

**CODE OF THE  
TOWN OF LITTLETON,  
MASSACHUSETTS, v34**

**PART II, GENERAL LEGISLATION**

**Chapter 173, ZONING**

**OFFICIALS  
OF THE  
TOWN OF LITTLETON  
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**2008**

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## TABLE OF CONTENTS

ARTICLE	PAGE
I. Purpose .....	1
II. Definitions .....	1
III. Administration and Procedures .....	5
IV. Site Plan Requirements .....	8
V. Use Regulations .....	9
VI. Intensity of Use Regulations .....	13
VII. Parking and Loading Requirements .....	14
VIII. Signs .....	16
IX. Landscaping and Screening .....	19
X. Exterior Lighting .....	20
XI. Motor Vehicle Service Stations .....	20
XII. Accessory Uses .....	20
XIII. Accessory Dwellings .....	21
XIV. Aquifer and Water Resource District .....	22
XV. Conversion of Buildings .....	26
XVI. Wetlands and Floodplain Regulations .....	27
XVII. Noise .....	28
XVIII. Major Commercial or Industrial Use .....	31
XIX. Open Space Development .....	34
XX. Shared Residential Driveways .....	40
XXI. Wireless Telecommunications Towers and Facilities .....	42
XXII. Adult Uses .....	45
XXIII. Over 55 Housing Developments .....	47
XXIV. Intensity of Use Schedule .....	56

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## **ARTICLE I, Purpose**

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### **§ 173-1. Purpose. [Amended 5-9-1988 ATM, Art. 14]**

For the benefit of the Town of Littleton, Massachusetts, and to keep our Town a good place in which to live and work, preserve its historic rural character and its agricultural open land, and for the purposes stated in Chapters 40A, 40B and 41 of the General Laws as amended and under the authority thereof and Article 89 of the Amendments to the Constitution, the use of land, buildings and structures in this Town is hereby regulated as herein provided.

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## **ARTICLE II, Definitions**

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### **§ 173-2. Terms defined.**

In this chapter, the following terms shall have the following meanings unless other meanings as required by the context or are specifically prescribed:

ACCESSORY BUILDING OR USE -- A building not attached to any principal building, or a use customarily incidental to and located on the same lot with the principal building or use.

ACCESSORY DWELLING -- A separate dwelling unit created within or as an extension to a single-family dwelling.

ADULT USE ESTABLISHMENTS - [Added 9-22-1997 STM, Art. 9] The following are businesses classified as "adult use" establishments:

CONCEPT PLAN – [Added 5-5-2007 ATM, Art. 14] A development plan, building plans, impact analyses and other materials as required herein, subject to approval by two-thirds vote of the Town Meeting;

- A. ADULT USE -- Adult Use means a use (whether partially or in its entirety) of a building or business for the purpose of engaging in the sale, display, hire, trade, exhibition, or viewing of materials or entertainment depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c.272, § 31.
- B. ADULT BOOKSTORE -- 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 G.L. c.272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty percent (20%) of the subject establishment's inventory stock or more than twenty percent (20%) of the subject premise's gross floor area.
- C. ADULT LIVE ENTERTAINMENT ESTABLISHMENTS -- An establishment, which as a form of entertainment, regularly features:
  - (1) person or persons to perform in a state of nudity as defined in G.L. c. 272, § 31; or allows a person or persons to work in a state of nudity as defined in G.L. c. 272, § 31; or;

(2) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of description of anatomical areas or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31.

- D. ADULT MOTION-PICTURE THEATER -- An enclosed building with a capacity of 50 persons or more used for presenting material (motion picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing, or relating to nudity, sexual conduct or sexual excitement as defined in G.L. c. 272, § 31 and which excludes minors by virtue of age.
- E. ADULT MINI MOTION-PICTURE THEATER -- An enclosed building with a capacity for less than 50 persons, or single booths, or video screens, used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to nudity, sexual conduct or sexual excitement as defined in G.L. c. 272, § 31 and which excludes minors by virtue of age.
- F. ADULT VIDEO STORE -- An establishment having as a substantial or significant portion of its stock in trade, for sale or rent, motion picture films, video cassettes and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in G.L. c. 272, § 31. For purposes herein, "substantial or significant portion of stock" shall mean more than twenty percent (20%) of the subject establishment's inventory stock or more than twenty percent (20%) of the subject premise's gross floor area.

AGRICULTURAL SIGNS -- Signs associated with an agricultural use as referenced in Section 3 of M.G.L., Ch. 40A, offering for sale, produce and other farm products, with the sign identifying the farm and indicating only the name and price of the farm products which are for sale during the season that the sign is displayed. [Added 5-4-1996 ATM, Art. 23]

BUILDING HEIGHT -- The vertical distance from the mean finish grade of the ground adjoining the building to the highest point of the roof (or parapet) for flat or shed roofs, to the declivity for mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roof. Not included are spires, cupolas, television antennas or other parts of structures which do not enclose potentially habitable floor space.

CAMPGROUND -- Premises used for travel trailers, campers, tents or temporary overnight facilities of any kind where a fee is charged.

CAMPING, SUPERVISED -- Facilities for a continuing supervised recreational, health, educational, religious and/or athletic program, with persons enrolled for periods of not less than one (1) week and with group dining if overnight accommodations are included.

COMMERCIAL POWER GENERATION -- Premises principally used for the generation of electric power, other than by a municipal or other public utility. [Added 5-9-1988 ATM, Art. 12]

CONFERENCE CENTER -- Premises principally used for business or professional conferences, seminars or training, with less than one-third of the floor area on the premises devoted to room rental for transient trade. (If the percentage is larger, the use is considered a hotel or motel.) [Added 5-9-1988 ATM, Art. 12]

DATA-PROCESSING CENTER -- Premises principally used for the storing or processing of information by computer. [Added 5-9-198 ATM, Art. 12]

**DWELLING** -- A building or part of a building used exclusively as the living quarters for one (1) or more families.

**DWELLING, SINGLE-FAMILY** -- A dwelling other than a mobile home, singly and apart from any other building, used exclusively for residential purposes for one (1) family.

**EXTENSIVE RECREATION** -- Golf courses laid out substantially in accordance with the usual requirements or specifications of the United States Golf Association, ski areas and other recreational uses of similar nature which primarily use and preserve open space, together with clubhouses and appurtenant facilities, whether or not operated for profit. Such appurtenant facilities may include provisions for recreational activities not directly connected with the use of open space, provided that in no event shall structures occupy more than five percent (5%) of the lot area.

**EXTERIOR SURFACE WALL AREA** -- The surface area of a single side of a building, including glass and doors, but not including roof area.

**FAMILY** -- Any number of individuals living and cooking together as a single housekeeping unit, plus no more than three (3) boarders or lodgers. [Amended 9-14-1992 STM, Art. 13]

**FLAGS** -- A piece of fabric identifying a nation, state, city or town, expressing a political statement, but not advertising sales, special events, or changes in the nature of an operation. [Added 5-4-1996 ATM, Art. 23]

**INSIGNIA** -- An identifying symbol. [Added 5-4-1996 ATM, Art. 23]

**LODGING HOUSE** -- A dwelling in which rooms are rented as an accessory use to more than three (3) and fewer than ten (10) unrelated individuals. [Amended 9-14-1992 STM, Art. 13]

**LOT** -- A continuous parcel of land, in single or joint ownership, with legally definable boundaries.

**LOT AREA** -- The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. At least ninety percent (90%) of the lot area required for zoning compliance or thirty-six thousand (36,000) square feet, whichever is less, shall be land not under water nine (9) months or more in a normal year and not wetland as defined by the Wetland Protection Act [Amended 5-9-1988 ATM, Art. 14]

**LOT COVERAGE** -- The percentage of lot area covered by structures and roofs or by structures, roofs, and paving. [Amended 5-9-1988 ATM, Art. 14]

**MANUFACTURING** -- Transformation of materials or components into new products, including fabrication, processing, finishing or packaging. [Added 5-9-1988 ATM, Art. 12]

**MOBILE HOME** -- A movable or portable dwelling unit on a chassis, designed for connection to utilities when in use and designed without the necessity of a permanent foundation for year-round living.

**MOTOR VEHICLE SERVICE STATION** -- Premises devoted to retail sale of fuel and lubricants and/or washing of motor vehicles and/or repair services and/or sales or storage of motor vehicles. [Amended 5-8-1995 ATM, Art. 30]

**MUNICIPAL EDUCATION STRUCTURE** -- A building used by the Town of Littleton for public education purposes. [Added 6-15-2000 STM, Art. 2]

**REMOTE SECONDARY ACCESS** -- Property access to a business or group of businesses in addition to the principle property access. [Added 5-4-1996 ATM, Art. 23]

**RESEARCH AND DEVELOPMENT** -- Industrial or commercial experimentation, design, nonroutine testing or construction of prototypes, but with any continuous production limited to pilot plant use of not more than twenty-five percent (25%) of the floor area on the premises. [Added 5-9-1988 ATM, Art. 12]

**RESIDENTIAL SOCIAL SERVICE FACILITY** -- A dwelling where care and supervision, either licensed, contracted or supervised by a federal or state agency, is provided to individuals who are handicapped, aged, disabled or undergoing rehabilitation. The term includes halfway houses but not nursing homes or foster homes.

**SELF-STORAGE FACILITY** -- An establishment consisting of a structure or group of structures containing separate storage spaces, possibly of varying sizes, leased or rented for dead storage as individual leases. Individual storage spaces shall be leased or rented to tenants who are to have access to said space for the purpose of storing or removing personal property. No individual storage space shall exceed nine hundred (900) square feet of gross floor area. [Added 5-8-2000 ATM, Art. 27]

**SETBACK** -- An area open to the sky, located between a street or other property line and any structure or element thereof, other than a fence, wall, other customary yard accessory or projection allowed to encroach on building lines by the State Building Code, measured perpendicular to the street or property line.

**SIGN** -- Any device displaying, or any display of, any letter, work, picture, symbol or object designed to inform or attract the attention of persons not on the premises on which such device or display is located, including billboards and any such internally or decoratively illuminated building surface other than unobstructed window glass.

**SIGN AREA** -- The surface area within a single continuous perimeter enclosing all of the display area, but not including structural members not bearing advertising matter, unless internally or decoratively lighted. One side only of flat, back-to-back signs shall be counted.

**STRUCTURE** -- A combination of materials assembled at a fixed location to give support or shelter, such as a building, retaining wall which retains four (4) or more feet of unbalanced fill, fences over six (6) feet high, swimming pools that contain water over twenty-four (24) inches in depth and two hundred and fifty (250) square feet of surface area or the like. The word "Structure" shall be construed, where the context requires, as though followed by the words "or parts thereof." [Amended 5-7-2001, ATM, Art. 20]

**TEMPORARY SIGNS** -- Any sign displayed for up to a maximum of 30 days. [Added 5-4-1996 ATM, Art. 23]

**TOXIC OR HAZARDOUS MATERIALS** -- All liquid hydrocarbon products, including but not limited to gasoline, fuel and diesel oil, and also any other toxic, caustic or corrosive chemicals, radioactive materials or other substance controlled as being toxic or hazardous by the Division of Hazardous Waste under the provisions of Chapter 21(c) of the General Laws.

**TRUCK TERMINAL** -- Premises principally used for the parking, dispatching and maintenance of trucks and/or loading or unloading of cargo into vehicles, but with only incidental storage on the premises, and not including such activities if accessory to a principal use, such as a warehouse or processing operation. [Added 5-9-1988 ATM, Art. 12]

**WAREHOUSING, DISTRIBUTION CENTER** -- Premises used primarily for indoor storage of goods and materials for later distribution or use but not for sale on the premises, with or without accessory truck terminal facilities. [Added 5-9-1988 ATM, Art. 12]

WHOLESALE -- Sale of commodities in quantity for resale or further processing, with only incidental retail sales, if any. [Added 5-9-1988 ATM, Art. 12]

WINDOW SIGNS -- Signs painted or fastened to window glass and signs immediately inside window glass. [Added 5-4-1996 ATM, Art. 23]

WIRELESS TELECOMMUNICATIONS TOWER AND FACILITIES -- A wireless telecommunications facility, shall include towers, antennae, panels, and appurtenant structures designed to facilitate the following types of services: cellular telephone service, personal communications services, and enhanced specialized mobile radio service. [Added 2-10-1997 STM, Art. 3]

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### **ARTICLE III, Administration and Procedures**

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#### **§ 173-3. Enforcement authority.**

This chapter shall be enforced by the Building Inspector.

#### **§ 173-4. Certification required.**

Buildings or structures may not be erected, substantially altered, moved or changed in use, and land may not be substantially altered or changed in principal use as defined in § 173-26A, without certification by the Building Inspector that such action is in compliance with then applicable zoning or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. Issuance of a building permit or certification of use and occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.

#### **§ 173-5. Enforcement actions; violations and penalties. [Amended 5-9-1988 ATM, Art. 14]**

The Building Inspector shall take such action as may be necessary to enforce full compliance with the provisions of this chapter and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Selectmen to the Town Counsel. Any person violating any provision of this chapter, any of the conditions under which a permit is issued or any decision rendered by the Board of Appeals may be fined not more than three hundred dollars (\$300.) for each offense. Each day that such violation continues shall constitute a separate offense.

#### **§ 173-6. Board of Appeals.**

- A. Establishment. A Board of Appeals of five (5) members shall be appointed by the Selectmen and act in all matters under this chapter in accordance with the provisions of Chapters 40A, 40B and 41 of the General Laws, as amended. The Board of Selectmen shall also appoint in like manner four (4) associate members of the Board of Appeals; and, in case of a vacancy, absence, inability to act or conflicts of interest on the part of a member of said Board, his place may be taken by an associate member designated by the Chairman of the Board of Appeals.
- B. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this chapter. The Board's powers shall include the following:

- (1) To hear and decide applications for special permits upon which the Board is empowered to act under this chapter, in accordance with § 173-7.
- (2) To hear and decide appeals or petitions for variances from the terms of this chapter, including variances for use, with respect to particular land or structures. Such variances shall be granted only in cases where the Board finds all of the following:
  - (a) That a literal enforcement of the provisions of this chapter would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
  - (b) That the hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
  - (c) That desirable relief may be granted:
    - [1] Without substantial detriment to the public good; or
    - [2] Without nullifying or substantially derogating from the intent or purpose of this chapter.
- (3) To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:
  - (a) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A of the General Laws; or
  - (b) The Metropolitan Area Planning Council; or
  - (c) Any person, including an officer or board of the Town of Littleton or of any abutting town, if aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of Chapter 40A of the General Laws or this chapter.
- (4) To issue comprehensive permits. Comprehensive permits for construction may be issued by the Board of Appeals for construction of low- or moderate-income housing by a public agency or limited-dividend or nonprofit corporation upon the Board's determination that such construction would be consistent with local needs, whether or not consistent with local zoning, building, health or subdivision requirements, as authorized by MGL C. 40B, §§ 20 through 23.
- (5) To issue withheld building permits. Building permits withheld by the Building Inspector acting under MGL C. 41, § 81Y as a means of enforcing the Subdivision Control Law may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

**§ 173-7. Special permits.**

- A. Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Public hearing. Special permits shall only be issued following public hearings held within sixty-five (65) days after filing with the special permit granting authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

- C. Criteria. Special permits shall only be granted if it appears to the special permit granting authority that no significant nuisance, hazard or congestion will be created and that there will be no substantial harm to the neighborhood or derogation from the intent of this chapter.
- D. Conditions. Special permits may be granted with such reasonable conditions, safeguards or limitations on time or use as the special permit granting authority may deem necessary to serve the purposes of this chapter.
- E. Expiration. Special permits shall lapse twenty-four (24) months following the grant thereof (except such time required to pursue or await the determination of an appeal referred to in MGL C. 40A, § 17) if a substantial use or construction has not sooner commenced, except for good cause.

**§ 173-8. Effect of other provisions.**

Where the application of this chapter imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this chapter shall control.

**§ 173-9. Conformance with amendments.**

Construction or operations under a building or special permit shall conform to any subsequent amendment of this chapter, unless the use or construction is commenced within a period of six (6) months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

**§ 173-10. Nonconforming uses and structures.**

A. [Amended 9-18-1995 STM, Art. 16] Nonconforming single- or two-family residential structures lawfully in existence at the time of the enactment of this Amendment may be extended, altered or restored if the following conditions apply:

- (1) The proposed changes, with the exception of the existing nonconformity, comply with the current Zoning Bylaw;
- (2) The proposed changes do not prevent compliance with any other applicable laws or regulations;
- (3) There is no change in use of the structure; and
- (4) The proposed changes do not intensify the existing nonconformity. The word intensify shall include any increase in any exterior dimension of that part of the structure which is nonconforming.

Such extension, alteration or restoration is deemed not to increase the nonconforming nature of the structure, does not involve any change of use, and is allowable as of right. The building permit shall state that the extension, alteration or restoration is allowed under § 173-10A.

B. [Amended 9-18-1995 STM, Art. 16] Any use or structure not conforming to § 173-10A of this chapter may be continued if the use or structure was lawfully existing at the time that it became nonconforming, subject to the following:

- (1) Change, extension or alteration. As provided in MGL C. 40A, § 6, such preexisting nonconforming structures or uses may be extended or altered on special permit by the special permit granting authority, provided that no such extension or alteration shall be permitted

unless there is a finding by the special permit granting authority that such change, extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming use. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

- (2) Restoration. Any legally nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if reconstructed within a period of two (2) years from the date of the catastrophe, or else such reconstruction must comply with this chapter.
- (3) Abandonment. A nonconforming use which has been abandoned, discontinued for a period of two (2) years or changed to a conforming use shall not be reestablished, and any future use of the premise shall conform with this chapter.

### **§ 173-11. Isolated lots and subdivisions.**

Under MGL C. 40, § 6, lots not held in common ownership with any adjoining land are generally not subject to subsequent amendments in dimensional requirements, and land shown on subdivisions or other plans endorsed by the Planning Board are exempted from subsequent zoning amendments in certain respects for a limited period of time (See MGL C. 40A, § 6). Building upon, but not subdivision of, any lot, if nonconforming but having an area of five thousand (5,000) square feet or more and frontage of fifty (50) feet or more and held in ownership separate from all adjacent land, shall be governed by those lot area, frontage and side or rear setback requirements applicable to it at the time of its recording by plan or deed as a lot in separate ownership, except in cases where those requirements have subsequently been reduced through amendment of the Zoning Bylaw and in cases of building for multifamily dwellings, in both of which cases current requirements shall apply. Nonconforming lots may be changed in size or shape or their land recombined into fewer lots. In doing so, such lots will not lose this exemption from current requirements, so long as the change does not increase the frontage or area of a conforming lot by reducing the frontage or area of a nonconforming one.

### **§ 173-12. Severability.**

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

### **§§ 173-13 through 173-15. (Reserved)**

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## **ARTICLE IV, Site Plan Requirements**

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### **§ 173-16. Site plan review. [Amended 5-9-1988 ATM, Art. 14; 9-27-1993 STM, Art. 9]**

Site plan approval by the Planning Board is required for the creation of, addition to, or substantial alteration of all non-residential and non-agricultural structures, of a parking area having eight (8) or more spaces, and for any substantial deviation from an approved site plan, or when any of the above situations is subject to a change of use. In addition the Building Commissioner may require a site plan review if he deems it necessary in order to determine zoning compliance. Building permit applications subject to site plan review shall be accompanied either by six (6) copies of a site plan conforming to § 173-19, to be transmitted to the Planning Board by the Building Inspector, or by a copy of a site plan signed by the Planning Board or by a written statement from the Planning Board that the site plan has

been submitted to but not acted on by the Planning Board. The Building Inspector shall notify the Planning Board thirty (30) days prior to the date by which he must take action on such plans and shall not approve any building permit subject to this section without written site plan approval of the Planning Board or its designated agent, unless by that date no notice of action has been received from the Planning Board.

**§ 173-17. Preparation of plans.**

Plans subject to site plan review shall be prepared by a registered architect, landscape architect or professional engineer. Such plans shall show the boundaries of the lot, existing and proposed topography, existing and proposed structures, walkways and principal drives and service entries, parking, landscaping, screening, park or recreation areas, utilities and storm drainage.

**§ 173-18. Design requirements.**

The Planning Board shall approve a site plan only upon its determination of the following:

- A. Internal circulation and egress are such that traffic safety is protected, and access via minor streets servicing single-family homes is minimized.
- B. Visibility of parking areas from public ways and residences is minimized, and lighting of these areas avoids glare on adjoining properties.
- C. Major topographic changes or removal of existing trees is minimized.
- D. Adequate access to each structure for fire and service equipment is provided.
- E. Utilities and drainage in the vicinity either are or will be made adequate, based on the functional standards of the Planning Board's Subdivision Regulations.
- F. Methods of stormwater control and treatment as outlined in the Town of Littleton Low Impact Design/Best Management Practices Manual (latest edition) are utilized to the maximum extent practicable. [Added 5-5-2007 ATM Art 15]

**§ 173-19. Review and approval. [Amended 5-9-1988 ATM, Art. 14]**

The Planning Board shall indicate its approval, conditional approval or disapproval in writing to the Building Inspector. The Planning Board shall also so endorse the plans, forwarding one (1) endorsed copy to the Building Inspector if submitted by the Building Inspector or to the applicant if submitted by the applicant and one (1) to the Town Clerk and retaining one (1) endorsed copy for its own use and records.

**§§ 173-20 through 173-21. (Reserved)**

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**ARTICLE V, Use Regulations**

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**§ 173-22. Establishment of districts.**

- A. Districts enumerated.

(1) For the purpose of this chapter, the Town of Littleton is hereby divided into the following types

of zoning districts:

Residence District	R
Business District	B
Industrial Districts	
Industrial A	I-A
Industrial B	I-B

(2) In addition, there are Wetlands, Floodplains, Aquifer and Water Resource Districts.

- B. Zoning Map. The boundaries of these districts are defined and bounded on the set of maps entitled "Zoning and Property Maps, Littleton, Mass.," originally dated May 10, 1980, as most recently amended, on file with the Town Clerk. These maps and all explanatory matter thereon are hereby made part of this chapter. Zoning boundaries, except for wetlands, shown on the map entitled "Zoning Map," dated February 1, 1973, as most recently revised, shall be for information only.
- C. Boundary lines. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad or utility easement center or layout lines, boundary or lot lines or the channel of a stream shall be construed to be actually at those lines; when shown approximately parallel, perpendicular or radial to such lines shall be construed to be actually parallel, perpendicular or radial thereto. When not locatable in any other way, boundaries shall be determined by scale from the map. Whenever the exact location of zoning boundary lines cannot be determined under the provisions stated above, the location of such lines shall be determined by the Board of Appeals.

**§§ 173-23 through 173-24. (Reserved)**

**§ 173-25. Use regulations.**

- A. General. No building or structure shall be erected or used, and no land shall be used, except as set forth in the Use Regulations Schedule or as exempted by §§ 173-8 through 173-11 or by statute. Symbols employed shall mean the following:

(1) Permitted uses:

Y -- A permitted use.

N -- An excluded or prohibited use.

(2) Uses authorized under special permit as provided for in § 173-7:

A -- Acted on by Board of Appeals.

P -- Acted on by Planning Board.

S -- Acted on by Board of Selectmen.

- B. More than one (1) use. Where an activity might be classified under more than one (1) of the following uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

**§ 173-26. Use Regulations Schedule.**

- A. Principal uses.

Uses	R	Districts		
		B	IA	IB
<b>AGRICULTURAL USES</b>				
Farm, greenhouses	Y	Y	Y	Y
<b>RESIDENTIAL USES</b>				
Single-family dwelling	Y	Y	N	N
2-family dwelling (new)	N	N	N	N
2-family dwelling (conversion) <sup>1</sup>	A	A	N	N
Multifamily dwelling	N	N	N	N
Nursing home <sup>2</sup>	A	Y	N	N
Lodging house	Y	Y	N	N
Mobile home park	N	N	N	N
Residential social service facility <sup>3</sup>	A	A	N	N
Over 55 Housing Development <sup>P</sup>	N	N	N	
<b>[Added 11-8-2005 STM, Art. 4]</b>				

Uses	R	Districts		
		B	IA	IB
<b>COMMERCIAL USES [Amended 5-9-1988, Art. 12]</b>				
Major commercial use (Article XVIII)	N	P	P	P
If not a major commercial use:				
Office, bank, data-processing center	N	Y	Y	Y
Theater or cinema	N	P	N	P
Retail sales, service	N	Y	N <sup>8</sup>	Y
Motel, hotel, conference center	N	N	P	N
Motor vehicle service station	N	A	A	A
Restaurant	N	Y <sup>4</sup>	Y <sup>4</sup>	Y <sup>4</sup>
Adult use establishments	N	N	P	N
<b>[Added 9-22-1997 STM, Art. 9]</b>				

<b>INDUSTRIAL USES [Amended 5-9-1988, Art. 12]</b>				
Major industrial use (Article XVIII)	N	P	P	P
If not a major industrial use:				
Wholesaling, warehousing, distribution center	N	N	Y <sup>7</sup>	Y <sup>7</sup>
Manufacturing	N	N	Y <sup>7</sup>	Y <sup>7</sup>
Research and development	N	N	Y	Y
Asphalt batching plants	N	N	N	N
Open storage and bulk storage	N	N	Y <sup>5</sup>	Y
Truck terminal				
4 or fewer trucks on premises	N	N	Y	Y
More than 4 trucks	N	N	N	N
Public utilities	N	Y	Y	Y
Wireless telecommunications tower and facilities [Added 2-10-1997 STM, Art. 3]	N <sup>9</sup>	N <sup>9</sup>	P	P
Commercial power generation	N	N	N	N
Self-storage facilities	N	N	P	P
<b>[Added 5-8-2000 ATM, Art. 27]</b>				

<b>INSTITUTIONAL USES</b>				
<b>School</b>				
Exempt by statute (MGL C. 40, § 3)	Y	Y	Y	Y
Other	N	Y	Y	Y

Church or other religious use	Y	Y	Y	Y
Fraternal, charitable and nonprofit organization	A	Y	Y	Y
Library, museum, hospital	Y	Y	Y	Y
Conversion of municipal building <sup>6</sup>	P	P	P	P
Municipal use not elsewhere more specifically cited	Y	Y	Y	Y

RECREATIONAL USES

Indoor sporting area, health club, bowling, tennis or similar uses	N	Y	Y	Y
Camping, supervised	A	A	A	A
Campground	N	A	N	A
Extensive recreation	S	Y	S	Y

Uses	R	Districts		
		B	IA	IB
Other principal uses with externally observable attributes similar to uses permitted above	A	A	A	A
Other principal uses	N	N	N	N
On-site disposal of toxic or hazardous materials [Added 5-9-1988 ATM, Art. 14]	N	N	N	N
B. Accessory uses. (See Articles XII and XIII.)				

Roadside stands (agricultural)	Y	Y	Y	Y
Home occupations (See § 173-54)	Y	Y	Y	Y
Accessory dwelling (See Article XIII)	A	A	N	N
Parking in compliance with § 173-32	Y	Y	Y	Y
Signs in compliance with Article VIII	Y	Y	Y	Y
Wholesale and retail mercantile business accessory to manufacturing	N	Y	Y	Y
Accessory scientific uses (§ 173-55)	A	A	A	A
On-site disposal of toxic or hazardous materials [Added 5-9-1988 ATM, Art. 14]	N	N	N	N
Helicopter landing facility [Added 5-9-1988 ATM, Art. 14]	N	N	N	N
Mobile home (§ 173-56) [Added 5-9-1988 ATM, Art. 15]	A	A	A	A
Wireless telecommunications tower and facilities [Added 2-10-1997 STM, Art. 3]	N <sup>9</sup>	N <sup>9</sup>	P	P
Other customary accessory uses	Y	Y	Y	Y

NOTES:

<sup>1</sup>See § 173-68, Conversion of dwellings.

<sup>2</sup>A special permit for a nursing home in a residential area shall not be granted unless the plans, in accordance with which the nursing home is to be constructed, show that it will comply with the following conditions: no structure is to be erected within six hundred (600) feet of a street line or within two hundred (200) feet of a side line or rear line; ingress and egress are onto a street over a way or a right-of-way with a width of fifty (50) feet or more; there is a lot area of ten thousand (10,000) square feet for each bed in the facility; no building facade or roof has length exceeding one hundred fifty (150) feet without a horizontal break of at least three (3) feet.

<sup>3</sup>Provided that all building code, health and Zoning By-Law requirements are met and that the specific premises are not unsuitable in relation to the needs of the persons being cared for. [Amended 5-3-1993 ATM, Art. 20]

<sup>4</sup>However, food may not be sold directly to persons remaining in their vehicles, and the use requires a special permit if food is to be sold packaged for takeout (other than where the takeout is clearly incidental to service for on-premises consumption). [Amended 5-9-1988 ATM, Art. 12]

<sup>5</sup>Only if screened. See § 173-27B.

<sup>6</sup>See § 173-69, except when proposed use is permitted by the existing zoning.

<sup>7</sup>No maintenance or service of trucks as an accessory use if more than four (4) trucks on premises. [Added 5-9-1988 ATM, Art. 12]

<sup>8</sup>Except "P" if there is more than fifty thousand (50,000) square feet gross floor area in other nonresidential uses on the lot or within two thousand (2,000) feet of the boundary of the lot and the use is contained in a structure chiefly devoted to other permitted uses and the use occupies not more than ten percent (10%) of the structure's floor area. [Added 5-9-1988 ATM, Art. 12]

<sup>9</sup>Except if the proposed location is on municipally owned or controlled land, or fully enclosed within an existing Church steeple, then a special permit is required from the Planning Board. [Added 2-10-1997 STM, Art. 3]

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## **ARTICLE VI, Intensity of Use Regulations**

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### **§ 173-27. General regulations.**

- A. General. All structures hereafter erected in any district shall be located on a lot such that all of the requirements set forth in the following table are complied with, except where specifically exempted by this chapter or by the General Laws.
- B. Changing lot dimensions. No existing lot shall be changed in size or shape so as to result in violation of the requirements set forth below.
- C. Statutory exemptions. MGL C. 40A, § 6, exempts certain residential lots from some of those requirements and exempts for some time certain lots on approved subdivision plans. (See also § 173-11.)
- D. Street setback. On corner and through lots, street setbacks shall be maintained from each abutting street or way which qualifies to provide lot frontage for division of a parcel into lots. Except where stated to the contrary, all street setbacks shall be measured from the legal boundary of the way, but, where no such boundary is established, the setbacks shall be measured from a line twenty-five (25) feet from the center of the traveled roadway.

### **§ 173-28. Street frontage exception.**

Lots having less than the normally required lot frontage may be created and built upon for residential use, provided that such lots are shown on a plan endorsed by the Planning Board "Approved for Reduced Lot Frontage." Plans shall be so endorsed if meeting each of the following, but not otherwise:

- A. Each lot shall have frontage of at least thirty-five (35) feet.
- B. Egress over that frontage shall create no greater hazard owing to grade and visibility limitations than would be normal for a standard lot in the same area.
- C. Each lot must contain at least forty thousand (40,000) square feet more than the minimum otherwise required, without counting the area within any access strip. "Access strip" in this case shall mean any portion of the lot between the street and the point where lot width equals one hundred (100) feet or more.
- D. All other normal lot requirements as specified in the Intensity of Use Schedule shall be met.

- E. Each lot with less frontage than normally required shall be capable of containing a square with sides equal to the normally required lot frontage. Said square shall be shown on the plan submitted to the Planning Board for endorsement.
- F. No lot having less than normally required frontage shall be endorsed by the Planning Board if its access strip abuts another such lot.
- G. Plans of reduced frontage lots shall show the frontage of each lot abutting its access strip and, if any such lot is a reduced frontage lot, shall show the location of that lot's access strip. [Added 5-9-1988 ATM, Art. 14]

**§ 173-29. Lot Shape. [Added 5-4-1998 ATM, Art. 33]**

The shape of all lots shall conform to the following requirement:

$$\frac{16A}{P^2} > 0.4$$

Where

A = The lot area in square feet.

P = The lot perimeter in feet.

**§ 173-30. (Reserved)**

**§ 173-31. Intensity of use schedule.**

**ARTICLE VII, Parking and Loading Requirements**

**§ 173-32. Parking requirements.**

- A. General. Adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be either on the same premises as the activity it services or within three hundred (300) feet on a separate parcel, which may be jointly used with other premises for this purpose, provided that the continued joint use of such parcel is ensured through an agreement recorded in the Registry of Deeds.
- B. Schedule of parking area requirements. In applying for a building permit or certificate of use and occupancy, the applicant must demonstrate that the following minimums will be met, unless, in performing site plan review (see § 173-16), the Planning Board determines that special circumstances render a lesser provision adequate for all parking needs. If such lesser provision is allowed, the Planning Board may impose such conditions as it deems necessary. Applicant is encouraged to consider shared parking as a possible means of reducing total parking area, subject to Planning Board approval. [Amended 5-8-1995 ATM, Art. 32; 5-4-1998 ATM, Art. 34; 5-8-2000 ATM, Art. 27; 11-8-2005 STM, Art. 5]
  - (1) Dwellings: two (2) spaces per dwelling unit.
  - (2) Motels, hotels, lodging houses: one (1) space per guest unit, plus one (1) space per employee.

- (3) Retail stores: one (1) space per one hundred fifty (150) square feet of leasable floor area.
- (4) Offices: one (1) space per two hundred fifty (250) square feet of gross floor area, or, if the Planning Board determines that the occupancy can adequately be predicted and controlled, one (1) space per one and twenty-five hundredths (1.25) employees on the largest shift.
- (5) Industrial, wholesale: one (1) space per one and twenty-five hundredths (1.25) employees on the largest shift.
- (6) Restaurants: one (1) space per four (4) seats, plus one (1) space per employee on the larger shift.
- (7) Places of assembly: one (1) space per four (4) seats.
- (8) Hospitals: three (3) spaces per bed.
- (9) Nursing homes: one (1) space per four (4) beds.
- (10) Bowling alleys: four (4) spaces per lane.
- (11) All others: one (1) space per two hundred fifty (250) square feet of gross leasable area.
- (12) Motor Vehicle Service Stations: one (1) space per pump plus one (1) space per employee, plus three (3) spaces per service bay.
- (13) Motor Vehicle Service Station with Retail Store: one (1) space per pump, plus one (1) space per employee, plus three (3) spaces per service bay, plus one (1) space per 50 square feet of gross floor area.
- (14) Self-storage facilities: two (2) spaces per 10,000 square feet of gross floor area.

C. Parking area design. No off-street parking area shall be maintained within ten (10) feet of a street line. Required parking areas shall be paved and have bumper or wheel guards where needed unless serving a single-family residence or unless, in performing site plan review (see § 173-16), the Planning Board determines that, because of seasonal or otherwise limited use, an alternative surface will adequately prevent dust, erosion, water accumulation or unsightly conditions. For parking areas of eight (8) cars or more, the following shall apply:

- (1) Parking area use shall not require backing onto a public way.
- (2) There shall not be more than one (1) entrance and one (1) exit from such lots per two hundred (200) feet of street frontage or fraction thereof. No entrance or exit shall be less than fifty (50) feet from the intersection of side lines of intersecting streets. Wherever possible, lanes of entry shall be separated from lanes of egress by not less than forty (40) feet and shall be clearly distinguished by directional signs or markers. If necessary to meet these egress requirements, uses shall arrange for shared access.
- (3) Parking lots for eight (8) or more cars shall be screened from any abutting residential use or public way by a four-foot width of densely planted shrubs or a fence of not less than four (4) feet in height.

- (4) Parking spaces shall each provide space adequate to park an automobile, plus means of access, with dimensions meeting standards established by the Planning Board for standard, compact and handicapped spaces.
- (5) Parking areas for eight (8) or more vehicles shall be drained through catch basins equipped with oil and grease traps and sediment traps unless the topography of the site prevents their use. [Added 5-9-1988 ATM, Art. 14]
- (6) To reduce stormwater discharge and improve the attenuation of pollutants, applicants are required to use stormwater control Best Management Practices (BMPs) and Low Impact Development (LID) techniques in parking lot design (i.e., interior landscaping, vegetated/grassy swales, infiltration planters, permeable pavement, rain gardens, etc.). [Added 11-8-2005 STM, Art. 5]

**§ 173-33. Loading requirements.**

Adequate off-street loading facilities and space must be provided to service all needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no trucks need back onto or off of a public way or be parked on a public way while loading, unloading or waiting to do so.

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**ARTICLE VIII, Signs [Amended 5-4-1996 ATM, Art. 23]**

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**§ 173-34. General regulations.**

- A. Except for indicators of time and temperature, no sign or part of any sign shall flash, rotate, move or make noise.
- B. Signs shall be illuminated internally or by external shielded light directed solely at the sign in such a manner as to prevent glare for motorists and pedestrians, and such that the light source and lenses shall not be visible from any residential district.
- C. No sign shall be placed within or projecting over a public way or on public property, except with a permit from the Board of Selectmen.
- D. No sign shall be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless indicating time or temperature or an establishment open to the public during those hours.
- E. Provisions of this chapter do not limit flags, insignia, legal notices, agricultural, directional or traffic signs erected or required by governmental bodies.

**§ 173-35. On-premises signs in business and industrial districts.**

Signs whose contents relate exclusively to the premises on which they are located or to products, accommodations, services or activities on those premises shall be allowed as follows:

- A. Number of signs.
  - (1) Principal signs.
    - (a) On any one (1) lot, one (1) freestanding sign.

- (b) For any one (1) business or other discrete activity, one (1) attached wall sign to each building side having both a public entrance and orientation to a street. [For store groups, however, see Subsection C(3).]
- (2) Secondary signs.
  - (For lots with remove secondary access, one (1) secondary freestanding sign so arranged as to be not less than three hundred (300) feet measured horizontally from the principal freestanding sign.
- B. Height of signs.
  - (1) Freestanding signs shall not exceed eighteen (18) feet in height.
  - (2) Any attached sign shall not project above or beyond the limits of the building on which it is viewed.
- C. Sign areas.
  - (1) Principal freestanding signs shall not exceed fifty (50) square feet in area.
  - (2) Secondary freestanding signs shall not exceed twenty-five (25) square feet in area.
  - (3) No group of attached signs on any single face of the building on which they are viewed shall exceed fifteen percent (15%) of that exterior surface wall area. No attached sign shall exceed (50) square feet.
- D. Window signs. Window signs painted or fastened to window glass and signs immediately inside window glass are subject to the provisions of this chapter. Signs shall not exceed fifty percent (50%) of the glass area on which they are viewed.
- E. Business groups. Groups of three (3) or more businesses on a single lot, such as a plaza or shopping center, may, as an alternative to Subsections A(1)(a) and C(1) observe the following: ne
  - (1) principle freestanding sign of twelve (12) square feet in area identifying the plaza or center name with no more than an additional twelve (12) square foot panel for each business for the purpose of identification. Total aggregate sign area shall not exceed fifty (50) square feet.

**§ 173-36. On-premises signs in residential districts.**

Signs whose contents relate exclusively to the premises on which they are located or to products, accommodations, services or activities on those premises shall be allowed as follows:

- A. Number of signs. On any one (1) lot, one (1) freestanding or attached sign. Agricultural signs are exempt.
- B. Size of signs. Freestanding or attached signs shall not exceed three (3) square feet. Signs located on a lot with more than three hundred (300) feet of frontage and conforming to the setbacks for principal structures shall not exceed nine (9) square feet. Agricultural signs shall be limited to fifty (50) square feet aggregate total.
- C. Signs advertising accessory use of residences or residential lots, including signs pertaining to the lease or sale of such residence of lot, shall not be lighted. Such signs shall not be located in a required side or rear setback.

- D. Signs shall be limited to one (1) background color, which shall be natural wood, white or the same color as the principal structure or its trim, and one (1) other color for lettering and designs.
- E. Signs shall be limited to name and nature of the activity and its hours of operation and shall not contain slogans or prices.
- F. Chimney monograms, house numbers, identification name plaques bearing the name of the occupants and similar decorative devices shall not be considered signs for the purpose of this chapter.

**§ 173-37. Temporary signs.**

Temporary signs shall be allowed in addition to permanent signs, in any area without a permit, provided that they are not lighted and comply with the following:

- A. Unless otherwise permitted in this section, all temporary signs must comply with the requirements for permanent signs applicable to the premises. Temporary signs shall not exceed 16 square feet on any premises.
- B. Signs associated with a construction permit for the purpose of identifying the contractor shall be allowed until the completion of the project, and that the area of the sign be no larger than nine (9) square feet.
- C. One (1) real estate sign per lot provided it be no larger than nine (9) square feet and located on the premises to be sold.
- D. Temporary signs may advertise sales, special events or changes in the nature of an operations but shall not otherwise be used to advertise a continuing or regularly recurring business operation.
- E. If a temporary sign is removed, then replaced within thirty (30) days of its removal, the time allowed for the sign to be in place shall be figured from the date it was first erected, as if it had not been removed.
- F. A temporary sign which becomes unsightly or flaps or makes noise for any reason shall be promptly removed or replaced.

**§ 173-38. Off-premises signs.**

- A. Billboards or signs whose content does not relate exclusively to the premises on which they are located or to products, accommodations, services or activities on those premises are not allowed, except as follows: signs whose content is related exclusively to a political campaign or to the activities of religious or charitable organizations.
- B. No off-premises sign shall be lighted.

**§ 173-39. Prohibited signs.**

The prohibitions contained in this section shall apply to all signs in all zones, regardless of designation.

- A. No sign or advertising device shall be erected or maintained in such a manner as to obstruct or interfere with the free and clear vision on any street or driveway;

- B. No attached wall sign shall extend more than twelve (12) inches beyond the building walls or parts thereof, except as otherwise provided in these sign regulations;
- C. No building or part thereof, such as a gable, roof, or wall, shall be outlined by direct illumination for the purpose of commercial advertising;
- D. No sign shall be attached to or be erected or maintained in such a manner as to obstruct any fire escape, window, door, or other building opening used for egress and ingress, ventilation or other fire fighting purposes;
- E. No sign shall be attached to public property, i.e. telephone poles, fences, etc., without the express permission of the Board of Selectmen.
- F. Neon signs are prohibited.

**§ 173-40. Permits.**

No sign over one (1) square foot shall be erected, enlarged, altered, or replaced without a permit issued by the Building Commissioner. Agricultural signs with a maximum aggregate display area of ten (10) square feet and are not illuminated shall not require a permit. No permit shall be issued for any sign except in conformance with this chapter.

**§ 173-41. Enforcement.**

This chapter shall be enforced by the Building Commissioner.

**§ 173-42. (Reserved)**

**ARTICLE IX, Landscaping and Screening**

**§ 173-43. Screening.**

- A. Screening. All outdoor sales display areas, except roadside stands, and all commercial outdoor recreation must be screened from any adjacent residential use or district by a wall, fence or densely planted trees or shrubs three (3) feet or more in height, or equivalently obscured by natural vegetation.
- B. Industrial A screening. In an Industrial A District, trees, shrubbery or grass shall be maintained on a strip not less than twenty (20) feet wide along all public roads bounding the lot, and trees and shrubbery shall be maintained on a strip not less than fifty (50) feet wide along all lot lines adjacent to residential districts, except strips used for entrance drives or entrance walks. All open storage must be adequately shielded or covered by a wall, fence, shrubbery or natural vegetation.

**§ 173-44. Corner vision.**

No wall, fence, structure, planting or other obstruction to a driver's vision may be permitted at eye level [two and one-half (2 1/2) to eight (8) feet above street grade] within twenty (20) feet from the intersection of street side lines.

**§§ 173-45 through 173-48. (Reserved)**

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## **ARTICLE X, Exterior Lighting**

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### **§ 173-49. Exterior lighting.**

Building or area lighting for any business, commercial, industrial or other nonresidential private use shall be so arranged as to direct the light away from any street and from any premises residentially used or zoned. Such exterior lights shall be mounted and shielded, such that light sources and lenses shall not be visible from any residential district. Luminaries shall be cut off (controlled) type, with the mounting height not to exceed twenty (20) feet. Light overspill shall not create shadowing discernible without instruments on any residentially zoned premises. (NOTE: Sodium-vapor lighting is prohibited by Chapter 119 of the Code.)

### **§§ 173-50 through 173-51. (Reserved)**

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## **ARTICLE XI, Motor Vehicle Service Stations**

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### **§ 173-52. Special permit requirements.**

Motor vehicle service stations shall be granted special permits only in conformity with the following:

- A. Entrances; exits. No location shall be approved if a vehicular entrance or exit will be so located as to create an unusual hazard. Lanes of entry shall be separated from lanes of egress by not less than forty (40) feet, shall be clearly distinguished by directional signs or markers and shall be clearly channeled through the use of curbed planting areas of similar devices. Entrances and exits together shall occupy not more than forty percent (40%) of the lot frontage.
- B. Visibility. No entrance or exit shall be located within ten (10) feet of a side lot line or within fifty (50) feet of the intersection of side lines of intersecting streets. Egressing vehicles shall have at least four hundred (400) feet of visibility in each travel direction.
- C. Relation to pedestrian flow. No location shall be approved if a vehicular entrance or exit will be so located as to cross a major pedestrian flow, such as on sidewalks servicing churches, schools, recreation areas or compact retail districts.
- D. Off-street spaces. There shall be adequate space off-street for not fewer than two (2) cars to await service per filling lane. E. Service building. No service building shall be located within forty (40) feet of a street line, and no pump or other dispensing device, movable sign or display nor temporary or permanent storage of merchandise shall be located within twenty (20) feet of a street line.
- F. Fuel storage tank. No fuel storage tank shall be located within ten (10) feet of any lot line.

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## **ARTICLE XII, Accessory Uses**

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### **§ 173-53. Accessory uses.**

Customary access uses are permitted as specified in § 173-26B. Uses shall not be considered accessory if they occupy more than thirty percent (30%) of the floor area or more than fifty percent (50%) of the land area of any lot.

**§ 173-54. Home occupations.**

Customary home occupations, office of professional persons residing on the premises, handicrafts, hobbies or activities of a similar nature are allowed, provided that such activities are carried on by residents of the dwelling, plus not more than one (1) additional employee, and that accessory buildings used for such purposes shall not be placed forward of the rear line of the building.

**§ 173-55. Accessory scientific uses.**

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, may be permitted upon the issuance of a special permit by the special permit granting authority, provided that the special permit granting authority finds that the proposed accessory use does not substantially derogate from the public good.

**§ 173-56. Mobile homes. [Added 5988 ATM, Art. 15]**

- A. A special permit may be granted for use of a mobile home as a residence during the construction, reconstruction or extensive remodeling of a dwelling on the same lot, subject to the following conditions:
  - (1) The permanent septic system and water supply must be in place and usable, and the mobile home must be connected to them.
  - (2) The permit shall be limited to a reasonable time for completion of the work and shall not be renewed unless a valid, unavoidable reason for delay of the work can be demonstrated.
- B. A special permit may be granted for use of a mobile home as an accessory dwelling on the same lot as an existing dwelling, subject to the following conditions:
  - (1) All the requirements of Article XIII, Accessory Dwellings, shall apply.
  - (2) The occupant, due to physical handicap, requires special provisions in the dwelling which are impractical to provide otherwise, due to financial hardship or other reasons.
  - (3) The mobile home shall be connected to an approved water supply and septic system, which may be that of the primary dwelling.

**§ 173-57. (Reserved)**

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**ARTICLE XIII, Accessory Dwellings**

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**§ 173-58. Special permit conditions.**

A special permit authorizing an accessory dwelling may be granted only if consistent with the following:

- A. Either unit shall be occupied only by one (1) or more persons related by blood or marriage or functionally dependent (for medical or other reasons) on the occupant(s) of the other unit.

- B. The Board of Health must have documented to the special permit granting authority that sewage disposal will be satisfactorily provided for, including provision for an appropriate reserve area on site.
- C. Parking requirements. Two (2) parking spaces are required for the primary dwelling. Two (2) additional parking spaces are required for the accessory dwelling unless a lesser requirement is considered adequate by the special permit granting authority.
- D. A certificate of occupancy for the accessory dwelling shall be issued for a period of no greater than three (3) years. Renewal of a certificate of occupancy shall be granted only upon documentation to the Building Inspector that the relationship satisfying Subsection A of this section is still in existence.
- E. Termination of occupancy satisfying Subsection A of this section or change of ownership shall terminate the special permit and the certificate of occupancy as an accessory dwelling.

**§§ 173-59 through 173-60. (Reserved)**

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**ARTICLE XIV, Aquifer and Water Resource District**

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**§ 173-61. Use regulations. [Amended 5-3-2004 ATM, Art. 23, 5-5-2007, Art. 16]**

There is established within the town certain aquifer and water resource protection areas, consisting of aquifers or water resource areas which are delineated on a map entitled "Aquifer and Water Resource District, Town of Littleton," and dated March 2004. This map is hereby made a part of the Littleton Zoning Bylaws and is on file in the Office of the Town Clerk. Within the Aquifer and Water Resource Districts, the requirements of the underlying zoning districts continue to apply, except that uses are prohibited where indicated by "N" in the following schedule and require a special permit where indicated by "P," even where underlying district requirements are more permissive. Where there is no entry in this schedule, the underlying district requirements are controlling.

Uses	District	
	Aquifer (A)	Water Resource (W.R.)
Principal uses: manufacture, use, transport, storage or disposal of toxic or hazardous materials as a principal activity	N	N
Truck terminal	N	P
Sanitary landfill, junkyard, salvage yard, other solid waste disposal	N	P
Motor vehicle service or washing station	N	P
Self-storage facility [Added 5-8-2000 ATM, Art. 27]	N	P
Accessory uses or activities: manufacture, use, transport, storage or disposal	P	P

of toxic or hazardous materials in excess of 5 gallons or 25 pounds dry weight of any substance or a total of all substances not to exceed 50 gallons or 250 pounds dry weight, on a site at any one time as an accessory activity for nonresidential and nonagricultural principal activities

Underground storage of gasoline or chemicals [Amended 5-9-1988 ATM, Art. 14] N P

Storage of heating oil or petroleum in quantities greater than 500 gallons [Amended 5-5-2007 ATM, Art. 16] N P

Storage of ice-control chemicals, commercial fertilizers or animal manure not stored in accordance with DEP 310 CMR 22.21(2)(b)(2), (b)(3), and (b)(4) [Amended 5-9-1994 ATM, Art. 29; 5-5-2007 ATM, Art. 16] N N

Storage of sludge and/or septage not stored in accordance with DEP 310 CMR 22.21(2)(b)(1) [Amended 5-5-2007 ATM, Art. 16] N P

Disposal of snow from outside the district N P

Uses	District	
	Aquifer (A)	Water Resource (W.R.)

Parking area with 100 or more spaces capacity [Amended 5-9-1988 ATM, Art. 14]	P	P
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Waste characteristics: Hazardous waste generation, treatment, or storage in quantities not to exceed Very Small Quantity Generators (VSQGs) as defined in DEP 310 CMR 22.21(2)(a)(7), or subsequent equivalent regulation(s) currently in effect [Amended 5-5-2007 ATM, Art. 16]	P	P
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Waste generation in quantities greater than VSQGs limits, or subsequent equivalent regulation(s) currently in effect [Amended 5-5-2007 ATM, Art. 16]	N	P
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On-site disposal of industrial waste, as defined in DEP 310 CMR 22.21(2)(a)(6)	N	P
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[Amended 5-5-2007 ATM, Art. 16]

Use (other than single-family dwellings) if having estimated sewage flow or industrial wastewater flow exceeding 6 gallons per day combined flow per 1,000 square feet of lot area or exceeding 15,000 gallons per day combined flow regardless of lot area. Flows regulated by Title 5 shall be based on Title 5 [Amended 5-9-1988 ATM, Art. 14; 9-30-1991 STM, Art. 10]	P	P
Other characteristics: for use other than single-family dwellings, retention of less than 30% of lot area in its natural state with no more than minor removal of trees and ground vegetation [Amended 5-9-1988 ATM, Art. 14]	P	P
Rendering impervious more than 15% or 2500 square feet of any lot or parcel but less than 30%*[Amended 5-9-88 ATM, Art. 14; 5-5-2007 ATM, Art. 16]	P	Not Applicable
Rendering impervious more than 20% but less than 50% of any lot or parcel * [Amended 5-5-2007 ATM, Art 16]	Not Applicable	P
Earth removal activities not in accordance with DEP 310 CMR 22.21(2)(b)(6), or subsequent equivalent regulation(s) currently in effect [Amended 5-5-2007 ATM, Art. 16]	N	P

**§ 173-62. Special permits.**

- A. Special permit grafting authority. The special permit granting authority (SPGA) shall be the Planning Board. Such special permit shall be granted if the SPGA determines that the intent of this chapter, as well as the specific criteria of Subsection B of this section, are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures were to fail. [Amended 5-8-1989 ATM, Art. 18]
- B. Special permit criteria. Special permits for critical resource use shall be granted only if the SPGA determines that, at the boundaries of the premises, the groundwater quality resulting from on-site waste disposal, other on-site operations, natural recharge and background water quality will not fall below the standards established by the Department of Environmental Quality Engineering in Drinking Water Standards of Massachusetts, as most recently revised, or, for parameters where no Department of Environmental Quality Engineering standard exists, below current Environmental Protection Agency criteria as published in the Federal Register or, where no such criteria exists, below standards established by the Board of Health in consultation with the Board of Water

Commissioners and, where existing groundwater quality is already below those standards, upon determination that the proposed activity will result in no further degradation.

- C. Change of use. Changes in activities resulting in the necessity of obtaining an Environmental Protection Agency identification number as a waste generator, changes resulting in crossing the thresholds of § 173-31 or change of proprietorship for a use which exceeds the thresholds of § 173-61 shall constitute change of use and is allowed only under special permit provided under § 173-61 or as provided under § 173-10B for existing nonconforming uses.
- D. Submittals. When applying for a special permit for critical resource use, the following shall be submitted to the SPGA in ten (10) copies by the date of first publication of the public hearing notices:
  - (1) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises, accompanied by a description of measures proposed to protect from vandalism, corrosion and leakage and to provide for spill prevention and countermeasures.
  - (2) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
  - (3) Evidence of approval by the Massachusetts Department of Environmental Quality Engineering (DEQE) of any industrial waste treatment or disposal system and of any wastewater treatment system over a capacity of fifteen thousand (15,000) gallons per day.
  - (4) For underground storage of toxic or hazardous materials, evidence of qualified professional supervision of system design and installation.
  - (5) Analysis by a qualified engineer experienced in ground-water evaluation and/or geohydrology, with an evaluation of the proposed use, including its probable effects or impact on surface and groundwater quality and quantity and natural flow patterns of watercourses.

### **§ 173-63. Design and operations guidelines.**

Within Aquifer and Water Resource Districts, the following design and operations guidelines shall be observed, except for single-family dwellings:

- A. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials and indoor storage provisions for corrodible or dissolvable materials.
- B. Locations. Where the premises are partially outside of the Aquifer or Water Resource District, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the district.
- C. Disposal. Provisions shall be made to assure that any waste containing toxic or hazardous materials disposed on the site is within quantities specified in and in accordance with 310 CMR 30.353, regarding insignificant waste, or subsequent equivalent regulation(s) currently in effect.
- (\* ) D. Drainage. Provision shall be made for on-site recharge of stormwater runoff from impervious surfaces unless without degradation to groundwater if a special permit is to be granted for greater

than 15% coverage (but less than 30%) in the Auqifer District and for impervious cover greater than 20% (but less than 50%) in the Water Resource District. Such recharge shall include (but not be limited to) infiltration through methods as outlined in the *Town of Littleton Low Impact Design/Best Management Practices Manual (latest edition)* unless otherwise approved by the Planning Board during site plan review. Where dry wells or leaching basins are used, they shall be preceded by oil, grease and sediment traps. Drainage from loading areas for toxic or hazardous materials shall be separately collected for safe disposal. [Amended 5-5-2007 ATM, Art. 16; 5-5-2008 ATM, Art. 10]

- E. Monitoring. Periodic monitoring shall be required by the SPGA, including sampling of wastewater disposed to on-site systems or dry wells and sampling from groundwater monitoring wells to be located and constructed as specified in the special permit, with reports to be submitted to the SPGA, the Board of Health and the Board of Water Commissioners. The costs of monitoring, including sampling and analysis, shall be borne by the owner of the premises.
- F. Ice-control chemicals. Where allowed, storage of ice-control chemicals in quantities requiring state reporting shall be authorized only within a weatherproof shelter having an impervious floor and only if all loading and unloading will be done within that shelter, with provisions made for safe cleanup.

#### **§ 173-64. Violations.**

Written notice of any violation shall be provided by the Building Inspector to the owner of the premises, specifying the nature of the violation and specifying a time for compliance, including cleanup of any spilled materials. The time allowed shall be reasonable in relation to the public health hazard involved and the difficulty of compliance, but in no event shall more than thirty (30) days be allowed for either compliance or finalization of a plan for longer-term compliance. The costs of achieving compliance shall be borne by the owner of the premises or, if uncollectible from the owner, by the responsible occupant.

#### **§§ 173-65 through 173-67. (Reserved)**

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### **ARTICLE XV, Conversion of Buildings**

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#### **§ 173-68. Conversion of dwellings.**

The Board of Appeals may grant a special permit for the alteration and conversion of any dwelling located in a residence district into a dwelling designed and intended for occupancy by not more than two (2) families; provided, however, that such building or structure was in existence prior to March 5, 1951; and provided, further, that such building or structure so altered and converted, in the opinion of the Board of Appeals, will be in harmony with and conform to the character and type of residences generally prevalent in the immediate neighborhood.

#### **§ 173-69. Conversion of municipal buildings. [Amended 5-9-1988 ATM, Art. 14]**

A building or portion of a building then or formerly in municipal use may be converted from that use to other use, except manufacturing, if authorized on special permit from the Planning Board, subject to the criteria of § 173-7C and subject to the following:

- A. Any building additions shall not increase lot coverage by more than five percent (5%) of the lot area.
- B. Off-street parking must be provided to meet the requirements of § 173-32B.
- C. A special permit may not be granted more than two (2) years after the building ceases to be owned by the Town.

**§§ 173-70 through 173-71. (Reserved)**

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**ARTICLE XVI, Wetlands and Floodplain Regulations**

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**§ 173-72. Applicability. [Amended 5-7-1990 ATM, Art. 21]**

All land lying below certain control elevation (United States Geological Survey datum) as shown on the Zoning Map shall be considered wetlands, deemed to be subject to seasonal or periodic flooding, and all special flood hazard areas designated as Zone A; A1 - 30 on the Littleton Flood Insurance Rate Maps (FIRM) and the current Flood Boundary and Floodway Maps currently on file with the Building Inspector, incorporated by reference herein, shall be considered floodplains. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing flood elevation data, which shall be reviewed by the Building Inspector or the Board of Appeals for its reasonable use toward meeting the requirements of this chapter.

**§ 173-73. Uses permitted.**

In any area designated wetland or floodplain under § 173-72, the permitted uses and the requirements of the underlying zoning district shall continue to apply, except that the following shall also apply: a special permit by the Board of Appeals is required for any new structure, for additions of ten percent (10%) or more to the ground-floor area of any building existing at the time of adoption of this section or for repairs or alterations totaling seventy-five percent (75%) or more of the actual cash value of the structure before initial improvement or, if damaged, before the damage occurred for any construction or development, whether or not falling within the above requirements for a special permit, which in the opinion of the Building Inspector can be presumed hazardous as defined in § 173-74 below.

- A. Application for such permit shall be referred to the Conservation Commission for an advisory report, and no decision on such permit shall be taken within thirty-five (35) days of such referral without receipt of such report.
- B. Such permit shall be issued only if it is demonstrated by the applicant that the proposed development will pose no hazard to health or safety, for which demonstration the Board may require that the applicant submit professional hydrologic, sanitary or other studies of the site.
- C. Any other bylaw or regulation to the contrary notwithstanding, no such permit shall be issued for construction in floodplains unless the Board of Appeals shall determine that all utilities are located, constructed or elevated so as to minimize or eliminate flood damage and that methods of disposal for sewage, refuse and other wastes and for providing drainage are adequate to reduce flood hazards, provided that such determination by the Board of Appeals shall not be required in cases where the Planning Board has conducted a similar review and approval under its regulations.
- D. In the floodway, as designated on the Flood Boundary and Floodway Maps, no such permit shall be issued unless certification by a registered professional engineer is provided, demonstrating that the

proposed construction will not result in any increase in levels during the occurrence of the one-hundred-year flood.

- E. All development in floodplains must be in compliance with those sections of the State Building Code which refer to floodplains. [Added 5-7-1990 ATM, Art. 21]

**§ 173-74. Requirements.**

Without limiting the generality of the foregoing, the following are presumed to be hazardous to the health or safety within wetlands and are among the criteria for the Board of Appeals' determination for floodplains as required under § 173-73C above:

- A. Floor level of structures for human occupancy established at an elevation lower than the control elevations defining wetlands or base flood elevations as designated on the FIRM.
- B. Individual sewage disposal systems subject to inundation by flooding to the control elevations defining wetlands. Leach field drain tiles shall be not less than one hundred (100) horizontal feet inland from the control elevation defining wetlands or base flood elevations as designated on the FIRM.
- C. Methods of filling or excavation subject to displacement by floodwaters.
- D. Construction, use and/or change of grade which will obstruct or divert flood flow, substantially reduce natural floodwater storage capacity or increase stormwater runoff velocity so that water levels on other land are substantially raised or so that danger from flooding is increased.
- E. Failure to so design and secure any structure that it will not be floated off, battered off or swept away by flooding to the control elevations defining wetlands or base flood elevations as designated on the FIRM.
- F. Lack of means of egress entirely above the control elevations defining wetlands or base flood elevations as designated on the FIRM.
- G. Failure to protect against gas, electric, fuel or other utilities breaking, leaking, short-circuiting, grounding or igniting in the event of flooding to the control elevations defining wetlands or base flood elevations as designated on the FIRM.
- H. Water supply systems subject to interruption or contamination by flooding to the control elevations defining wetlands or base flood elevations as designated on the FIRM.

**§ 173-75. Decision.**

Such permit shall be issued only upon confirmation that the procedural requirements of the Wetlands Act of the Massachusetts General Laws (MGL C. 131, §§ 40 and 40A) will be met

**§§ 173-76 through 173-77. (Reserved)**

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**ARTICLE XVII, Noise**

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**§ 173-78. General.**

- A. No activity shall be permitted in any district unless it can be demonstrated that its operation will be so conducted that the following requirements will be met, Nothing in this article shall be construed to permit noise in excess of that allowed by any state or federal regulation.
- B. Exceptions. This regulation shall not apply to the following:
- (1) Any activity, except construction, on premises used exclusively for residential and customary accessory purposes.
  - (2) Any noise produced by equipment used exclusively in the maintenance or repair of buildings or grounds, provided that such equipment is rated at not more than fifteen (15) horsepower.
  - (3) Any noise produced by a registered motor vehicle, provided that such vehicle is equipped with all noise suppression devices required for legal operation under such registration by the laws of the commonwealth.
  - (4) Human or animal noises unless mechanically or electronically amplified.
  - (5) Farm equipment.
  - (6) Any fire or burglar alarm or other emergency signaling device, provided that such device is arranged to shut off automatically after not more than thirty (30) minutes of operation.
  - (7) Construction equipment between the hours of 7:00 a.m. and 7:00 p.m. only.
  - (8) Parades, fairs or outdoor entertainment between the hours of 7:00 a.m. and 11:00 p.m. only, provided that a permit for such activity has been granted by the Board of Selectmen and that said permit is for not more than ten (10) days.
  - (9) Religious services conducted by an organization which qualifies under the laws of the commonwealth as a tax-exempt religious group.

**§ 173-79. Special conditions.**

Exceptions to this article may be made under the following conditions:

- A. A permit to operate construction equipment outside the hours specified above and in excess of the noise levels specified may be issued upon determination of reasonable necessity by the senior police officer on duty in Town at the time. Such permit shall be valid for not more than twenty-four (24) hours from the time of issue.
- B. Emergency repair due to flood, fire or other catastrophe may be carried out prior to a permit being issued if such work is necessary for the general welfare or to avoid further catastrophe. Such work must cease, however, upon demand of the enforcing authority.
- C. The enforcing authority may delay enforcement of any provisions of this article for such reasonable time as may be required to modify any equipment so as to conform to these regulations.
- D. A special permit may be granted for exceptions for the operation of equipment which is necessary to the conduct of a business if there is no technically feasible way to perform the operation with equipment which complies with the regulations.

**§ 173-80. Criteria: decibel levels.**

- A. Noise levels specified herein shall be sound levels in decibels on the A-scale (dBa) referred to two ten-thousandths (0.0002) dynes per square centimeter as measured by a sound-level meter manufactured in conformance with the American National Standards Institute Standard S 1.4-1971, Type 2.
- B. Readings shall be taken using the fast-response setting of the meter, except that, when the fluctuations are so rapid as to make reading difficult, the slow-response setting may be used.
- C. The measured sound level shall be the average readings for fluctuations less than six (6) decibels and three (3) decibels less than the maximum for fluctuations greater than six (6) decibels. In taking these readings, infrequent peaks shall be ignored, except in the case of impulsive or sporadic noise of which they are a significant component.
- D. For the purposes of this section, "day" shall be defined as the hours between 7:00 a.m. and 9:00 p.m. on all days, except Sundays and legal holidays, and between 12:00 noon and 9:00 p.m. on Sundays and legal holidays. Night requirements shall apply at all other times.
- E. The maximum allowable sound levels for continuous noise in each district shall be as follows:

District	Day (decibels)	Night (decibels)
Residential	50	40
Business	55	45
Industrial	65	50

- F. The maximum allowable sound levels for noise other than continuous shall be related to the allowable levels for continuous noise as follows:

Type	Decibels
Dominant tone	5 less
Impulsive	5 less
Sporadic	10 more

- G. Notwithstanding any other provision of this article, it shall be unlawful to produce any noise other than sporadic noise in excess of ninety (90) decibels at any property line or street line.

**§ 173-81. Location of measurements.**

Noise measurements shall be made at the property line or street line.

- A. Noise requirements at any property or street line shall be those of the zoning district in which the property line lies, regardless of the location of the source of the noise.
- B. When a property line is also a zoning district boundary, the requirements shall be those of the district on the opposite side of the line from the source of the noise. When a street line is the zoning district boundary and the noise source is in the less restrictive zone, the noise level shall be measured at the street line of the property in the more restrictive zone.

**§ 173-82. Types of noise.**

For the purposes of this article, types of noise are defined as follows:

CONTINUOUS NOISE -- Noise which has no noticeably dominant frequency and which does not vary in sound level enough to be defined as sporadic or impulsive noise.

DOMINANT TONE NOISE -- Noise which has a single dominant frequency which, in the opinion of the enforcing authority, is more objectionable than a continuous noise of the same sound level.

IMPULSIVE NOISE -- Noise of repetitive character which varies more than five (5) decibels more frequently than sporadic noise.

SPORADIC NOISE -- Noise which persists one (1) minute or less and occurs less than five (5) times in any fifteen-minute period and less than ten (10) times in any one-hour period.

**§ 173-83. Evidence of future compliance.**

The Building Inspector may require that an applicant for a facility whose future compliance with performance standards in this chapter is questionable furnish evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with these standards.

**§§ 173-84 through 173-85. (Reserved)**

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**ARTICLE XVIII, Major Commercial or Industrial Use [Added 5-9-1988 ATM, Art. 12]**

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**§ 173-86. Classification.**

Industrial or commercial activities are to be classified as "major" if one (1) or more of the following thresholds will be exceeded on the aggregate for all activities on the lot:

- A. More than thirty thousand (30,000) square feet gross floor area in retail use, or more than fifty thousand (50,000) square feet gross floor area in any other nonresidential use or combination of nonresidential uses.
- B. Sewage disposal of more than ten thousand (10,000) gallons per day, based upon sewage flow estimates in 310 CMR 15.00, Title 5 of the State Environmental Code.
- C. More than one thousand (1,000) estimated motor vehicles trip ends [one (1) arrival or one (1) departure] for an average business day, based upon either the Institute of Traffic Engineers Trip Generation or an engineering study of the activity.

**§ 173-87. Use regulations.**

- A. Major commercial-or industrial use may be authorized only at locations where the type of use would, if not categorized "major," be permitted by right or could be allowed on special permit A special permit for major commercial or industrial use is to be acted on in lieu of special permits otherwise required under § 173-26, but not in lieu of others, such as those required under Article XIV, Aquifer and Water Resource District. Any special permit requirements under this section may be waived by the special permit granting authority, if a special permit required under another section of this chapter regulates the same characteristics of the activity.

B. Construction of facilities which could accommodate a major commercial or industrial use, whether through new construction or expansion or alteration of existing facilities, requires a special permit under § 173-7 unless such change is consistent with a previously authorized special permit. C. Any commercial or industrial use which qualifies as a major commercial or industrial use, as defined under § 173-86, and is equal to or more than sixty thousand (60,000) square feet gross floor area in retail use, shall require concept plan approval, as defined under § 173-2, prior to being acted upon for special permit approval. Town Meeting concept plan approval may be made with conditions or limitations. Special permit approval shall not be given by the Planning Board unless the proposal is determined to be consistent with the approved concept plan and the remaining requirements of ARTICLE XVIII. [Added 5-5-2007 ATM Art. 14]

**§ 173-88. Special permit for major commercial and industrial uses.**

- A. Submittals. In applying for a special permit for major commercial or industrial uses, the following materials shall be submitted, unless omissions of materials deemed unnecessary are authorized by the special permit granting authority prior to application:
- (1) A site plan meeting the requirements of Article IV, Site Plan Requirements.
  - (2) Building floor plans, architectural elevations, and if important for understanding, sections through the building and site (all of which may be at a preliminary level of development).
  - (3) If more than one thousand (1,000) trip ends are projected, analysis of sight distances in both directions, and capacity and hazards analysis of each ingress and egress point and each intersection where this development is likely to increase traffic by ten percent (10%) or more on any of the intersecting ways.
  - (4) If more than ten thousand (10,000) gallons per day of sewage disposal are projected, analysis of impact on ground- and surface water quality.
  - (5) A plan as recommended by the water quality engineer, indicating location of appropriate monitoring wells, if required by the special permit granting authority.
- B. Decision considerations. Special permits for major commercial or industrial uses shall be granted only if the special permit granting authority determines that the criteria of § 173-7C are met, after consideration of the following, among other things:
- (1) Roads, water, and drainage facilities as existing, or as committed by the Town or the applicant to be improved, and their ability to serve this proposal adequately and safely without material deterioration in service to other locations.
  - (2) Degree of assurance that no planned process or unplanned contingency will result in undue hazard or contamination of air, land, or water resources.
  - (3) Visual compatibility with the vicinity, including consideration of site arrangement, consistency in architectural scale (or reasonability of departure), retention of existing site features, especially trees, and architectural character.
  - (4) Degree of threat to environmental resources, including loss of valuable trees and other vegetation, disturbance to habitats, and soil loss through erosion.
  - (5) Buffering and screening from any nearby uses of different character.

C. Major projects.

1. A schematic development plan, indicating the location of the boundaries of the lot, buildings, roads, drives, parking, reserved open space, wells, on-site disposal facilities, drainage system, topography and grading, areas of retained vegetation and planting areas.
2. Floor plans and architectural elevations of all planned structures and any existing structures.
3. Materials indicating the proposed maximum number of square feet of gross floor area for each category of land use (See § 218-13, Schedule of Use Regulations); analysis supporting the demand for such use, indicating the anticipated market area and the anticipated Littleton market share; methods of water supply and sewage disposal; time schedule for construction of units and improvements; service improvements proposed to be at the developer's expense and those anticipated at the Town's expense; and means, if any, of providing for design control.
4. Analysis of the consequence of the proposed development, evaluating the following impacts at a level of detail appropriate to the scale of the development proposed:
  - a. Natural environment: groundwater and surface water quality, groundwater level, stream flow, erosion and siltation prevention measures, vegetation removal (especially unusual species and mature trees) and wildlife habitats
  - b. Public services: traffic safety and congestion, need for water system improvements, need for additional public recreational facilities and need for additional school facilities.
  - c. Economics: municipal costs and revenues, local business activity and local jobs
  - d. Visual environment: visibility of buildings and parking and visual consistency with existing development in the area. [Added 5-5-2007 ATM Art. 14]

**§ 173-89. Master planned developments.**

- A. A master plan for development of premises comprising twenty-five (25) or more acres may, at the owner's option, be submitted for approval as a major commercial or industrial use. Following approval of such a plan, individual proposals on lots within those premises will not be subject to review as major commercial or industrial uses, regardless of relationship to the thresholds of § 173-86, provided that the Planning Board, in performing site plan review, determines that the proposal is consistent with the approved master plan, which means:
  - (1) No significant departure from locations as shown on the master plan;
  - (2) No increase above maximum floor areas by category of use stipulated in the master plan; and
  - (3) Off-site improvements being made as scheduled and financed as proposed.
- B. Submittals. In applying for master plan approval, the following materials shall be submitted.
  - (1) A schematic development plan, indicating boundaries of the premises, topography, wetlands and water bodies, roads, pedestrian circulation, and utilities, and illustrative building locations.
  - (2) A site landscaping plan, indicating buffer areas to be maintained in natural landscaping; areas to be kept free of parking, storage or service yards; areas to be kept free of buildings; and proposed landscaping.
  - (3) Materials indicating the maximum floor area to be developed in each category of use in the entire development; the time schedule for development; off-site service improvements to roads,

utilities or drainage necessitated by the completed development; and proposed means by which those improvements are to be carried out and financed.

- (4) Traffic impact analysis, including sight distance analysis at all intersections of proposed roads or driveways with existing roads, capacity analysis at each intersection substantially impacted by project traffic and review of potential hazards owing to inadequate street width, alignment or visibility on servicing roads.
  - (5) Water quality impact analysis, including impacts on any affected public or private groundwater supplies and on nutrient loading of impacted water bodies.
  - (6) Water supply impact analysis, including adequacy of supply, distribution, and storage.
- C. Decision considerations. Decision considerations for approval of a development master plan shall be those of § 173-88B.
- D. Expiration. Submittal of a definitive subdivision plan, arm's length conveyance of one (1) or more lots, or completed application for a building permit for a principal building shall constitute substantial use of a special permit for a development master plan, precluding its expiration under § 173-7E.

**§§ 173-90 through 173-92. (Reserved)**

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**ARTICLE XIX, Open Space Development [Added 5-7-1990 ATM, Art. 22]**

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**§ 173-93. Purpose.**

The purpose of this article is to encourage the preservation of significant parcels of agricultural land and open space, while at the same time accommodating the need for housing in Littleton; to adapt to changes in the nature of housing and the way in which housing is used; while preserving the current overall density and rural character of the town.

**§ 173-94. Special permit.**

- A. The Littleton Planning Board is hereby designated the Special Permit Granting Authority (SPGA) to grant Special Permits for development under the provisions of this article.
- B. The SPGA may grant a Special permit for development of a qualified parcel of land in a unified manner as an Open Space Development.
- C. A Special Permit may be granted only if the SPGA determines that the open space is no less beneficial to the town than a conventional subdivision of the same property. The SPGA may grant a special permit for an Open Space Development only upon finding that such use is in harmony with the general purpose and intent of the Zoning Bylaw and that the proposal meets the specific provisions set forth under § 173-100 of the Zoning Bylaw. In granting the special permit, the SPGA may also adopt conditions, safeguards and limitations concerning the use of the property associated therewith, including limitations on open space use.

**§ 173-95. Applicability. [Added 5-4-1998 ATM, Art. 32]**

- A. All residential projects involving the subdivision of ten (10) acres or more of land shall submit

application for Open Space Development and conform to the requirements of this section.

- B. The Planning Board shall make a determination for all projects involving the subdivision of ten (10) acres or more of land pursuant to § 173-96. The Planning Board will either approve the Open Space development concept or waive the application to allow conventional subdivision concept.

**§ 173-96. Procedure.**

Applications for an Open Space Development Special Permit shall be submitted in accordance with the submission requirements specified below.

- A. **Preapplication Review:** Before submitting a formal application for a Special Permit under this article, the applicant is encouraged to meet with the Planning Board, Board of Health, and Conservation Commission to present the general concept of the development, and hear the concerns of the town officials that should be considered in the design of the development
- B. **Subdivision Plan:** Granting of a Special Permit under the provisions of this article provides only that the open space conforms to the zoning bylaw. Subdivision approval is also required in accordance with the Subdivision Control Law and the Planning Board Subdivision Regulations for the laying out of ways, installation of municipal services, and the creation of lots within the Open Space Development. If the development is undivided, or divided in such a way as not to require subdivision approval under the Subdivision Control Law, the development shall be subject to all of the design requirements of the Planning Board Subdivision Regulations as if each structure were on a separate lot, and determination of compliance with these requirements shall be part of the site plan review.
- C. **Site Plan Review:** Site Plan Review by the Planning Board is an integral part of the Open Space Development approval process and shall be conducted prior to any construction or grading on the property.
- D. **Request for Determination:** A Request for Determination shall be submitted to the Littleton Conservation Commission prior to or concurrent with submittal of the Special Permit Application to the SPGA.
- E. **Plan Review Submission:** The Applicant shall provide the SPGA with ten (10) sets of a completed application, meeting the submission requirements of § 173-98. The SPGA shall submit such application to the Board of Health, Conservation Commission, Board of Selectmen, Fire Department, Police Department, Tree Warden, and Highway Department for review and comment. Each board shall have thirty-five (35) days after receipt of the applications to complete such review and comment. [Amended 5-6-1991 ATM, Art. 25]

**§ 173-97. (Reserved)**

**§ 173-98. Submission Requirements.**

- A. A development statement describing the development program, including number of units, type of units, floor area, number of bedrooms, ground coverage, and areas of residential development and common open space as percentages of the total open space area.
- B. A preliminary environmental analysis as defined by the Planning Board Subdivision Rules and Regulations for a Preliminary Subdivision.

C. Development plans including the following:

- (1) Overall site plan showing locus, topography in 10 foot or three meter contours from USGS maps, all structures to be built or retained, all roads, driveways, parking areas, paths and trails, stone walls, sidewalks, community facilities serving the development, and common open spaces, as well as any other information that would be useful to illustrate the proposal.
- (2) Drawings illustrating the design of buildings and clusters of buildings, and special features of the development.
- (3) Perspective drawings illustrating views from existing public roads abutting the site after the completion of development.
- (4) Typical elevation of proposed structures at a scale of 1/8 inch equals one foot.
- (5) Typical floor plans at a scale of 1/4 inch equals one foot.
- (6) Detailed plans, at a scale of one inch equals 40 feet, of all vehicular entrances to the site, all parking areas and access lanes, and community center sites.
- (7) Conceptual plans for treatment and disposal of sanitary sewage, including locations and sizes of leaching fields, and reports of subsurface investigations of groundwater and soil conditions in proposed leaching areas.
- (8) General analysis of the effect of the development on surface water flow to offsite or nearby wetlands.
- (9) Plans for water supply and distribution sufficient to show the source of water, location and size of storage and distributions facilities, and provisions for fire protection.

D. Planned use of and access to open space.

E. Marketing Program including anticipated price schedule of units, target market sectors, and anticipating timing of development and sales. Market studies prepared by outside consultants are strongly recommended, but not required.

F. Construction schedule, including staging program if applicable, with estimated start and finish dates of each stage, anticipated completion date of community facilities serving the development, and planned completion date of entire development.

G. Management program outlining the community organization, if any, and the transition procedure from developer management to community association management.

H. Development team qualifications, including names, addresses and resumes of the development company, development managers, architects, engineers, landscape architects, land planners, other consultants and participants, and all general partners. Resumes must include lists of all developments in progress or completed within five years by each participant.

I. Financial program, including names and addresses of participating financial institutions, a description of the type of sources of equity funding, and bank references for the developers and general partners.

J. A list of all property owners within the Open Space Development tract, and proof of site control by the developer. Proof of site control may include deeds, option agreements, purchase and sale

agreements, development partnership agreements, or other documents that establish the right of the developer to plan and develop the property if granted an Open Space Development Special Permit.

**§ 173-99. (Reserved)**

**§ 173-100. Decision Criteria.**

- A. In an Open Space Development, dwellings and accessory buildings should be arranged in groups that do not detract from the ecological and visual qualities of the environment, and are harmonious with the existing neighborhood. The review shall consider whether the size of the planned open space is such that preservation of desirable open space of the vicinity is maximized.
- B. Prior to the granting of a Special Permit under this article, the developer shall execute and deliver to the SPGA a binding agreement, which may state that it is contingent on the granting of the permit, to convey and restrict the open space in accordance with the terms of the Special Permit.
- C. The Planning Board may approve or approve with conditions, a Special Permit for Open Space Development, provided that the Board determines that the plan complies with all relevant requirements of the Zoning Bylaw, and is on balance no less beneficial to the Town than the development likely without such approval, taking into consideration the following, among other concerns.
  - (1) Preservation of natural resources, especially in relatively large-scale contiguous areas.
  - (2) Protection of visual character by having open spaces which are visible from major roads.
  - (3) Reduction in length of publicly maintained roads and utilities per dwelling unit served.
  - (4) Location of development on sites best suited for such and avoiding environmentally fragile locations.
  - (5) Protection of major street appearance and capacity by avoiding development close to or egressing directly onto such streets.
  - (6) Contribution to meeting housing need.
  - (7) Protection of water resources through careful location of potential sources of contamination.

**§ 173-101. Activities Not Allowed.**

- A. Following the submittal of an application for a Special Permit under this Article, the developer shall not perform or permit to be performed any cutting of trees on the site or any excavation other than test pits prior to the SPGA's final action. Any test pits so dug or existing prior to the application, which are located in the proposed open space, shall be filled to the preexisting grade prior to the granting of the Special Permit. Failure to fulfill this requirement shall be deemed grounds for denial of the Special Permit.
- B. Within Aquifer or Water Resource Districts, wastewater disposal facilities shall not serve more than one dwelling unit per 40,000 square feet land area of the portion of the development within such districts.

**§ 173-102. Allowed Uses.**

- A. Units shall be single-family detached.
- B. Community recreation facilities serving the development.
- C. Offices and maintenance facilities for the open space community association and its management organization.
- D. Construction offices and sales offices, for the open space only, until the last approved unit is initially sold.
- E. Normally acceptable accessory uses and facilities incidental to the principal uses.

**§ 173-103. (Reserved)**

**§ 173-104. Density Calculation.**

- A. Except as modified by Subsection B and C below, the number of dwelling units that may be constructed on an Open Space Development site shall be determined by the following formula: Total area, minus total wetlands as determined by the Littleton Conservation Commission in accordance with M.G.L., Chapter 131, Section 40, less 15%, divided by the minimum residential lot size for the zoning district in which it lies, and rounded to the nearest whole number. For example:

Gross Site Area	50.0 acres
Less Wetlands Area:	- 10.0 acres
	<hr/>
	40.0 acres
Less 15%	- 6.0 acres
	<hr/>
Net Developable Area:	34 .0 acres
Convert to square feet:	x 43,560
	<hr/>
	1,481,040 sq. ft.
Divided by Minimum Lot Size:	÷ 40,000 sq. ft.
	<hr/>
	37.03 units
Rounded:	37 units

- B. If the SPGA determines that any part of the site, other than wetlands, is evidently unbuildable, (such as excessive grades, etc.) the SPGA may require that 80% of that area be deducted from the gross site area in the above calculation.
- C. If the developer believes that a conventional subdivision on the site would allow more units than determined by the above procedures, he may at his option and expense, submit to the SPGA such evidence as he feels necessary to support his claim. If the SPGA finds this evidence credible, it shall increase the allowed number of units accordingly. Failure of the developer to exercise this option shall be conclusive evidence that he agrees that the number of units determined by Subsections A and B above, equals the number of dwellings which could be constructed in a conventional subdivision on the same site.

- D. Subject only to the rights of appeal conferred by the Massachusetts General Laws, the number of units determined by the above procedures shall be presumed to equal the number of dwellings which could be constructed in a conventional subdivision on the same site.

**§ 173-105. (Reserved)**

**§ 173-106. Minimum Site Size.**

The site must be of a size, as determined under Section 173-104, to support a minimum of three (3) residential units.

**§ 173-107. (Reserved)**

**§ 173-108. Dimensional Requirements.**

- A. Height. The maximum allowed height of any building or structure within an Open Space Development shall be 32 feet, as defined in the zoning bylaw definitions, but the height at any point shall not be more than one-half of the horizontal distance from any boundary of the open space or of any preexisting public way.
- B. Yards. No minimum lot area, frontage, or yard requirements apply within an Open Space Development, except that no building shall be erected within 40 feet from any boundary lines of the open space or of any preexisting public way.
- C. Coverage. Total impervious area, including buildings, parking and other paved areas, shall not exceed 30 percent of the area of the Open Space Development tract. More severe standards may apply in Aquifer or Water Resource Districts as defined in other articles of this chapter.

**§ 173-109. (Reserved)**

**§ 173-110. Ownership.**

An Open Space Development tract may include contiguous parcels of land separately owned by different persons or entities who have agreed that the entire tract shall be subject to all of the provisions and stipulations of the Special Permit as if it were a single development.

**§ 173-111. (Reserved)**

**§ 173-112. Open Space.**

- A. Reserved open space shall be defined by deed, and placed under permanent conservation restriction. Open space shall either be conveyed to the Town and accepted by it for park or open space use; conveyed to a nonprofit organization the principal purpose of which is the conservation of open space, or conveyed to a corporation or land trust owned by the owners of the lots or residential units within the development, which corporation or land trust shall have lien authority to collect dues from its owners.
- B. Provisions shall be made in the open space trust arrangements to allow and encourage the use of open space for active agriculture, forestry, or passive recreation.

**§ 173-113. Roads.**

- A. All roads, except driveways, within an Open Space Development shall be designed and constructed to Planning Board standards for subdivision streets.
- B. Buildings in the Open Space Development may be grouped around a common driveway and parking area, provided the SPGA determines that the design of the driveway and parking area provides safe and adequate access to the dwellings.

**§ 173-114. Utilities.**

All utility services shall be installed below ground throughout the development, and within the street rights-of-way where feasible.

**§ 173-115. (Reserved)**

**§ 173-116. Limitations on Further Division.**

Land shown on a plan for which a permit is granted under this article may not be further divided and a notation to this effect shall be shown on the plan and shall be a condition of any approvals granted.

**§ 173-117. Revision of Special Permit.**

- A. Subsequent to issuance of a Special Permit and approval of a Definitive Subdivision Plan, minor revisions may be made from time to time in accordance with applicable law, bylaws, and regulations, but the open space approved under such Special Permit shall otherwise be in accordance with the approved Special Permit.
- B. The developer shall notify the SPGA in advance of any such revision, which shall not be effective until approved by vote of the SPGA. If the SPGA determines such revisions not to be minor, it shall order that an application for a revised Special Permit be filed, and a public hearing be held as required for an original application.

**§ 173-118. Other Standards Applicable.**

- A. This article does not waive any development regulations or procedures that would be applied to a conventional subdivision, except those that are specifically defined in this article. MI overlay zoning districts, such as Aquifer Protection, Floodplain, and Wetlands, shall apply to parcels developed under this article.
- B. The Planning Board may waive any of its subdivision regulations that may be waived under the Subdivision Control Law. Variances from this article may be granted only by the Board of Appeals under the provisions of M.G.L., Chapter 40A.

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**ARTICLE XX, Shared Residential Driveways [Added 5-3-1993 ATM, Art. 23]**

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**§ 173-125. General.**

- A. No driveway which serves three (3) or more residential building lots of any type, may lie on a corridor of land or land area having a width of less than thirty-five (35) feet.

- B. This article shall apply only to driveways constructed after May 3, 1993 and to lawfully existing driveways changed after that date to connect with or serve one (1) or more additional lots.
- C. It is the intent to permit adjoining lots to share a driveway, the shared part of which is subject to precautions to ensure that the driveway will be maintained and remain useful for both ordinary and emergency access under all weather conditions, and to ensure that a driveway will not be used as a substitute for a street or as a substitute for mandatory access frontage. After May 3, 1993, a driveway may be constructed or extended to serve more than two (2) lots only in accordance with a special permit authorized by the Planning Board, subject to all applicable provisions of this Bylaw.

**§ 173-126. Special permit requirements.**

The following are minimum requirements for shared driveways. The SPGA may impose higher design and construction standards if in its opinion the number of lots or other conditions affecting the interest of the Town requires them.

- A. The driveway shall lie entirely within the lots being served.
- B. A shared driveway shall be considered satisfactory only if (1) it has been constructed in accordance with the provisions of the special permit; and (2) there is a recorded clear provision for maintenance and snow removal; running with the land.
- C. A driveway shall not be used to provide the lot access frontage required by this Bylaw or by the Subdivision Control Law.
- D. Where the access to structures or uses provided by the driveway is substantially different than that which would be provided through required lot frontages, the special permit shall not be issued unless the Planning Board finds that the proposed shared driveway and its location are in the public interest.
- E. Where it is in the public interest, the special permit granting authority may require the owners to name the shared driveway and provide a number for each dwelling served by it. In the event that a sign is installed, it shall be subject to the approval of the SPGA.
- F. The Planning Board shall submit a copy of the special permit and approved plan to the Building Commissioner. No building permit shall issue until receipt of the special permit and plan.
- G. The special permit may require inspections at certain points in the construction by an agent authorized by the Planning Board.

**§ 173-127. Design criteria.**

- A. Grades on shared driveways constructed or extended after May 3, 1993 shall not exceed 10 percent.
- B. The minimum width of the shared driveway shall be sixteen (16) feet. [Amended 5-8-1995 ATM, Art. 33]
- C. The shared driveway shall be constructed of materials resistant to erosion and frost heaving and sufficient to support an axle load of ten (10) tons under all weather conditions. The shared driveway shall be paved with a 3 inch minimum thickness layer of bituminous concrete. [Amended 5-8-1995 ATM, Art. 33]

- D. Turnouts shall be provided along the shared driveways at intervals of three hundred (300) feet. The turnout shall be eight (8) feet wide and twenty-five (25) feet long.
- E. All shared driveways shall be provided with provisions for drainage sufficient to prevent deterioration of the driveway and to prevent any erosion, flooding, or other problems on any property beyond that of the owners of the driveways including the street which it intersects.
- F. The SPGA shall require that utilities to the lots be located directly adjacent to or within the shared driveway. [Amended 5-8-1995 ATM, Art. 33]
- G. All curves shall be designed to accommodate a vehicle with fifty (50) foot outside turning radius.
- H. Each branch from a shared driveway shall be designed such that a twenty-one (21) foot wheelbase fire truck or other emergency vehicle can safely enter and exit the branch.
- I. At the end of the shared driveway, a turnaround shall be constructed with a 75 foot minimum turning radius. [Added 5-8-1995 ATM, Art. 33]
- J. The developer shall post a cash bond to cover the cost of the construction of the shared driveway. [Added 5-8-1995 ATM, Art. 33]
- K. Adequate fire protection shall be provided to the satisfaction of the Planning Board. [Added 5-8-1995 ATM, Art. 33]
- L. The length of a shared residential driveway shall not exceed 750 feet. This length shall be measured from the sideline of the public way on which the lots have frontage to the end of the turnaround. [Added 5-8-1995 ATM, Art. 33]

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**ARTICLE XXI, Wireless Telecommunications Towers and Facilities [Added 2-10-1997 STM, Art. 3]**

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**§ 173-128. Purpose and Goals.**

- A. The purpose of this bylaw is to establish general guidelines for the siting of wireless telecommunication towers and facilities. The goals of this bylaw are to (1) encourage the location of towers on municipal land or industrially zoned land and minimize the total number of towers throughout the community; (2) require the co-location of new and existing tower sites; (3) encourage users of towers and facilities to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (4) encourage users of towers and facilities to configure them in a way that minimizes the adverse visual impact of towers and facilities, and in furtherance thereof, due to the nature of two divided highways intersecting within the Town, to locate the towers to the extent possible in close proximity to the divided highways; (5) enhance the ability of the providers of telecommunications services to provide such services to the community effectively and efficiently; and (6) to make available all wireless telecommunication tower locations to local municipal agencies.
- B. A wireless telecommunications tower and facilities may be located in the Town of Littleton upon the granting of a Special Permit from the Planning Board in accordance with the requirements set forth herein. Granting of a Special Permit will be required prior to the submission of a site plan.
- C. The following types of wireless communications towers are exempt from this by-law:

(1) Amateur radio towers used in accordance with the terms of any amateur radio service license issued by the Federal Communications Commission, provided that (1) the tower is not used or licensed for any commercial purpose; and (2) the tower must be removed upon loss or termination of said FCC License.

D. If the Planning Board determines that independent review of the special permit is required, the Board will require the applicant to pay a review fee consisting of reasonable costs to be incurred by the Board for the employment of outside consultants pursuant to Planning Board rules as authorized by G.L. c. 44, § 53G.

### **§ 173-129. Special Permit.**

A. Approval. The Littleton Planning Board is hereby designated the Special Permit Granting Authority (SPGA) to grant Special Permits for wireless telecommunications towers and facilities. A Special Permit shall be granted by the Planning Board in accordance with the Massachusetts General Laws, the provisions of this bylaw relative to the Special Permit and §§ 173-128 through 173-133, inclusive.

B. Expiration. The Special Permit granted under this Bylaw shall expire within five (5) years of the date of issuance of the permit.

C. Submittal. As part of any application for a special permit, applicants shall submit:

(1) Reports prepared by one or more professional engineers, which shall:

(a) Describe the tower and the technical, economic and other reasons for the tower design, and the need for the tower at the proposed location;

(b) Demonstrate that the tower complies with all applicable standards of the Federal and State Governments;

(c) Describe the capacity of the tower including the number and type of antennae that it can accommodate and the basis for the calculation of capacity;

(d) Describe the wireless telecommunications provider's master antenna plan, including detailed maps, showing the precise locations, characteristics of all antennas and towers and indicating coverage areas for current and future antennas and towers;

(e) Demonstrate that the tower and facilities comply with this regulation;

(2) The information required for site plan approval as set forth herein at § 173-133, as may be amended; and

(3) Information sufficient for the SPGA to make a decision on the compliance of any proposed towers and facilities with the requirements of §§ 173-128 through 173-133, inclusive.

### **§ 173-130. On-Site Demonstration.**

The SPGA may require the applicant to perform an on-site demonstration of the visibility of the proposed tower by means of a crane with a mock antenna array raised to the maximum height of the proposed tower. A colored 4' minimum diameter weather balloon held in place at the proposed site and maximum height of the tower may be substituted for the crane if approved by the SPGA. This demonstration shall take place after the application for Special Permit has been made, but prior to the close of the public hearing on said Special Permit. The applicant shall take care to advertise the date of the demonstration in a newspaper widely circulated in the neighborhood of the proposed site. Failure,

in the opinion of the SPGA, to adequately advertise this demonstration may be cause for the SPGA to require another, properly advertised demonstration.

### **§ 173-131. Special Permit Requirements.**

- A. The tower and its facilities shall be located in accordance with the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) Regulations in effect at the time of construction. The operation of the Tower and its facilities shall comply with all requirements of these agencies during the entire period of operation.
- B. The tower and its facilities shall be located within the Town of Littleton as follows:
- (1) To the extent feasible all service providers shall co-locate on a single tower. Towers and accessory buildings shall be designed to structurally accommodate the maximum number of users.
  - (2) New Towers shall be considered only upon a finding by the Planning Board that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.
  - (3) If it is demonstrated to the satisfaction of the Planning Board that the siting of proposed facilities on municipal land, or within an existing church steeple is not feasible, then the towers and facilities shall be located on Industrial Land within five hundred (500) feet of a divided highway.
  - (4) The base of all towers shall be no closer than three (300) hundred feet to a dwelling in a residential district. Facilities shall comply with existing setback requirements.
  - (5) Tower height shall not exceed 100 feet measured from the base of the tower to the highest point of the tower or its projection.
  - (6) Fencing shall be provided to control access to the base of the tower which fencing shall be compatible with the scenic character of the Town and shall not be of barbed wire or razor wire.
  - (7) Access shall be provided to a tower site by a roadway which respects the natural terrain, does not appear as a scar on the landscape and is approved by the Planning Board and the Fire Chief to assure emergency access at all times. Consideration shall be given to design which minimizes erosion, construction on unstable soils and steep slopes.
  - (8) The applicant shall demonstrate to the satisfaction of the Planning Board that the location of the tower is necessary and that the size and height is the minimum necessary for the purpose.
  - (9) There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) hour basis. All signs shall conform with the sign requirements of this bylaw.
  - (10) To the extent feasible all network interconnections from the communications site shall be installed underground.
  - (11) The tower shall minimize, to the extent feasible, adverse visual effect on the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting, lighting standards and screening.

- (12) **Removal of Abandoned Towers and Facilities.** Any tower or facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower and facility shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment.

If such tower or facility is not removed within said ninety (90) days, the Town may cause such tower or facility to be removed at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

**§ 173-132. Performance Guarantees.**

- A. An initial cash bond in a reasonable amount determined and approved by the Planning Board shall be in force to cover removal when discontinued or obsolete.
- B. A maintenance bond shall be posted for the access road, site and tower(s) in amounts approved by the Planning Board.

**§ 173-133. Site Plan Approval.**

Site Plan approval by the Planning Board is required for the siting and construction of all wireless telecommunications towers, antennae, and facilities. If modification of a special permit is sought, the Planning Board may require approval of a new site plan.

A site plan submitted to the Planning Board for approval shall contain ten (10) copies of a plan conforming to the requirements of §§ 173-17 and 173-18 of this by-law and in addition, the following documentation:

- A. Tower, antennae, and facility location (including guy wires, if any), and tower and antennae height.
- B. Eight (8) view lines in a one (1) mile radius from the site, shown beginning at True North and continuing clock-wise at forty-five (45) degree intervals.
- C. The locus map at a scale of 1:1000 which shall show all streets, bodies of water, landscape features, historic sites, habitats for endangered species within two hundred (200) feet and all buildings within five hundred (500) feet.
- D. A copy of the requests made by the applicant to the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health to provide a written statement that the proposed tower complies with applicable regulations administered by the agency or that the tower is exempt from those regulations and a copy of the response from each agency. If such response is not received within sixty (60) days, the application will be considered complete with respect to the requirements of this § 173-133D. The applicant shall submit any subsequently received agency statements to the Planning Board.

**§§ 173-134 through 173-139. (Reserved)**

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**ARTICLE XXII, Adult Uses [Added 9-22-1997 STM, Art. 9]**

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**§ 173-140. Purpose.**

The purpose of the bylaw is to regulate the location of adult use establishments to prevent the associated secondary effects of these establishments, and to protect and promote the quality of the Town of Littleton's neighborhoods, commercial and business districts, and the general welfare, health and safety of the citizens of Littleton.

**§ 173-141. Adult Use Business Regulations and Standards.**

- A. Special Permit Required. A Special Permit from the Planning Board and site plan review shall be required for any adult bookstore, adult live entertainment establishment, adult motion picture or mini motion-picture theater, or adult video store, or any other form of adult business as described in G.L. c.40A, § 9A. All of the standards in § 173-7 of this bylaw must be met.
- B. Special Permit Applications - The application for a Special Permit for an adult use establishment shall comply with the rules for such applications adopted by the Planning Board and filed with the Town Clerk. In addition, the application for such Special Permit for an adult use establishment must include the following information:
  - (1) Name and address of the legal owner of the establishment;
  - (2) Name and address of all persons having lawful, equity, or security interests in the establishment;
  - (3) Name and address of the manager;
  - (4) Proof that any of the persons identified in Subsections B(1), B(2), and B(3) have not been convicted of violating G.L. c. 272, § 28 or G.L. c. 119, § 63;
  - (5) The number of employees;
  - (6) Proposed security precautions; and
  - (7) The physical layout of the premises.
- C. Location.
  - (1) The property for the proposed use shall be located within one thousand feet of a divided highway and within the Industrial A district, but may not be located within or within one thousand feet of the nearest lot lines of any of the following:
    - (a) Other adult use establishment;
    - (b) Establishment licensed under the provisions of G.L. c.138, § 12;
    - (c) Residential district or residential use;
    - (d) Church or other religious facility or institution;
    - (e) Public or private school, day-care center, or nursery school;
    - (f) Nursing home, senior center, or elderly housing;
    - (g) Public playgrounds, parks, conservation areas.
  - (2) The proposed use and all associated advertising must be set back a minimum of two hundred feet (200') from all property lines.

D. Performance Standards. No special permit may be granted for any adult use unless each of the following conditions are fully satisfied:

- (1) A thirty-foot wide landscaped buffer along the side and rear property lines, consisting of evergreen shrubs at a minimum height of five (5) feet, shall be required for all adult use establishments. The operator of said establishment shall replace any dead shrubs within six months.
- (2) All building openings and entries shall be screened in such a manner as to prevent visual access of the public to the interior of the establishment. All windows shall be opaque.
- (3) All parking areas for adult use establishments shall be in the side or rear yards and shall otherwise conform to the requirements of § 173-32.
- (4) No adult entertainment establishment shall be allowed within a building containing other retail, consumer, or residential uses.
- (5) No adult entertainment establishments shall be located within fifty feet of a public or private way and must be set back a minimum of two hundred feet (200') from all property lines.
- (6) A material condition to every special permit issued with respect to any adult entertainment establishment shall be that such establishment must cease its business operations between the hours of 12:00 a.m. and 11:00 a.m. each day.

E. Adult Use Signs. No special permit may be granted for any adult use advertisement signs unless each of the following conditions are fully satisfied:

- (1) All signs will be nonilluminated.
- (2) Freestanding signs are not permitted.
- (3) An adult use advertisement sign may only be located on a building in which there is operating an adult use pursuant to a special permit issued by the Planning Board.
- (4) The size of the on-premise sign is limited to thirty-two square feet.
- (5) There shall be no temporary signs and no window signs.
- (6) The sign complies with all other applicable provisions of the sign bylaw, § 173-34 to 173-41.

#### **§ 173-142. Lapsing of Special Permit.**

If substantial use or construction has not commenced without good cause within one (1) year after the issuance of a special permit, the special permit shall lapse.

#### **§§ 173-143 through 173-144. (Reserved)**

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### **ARTICLE XXIII, Over 55 Housing Developments [Added 11-8-2005 STM, Art. 4]**

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#### **§ 173-145. Definitions.**

AFFORDABLE DWELLING UNIT -- A dwelling unit, the value of which is determined by the Department of Housing and Community Development (DHCD) to be affordable by a moderate income

family and thus to be included in DHCD's Subsidized Housing Inventory of moderate income housing Dwelling Units for the purpose of compliance with the provisions of Massachusetts General Laws Chapter 40B, Sections 20 through 23.

LOW-INCOME - Household income not exceeding fifty (50) percent of the median income, with adjustments for household size, as reported by the most recent information from the DHCD.

LOW-INCOME DWELLING UNIT -- A dwelling unit, the value of which is determined by the Department of Housing and Community Development (DHCD) to be affordable by a low-income family and thus to be included in DHCD's Subsidized Housing Inventory of moderate income housing Dwelling Units for the purpose of compliance with the provisions of Massachusetts General Laws Chapter 40B, Sections 20 through 23.

MODERATE INCOME -- Household income not exceeding eighty (80) percent of the median income, with adjustments for household size, as reported by the most recent information from the DHCD.

**§ 173-146. Purpose.**

The purpose of this article is to accommodate the need for market rate, affordable, and low income housing in Littleton for those age 55 and older.

**§ 173-147. Special permit.**

- A. The Littleton Planning Board is hereby designated the Special Permit Granting Authority (SPGA) to grant Special Permits for development under the provisions of this Article.
- B. The SPGA may grant a Special Permit for development of a qualified parcel of land in a unified manner as an Over-55 Development.
- C. The SPGA may grant a special permit for an over 55 housing development only upon finding that such use is in harmony with the general purpose and intent of the Zoning Bylaw and the proposal meets the specific provisions set forth under this bylaw. In granting the special permit, the SPGA may also adopt conditions, safeguards, and limitations concerning the use of the property associated therewith, including limitations on open space use.

**§ 173-148. Applicability.**

- A. Uses. Structures within an Over-55 Development shall contain residential dwelling units, at least one occupant of which is fifty-five (55) years of age or older ("Senior Resident"). All units shall be subject to Restrictive Covenants mandating said restriction, approved as to form by Town Counsel, recorded within the chain of title, which shall be enforceable by a Homeowners Association comprised of the owners of the units within the development. Said restriction shall also be enforceable by the Town as a condition for compliance with this zoning bylaw.
- B. Occupancy. Each Dwelling Unit in an Over-55 Development shall be occupied by at least one person age fifty-five (55) or older. Children under the age of eighteen (18) may not reside in a dwelling unit of an Over-55 Development for more than six (6) months in any nine (9) month period.
- C. All residential projects involving the development of five (5) acres or more of land may submit an application for over-55 housing development that conforms to the requirements of this section.

- D. The Planning Board will either approve the over 55 housing development concept or permit the applicant to withdraw the application in order to investigate other development concepts allowed under the zoning bylaw.

**§ 173-149. Approval.**

Approval of an over 55 housing development shall be contingent upon satisfying additional criteria as follows:

- A. Density: The parcel being proposed for development can have no more than three (3) times the number of units than could be constructed with a conventional subdivision or ANR lot(s) in accordance with the Zoning Bylaws with 75% being market rate and 25% being affordable or no more than four (4) times the number of units that could be constructed with a conventional subdivision in accordance with the Zoning Bylaw with 75% being market rate, 15% being affordable, and 10% being low income.
- B. Unit Size: All units will be two bedrooms or less. Total floor area for each unit excluding basement, garage, and deck shall not exceed 1,500 square feet per unit. No change in the original footprint of the living space is permitted.
- C. Unit Layout: Living space (i.e., kitchen, living and/or dining room) and one bedroom must be on the ground floor.
- D. Dwelling units: The units can be single-family detached or two-family. All two-family units shall have a single-family appearance. The maximum percentage of duplexes in a development shall not exceed 50%.
- E. A Homeowners' Association or a Management Company must be formed which would have the legal responsibility for the management and maintenance of the development. The responsibility would include but is not limited to exterior maintenance of buildings, maintenance of driveways and/or parking lots, landscaping maintenance and maintenance of common utilities. In addition, the Homeowners' Association or Management Company would accept responsibility for the maintenance of any Open Space if the Open Space is conveyed to a corporation or trust either of which is composed of the unit owners.
- F. Development Layout: Developers are encouraged to present creative layouts that address the town's need for open space.

**§ 173-150. Procedure.**

Applications for an over 55 housing development Special Permit shall be submitted in accordance with the submission requirements specified below.

- A. Pre-application Review: Before submitting a formal application for a Special Permit under this Article, the applicant is encouraged to meet with the Planning Board, Board of Health, Conservation Commission, Housing Committee and Board of Selectmen to present the general concept of the development, and hear the concerns of the town officials that should be considered in the design of the development.
- B. Site Plan Review: An application for Over 55 Special Permit shall be subject to site plan review under §173-16.

- C. Request for Determination: A Request for Determination shall be submitted to the Littleton Conservation Commission prior to or concurrent with the submittal of the Special Permit Application to the SPGA.
- D. Special Permit Submission: The Applicant shall provide the SPGA with ten (10) sets of a completed application, meeting the submissions requirements of this section. The SPGA shall submit such application to the Board of Health, Conservation Commission, Board of Selectmen, Fire Department, Police Department, Tree Warden, and Highway Department for review and comment. Each board shall have thirty-five (35) days after receipt of the applications to complete such review and submit written comments.

**§ 173-151. Submission Requirements.**

- A. A development statement describing the development program, including number of units, types of units, floor area, tabulation of floor area, number of bedrooms, ground coverage, number of low-income units, areas of residential development and common open space as percentages of the total open space area.
- B. A preliminary environmental analysis as defined by the Planning Board Subdivision Rules and Regulations for a Preliminary Subdivision.
- C. Development plans including the following:
  - (1) Conventional Subdivision Plan with sufficient detail, as determined by the Planning Board, to determine the number of dwellings that could be constructed using conventional subdivision layout and in accordance with the Zoning Bylaws.
  - (2) Overall site plan prepared by a registered professional engineer showing locus, existing and proposed topography, all structures to be built or retained. All principal drives, driveways, parking areas, paths and trails, utilities, drainage system, stone wall, sidewalks, property lines, landscaping, community facilities serving the development, and common open spaces, as well as any other information that would be useful to illustrate the proposal.
  - (3) Drawings illustrating the design of buildings and clusters of buildings, and special features of the development.
  - (4) Perspective drawings illustrating views from existing public roads abutting the site after the completion of development.
  - (5) Typical elevation of proposed structures at a scale of 1/8 inch equals one foot.
  - (6) Typical floor plans at a scale of one-fourth (1/4) inch equal one foot.
  - (7) Detailed plans, at a scale of one inch equal forty (40) feet, of all vehicular entrances to the site, all parking areas and access lanes, and community center sites.
  - (8) Conceptual plans for treatment and disposal of sanitary sewage including locations of and sizes of leaching fields, and reports of subsurface investigations of groundwater and soil conditions in proposed leaching areas.
  - (9) General analysis of the effect of the development on surface water flow to offsite or nearby wetlands.

(10) Plans for water supply and distribution sufficient to show the source of water, location and size of storage and distributions facilities, and provisions for fire protection.

(11) Landscape plan indicating the number and type of vegetation being utilized to buffer the disturbed portion of the development.

D. Planned use of and access to any open space.

E. All roadway and utility design, layout, length, and construction must conform to the Subdivision regulations. One building per lot is allowed.

F. Marketing Program including anticipated price schedule of units, target market sectors, and anticipated timing of development and sales. Market studies prepared by outside consultants are strongly recommended, but not required.

G. Construction schedule, including staging program if applicable, with estimated start and finish dates of each stage, anticipated completion date of community facilities serving the development, and planned completion date of the entire development.

H. Management program outlining the community organization, if any, and the transition procedure from developer management to community association management, if applicable.

I. Development team qualification, including names, addresses and resumes of the development company, development managers, architects, engineers, landscape architects, land planners, other consultants and participants, and all general partners. Resumes must include lists of all developments in progress or completed within five years by each participant.

J. Financial program, including names and addresses of participating financial institutions, a description of the type of sources of equity funding, and bank references for the developers and general partners.

K. A list of all property owners of the over 55 housing development tract, and proof of site control by the developer. Proof of site control may include deeds, option agreements, purchase and sale agreements, development partnership agreements, or other documents that establish the right of the developer to plan and develop the property if granted a Special Permit.

#### **§ 173-152. Design Criteria.**

A. In an over 55 housing development, dwellings and accessory buildings should be arranged in groups that do not detract from the ecological and visual qualities of the environment, and are harmonious with the existing neighborhood. The review shall consider whether the size of the planned open space is such that preservation of desirable open space of the vicinity is maximized.

B. In the event that there is open space in this development, prior to the granting of a Special Permit under this Article, the developer shall execute and deliver to the SPGA a binding agreement, which may state that it is contingent on the granting of the permit to convey and restrict the open space in accordance with the terms of the Special Permit.

#### **§ 173-153. Design requirements.**

A. The Planning Board may approve a site plan that meets the Littleton Subdivision Regulations and applicable Zoning Bylaws. All waivers from the Subdivision Regulations must be requested in writing at the time of submission.

**B. Dimensional Requirements:**

<b>Description</b>	<b>Requirement</b>
Minimum Tract of Land Area to be developed	5 acres
Minimum Frontage of Lot	20 feet
Lot Area	No Minimum Required
Minimum Side and Rear yards	No Minimum Required
Minimum separation between buildings and/or structures	20 feet
Lot Shape Ratio	No Minimum Required
<b>Description</b>	<b>Requirement</b>
Minimum setback of buildings, pavement areas other than street and walkways from all boundaries of the tract of land	25 feet
Maximum height of Principal and Accessory structures	32 feet
Height	The Height at any point shall not be more than one-half of the horizontal distance from any boundary of the open space of any pre-existing public way
Maximum Density - all Affordable Units	3 Dwelling Units per one residential unit allowed under a conventional subdivision, with 75% market rate and 25% affordable
Maximum Density - Affordable Units plus Low-Income Units	4 Dwelling Units per one residential unit allowed under a conventional subdivision, with 75% market rate, 15% affordable, and 10% low income
Maximum dwelling units per building	2 for no more than 50%
Building Setback from pre-existing Public Way	35 feet
Maximum Total impervious area	30 percent
Maximum number of dwelling units to be constructed from all over-55 developments in one year	40 dwelling units

**§ 173-154. Ownership.**

An over 55 housing development tract may include contiguous parcels of land separately owned by different persons or entities who have agreed that the entire tract shall be subject to all of the provisions and stipulations of the Special Permit as if it were a single development.

**§ 173-155. Open Space.**

If applicable, provisions shall be made in the open space trust arrangements to allow and encourage the use of open space for active agriculture, forestry, or passive recreation.

**§ 173-156. Allowed Uses.**

- A. Community recreation facilities serving the development.
- B. Offices and maintenance facilities for the community association and its management organization.
- C. Construction offices and sales offices until the last approved unit is initially sold or rented.
- D. Normally acceptable accessory uses and facilities incidental to the principal uses.

**§ 173-157. Peer review.**

The Planning Board may determine that independent review of the plans, legal documentation and/or construction is required. The Board will obtain a quotation for the work required from an engineer and/or attorney of its choice, and the developer shall deposit funds equal to the amount of the quotation with the Treasurer of the Town of Littleton to pay for this work, in accordance with applicable General Laws, prior to the start of the review.

**§ 173-158. Decision Criteria.**

In an over 55 housing development, dwellings and accessory buildings should not detract from the ecological and visual qualities of the environment, and should be harmonious with the existing neighborhood.

**§ 173-159. Compliance with Town Regulations.**

Planning Board may approve or approve with conditions, a Special Permit for an over 55 housing development, provided that the Board determines that the plan complies with all relevant requirements of the Zoning Bylaws and is on balance no less beneficial to the Town than the development likely without such approval, taking into consideration the following, among other concerns.

- A. Preservation of natural resources, especially in relatively large-scale contiguous areas.
- B. Location of development on sites best suited for such and avoiding environmentally fragile locations.
- C. Contribution to meeting housing need.
- D. Protection of water resources through careful location of potential sources of contamination.
- E. Suitability of the development tract to support such a development.

**§ 173-160. Limitations on Further Division.**

Land shown on a plan for which a permit is granted under this Article may not be further divided and a notation to this effect shall be shown on the plan and shall be a condition of any approvals granted.

**§ 173-161. Affordable Units.**

- A. As part of the Special Permit/Site Plan review, the total number of dwelling units shall be restricted for perpetuity. The restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Town of Littleton, Board of Selectmen, for a period not less than 120 days after notice thereof. In the event that an affordable unit becomes a market unit, the profit in excess of the affordable unit shall go to the Town of Littleton. Low-income units, if any, shall be integrated into the overall development so as to prevent the physical segregation of such units.
- B. The applicant shall be encouraged to seek designation of all the units as affordable and low-income units which qualify as part of the subsidized housing inventory as approved and compiled by the Department of Housing and Community Development (DHCD).
- C. All affordable housing units shall contain a use restriction that meets all requirements under 760 CMR § 45.03(5). The owner must additionally agree to be subject to all other requirements under 760 CMR § 45.03 including monthly rent limitations under 760 CMR § 45.03(3) or initial purchase or resale price limitations under § 45.03(4), annual reporting requirements under § 45.03(6), and non-discrimination in tenant and buyer selection requirements under § 45.03(7). Use restrictions must remain for thirty (30) years for perpetuity or the maximum amount allowed by law for newly constructed units.
- D. The Planning Board may require that the Applicant affirmatively take steps to utilize the Littleton Housing Authority, a public agency, a nonprofit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Program Petition or other similar mechanism or program, cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units proposed as affordable and/or low-income units qualifying as part of the subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval.

**§ 173-162. Limit on Units.**

The total number of units allowed under this bylaw, on an annual basis, shall be no more than 40 dwelling units in the Town. The phasing of the development shall be to the satisfaction of the Planning Board.

**§ 173-163. (Reserved)**

**§ 173-164. Lottery Process for Affordable Units.**

- A. The selection of buyers for all affordable units in the development will be done by lottery. It is proposed that seventy percent (70%) of the affordable units will be sold to individuals meeting not only the applicable DHCD guidelines and the requirements of this bylaw but also local preferences. The local preferences will be:

- (1) Current residents of Littleton.
  - (2) Immediate family members of Littleton residents.
  - (3) Municipal employees of the Town of Littleton.
- B. To enter the lottery, applicants must submit an application form. In the application they will be required to document their income and age eligibility and preference category (if applicable). Once received, the applications will be screened for initial eligibility. Because a large number of applicants are anticipated no further verification of applicant's statements are planned before the lottery.
- C. The Developer in conjunction with the Littleton Housing Authority (LHA) will conduct the lottery in a public place at an advertised date and time. All applicants will be provided an opportunity to inspect an example of the affordable units to be sold.
- D. The lottery will be a multiple pool lottery to address the local preferences to be employed (two pools: local preference and open pool). As such applicants will also be given the opportunity to identify themselves as minorities. After the application deadline has passed, the Developer and LHA will determine the number of local resident minority applicants and the percentage of minority applicants in the local preference pool. If the percentage of minorities in the local preference pool is less than 17.5% the local preference pool will be adjusted accordingly by holding a preliminary lottery to rank all minority applicants. Minority applicants will then be added to the local preference pool in accordance with the ranking established under the preliminary lottery until the percentage of minority applicants in the local preference pool reaches 17.5%.
- E. All applicants will be given registration numbers to allow public monitoring of lottery activities without compromising applicant privacy. Cards with the registration numbers will be placed in all lottery pools for which an applicant can be ranked. The available units will then be assigned to the applicants based on their ranking in each pool. Pending final review and verification of application information of the winning applicants the units will be sold accordingly. In the event an applicant is found to be unqualified or chooses not to purchase the unit, the unit will be assigned to the next applicant in the ranking.

## Intensity of Use Schedule

### Town of Littleton

#### Intensity of Use Schedule [Amended 5-8-2000 ATM, Art. 26; 6-15-2000 STM, Art. 2]

District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Street Setback (feet)	Minimum Side, Rear Setbacks (feet)		Maximum Building Height <sup>10</sup> (feet)	Maximum Lot Coverage (percent)	
				Principal Building or Structure	Accessory Building or Structure		By Buildings	By Buildings plus Paving
R	40,000	150	30 <sup>8,9</sup>	15	10	32	--	60
B <sup>1</sup>	15,000	100	25 <sup>8</sup>	15 <sup>6</sup>	15 <sup>6</sup>	32	50 <sup>7</sup>	80
I-A	--	--	80 <sup>5</sup>	50 <sup>5</sup>	50 <sup>5</sup>	40	30 <sup>7</sup>	80
I-B <sup>1</sup>	--	--	30 <sup>2</sup>	20 <sup>3</sup>	20 <sup>3</sup>	40 <sup>4</sup>	35 <sup>7</sup>	80

#### Minimum Side, Rear Setbacks

##### NOTES:

<sup>1</sup> Permitted residential use shall observe requirements of the residence district.

<sup>2</sup> Thirty (30) feet or one and one-half (1½) times the building height, whichever is greater.

<sup>3</sup> Twenty (20) feet or height of building, whichever is greater.

<sup>4</sup> Greater height may be allowed on special permit from the Planning Board upon its determination that such height is functionally essential for the operation of the activity and will cause no substantial increase in shadow cover or reduction in privacy on abutting premises.

<sup>5</sup> In an Industrial A District, no building or other structure shall extend nearer than eighty (80) feet to a main public way or nearer than fifty (50) feet to a side or rear lot line or secondary public way, except when the public way divides an industrial and a residential district, the setback shall be one hundred fifty (150) feet; when the public way is a limited-access highway, the setback shall be twenty (20) feet; and the setback shall not apply to gatehouses, watchman's houses, electrical substations, gas or water meter stations or valve houses and similar one-story buildings, provided that they are of masonry construction and no larger than twelve by twelve (12 x 12) feet in plan and ten (10) feet in height to the eaves or to signs as limited by § 173-35. For this purpose, a "secondary public way" is defined as one entirely contained within the bounds of the industrial district, all others being main public ways. Also, when property ownership extends beyond the bounds of the industrial district, the boundary of the industrial district shall be considered the lot line for determining setbacks unless the use of the premises is also a permitted use in the adjoining district.

A smaller setback from a main public way, but not smaller than fifty (50) feet, may be authorized on special permit from the Planning Board, upon its determination that:

- i) Either the topography of the site and its vegetation provide adequate visual screening for the building despite the smaller setback or the proposal is harmonious with its surroundings in architectural scale, use of materials, colors and landscape treatment; and also
- ii) There are public interest benefits from the smaller setback, such as superior protection of natural features of the site or avoidance of sensitive areas or making feasible a desirable development not otherwise possible.

<sup>6</sup> When abutting a residential use or district, twenty-five (25) feet, which shall contain no parking.

<sup>7</sup> Provided, however, that the total of the gross floor area on all floors, not including cellars, shall not exceed four-tenths (0.4) times the combined land area of the site, plus any off-site areas used for ancillary parking under § 173-32 in Industrial I-A and I-B Districts, and shall not exceed six-tenths (0.6) times that combined area in business districts.

<sup>8</sup> If more than one (1) street abuts the lot, then the additional street setback may be reduced one (1) foot for every two thousand (2,000) square feet under forty thousand (40,000) square feet of lot area, but to not less than fifteen (15) feet.

<sup>9</sup> Where structures exist on the adjacent lot(s) on either side of the property, the street setback need not be greater than the average of the setbacks of the adjacent structures.

<sup>10</sup> The maximum building height for a municipal education structure shall be no greater than fifty feet (50'); provided, however, that the Planning Board may issue a Special Permit authorizing this height restriction to be exceeded upon a finding that such restriction significantly and unreasonably interferes with use of the structure for an educational purpose.