with the Commonwealth of Massachusetts Electrical Code, and permitted. No work shall be covered or out of sight without prior inspection by the Town of Lynnfield's Wiring Inspector.
- (2) All equipment and wiring back to the service or metering point shall be owned, operated and maintained by the Town after the street has been publicly accepted.

#### **B. Specifications.**

- (1) Materials requirements:
  - (a) Luminaires shall be: colonial pole-top; finished in a factory-applied acrylic black, enamel finish; and have a photo control socket at the top. The luminaire used shall be General Electric catalog number T10R10S3N2LMS3BLT.
  - (b) Poles shall be: round aluminum; tapered from four inches at the base to three inches at the top; 10 feet tall; and finished in a factory-applied acrylic black, enamel finish. Field-applied finishes will not be acceptable. The luminaire used shall be General Electric catalog number ARTA103S4.0ABLA.
  - (c) Anchor bolts shall be: 16 inches long; made of galvanized steel; threaded for at least four inches with 3/4-10 NC on one end and a three-inch-long right-angle hook on the other.
  - (d) The pole base shall be constructed in accordance with manufacturer's specifications and the detail shown in Details Appendix.<sup>13</sup>
  - (e) All conduit used shall be one-inch-diameter PVC (Schedule 80).
  - (f) Wire used shall be UL-approved, thermoplastic, approved for wet locations, 10 AWG stranded copper (unless a larger size is required by unusual loads) 600 volt rated.

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**13. Editor's Note: The Details Appendix is available from the Planning Board.**



- (g) Meter socket type shall be approved by the Town of Lynnfield's Wire Inspector and by either the Peabody Municipal Light Department or the Reading Municipal Light Department, whichever department has jurisdiction.
  - (h) Circuit breaker panel enclosure shall be: raintight; 100 amp; 600 volt rated; cover hinged at top.
  - (i) Cabinet to be used shall provide for a weathertight compartment for panel board. This cabinet shall also provide a location where the meter can be installed on the outside of this cabinet for easy reading. The cabinet shall be a Barber Electric model number B422518TCP or equivalent. (See Details Appendix.<sup>14</sup>)
- (2) Design and installation. Lighting installations shall be made in a workmanlike manner by a qualified contractor in accordance with applicable electrical codes, Town bylaws and Planning Board regulations. The following regulations shall be followed when designing and installing the streetlighting system:
- (a) Location of luminaires. Poles shall be nominally spaced 250 feet on each side of the street, with any pole being midway between the two on the opposite side. All intersections shall be illuminated by at least one luminaire. Pole spacing may be varied plus 25 feet or minus 75 feet when necessary to provide even spacing on runs not a multiple of 250 feet. Poles shall be set one foot outside the forty-foot or fifty-foot right-of-way, on an easement provided for this purpose. Each easement shall provide for three feet of access around each streetlight. These locations shall be shown on the definitive plan.
  - (b) Metering and service locations shall be situated to give a minimum number and still provide no greater than a voltage drop of 3% at the furthest luminaire. Heavier gauge wire shall be used when beneficial. The streetlighting system shall have a minimum of two circuits, with at least one circuit for each side of the street. These locations shall be shown on the definitive plan.
  - (c) Photo cell location. The photo cell shall be used to activate all of the streetlights on the street. Photo cells shall be installed on the luminaire closest to and on the same side of the street as the cabinet. The photo cell shall be wired to the cabinet and connected to a contactor within the cabinet that will be used to activate all of the circuits in the cabinet.
  - (d) Cable burial. Power wires, protected by rigid nonmetallic conduit (Schedule 80), shall be buried at a depth not less than 24 inches, and located as shown on the definitive plan. Cables

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**14. Editor's Note: The Details Appendix is available from the Planning Board.**

shall lay in at least three inches of sand, and be covered with at least six inches of sand and caution tape a minimum of 12 inches above sand. The total of bends in the conduit shall not exceed 360°. Minimum bend radius shall be six inches. All street crossings shall be made perpendicular to the street lines. Diagonal street crossings are prohibited. No conductor splices shall be made in the raceway between poles or services. Moisture or dirt shall not be allowed to enter the conduit.

- (e) Foundations. The bases for poles shall be cast from concrete in accordance with the Light Pole Base shown in the Details Appendix<sup>15</sup> and be allowed to harden under warm, damp conditions for at least two weeks before installation. They shall be installed two inches above the finish grade line, with bolts oriented as specified, and the top surface in a true horizontal plane. Backfill shall be puddled with water and firmly tamped every six inches.
- (f) Poles. Each pole shall be adjusted to a true vertical position with aluminum shims. All poles shall follow the contour of the street in straight lines or smooth curves.
- (g) Luminares. Fixtures shall set squarely on the poles, with the "street side" parallel with the street and adjacent to it.
- (h) Cabinet. The cabinet shall be installed so that the circuit breakers are kept in a weathertight location and the meter can be easily read when installed on the side. The cabinet shall be installed on a concrete foundation and bolted down securely.
- (i) Deviations. The contractor or developer shall not perform any work or use any material contrary to the letter and intent of his contract or plan and this standard except that he shall request in writing to the Department of Public Works authorization for such deviation, stating clearly and in full the nature and scope of said deviation, and the reason for it; and shall receive in writing approval from the Department of Public Works to proceed in the requested manner.

#### **§ 375-8.6. Natural gas. [Amended 4-21-2010]**

- A. Natural gas service shall be provided to each lot. The developer shall make provisions to insure that a gas service is installed to each property and outside of the right-of-way of the roadway to allow for the future development of the lot.
- B. The developer shall coordinate with the gas department to determine the location, size, and any other appurtenances necessary to provide gas to each lot.

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15. Editor's Note: The Details Appendix is available from the Planning Board.

- C. The engineer shall show the location of all gas mains, services, and other appurtenances on the definitive plan prior to submission to the Board.

**§ 375-8.7. Other utilities.**

- A. All utilities not listed above, such as electric power, telephone and the like, shall be installed underground in accordance with the standards of the municipal body or corporation having jurisdiction, subject to § 375-8.8, Location of underground utilities.
- B. Such system shall be owned, operated and maintained by the responsible municipal body or corporation.
- C. All utilities shall be shown on the definitive plan prior to approval by the Board. **[Amended 4-21-2010]**

**§ 375-8.8. Location of underground utilities.**

The relative location of underground utilities shall be proposed by the developer, subject to the approval of the Planning Board in consultation with the various agencies responsible for said utilities.



## ARTICLE 9

**Performance Guarantee****§ 375-9.1. Performance bond.**

- A. Before approval of the definitive plan, the applicant shall, except as hereinafter provided, file with the Board bond(s), in form satisfactory to said Board (See Appendix Form E, Form F-1 or Form F-2.<sup>16</sup>): 1) for the satisfactory completion of all water mains, hydrants and related facilities; 2) for the satisfactory completion of required streetlighting; 3) for the satisfactory completion of all other required improvements; 4) for the filing of satisfactory "as built" plans with the Board within two years from the date of approval of the definitive plan. Said bonds shall be sufficient in the penal sum, in the opinion of the Board, to cover the cost of the respective improvements and so drawn as to insure their satisfactory completion. They shall be executed by the applicant as principal and a surety company authorized to do business in the commonwealth and satisfactory to the Board as surety, or secured by the deposit with the Town Treasurer of cash or negotiable securities satisfactory to the Board, or an escrow agreement in an amount equal to the penal sum of bonds. A cover letter from the lender shall accompany the bond document and the account number and bank statement shall be provided to the Planning Board.
- B. Account number for escrow agreement (Form F-2) and bank statements shall be provided to the Planning Board. Bank or surety cover letter shall accompany performance bond. **[Amended 5-29-2002; 4-21-2010]**

**§ 375-9.2. Conditional approval.**

- A. Instead of requiring bonds, the Board may, at the election of the applicant, approve the definitive plan on condition that no lot in the subdivision shall be sold and no building shall be erected or placed on any lot until all the improvements necessary to adequately serve such lot, in accordance with these rules and regulations, have been constructed and installed to the satisfaction of the Board.
- B. If conditional approval is requested by the applicant, he shall execute and deliver to the Board, before final approval, a conditional approval contract (Appendix Form G<sup>17</sup>) to construct and install the required improvements. Such contract shall be recorded, at the expense of the applicant, at the Essex South Registry of Deeds or registered with the Assistant Recorder of the Land Court in said Land Registry District, and shall be binding upon the land within the subdivision.

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16. Editor's Note: Subdivision forms are available from the Town offices or on the Town website, [www.town.lynnfield.ma.us](http://www.town.lynnfield.ma.us).

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- C. Upon the completion, to the satisfaction of the Board, of all the improvements necessary to adequately serve all lots within the subdivision, or, if so requested by the applicant, any particular lots, the Board will issue and deliver to the applicant a certificate of such performance; and upon the due recording or registering of such certificate, the conditions applicable to the lots described therein shall terminate.

**§ 375-9.3. As-built plans. [Amended 4-21-2010]**

- A. As-built plans shall be submitted to the Planning Board after all subdivision items have been completed and prior to the start of the one-year guarantee period. These plans shall be of an acceptable nature to the Planning Board before the one-year guarantee period is set to begin.
- B. The as-built plan shall be submitted in the same scale as the approved definitive plan. The acceptable as-built plan shall be submitted with two Mylar versions, six black and white prints, and electronically in accordance with Article 13, Geographical Information System (GIS) Requirement.
- C. The as-built plan shall contain the following information:
- (1) Lot lines for the road right-of-way and of all lots part of the subdivision. Included with these lot lines shall be any easements within the subdivision. Bearings and distances shall not be a part of this plan.
  - (2) All granite bounds, including registered land surveyors certification and stamp.
  - (3) Location and contours for the roadway, including center-line profile. The profile shall show the proposed grade as well as the as-built center line of the roadway every 50 feet.
  - (4) Location and contours for the sidewalk.
  - (5) Location and contours of all drainage within the subdivision, including detention basins. The drainage structures shall have the rim, invert, and sump elevations. The locations and elevations of all drainage structures shall be drawn on the road profile. The detention basins shall have one-foot contours with spot elevations for the bottom and top of the embankments. There shall also be spot elevations for all spillways and elevations on pipes or structures instrumental in the operation of the basins.
  - (6) Water system, including all gates and hydrants.
  - (7) Streetlighting fixtures, utility poles, conduits, transformers, and utility boxes within the subdivision.

- (8) Major features of the land within the right-of-way such as driveways, houses, walls, fences, natural drainage courses etc.
- (9) Street trees installed, including species.
- (10) Any and all benchmarks used within or surrounding the subdivision.

**§ 375-9.4. Street acceptance plans. [Amended 4-21-2010]**

A street acceptance plan shall be submitted to the Planning Board after all subdivision items have been completed and prior to the one-year guarantee period.

A. The street acceptance plan shall contain the following:

- (1) All lot lines for the road right-of-way and of all lots part of the subdivision. Bearings and distances shall be written clearly along all lot lines.
- (2) All lines of easement within the subdivision. Bearings and distances shall be written clearly along all lot lines.
- (3) The following statement from a registered surveyor: the property lines shown are the lines dividing existing ownerships, and the lines of streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.
- (4) A stamp from a Massachusetts registered land surveyor.
- (5) Names of all owners of lots within subdivision and who abut the roadway.
- (6) Anything else necessary for the plan to be recorded at the Registry of Deeds.

B. The developer's surveyor shall provide two original Mylars and six black and white copies of this plan to the Planning Board.

**§ 375-9.5. Guarantee hold.**

Ten percent of the total bonding amount will be retained as security for one year from the date of acceptance of the as-built plans by the Board to ensure satisfactory compliance with the rules and regulations.





## ARTICLE 10

**Evidence of Satisfactory Performance****§ 375-10.1. Release of security.**

Before the Board will release a surety bond or deposit, or, in the case of conditional approval, issue a certificate of performance, the applicant shall send by registered mail to the Town Clerk and to the Board the engineer's certification and plan as required under § 375-6.6, Verifications, approvals and special requirements, together with written evidence that the required work has been completed to the satisfaction of each of the following agencies for the facilities listed below:

- A. Director of Public Works, for streets, roadways, sidewalks, monuments, street signs, and storm drainage facilities.
- B. Water District Commissioners, for water mains, hydrants, and related facilities.
- C. Chief of the Fire Department, for any required special water facilities for fire protection.
- D. Director of Public Works, for street trees and streetlighting. **[Amended 4-21-2010]**
- E. Board of Health, for any required individual water supply and sanitary facilities for domestic use.
- F. Electric utility serving area, for electric supply and service facilities.
- G. Telephone company, for telephone facilities.
- H. Gas utility, for gas facilities. **[Amended 12-7-1992]**
- I. Conservation Commission, for any required compliance with the Wetland Protection Act.
- J. Provider for the television facilities. **[Amended 4-21-2010]**
- K. Other corporations or agencies owning, operating or controlling facilities not listed above, for such facilities.



## ARTICLE 11

**Conveyance of Improvements****§ 375-11.1. Procedure.**

- A. Before the Board releases a surety bond or deposit or, in the case of conditional approval, issues a certificate of performance, the applicant shall execute an instrument, substantially in the form of Appendix Form H-1 or H-2,<sup>18</sup> transferring to the Town or water districts, as the case may be, the ways and easements shown on the subdivision plan, together with all installations in said ways and easements, with the exception of rights, easements and installation of private utilities, such as gas and electricity, and with the further exception that the conveyance of the water pipes and appurtenances shall be to the respective water districts. The dedication of said ways and installations to the Town and to the respective water districts shall be subject to acceptance by the governing bodies and officials empowered by law to accept such dedication.
- B. In accordance with the foregoing, the developer should not convey any fee or right, by deed or otherwise, in any ways, easements or installations other than the right to pass and repass in common with others having the same right. Conveyances will comply with MGL c. 183, § 58, and the Planning Board will be furnished by the developer with a copy of the deed for each lot conveyed at least 30 days prior to the time when title to the way or ways is to be conveyed to the Town.
- C. The conveyance called for in this section shall transfer to the appropriate public corporation valid unencumbered title to all ways, easements and installations in such ways and easements as shown on the subdivision plan, and as enumerated in the performance bond and the conditional approval contract referred to in Article 9, Performance Guarantee, of these regulations.

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**18. Editor's Note: Subdivision forms are available from the Town offices or on the Town website, [www.town.lynnfield.ma.us](http://www.town.lynnfield.ma.us).**



ARTICLE 12  
**Administration**

**§ 375-12.1. Waiver.**

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. Any waiver(s) granted by the Board shall be noted upon the submitted plan(s) in order to be valid, regardless of any other record to the contrary.

**§ 375-12.2. Additional regulations.**

For matters not covered by these rules and regulations, reference is made to Sections 81K to 81GG, inclusive, of Chapter 41 of the General Laws, and acts in amendment thereof, in addition thereto or in substitution therefor.



## ARTICLE 13

**Geographic Information System (GIS) Requirement  
[Added 5-30-2001]**

The applicant shall submit all respective drawings, plans, or layouts in a format compliant with the Town of Lynnfield's Geographic Information System (GIS) to the Planning Board for review and approval. A letter from the Planning Board verifying receipt of said being in compliance with Planning Board standards shall be submitted to the applicant.

Failure to submit such information to the Planning Board and to obtain a compliance letter may be cause for the Planning Board to rescind approval or not to endorse said plan.

**§ 375-13.1. Media.**

All digital information shall be submitted on CDs. All media shall be high-quality, free from any and all defects and viruses, and labeled as to their contents. Media shall be prepared along with a backup and be sequentially numbered. These shall be provided in an PC (or compatible) format file system.

**§ 375-13.2. Digital submission file formats.**

- A. The Town will accept either GIS or CAD (computer-aided drafting and design) files. All digital information shall be accompanied by an identical hard-copy paper drawing, plan, or layout. The computer version of the plan shall be identical, full size, and shall contain all information included on the printed plan.
- B. All GIS files shall be submitted in an ESRI shape file format, "ArcView," or ARC/INFO export uncompressed file, "E00 format."
- C. All CAD files shall be submitted in AutoCAD 2002 drawing (.dwg). Each feature depicted on the plan shall have its own distinct data layer within the CAD system (i.e., lines representing each side of a property parcel.) Where property parcels are depicted, the property parcel data layer shall be a distinct data layer within the system. Polygons representing property parcels must be closed and no other data layer shall be used to close the polygon.

**§ 375-13.3. Projection and coordinate systems.**

- A. All digital file submissions shall be produced and depicted using either the Massachusetts State Plane Coordinate System (1927 Datum in feet) or the Massachusetts State Plane Coordinate System (1983 Datum in meters). Each CAD sheet shall have a minimum of four survey-quality control points depicted on both the hard-copy maps and the digital CAD file. These control points shall be survey-quality and accurate to plus or minus one centimeter.

- B. The Planning Board may request the placement of a permanent control point at a specific location in or near the subject property. Said point shall be of a high accuracy accompanied by a detailed narrative that outlines how the control point was established.



**Chapter 380**

**TRAFFIC REGULATIONS**



ARTICLE I  
**Definitions**

**§ 380-1. Terms defined.**

For the purpose of these rules and orders, the words and phrases used herein shall have the following meanings, except in those instances where the context clearly indicates a different meaning:

**CROSSWALK** — That portion of a roadway ordinarily included within the prolongation or connection of curblines and property lines at intersections, or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

**DECLARATION OF EMERGENCY** — A declaration by the Board of Selectmen, or if it is unable to meet in a timely manner, by the Chairman of the Board of Selectmen, that conditions exist as a result of a snow storm or other natural disaster that parking be prohibited on some or all of the street in the Town of Lynnfield for a certain period of time.

**EMERGENCY VEHICLE** — Vehicles of the Fire Department, police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the latter are responding to an emergency in relation to the Police or Fire Department.

**LANE** — A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

**OFFICER** — Any officer, constable or special officer, provided he has his badge of office displayed over his left breast and upon his outer garment.

**OFFICIAL STREET MARKING** — Any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Selectmen and which has the written approval of the Massachusetts Department of Transportation.

**OFFICIAL TRAFFIC SIGNS** — All signs, markings and devices, other than signals, not inconsistent with these rules and orders, and which conform to the standards prescribed by the Massachusetts Department of Transportation and placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning, or regulating traffic.

**PARKING** — The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to an officer or traffic signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

**PEDESTRIAN** — Any person afoot or riding on a conveyance moved by human power, except bicycles or tricycles.

**PERSON** — Includes any individual, firm, copartnership, association or corporation.

ROADWAY — That portion of a street or highway between the regularly established curblines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

SIDEWALK — That portion of a street or highway set aside for pedestrian travel.

STREET or HIGHWAY — The entire width between property lines of every way open to the use of the public for purposes of travel.

TRAFFIC — Pedestrians, ridden or herded animals, vehicles, streetcars or other conveyances, either single or together, while using any street or highway for the purpose of travel.

TRAFFIC CONTROL SIGNALS — Any device using colored lights which conforms to the standards as prescribed by the Massachusetts Department of Transportation, whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.

TRAFFIC ISLAND — Any area or space set aside, within a roadway, which is not intended for use by vehicular traffic.

TRUCK — A vehicle used, customarily used, and/or capable of being used and/or designed for use to transport or haul heavy or light loads of freight or other goods in addition to the operator and one or more passengers, but which is not a vehicle designed for use as a recreational vehicle and/or passenger car unless the same is in fact being used as a truck within the meaning of this definition.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

ARTICLE II  
**Authority and Duties of Police**

**§ 380-2. Direction of traffic.**

It shall be the duty of the Police Department to enforce the provisions of these rules and orders. Said department is hereby authorized to direct all traffic either in person or by means of visible or audible signals in conformance with the provisions of these rules and orders, provided that in the event of a fire or other emergency to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic, as conditions may require, notwithstanding the provisions of these rules and orders.

**§ 380-3. Temporary closure of streets.**

The Chief of Police is hereby authorized to temporarily close any street or highway in an impending or existing emergency or for any lawful assemblage, demonstration or procession, provided there is reasonable justification for the closing of such street.

**§ 380-4. Temporary parking prohibitions.**

The Chief of Police is hereby authorized to temporarily prohibit parking on any street or highway, or part thereof, in an impending or existing emergency or for a lawful assemblage, demonstration or procession, provided there is reasonable justification for such prohibition. Vehicles parked in places where parking is temporarily prohibited may be moved by or under the direction of an officer.

**§ 380-5. Exemptions.**

The provisions of these rules and orders shall not apply to operators actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers engaged in the performance of public duties nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitates a departure from any part of these rules and orders. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard for the safety of others.

**§ 380-6. Experimental regulations.**

For purposes of trial, the Selectmen may make temporary rules regulating traffic, or test under actual conditions traffic signs, markings or other devices. No such experimental rule regulating traffic shall remain in effect for a period of time longer than 30 days.



## ARTICLE III

**Traffic Signs, Signals, Markings and Zones****§ 380-7. Traffic signs and signals.**

- A. The Board of Selectmen is hereby authorized and as to those signs and signals required hereunder it shall be its duty to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones. All signs, signals, markings and safety zones shall conform to the standards as prescribed by the Massachusetts Department of Transportation.
- B. Sections 380-2 and 380-3 and 380-12 relating to parking shall be effective only during such time as a sufficient number of official signs are erected and maintained in each block designating the provisions of such sections and located so as to be easily visible to approaching drivers.

**§ 380-8. Display of unauthorized signs, signals and markings prohibited.**

It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic sign, signal, marking or device or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The Chief of Police is hereby empowered to remove every such prohibited sign, signal, marking or device or cause it to be removed without notice.

**§ 380-9. Interference with signs, signals and markings prohibited.**

Any person who willfully defaces, injures, moves, obstructs or interferes with an official traffic sign, signal or marking shall be liable to a penalty not exceeding \$20 for each and every offense.

**§ 380-10. Obedience to traffic signs, signals and markings.**

No driver of any vehicle shall disobey the signal or direction of an officer or the instructions of any official traffic control signal, sign, marking, marker or legend, unless otherwise directed by a police officer or officer of the Fire Department in the event of a fire or other emergency.





## ARTICLE IV

**Parking****§ 380-11. General prohibitions.**

No person shall park a vehicle in any of the following places, and vehicles found parked in violation of the provisions of this section may be moved by or under the direction of an officer and the expense of the owner to a place where parking is permitted.

- A. Within an intersection.
- B. Upon any sidewalk.
- C. Upon any crosswalk.
- D. Upon the roadway in a rural or sparsely settled district.
- E. Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within 12 inches of the curb or edge of the roadway, except upon those streets which are designated as one-way streets. On such one-way streets, vehicles shall be parked in the direction in which said vehicle is moving and with both wheels within 12 inches of the curb. This shall not apply to streets or parts of streets where angle parking is required by these regulations.
- F. Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least 10 feet wide for passing traffic.
- G. Upon any street or highway within 10 feet of a fire hydrant.
- H. Upon or in front of any private road or driveway.
- I. Upon any street or highway within 20 feet of an intersecting way, except alleys.

**§ 380-12. Parking prohibited on certain streets.**

Parking is hereby prohibited upon the following streets or highways or parts thereof:

<b>Name of Street</b>	<b>Side</b>	<b>Location; Restriction</b>
Arlington Street	North	From the intersection of Summer Street for 240 feet
Arlington Street	South	From the intersection of Summer Street to Howard Avenue; limited to 10-minute parking except Sunday
Canterbury Road	Both	From the intersection of Salem Street for 20 feet in each direction

<b>Name of Street</b>	<b>Side</b>	<b>Location; Restriction</b>
Grove Street	Both	2-hour parking, 7:00 a.m. to 6:00 p.m., Monday through Friday, from the intersection with Salem Street to Number 52
Lakeview Avenue	North	From the intersection of Summer Street for a distance of 150 feet between Number 44 and Number 18
Main Library		To the rear, limited to "Library Parking Only"
Main Street	North	For 1,056 feet, between Number 618 Main Street and Beaver Avenue
Main Street	South	For 770 feet, from opposite Number 570 to a point 85 feet beyond the intersection with Summer Street
Patrice Lane	Both	From the intersection of Main Street for a distance of 225 feet
Perry Avenue	East	For the full length from Main Street to Ford Avenue
Salem Street	Both	From its intersection with Walnut Street, 1,450 feet in an easterly direction
Salem Street	North	In front of Number 746
Salem Street	South	From in front of Number 725 to the intersection of Broadway
Salem Street	West	Beginning at the radius from Route 1 South to Grove Street, continuing in a westerly direction to and including Number 722, except for the hours between 12:00 noon on Saturday to 12:00 midnight on Sunday
South Common Street	Both	For the full length
Summer Street	Both	Surrounding the dam, from Lakeview Avenue to Summer Avenue
Summer Street	North	At the intersection of Main Street for 60 feet
Summer Street	North	From the intersection of Arlington Street (in front of the Post Office) for 75 feet; limited to 10-minute parking
Summer Street <b>[Added 12-19-2011]</b>	North	2 nonhandicapped marked spaces in front of Public Library; limited to 20-minute parking during library hours

<b>Name of Street</b>	<b>Side</b>	<b>Location; Restriction</b>
Summer Street	South	Adjacent to the Common for its full length

**§ 380-13. Parking vehicles for sale prohibited.**

It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale.

**§ 380-14. All-night parking prohibited.**

It shall be unlawful for the driver of any vehicle, other than one acting in an emergency, to park said vehicle on any street in Lynnfield between the hours of 1:00 a.m. and 7:00 a.m. on any day from November 1 to March 31 of any year.

**§ 380-15. No parking upon declaration of emergency.**

It shall be unlawful for the driver of any vehicle, other than one acting in an emergency, to park said vehicle on any street in Lynnfield during the time stated in any declaration of emergency as may be promulgated by the Board of Selectmen or its Chairman.



ARTICLE V  
**One-Way Streets**

**§ 380-16. One-way streets designated.**

Upon the following streets or parts of streets, vehicular traffic shall move only in the direction indicated below:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Munroe Street	South	Between Witham Street and Salem Street

**§ 380-17. Posting of signs.**

Sections relating to one-way streets shall be effective only during such times as a sufficient number of official signs are erected and maintained at each of the exits for each one-way street, so that at least one sign will be clearly visible for a distance of at least 75 feet to drivers approaching such an exit.



ARTICLE VI  
**Prohibited Turns**

**§ 380-18. Prohibited turn locations.**

At the following intersections, vehicular traffic shall be prohibited from turning in a direction as indicated below either at any time or during such times as may be determined by vote of the Board of Selectmen.

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Prohibited Turn</b>	<b>At Intersection of</b>
Alexandra Road <b>[Added 8-28-2014]</b>		U-turn	
Bluejay Road <b>[Added 8-28-2014]</b>		U-turn	
Country Club Drive <b>[Added 8-28-2014]</b>		U-turn	
Grove Street	East	Left	Upton Lane
Route 1 northbound ramp	North	Right	Munroe Street, during the hours of 3:00 p.m. to 6:00 p.m.
Route 1 southbound ramp	South	Right	Upton Lane
Sparhawk Drive <b>[Added 8-28-2014]</b>		U-turn	
Walnut Street <b>[Added 8-28-2014]</b>		U-turn	

**§ 380-19. Posting of signs.**

The prohibitions on turning included in § 380-18 above shall be effective only during such times as a sufficient number of official signs are erected and maintained at each intersection, so that at least one sign will be clearly visible for a distance of at least 75 feet to drivers approaching such intersection.

**§ 380-20. Do not enter. [Added 8-28-2014]**

No person operating a vehicle shall enter the streets listed below to proceed in the indicated direction from the indicated intersecting streets at the indicated times. Official traffic signs shall be erected and maintained on the streets where entry is restricted facing the traffic which would enter in the restricted direction.

- A. On Sparhawk Drive, from Salem Street, in the easterly and westerly direction, Monday through Friday, from 6:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 6:00 p.m.

- B. On Sparhawk Drive, from Walnut Street, in the easterly and westerly direction, Monday through Friday, from 6:00 a.m. to 9:00 a.m. and from 3:00 p.m. to 6:00 p.m.



ARTICLE VII  
**Operation of Vehicles**

**§ 380-21. Obstructing traffic.**

No person shall drive in such a manner as to obstruct unnecessarily the normal movement of traffic upon any street or highway. Officers are hereby authorized to require any driver who fails to comply with this section to drive to the side of the roadway and wait until such traffic as has been delayed has passed.

**§ 380-22. Following too closely.**

The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

**§ 380-23. Obedience to isolated stop signs.**

- A. Every driver of a vehicle, railway car or other conveyance, approaching an intersection of ways where there exists facing him an official sign, bearing the word "stop" and authorized by this section (said sign having, apart from this regulation, the written approval of the Massachusetts Department of Transportation, and such approval being in effect), shall, before proceeding through the intersection, bring such vehicle, railway car or other conveyance to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at a place between the "stop" sign and the nearer line of the street intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic-regulating sign, signal or device.
- B. In accordance with the foregoing, the erection and maintenance of an official "stop" sign or signs are authorized as follows:

<b>Stop Sign on</b>	<b>Stop Sign Facing Drivers Traveling At Intersection of</b>	
Alexandra Road	Westbound	Walnut Street
Archer Lane	Southbound	Summer Street
Bishops Lane	Southbound	Edgemere Road
Brook Drive	Northbound	Salem Street
Brook Drive	Southbound	Route 1
Candlewood Road	Northbound	Juniper Road
Candlewood Road	Northbound	Perkins Lane
Candlewood Road	Southbound	Hart Road
Carpenter Road	Southbound	Route 1

<b>Stop Sign on</b>	<b>Stop Sign Facing Drivers Traveling</b>	<b>At Intersection of</b>
Chatham Way	Northbound and southbound	Grey Lane
Chatham Way <b>[Added 11-8-2011]</b>	Southwestbound	Homestead Road
Chestnut Street	Eastbound	Main Street
Chestnut Street	Northbound	Lowell Street
Driftwood Lane	Eastbound	Wildewood Drive
Durham Drive	Southbound	Chatham Way
Edgemere Road	Southbound	Archer Lane
Essex Village	Northbound	Essex Street
Fairview Avenue	Southbound	Salem Street
Fairview Road	Eastbound	Salem Street
Fall Way	Northbound	Salem Street
Forest Hill	Northbound	Essex Street
Forest Hill	Southbound	Summer Street
Glen Drive	Westbound	North Hill Drive
Green Street	Westbound	Route 1
Grove Street	Southbound	Salem Street
Hart Road <b>[Added 6-18-2012]</b>	Eastbound	Chestnut Street
Keniston Road	Northeastbound	Essex Street
Kimball Lane	Northbound	Salem Street
Lakeview Drive	Eastbound	Route 1
Lantern Lane	Westbound	Wildewood Drive
Locksley Road	Southbound	Moulton Drive
Locust Street	Southbound	Salem Street
Longbow Road	Northbound	Robin Road
Lowell Street	Eastbound	Main Street
Lowell Street	Westbound	Main Street
Main Street <b>[Added 6-14-1999]</b>	Northbound and southbound	Lowell Street
Maple Street	Northbound	Salem Street
Maple Street	Southbound	Route 1
Moulton Drive	Eastbound	Route 1
Moulton Drive	Westbound	Summer Street
Munroe Street	Westbound	Route 1 Connector

<b>Stop Sign on</b>	<b>Stop Sign Facing Drivers Traveling</b>	<b>At Intersection of</b>
North Hill Drive <b>[Added 10-13-1998]</b>	Southbound	Lowell Street
Nottingham Road	Southwestbound	Summer Street
Orchard Lane	Eastbound	Cider Mill Road
Pillings Pond Road	Northbound	Essex Street
Robin Road	Eastbound and westbound	Longbow Road
Ross Drive	Southbound	Salem Street
South Common Street	Eastbound	Summer Street
South Common Street	Westbound	Main Street
Summer Street	Eastbound	Salem Street
Summer Street	Eastbound	South Common Street
Summer Street	Westbound	Main Street
Tedford Lane	Northbound	Sparhawk Drive
Walnut Street	Northbound	Summer Street
Ward Terrace	Eastbound	Route 1
Wildewood Drive	Southbound	Edgemere Road
Wildewood Drive	Westbound	Pillings Pond Road
Willis Lane	Eastbound	North Hill Drive
Willowdale Drive <b>[Added 11-22-1999]</b>	Northbound	Brook Drive
Winchester Road	Northbound	Salem Street
Windsor Road	Northbound	Hart Road

#### **§ 380-24. Keeping to right of roadway division.**

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or area, drivers shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings.

#### **§ 380-25. Driving on road surfaces under construction or repair.**

No operator shall enter upon the road surface of any street or highway, or section thereof, when, by reasons of construction, surface treatment, maintenance, or the like, or because of some unprotected hazard, such road surface is closed to travel, and one or more signs, lights or signals have been erected to indicate that all or part of the road surface of the street or highway is not to be used, or when so advised by an officer, watchman, member of a street or highway crew or employee of the Town, either audibly or by signals.

**§ 380-26. Driving on sidewalks prohibited.**

The driver of a vehicle shall not drive upon any sidewalk except at a permanent or temporary driveway.

**§ 380-27. Dropping or leaking loads.**

No vehicle shall be driven or moved on any street or highway nor shall any owner of any vehicle knowingly permit such vehicle to be driven or moved on any street or highway unless such vehicle is so constructed or so loaded as to prevent its contents from spilling, dropping, sifting, leaking or otherwise escaping therefrom. Vehicles loaded with any material which may be blown about by the wind shall be suitably covered to prevent the contents from being blown upon the streets or highways.

**§ 380-28. Truck traffic prohibited.**

- A. Operation of and passage by trucks, except for the delivery of goods to homes or sites located in Lynnfield, on Walnut Street or streets intersecting with Walnut Street is hereby prohibited on the portion of said Walnut Street in Lynnfield beginning at the Lynnfield-Saugus line and ending at the line of the intersection of Walnut Street and Route I-95 (Route 128) furthest from Saugus.
- B. Operation of and passage by trucks in excess of 2 1/2 tons, except for the delivery of goods to homes or sites located in Lynnfield, on Essex Street or streets intersecting with Essex Street is hereby prohibited on all of Essex Street, beginning at the intersection of Main Street and ending at the Lynnfield-Peabody Town line.

## ARTICLE VIII

**Responsibility; Penalties; Severability****§ 380-29. Liability for violations.**

If any vehicle is found upon any street or highway in violation of any provisions of these rules and orders and the identity of the driver cannot be determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violations.

**§ 380-30. Violations and penalties.**

- A. Any person violating any provision of any rule, regulation or order regulating the parking of motor vehicles made by any body authorized to make the same shall be subject to the procedure and penalties provided by MGL c. 90, § 20A, and any person violating any of the rules and regulations applicable to state highways made by the Massachusetts Department of Transportation, under authority of MGL c. 85, § 2, shall be subject to the penalty provided in said rules and regulations.
- B. Any person convicted for a violation of any rule, regulation or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding \$20 for each offense.

**§ 380-31. Severability; repeal of prior provisions.**

- A. These rules are adopted with the intent that each of them shall have force and effect separately and independently of every other except insofar as by express reference or necessary implication any rule or any part of a rule is made dependent upon another rule or part thereof.
- B. The provisions of these rules, so far as they are the same in effect as those of any valid existing rules, orders or regulations heretofore made by the Selectmen of Lynnfield relative to or in connection with official signs, lights, markings, signal system or devices, shall be construed as a continuation thereof, but all other existing rules, orders and regulations so made for the regulation of vehicles are hereby expressly repealed. This repeal, however, shall not affect any punishment or penalty imposed or any complaint or prosecution pending at the time of the passage hereof for an offense committed under any of said valid rules, orders or regulations hereby repealed.

**Chapter A400****GENERAL LAW ACCEPTANCES****§ A400-1. List of acceptances.**

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1890	347	Public libraries	3-14-1892
1888	331	Fisheries	3-8-1897
	R.L. 78	Cemeteries	3-14-1904
	R.L. 11	Official ballots	3-13-1906
1907	560	Precincts	9-13-1907
1908	General Court	An act to provide for the protection of forest and sprout lands from fire	3-3-1909
	R.L. 101, §§ 1-5	Common nuisances	3-13-1911
	MGL c. 32, §§ 77-79	Pensions for laborers	11-5-1912
1913	807	Workmen's compensation	11-4-1913
1911	494	Eight-hour day	3-9-1914
1912	635	Tenement House Act	3-9-1914
1907	191	An act to authorize the establishment of boards of survey in towns	3-9-1914
1914	217	Laborers' vacation	11-3-1914
1914	688	Saturday half-holiday	11-3-1914
1914	790	Party enrollment	11-3-1914
1913	807	Workmen's Compensation Law: compensating laborers, workmen and mechanics for injuries	3-28-1915
1916	293	Licensing of motor vehicles for carrying passengers for hire	8-20-1917
1915	282	Board of Commissioners for Trust Funds	3-10-1919
1919	311	Continuation schools	11-4-1919
1916	293	Licensing of motor vehicles for carrying passengers for hire	3-21-1921
1920	436	Town laws relative to fire protection	3-21-1921
1920	591	Establishment of Fire and Police Department	3-1922

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1921	14	Appointment of Assistant Assessors	3-1922
	MGL c. 44, § 35	State form of accounting voted at election	3-13-1923
	MGL c. 39, § 20	Precinct voting for Town officers on the first Monday of March-Annual Town Meeting to be held on second Monday in March starting in 1927	3-8-1926
		A. Precinct line voted by Town	
		B. Precinct line altered by vote of Town (3-10-1958, Art. 19)	
	Bylaws 10, § 5	Board of Appeals for building laws and Building Inspector	3-8-1926
	MGL c. 41	Town Planning Board created	3-14-1927
	MGL c. 41, § 81	Discontinued Commission on Town Planning and transferred duties to Town Planning Board	3-12-1928
	Bylaw 1, §§ A-E	Moderator and other Town officers to be elected for 1 year	3-13-1929
	Bylaw 13	Cemetery Commission regulations approved by Town Meeting	3-1-1929
	MGL c. 41 § 4A	Appointment to another Town office voted to allow any Town board to appoint any member thereof to another Town office for a term provided by law, if any, otherwise for a term not exceeding 1 year, at such salary, if any, as may hereafter be appropriated by the Town	11-15-1929
	Bylaw 7, § 12	License for junk collection required	11-15-1929
	MGL c. 40A	Zoning Laws adopted	11-15-1929
	Bylaw, Art. VI	Traffic Ordinance adopted	3-17-1930
1932		Member of Planning Board	3-31-1932
	Bylaw 7, § 7	Hawkers and peddlers regulations adopted by Board of Selectmen	8-22-1932

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
	MGL c. 131, § 105A	Steel traps	11-6-1936
	MGL c. 32, §§ 56-59	Pensions-accepted by Board of Selectmen	3-15-1937
	MGL c. 39, § 22 and MGL c. 54, § 64	Voted to open the polls at 9:00 a.m. and close the polls at 8:00 p.m.	3-14-1938
	MGL c. 41, § 4A	Permitted Board of Selectmen to appoint 1 of their number as Chief of Police; also authorized them to appoint 1 of their number as Deputy Chief of the Fire Department	11-4-1940
	MGL c. 60, § 52	Voted that tax title property was to be sold by the Town Treasurer or his successor in office, subject to the approval of the Board of Selectmen or its successors in office, at public or private sale	1-27-1941
	MGL c. 31, § 48	Civil service of regular members of the Police Department	3-10-1941
	MGL c. 31, § 49	Civil service for Chief of Police	3-10-1941
	MGL c. 41, § 81I	Voted to create Board of Appeals	3-10-1941
	MGL c. 41, § 81A	Planning Board (Chapter 211, Acts of 1936)	1-27-1941
1941	487	Creation of Defense Committee	12-22-1941
	MGL c. 40, § 6B	Voted to purchase uniforms for the regular members of the Police and Fire Departments	3-6-1944
1938	133	Accepted act to avoid multiplicity of zoning petitions	3-6-1944
1945	723	Veterans Service Department created	3-11-1946
	MGL c. 32, §§ 1-28	Retirement	11-5-1946
1946	599	Director of Veteran's Services	1-13-1947
	MGL c. 115, § 12		



<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1913	807	Voted to extend the acceptance of Workman's Compensation Law to include other employees not specifically included in list	3-10-1947
1913	807	Voted to further extend the acceptance so as to include the Superintendent of Schools	6-9-1947
	MGL c. 41, § 1	Town Treasurer term of office extended to 3 years instead of 1 year, to be effective at Annual Town Meeting of 1948	6-9-1947
	MGL c. 41, § 1	Voted to authorize election of Road Commissioner	11-3-1947
	MGL c. 41, § 38A	Collector of Taxes shall collect under the title of Town Collector as amended by all accounts due the Town 1948	3-21-1949
1947	631	Minimum standards of human habitation adopted	3-13-1950
1950	639	Department of Civil Defense	10-23-1950
1950	538	Repairs on private ways	3-19-1951
	MGL c. 40, § 6E	Authority given Town to make repairs on private ways which have been opened to public use for 6 years or more, if the abutters petition for such repairs and pay for some	
	MGL c. 136, § 4B	Law regarding Sunday bowling	3-12-1951
	MGL c. 41, § 1	Selectmen term of office changed from 1 year to 3 years	3-19-1951
	MGL c. 41, § 108A	Classification of employment	6-25-1951
1950	820	Increase of pension system	3-17-1952
	MGL c. 166, § 32	Inspector of Wires	3-9-1953
1952	624	Increase of pension system	3-15-1954
	MGL c. 41	Establishment of Board of Health	10-25-1954
1945	124	Stabilization fund established	3-14-1955

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1955	520	Purchase of reforestation land acceptance provisions authorizing Commonwealth of Massachusetts to convey to Town of Lynnfield for park, recreational and playground purposes reforestation Lot #128 (off Pillings Pond Road)	11-21-1955
1955	670	Increase of pension system	3-28-1956
1956	401	Certain protection for civil defense volunteers driving publicly owned vehicles	3-11-1957
1953	386	Repairs to private ways	3-11-1957
1956	656	Control of certain ponds or lakes or portions thereof in the Town of Lynnfield (See rules and regulations adopted by Board of Selectmen under regulations regarding persons and property.)	3-11-1957
1959	513	Increase of pensions and retirement allowances	3-14-1960
1960	647	Increase of pensions and retirement allowances	3-13-1961
1957	223	Establishment of a Conservation Commission	3-13-1961
	MGL c. 32B	Group life insurance, group accidental death and dismemberment insurance and group general or blanket hospital, surgical and medical insurance	3-5-1962
1961	552	Increase of pensions and retirement allowances	3-12-1962
1962	646	Increase of pensions and retirement allowances	3-11-1963
1961	322	Towing of vehicles from Town ways where such vehicles are parked or standing in violation of the law or in such a manner as to impede, in any way, the removal or plowing of snow or ice	3-11-1963

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1963	19	Establishment of an alternate schedule of minimum annual compensation for police officers	6-17-1963
	MGL c. 32B, § 11B	Extend contributory group hospital, surgical, medical insurance to elderly persons retired from the service of the Town and to their dependents, with 50% of the premium cost and a portion of the administrative expense to be paid by the Town	3-2-1964
	MGL c. 91, § 29, as amended 1955	To assume liability in the manner provided for all damages that may be incurred by work to be performed by the Department of Public Works of Massachusetts for the improvement, development, maintenance and protection of tidal and nontidal rivers and streams, harbors, tidewater, foreshores and shores along a public beach, including the Merrimack and Connecticut Rivers, in accordance with MGL c. 91, § 11, and authorize the Selectmen to execute and deliver a bond of indemnity therefor to the commonwealth	3-9-1964
	MGL c. 91	Providing for the construction of structures by cities and towns to protect private property along shores	3-9-1964
	MGL c. 32, § 9a	Town to pay 1/2 premium cost payable to retired employee for group life insurance and group general, or blanket, hospital surgical and medical insurance	3-6-1967
	MGL c. 40, § 8(d)	Creation of a Town Historical Commission	3-13-1967
	MGL c. 45, § 14	Creation of a Public Recreation Commission	3-13-1967
1939	336	Warrant and minutes of annual meeting	9-28-1970

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1972	486	Beano	3-1972
	MGL c. 121B	Creation of a Housing Authority	4-24-1972
1973	608	Enabling local licensing authority to immediately have jurisdiction over the hour changes permitted by this legislation	9-10-1973
	MGL c. 90, § 20C	Violation of parking regulations	10-16-1978
1975	770, as amended by 1977, c. 420	South Essex Solid Waste Disposal District	10-16-1978
	MGL c. 32, §§ 7A, 9E	Permit Town to negotiate with employees for payment of more than 50% of group life and health premium	10-15-1979
	MGL c. 258, § 13	Indemnify municipal officers	4-14-1980
	MGL c. 121B, § 3	Amendment of Charter of Housing Authority	10-30-1980
	MGL c. 90, § 20A 1/2	To establish state system of parking regulations and position of Parking Clerk	10-19-1981
	MGL c. 71	To establish separate accounts for certain school programs where further appropriation is not necessary to expend receipts therefrom	10-19-1981
1981	743	An act to increase the maximum whole estate to \$40,000 from \$20,000 for certain survivors who apply for real estate tax exemptions	4-26-1982
	MGL c. 40, § 22D	Authorizes towing of vehicles which obstruct facilities for handicapped persons or which impede the removal or plowing of snow	4-25-1983
	MGL c. 148, § 26G	Adequate system of automatic sprinklers	4-25-1983
1982	c. 258; amends MGL c. 59, § 5	Increased to \$500 the sum of the taxable valuation of real property taxes due of a blind person	10-17-1983

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1982	c. 653; amends MGL c. 59, § 55	Increases the permitted amount of income of such owners 70 years or older, if single, to less than \$10,000; if married, combined gross receipts with spouse, to less than \$12,000	10-17-1983
1982	c. 597; amends MGL c. 60A	Exempting from payment of excise tax motor vehicles owned by certain military personnel	10-17-1983
1985	MGL c. 188, § 13	To receive from commonwealth professional development grants payable in 1986 and 1987 for purpose of increasing teacher compensation	10-21-1985
1986	MGL c. 40, § 4G	No contract for purchases of equipment, supplies or materials \$4,000 or more shall be advertised	4-28-1986
1986	MGL c. 188, § 17	Increasing minimum teacher's compensation to \$18,000	4-28-1986
1986	c. 73, Acts of 1986	An act providing relief from the impact of revaluation	11-17-1986
1969	849	Water Commissioners	4-6-1987
	MGL c. 44, § 17		
1969	849	Installation of services accounts	4-6-1987
	MGL c. 44, § 4		
1987	MGL c. 40, § 57	Denial or revocation of local license or permit for nonpayment of local taxes	4-27-1987
1988	MGL c. 40, § 58	To establish charges or fees, payment of which are to be enforced by the imposition of municipal charges	4-25-1986
1988	MGL c. 59, § 57B	An act relative to the payment of property taxes	4-25-1988
1988	MGL c. 40, § 71	Increasing minimum teacher's compensation to \$20,000	4-25-1988
1988	MGL c. 262, § 34	Establish fees to be collected by the Town Clerk	4-25-1988
1988	MGL c. 148, § 26C	Automatic smoke or heat detectors	4-25-1988

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
1988	MGL c. 148, § 26H	Automatic sprinklers	4-25-1988
1989	MGL c. 14, § 147A	Empowers Town to enact bylaws relative to regulations of dogs	4-24-1989
1990	MGL c. 653, § 41	Quarterly tax bills	4-30-1990
1990	MGL c. 653, § 40	Assessment date changes for new growth	4-30-1990
1990	MGL c. 60, § 23B	Establishes schedules for lien certificates	4-30-1990
1991	c. 281; amends MGL c. 60, § 2	Abatement of certain unpaid property tax bills	10-21-1991
1991	c. 138, § 126; amends MGL c. 51, § 5, cl. 41A	Permits Assessors to grant total or partial deferrals	10-21-1991
1992	MGL c. 32B, § 90	Town will pay 1/2 of premium costs payable by surviving spouse	4-27-1992
1998	MGL c. 41, § 108L	"Quinn Bill"	10-19-1998
2000	MGL c. 59, § 5k	Senior Citizens Property Tax Work-off Abatement Program	4-24-2000
2000	c. 171, § 1, Acts of 1995	Permanent firefighter in another city or town to receive credit toward retirement for service in the Town of Lynnfield call fire- fighting forces	10-16-2000
2001	MGL c. 59, § 5, cl. 17E and 41D, as added by c. 380, Acts of 2000	Assessment of property taxes	4-30-2001
2003	MGL c. 32B, § 11E	Voted to rescind acceptance of this chapter and section (effective 12:00 midnight)	7-1-2004
2004	c. 245; MGL c. 41, § 81U	Planning Board's expenditure of up to \$100,000 of subdivision security without Town meeting appropriation	10-18-2004
	MGL c. 4, § 5	Tax exemptions	4-25-2005

<b>Year</b>	<b>Chapter/ Citation</b>	<b>Subject</b>	<b>Accepted</b>
2007	MGL c. 39, § 23D	Permitting local board members who miss a single session of an adjudicatory hearing to vote on the matter, provided they review the evidence submitted and file a certificate to that effect	10-15-2007 STM, Art. 14
2011	MGL c. 64L, § 2	Tax upon sale of restaurant meals originating within Lynnfield	4-25-2011 ATM, Art. 8
2012	MGL c. 59, § 5, cl. 54	Exempting from taxation personal property less than a certain amount	4-30-2012 ATM, Art. 21
2013	MGL c. 60A, § 1	Motor vehicle excise tax exemption for residents on active military duty outside the country	4-29-2013 ATM, Art. 17
2015	MGL c. 140, § 139(c)	Exemption from dog license fees for persons aged 70 or over	4-27-2015 ATM, Art. 18
2015	MGL c. 41, § 110A	Closing public offices on Saturday	10-19-2015 ATM, Art. 8
2015	MGL c. 59, § 5, Cl. 56	Reduction in taxes for national guard members or reservists on active duty serving in a foreign country	10-19-2015 ATM, Art. 14

### **Chapter DT**

### **DERIVATION TABLE**

#### **§ DT-1. Derivation Table of Town Bylaws to 2016 Code.**

REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.

NI = Not included in Code but saved from repeal.

<b>Chapter/Title From Town Bylaws</b>	<b>Location in 2016 Code</b>
Ch. 1, Town Meeting Regulations	Ch. 45, Art. III
Ch. 2, Financial and Administrative	
A. Financial	
Persons Eligible for Appointment to Finance Committee	
Para. 1	Ch. 7, Art. I
Compensation for Town Officials, Agents and Employees	
Para. 2	REP

<b>Chapter/Title From Town Bylaws</b>	<b>Location in 2016 Code</b>
Para. 3	Ch. 22, Art. V
Purchase and Sale of Property	
Para. 4	Ch. 22, Art. I
Para. 5	REP
B. Administrative	
Legal Affairs	
Para. 1	Ch. 40, § 40-1
Para. 2	REP
Para. 3	Ch. 40, § 40-2
Para. 4	REP
Para. 5	Ch. 22, Art. III
Division of Finance and Administrative Services	
Para. 6, Town Clerk	Ch. 22, Art. VI
Para. 7-9, Town Treasurer	Ch. 22, Art. II
Para. 10-11	Ch. 22, Art. IV
Para. 12, Town Warrant	Ch. 45, Art. I
Para. 19, Wire Inspector	Ch. 51, Art. I
Para. 20-22, Gas Inspector	Ch. 51, Art. II
Para. 23, Civil Defense	Ch. 16
Para. 24, Council on Aging	Ch. 7, Art. II
Para. 25, Committee Reporting	Ch. 45, Art. II
Fees	Ch. 143, Art. I
Denial, Revocation, Suspension of Licenses and/or Permits for Failure to Pay Municipal Charges	Ch. 168, Art. I
Board of Health Fees	Ch. 143, Art. II
Ch. 3, Classification of Employment	
Part I, Classification and Pay Plans	NI
Part II, Consolidated Personnel Bylaw	Ch. 62
Ch. 4, Regulations Governing Streets and Ways	
Sec. A, Breaking, Obstruction, Digging Up of Streets	Ch. 217, Art. II
Sec. B, C, D	Ch. 217, Art. I
Sec. E, Private Ways - Access for Fire Apparatus	Ch. 230, Art. II



<b>Chapter/Title From Town Bylaws</b>	<b>Location in 2016 Code</b>
Sec. F	Ch. 217, Art. III
Sec. G, H	Ch. 217, Art. IV
Sec. I, Temporary Repairs to Private Ways	
Para. 1-10	Ch. 217, Art. V
Para. 11, Town Flag	Ch. 67, Art. II
Sec. J, Excessive Noise from Compression Brakes Prohibited	Ch. 179, Art. I
Ch. 4A, Stormwater Management By-Law	Ch. 213
Ch. 5, Regulations Governing Persons and Property	
Sec. 1, Junk and Junk Motor Vehicles	Ch. 161, Art. I
Sec. 2, Rude and Disorderly Behavior	Ch. 188, § 188-1
Sec. 3, Obstruction on Sidewalks and Street Crossings	Ch. 188, § 188-2
Sec. 4, Obstruction of Sidewalks with Teams or Merchandise	Ch. 188, § 188-3
Sec. 5, Fast Driving Prohibited	Ch. 230, Art. I
Sec. 6, Cattle Not to Go at Large	Ch. 115, Art. I
Sec. 7, Filth and Rubbish Not to be Deposited in the Streets	Ch. 204, Art. I
Sec. 8, Bill Posting Upon Fences, Walls, and Buildings	Ch. 103, § 103-1
Sec. 9, Bill Posting in Public Places, Etc.	Ch. 103, § 103-2
Sec. 10, Regulations in Regard to Public Buildings	Ch. 67, Art. I
Sec. 11, Discharge of Firearms, Rifles, Shotguns or Explosives	Ch. 147
Sec. 12, Regulations Governing Hawkers and Peddlers of Fruit, Vegetables, Fish, Etc.	Ch. 192, Art. I
Sec. 13, Collection of Junk	Ch. 161, Art. II
Sec. 14, Excavated Land	Ch. 138
Sec. 15, Wells	Ch. 236
Sec. 16, Rules and Regulations Adopted by the Board of Selectmen Regarding Pillings Pond Under Chapter 656, Acts of 1956	Ch. 184, Art. I
Sec. 17, Dog Control Law	Ch. 115, Art. II, §§ 115-1 through 115-6
Sec. 17A, Dog Licensing and Fees	Ch. 115, Art. II, § 115-7
Sec. 18, Garbage Disposal	Repealed 4-28-1975 ATM

<b>Chapter/Title From Town Bylaws</b>	<b>Location in 2016 Code</b>
Sec. 19, Swimming Pools	Ch. 221
Sec. 20, Discarded Appliances, Etc.	Ch. 204, Art. II
Sec. 21, Alcohol	Ch. 111
Sec. 22, Regulation of Underground Storage of Flammable Liquids	Ch. 209
Sec. 23, Regulation of Solicitors and Canvassers	Ch. 192, Art. II
Sec. 24, Regulation of Fire and Intrusion Alarms	Ch. 107
Sec. 25, Regulation of News Racks	Ch. 175
Sec. 26, Clean Indoor Air By-Law	Ch. 200
Sec. 27, Diesel Fuel By-Law	Ch. 132
Sec. 28, Overnight Parking of Commercial Vehicles in Residential Areas	Ch. 230, Art. III
Sec. 29, Preservation of Historically or Architecturally Significant Structures (2008)	Ch. 154
Sec. 29, Fingerprint-Based Criminal Record Background Checks (2012)	Ch. 126
Ch. 6, Zoning Bylaw	Ch. 260
Ch. 7, Building Laws	Ch. 120
Ch. 8, Penalties Under Bylaws	Ch. 58
Ch. 9, Environmental Laws	Ch. 240

## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition of legislation.

<b>ADP/STW Date</b>	<b>Article</b>	<b>Subject</b>	<b>Disposition</b>
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