

ZONING BY-LAW
OF THE
TOWN OF BELMONT



Adopted
April 26, 1978

Approved by the Attorney General — July 31, 1978

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1. GENERAL

1.1 Title and Authority

This By-Law shall be known and may be cited as the "Zoning By-Law of the Town of Belmont, Massachusetts" and is adopted in accordance with and pursuant to the provisions of General Laws, Chapter 40A, as amended by Chapter 808 of the Acts of 1975 as amended.

1.2 Purposes

The purposes of this By-Law include, but are not limited to, the following: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the comprehensive plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill these purposes under the provisions of General Laws, Chapter 40A.

Regulations adopted pursuant to these purposes may include, but are not limited to, restricting, prohibiting, permitting or regulating the use, alteration, height, area and location of buildings and structures and the use of premises in the Town of Belmont.

1.3 Basic Requirements

Any building or structure hereinafter erected, reconstructed, altered, enlarged, or moved or any use of premises hereinafter established, altered or expanded in the Town of Belmont shall be in conformity with the provisions of this By-Law. Any use not specifically or generically enumerated in a District herein shall be deemed prohibited. In accordance with General Laws, Chapter 40A, and notwithstanding any provisions to the contrary, this By-Law shall not prohibit, regulate

or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided however, that such land or structure may be subject to reasonable regulations concerning the bulk and height of structures, yard size, lot area, open space, parking and building coverage requirements in accordance with the provisions of this By-Law.

1.4 Definitions

1.4.1 Basement - A portion of a building partially underground, but having less than one-half of its clear height below the grade plane.
(see cellar)

1.4.2 Block - An area of land of one or more lots, bounded by streets or ways, but with no streets or ways within the area.

1.4.3 Cellar - A portion of a building partially underground, having one-half or more than one-half of its clear height below the grade plane.
(see basement)

1.4.4 Day Care Center - Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under 7 years of age, or under 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include: any part of a public school system; any part of a private, organized educational system unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor provided, in the last 2 instances, such arrangement or care shall not be for more than 5 children including participating children living in the residence.

1.4.5 Dwelling - A building containing one or more dwelling units separated by side yards from any other structure or structures except accessory buildings.

1.4.6 Dwelling Unit - A group of rooms designed or occupied as a habitable residence for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and bathroom purposes.

1.4.7 Family - One or more persons, including domestic employees, occupying a dwelling unit and living as a single non-profit housekeeping unit; provided that if 5 or more persons of the group occupying said dwelling are not kindred to each other, as defined by civil law, they shall not be deemed to constitute a family. *4 people*
3 Boards

1.4.8 Family Day Care Home - Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age or children under 16 years of age if such children have special needs; provided, however, in either case, that the total number of children under 16 in a family day care home shall not exceed 6, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor provided such arrangement or care shall not be for more than 5 children including participating children living in the residence.

1.4.9 Floor Area Ratio - The ratio of gross building floor area to the area of the lot upon which the building stands. (Area of basement is included in gross floor area, but area of cellar is not.)

1.4.10 Frontage - The distance between adjacent intersections of lot and street sidelines measured in a continuous line along the street side-line or sidelines.

1.4.11 Garden Apartment - A multi-dwelling unit structure consisting of not less than 5 dwelling units with no more than 3 stories but excluding townhouses.

1.4.12 Grade - The average of the finished ground level adjoining the building at all exterior walls.

1.4.13 Ground Floor - The floor which is nearest to the average grade of the sidewalk or ground adjoining.

1.4.14 Half Story - A story under a sloping roof of which the floor area of the rooms is not more than 75 percent of the area of the ground floor.

1.4.15 Height, Building - The vertical distance from the grade to the highest point of the roof. When a building faces more than one street, the height may be measured from the average of the grade at the center line of each street front.

1.4.16 Lot - The whole area of a single parcel of land under one ownership. Whenever such a parcel is divided on a plan which has been placed on file at the Middlesex South District Registry of Deeds

at Cambridge, the term lot as used in this By-Law shall mean a lot as shown on such plan.

1.4.17 Open Space - An open area on a lot, unbuilt on, containing landscape materials, pedestrian walks and patios but excluding driveways and parking spaces.

1.4.18 Parking Space - An area in a building or on a lot available for parking one automobile, exclusive of passageways and driveways appurtenant thereto, and having free and unimpeded access to a street over unobstructed passageways or driveways.

1.4.19 Premises - A lot together with all structures, buildings, and uses thereon and including any water bodies and water courses or parts thereof.

1.4.20 Story - That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

1.4.21 Street - Any public way; also any private way commonly used by the public and having a right-of-way width of 20 feet or more.

1.4.22 Swimming Pool - An artificial or semi-artificial receptacle capable of containing a body of water, whether in or above the ground, or created by artificial means from a natural water course, and all appurtenances, equipment, appliances and other facilities for its operation, maintenance or use, used or intended to be used by the owner or tenant thereof and his/her family and by friends invited to use it without payment of any fee, but not including portable or other pools capable of containing a depth of water not exceeding 24 inches at any point.

1.4.23 Townhouse - A row of 3 or more attached dwelling units, which comprise a continuous structure not more than 2 rooms deep and wherein each dwelling unit has its own independent entrance to and from the exterior.

1.5 Non-Conformance

1.5.1 Continuation

Any lawful use of land, building or part thereof at the time of the adoption of this By-Law or any amendment thereto may be continued although such use does not conform to the provisions of the By-Law.

1.5.2 Alteration

Any building occupied by a nonconforming use may be structurally altered, provided that the Board of Appeals determines by the grant of a special permit that such alteration is not substantially more detrimental to the neighborhood than the existing nonconforming use except where alteration to a nonconforming dwelling with one or 2 dwelling units does not increase the nonconforming nature of the dwelling.

1.5.3 Discontinuance

A non-conforming use of a building or land which has been discontinued shall not thereafter be returned to such non-conforming use. A non-conforming use shall be considered discontinued when the premises have been devoted to a conforming use, or when the premises have been vacant for a period of 2 years or when the characteristic equipment and the furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment within 2 years.

1.5.4 Change

A nonconforming use in a building may be changed to any other use not more detrimental to the character of the District in which it is located provided that the Board of Appeals grants a special permit therefor. A permitted or allowed use in a nonconforming building may be changed to any other permitted or allowed use in the District in which the building is located.

1.5.5 Restoration

If any non-conforming building which is occupied by a non-conforming use is destroyed or damaged by fire or other casualty, in whole or in part, it may be replaced by a building to be used for the same purpose as the one destroyed or for any other non-conforming use, always provided that any new use to which the building may be put shall not be more detrimental to the character of the District in which it is located than was the original use, and also provided that such reconstructed or new building shall not exceed in cubic contents the original building by 10 percent.

1.6 Variation

Where this By-Law imposes a greater restriction upon the use of buildings or premises than is imposed by existing provisions of law or other By-Laws, the provisions of this By-Law shall control. Where a provision of this By-Law may be in conflict with any other provision or provisions of this By-Law, the more stringent or greater requirements shall control.

2. USE DISTRICTS

2.1 Classes

The Town of Belmont is hereby divided into 10 classes of Districts:

Single Residence A	Local Business I
Single Residence B	Local Business II
Single Residence C	Local Business III
General Residence	General Business
Apartment House	Parking Lot

2.2 Location

Said Districts are located and bounded as shown on the Zoning Map of the Town of Belmont dated March 14, 1955 as amended which is on file with the Town Clerk. Said map with all explanatory matter thereon accompanies this By-Law and is hereby declared to be part hereof.

2.3 Boundaries

2.3.1 - The boundaries between Districts are, unless otherwise indicated, the center lines of such streets, alleys, parkways or railroads through which the boundary lines run.

2.3.2 - Unless otherwise specified, a boundary line within a block less than 200 feet wide is a median line between the street lines of said block. Where a block is 200 feet or more in width, the boundary line between Districts as indicated shall be 100 feet from the less restricted side of the block.

2.3.3 - Where a District boundary line divides a single lot at the time of the adoption of such line, the regulation for the less restricted portion of such lot shall extend to the entire lot, but not more than 30 feet within the boundary line of the more restricted District, provided, however, that where any one lot lies in 2 Districts but has no frontage on a street in the less restricted District, said entire lot shall be subject to the requirements of the more restricted District.

3. USE REGULATIONS

3.1 General Requirement

No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.2 and as permitted and set forth in Section 3.3, Schedule of Use Regulations herein and in accordance with the following notation:

- Y (Yes) - Use permitted
- SP (Special Permit) - Use allowed under a Special Permit by the Board of Appeals as provided hereafter
- SP₁ (Special Permit) - Use allowed under a Special Permit by the Board of Appeals as provided hereafter and subject to Design and Site Plan Review as provided in Section 5.5
- N (No) - Use prohibited

Uses permitted and uses allowed by the Board of Appeals shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this By-Law.

3.2 Prohibited Uses

No building shall be erected, altered or used for any use which by reason of emission of odor, dust, fumes, smoke, vibration or noise, or any other cause, is injurious, noxious, offensive or detrimental to a neighborhood.

No lot, building or structure of any kind within the Town shall be erected or used for the following purposes: the excavation of clay for the manufacturing of bricks or other like clay products; the slaughtering of animals, including stock yards; fat rendering; the manufacture of fertilizer, gelatine, glue, grease, lard, tallow and soap; rendering of any description; incineration or reduction of dead animals, garbage, offal, or refuse, except a municipal plant authorized by law; the manufacture of matches, explosives, fireworks, firecrackers, gasoline, naphtha and petroleum or the refining of these products including the storage of the above products in tanks above ground in quantities exceeding 2000 gallons; or any other industry injurious to the health, safety and general welfare of the Town.

3.3 Schedule of Use Regulations

(see pages 9 through 13)

3.3 Schedule of Use Regulations

Uses

Districts

	SR-A	SR-B	SR-C	GR	AH	LB I	LB II	LB III	GB	PL
<u>PUBLIC AND SEMI-PUBLIC</u>										
Use for religious purposes or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a non-profit educational corporation.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Private school conducted for profit, including nursery, dancing and music schools.	SP	SP	SP	SP	N	Y	Y	SP	Y	N
Day care center and family day care home.	SP	SP	SP	SP	SP	SP	SP	SP	SP	N
Hospital or sanitarium.	SP	SP	SP	SP	N	N	N	N	N	N
Philanthropic use.	SP	SP	SP	SP	N	Y	Y	Y	Y	N
Municipal recreational use.	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Municipal cemetery.	SP	SP	SP	SP	N	N	N	N	Y	N
Other municipal use.	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y
<u>AGRICULTURE</u>										
Farm, garden, nursery or greenhouse.	Y	Y	Y	Y	N	N	Y	N	Y	N
Stable for the keeping of live stock other than domestic pets.	SP	SP	SP	SP	N	N	N	N	Y	N

3.3 Schedule of Use Regulations

Uses

Districts

	SR-A	SR-B	SR-C	GR	AH	LB I	LB II	LB III	GB	PL
	Y	Y	Y	Y	N	SP N	SP N	SP N	N	N
	N	N	N	Y	N	SP N	SP N	SP N	N	N
	SP	SP	SP	SP	N	Y	Y	SP	N	N
	N	N	N	N	N	Y	Y	SP	Y	N
	Y	Y	Y	Y	N	Y	Y	Y	Y	N
	N	N	N	Y	N	N	N	N	N	N
	N	N	N	Y	Y	N	N	SP ₁	N	N
	N	N	N	SP	N	N	N	N	N	N

Amended 4/13/70

RESIDENTIAL

A detached dwelling containing only one dwelling unit.

A dwelling containing not more than 2 dwelling units.

Private club or lodge owned by and operated for members only and customarily conducted as a nonprofit activity.

Private club or lodge owned by members and customarily conducted as a nonprofit activity.

The renting of not more than 3 rooms in a dwelling unit as a lodging without separate cooking facilities and for not more than 3 lodgers: in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in Section 1.4.7.

Alteration of a dwelling existing at the time of the adoption of this By-Law to accommodate 2 families.

Garden apartments subject to the conditions in Section 4.2 and Section 5.8.

Garden apartments constructed by the Belmont Housing Authority (BHA) of not less than 60 dwelling units for occupancy by elderly persons or elderly families (as defined in Section 26J of Chapter 121 of the General Laws (Ter.Ed.) or 42 United States Code, Section 1402, both as amended, and equivalent provisions of law from time to time in force) on a lot of land or contiguous lots of land.

3.3 Schedule of Use Regulations

Uses

	Districts										
	SR-A	SR-B	SR-C	GR	AH	LB I	LB II	LB III	GB	PL	
<u>RESIDENTIAL (contd.)</u>											
Townhouse residential units under the regulations for Planned Development Areas set forth in Section 5.1.	N	N	N	SP ₁	N	N	N	SP ₁	N	N	N
Planned Development Area under the regulations set forth in Section 5.1.	N	N	N	SP ₁	N	N	N	SP ₁	N	N	N
Apartment house of no less than 5 dwelling units subject to the conditions in Section 5.9.	N	N	N	N	SP ₁	N	N	N	N	N	N
<u>BUSINESS</u>											
Off-street commercial parking lots for the parking of vehicles, subject to the conditions in Section 5.6.7.	N	N	N	N	N	N	N	N	Y	SP	
Eating place including, but not limited to, restaurant, lunch room, cafeteria, drive-in food service or fast order food establishment and similar places for serving food or beverages whether consumed on the premises or not.	N	N	N	N	N	SP	SP	N	SP	N	N
Auto repairs, sales and rental, gas stations, garages.	N	N	N	N	N	N	Y	N	Y	N	N
Self or fast service filling stations.	N	N	N	N	N	N	SP	N	SP	N	N
Office.	N	N	N	N	N	Y	Y	Y	Y	N	N
Place of assembly, amusement, or athletic exercise.	N	N	N	N	N	SP	SP	N	Y	Y	N

3.3 Schedule of Use Regulations

Uses

Districts

	SR-A	SR-B	SR-C	GR	AH	LB I	LB II	LB III	GB	PL
	N	N	N	N	N	Y	Y	Y	Y	N
	N	N	N	N	N	N	Y	N	Y	N
	N	N	N	N	N	N	N	N	Y	N
	Y	Y	Y	Y	N	Y	Y	Y	Y	N
	Y	Y	Y	Y	SP	N	N	N	Y	N
	Y	Y	Y	Y	Y	N	N	N	Y	N
	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y

BUSINESS (contd.)

Retail sales and service including the manufacturing or fabrication of products of which the major portion is to be sold at retail on the premises and not more than 8 operatives are employed in the manufacturing or fabrication process.

Motorized equipment sales, service and rental including equipment powered by internal combustion engine over 10 horsepower.

Manufacturing and warehousing.

ACCESSORY USES

An office within the dwelling of a resident physician, dentist or attorney, provided that not more than one person, who does not reside on the premises as a part of the family unit, is employed therein, and such use occupies not more than 50 percent of the area of the floor on which the office is situated in the dwelling.

A private one story garage for not more than 3 automobiles not exceeding 660 square feet of floor area or a height of 15 feet.

A noncommercial greenhouse; a tool shed used for the storage of tools, yard and household equipment or other similar accessory buildings none of which shall exceed 150 square feet of floor area or a height of 10 feet.

A garage or an off-street parking area for more than 3 automobiles.

Anything not listed is SP (see Radio Towers)

3.3 Schedule of Use Regulations

Uses

Districts

	SR-A	SR-B	SR-C	GR	AH	LB I	LB II	LB III	GB	PL
	SP	SP	SP	SP	N	Y	Y	Y	Y	N
	Y	Y	Y	Y	SP ₁	SP	SP	SP ₁	N	N
	Y	Y	Y	Y	N	Y	Y	Y	Y	N
	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y

ACCESSORY USES (contd.)

Open lot storage or parking of a boat, boat trailer, house trailer, camping trailer, motor home, commercial trailer, commercial vehicle or an unregistered automobile.

Swimming pools and tennis courts and other similar recreational facilities.

A customary home occupation such as dressmaking, handcrafts and teaching of not more than 4 pupils simultaneously, provided the occupation is conducted only by the resident of the dwelling unit, such use does not occupy more than the equivalent of 50 percent of the area of the first floor of the dwelling unit and there is no display, advertising or retail sale of merchandise on the premises, but not including such as barber shops, beauty parlors, real estate and insurance offices and commercial stables and kennels.

Other uses customarily incidental to the principal uses herein.

3.4 Accessory 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 provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

4. INTENSITY REGULATIONS

4.1 General Requirements

No building or structure in any District shall be located, constructed, changed, enlarged or permitted and no use of premises in any District shall be permitted which does not conform to the density and dimensional regulations as set forth herein and in Section 1.5.

4.2 Schedule of Dimensional Regulations

(see page 16)

4.3 Specific Conditions

4.3.1 Lot Reduction - No lot shall be so reduced that the required yard dimensions, street frontage or the lot area shall be smaller than herein described. A lot whose principal structure is a dwelling shall not have its width reduced, between the street and the rear lines of the dwelling erected thereon, below the required minimum street frontage for the District in which the lot is located.

4.3.2 Unenclosed Porches - Unenclosed porches may be built 5 feet nearer the street line than the setbacks required in Single Residence A, B and C Districts and General Residence Districts except for garden apartments.

4.3.3 Unenclosed Steps and Similar Projections - Subject to Section 5.7, the provisions of Section 4.2 shall not apply to unenclosed steps, unroofed porches, ramps for the handicapped or other similar features which are not more than 3 feet high above the adjacent grade and which do not project more than 4 feet from the foundation wall but in no event closer than 4 feet to a lot sideline and 10 feet to a lot rear line.

4.3.4 Exemption for Recorded Lots - Any increase in the area, frontage, width, yard or depth requirements of this By-Law shall not apply to a lot to be used for dwellings with one and 2 dwelling units which at the time of recording was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least 5000 square feet of area and 50 feet of frontage. The provisions of this paragraph shall not be construed to prohibit a lot being built upon if at the time of the building, building upon such a lot is not prohibited by this By-Law.

*OS (new)
clearance*

4.2 SCHEDULE OF DIMENSIONAL REGULATIONS

Districts	Minimum Lot Size square feet	Max. Dwelling Unit Density sq. ft. land area/d.u.	Minimum Lot Frontage feet	Minimum Lot Width feet	Maximum Lot Depth feet	Minimum Setback Dimensions feet			Minimum Floor Area sq. ft./d.u.	Floor Area Ratio	Minimum Distance to Other Buildings feet (18)	Maximum Building Height (1)		Maximum Lot Coverage percent	Minimum Open Space per Dwelling Unit square feet	
						Front	Side	Rear				feet	stories			
SR-A Dwelling Other	15,000		100			30 ⁽²⁾	15	40 ⁽³⁾ 25 ⁽⁴⁾			30	40 ⁽⁸⁾	2-1/2 ⁽⁸⁾			
SR-B Dwelling Other	10,000		80			25 ⁽²⁾	10	30 ⁽³⁾ 25 ⁽⁴⁾			20	40 ⁽⁸⁾	2-1/2 ⁽⁸⁾			
SR-C Dwelling Other	7,000		70			25 ⁽²⁾	10	30 ⁽³⁾ 25 ⁽⁴⁾			20	40 ⁽⁸⁾	2-1/2 ⁽⁸⁾			
GR Garden Apts. Garden Apts. by BHA 2 d.u. struct. Other	12,500 60,000 5,000	2,500 1,000	100 50			20 20 ⁽⁹⁾	20 8 ⁽¹²⁾	30 ⁽⁵⁾ 20 ⁽¹⁰⁾ 12 ⁽¹¹⁾	650 450 768		30 16 16	40 40 40 ⁽¹³⁾	(20) (20) 2-1/2 ⁽¹³⁾	30 35		
AH	2 acres	1,200	100	100		30	30	30	(19) 750		60		30			
LB I (14)			20			5	6 or none ⁽⁶⁾	20 ⁽⁷⁾		1.50		36				
LB II (14)			20			10	20 ⁽⁶⁾	20		1.05		36		35		
LB III (14) Other Planned Develop. Area	18,000	2,000 ⁽¹⁷⁾	150 20	50	120 ⁽¹⁵⁾	10	10	20 ⁽⁶⁾	750	1.00	(16)	30		35	500	
GB			20			5	6 or none ⁽⁶⁾	20 ⁽⁷⁾				36				
PL																

4.2 Schedule Footnotes:

(1) Chimneys, spires, towers and other projections not used for human occupation may extend above the height limitations herein fixed.

on top of house only

(2) No building need be set back more than 30 percent of the depth of the lot in a Single Residence A District, nor more than 25 percent of the lot in a Single Residence B District or a Single Residence C District, nor more than the average of the setbacks of the buildings on the lots contiguous thereto on either side but in no case less than 15 feet, a vacant lot or a lot occupied by a building set back more than 30 feet in a Single Residence A District or 25 feet in a Single Residence B District or a Single Residence C District being counted as though occupied by a building set back 30 feet or 25 feet respectively.

(3) In a Single Residence A District, if 40 percent of the depth of a lot is less than 40 feet, then a dwelling shall have a minimum distance equal to 40 percent of the depth of the lot between it and the rear line of said lot. In a Single Residence B District and in a Single Residence C District if 30 percent of the depth of a lot is less than 30 feet, then a dwelling shall have a minimum distance equal to 30 percent of the depth of the lot between it and the rear line of said lot.

In any Single Residence District, for each foot that a dwelling sets back from the street line in excess of the requirements herein, the distance of the dwelling from the rear line of the lot may be reduced one foot but in no case to less than 25 feet from the rear line of the lot.

(4) In any Single Residence District no other building not a dwelling nor a private one-story garage for not more than 3 automobiles not exceeding 660 square feet of floor area or a height of 15 feet, noncommercial greenhouse and a tool shed used for the storage of tools, yard and household equipment or other similar accessory buildings, none of which shall exceed 150 square feet of floor area or a height of 10 feet, shall be built within a distance of less than 25 feet from the rear line of the lot, or if 25 percent of the depth of said lot is less than 25 feet, then said other building shall have a minimum distance equal to 25 percent of the lot between it and the rear line of said lot.

(5) If 30 percent of the depth of a lot on which a garden apartment building is to be located is less than 30 feet, then said building

shall have a distance equal to 30 percent of the depth of the lot between it and the rear line of said lot; and no accessory building, except as defined in Section 4.3.4, shall be built within a distance less than 12 feet from the rear line of a lot, or if 15 percent of the depth of said lot is less than 12 feet, then said other building shall have a distance equal to 15 percent of the depth of the lot between it and the rear line of said lot.

(6) Adjacent to Residential District, no less than building height or 20 feet, whichever is greater.

(7) Or the height of building, whichever is less.

(8) Unless it sets back from each street and lot line 10 feet in addition to the above requirements plus one foot for each foot of excess height but in no case shall it exceed 60 feet or 4 stories in height.

(9) No building need be set back more than 20 percent of the depth of the lot, nor more than the average of the setbacks of the buildings on the lots contiguous thereto on either side but in no case less than 10 feet, a vacant lot or a lot occupied by a building set back more than 20 feet being counted as though occupied by a building set back 20 feet.

(10) If 25 percent of the depth of a lot is less than 20 feet, then a dwelling shall have a minimum distance equal to 25 percent of the depth of the lot between it and the rear line of said lot.

(11) No other building not a dwelling nor a private one-story garage for not more than 3 automobiles, not exceeding 660 square feet of floor area or a height of 15 feet; noncommercial greenhouse and a toolshed used for the storage of tools; yard and household equipment or other similar accessory buildings none of which shall exceed 150 square feet of floor area or a height of 10 feet shall be built within a distance less than 12 feet from the rear line of a lot, or if 15 percent of the depth of said lot is less than 12 feet, then said other building shall have a minimum distance equal to 15 percent of the depth of the lot between it and the rear line of said lot.

(12) One dwelling having a party wall on a lot side line may adjoin a dwelling on the adjoining lot also having a party wall on the same lot side line provided in each case the opposite side wall shall be at least 16 feet from the opposite lot side line or 24 feet from another building, except for accessory buildings.

(13) Unless it sets back from each street and lot line 10 feet in addition to the above requirements plus one foot for each foot of excess height but in no case shall it exceed 60 feet or 4 stories in height, except that no dwelling with more than one dwelling unit shall exceed 40 feet nor 2-1/2 stories in height.

(14) Any structure used partly or wholly for dwelling purposes, except as specified in Section 5.1, shall conform to the regulations for a General Residence District except for lot size.

(15) Apply only to Trapelo Road, Belmont Street and Lexington Street which are designated as frontage streets.

(16) Conform to regulations in Section 5.1.

(17) Or 80 percent of the average land area per unit for all contiguous residential properties, whichever is greater.

(18) Other than accessory buildings.

(19) Excluding only garages and uninhabited basements.

(20) Three floors of dwelling units

4.3.5 Location of Accessory Buildings - A private one-story garage for not more than 3 automobiles not exceeding 660 square feet of floor area or a height of 15 feet, a noncommercial greenhouse and a tool shed used for the storage of tools, yard and household equipment or other similar accessory buildings, none of which shall exceed 150 square feet of floor area or a height of 10 feet may be built to within 5 feet of the side line and rear line of the lot and of the principal building to which it is accessory. A garage shall not cover over 40 percent of the rear yard of the dwelling on the same lot, and if any part is forward of the rear line of the dwelling, the garage shall conform to the setback, side line and rear line requirements for a dwelling in the District in which the garage is located. The rear yard for this paragraph is defined as the area between a line obtained by extending the rear line of the dwelling to each of the side lines of the lot and the rear line of the lot. An accessory building shall be on the same lot as the dwelling to which it is accessory. A garage shall have a vehicular access from the street.

4.3.6 Projections - The measurement of minimum setback dimensions and minimum distances to other buildings shall be made to

the outside surface of the walls or main supports of a building or structure. Belt courses, chimneys, eaves, gutters, sills, pilasters, lintels, ornamental features and similar projections are excluded from this measurement provided they do not extend more than 2 feet from the said outside surface.

4.3.7 Tennis Courts and Similar Recreational Facilities - The dimensions which apply to an accessory building in Section 4.3.5 shall also apply to a tennis court and other similar recreational facility as an accessory use. Where a tennis court or other facility is the principal use on a lot or is located in the front yard, the dimensions in Section 4.2 shall apply.

5. SPECIAL REGULATIONS

5.1 Planned Development Area

5.1.1 - A Planned Development Area may contain townhouses (rowhouses) or garden apartments or any combination thereof subject to the regulations herein and in Section 4.2 Schedule of Dimensional Regulations.

5.1.2 - A Planned Development Area in a Local Business III District may extend into an adjacent, contiguous General Residence District provided that not more than 20 percent of the land area of the Planned Development Area is within the General Residence District.

5.1.3 - Application for a Planned Development Area may include the property of one or more owners, provided that the owners of all land within the Planned Development Area shall agree in writing at the time of application to follow the plan if approved.

5.1.4 - Townhouses and garden apartments in Planned Development Areas may be constructed as a group of two or more separate multi-dwelling unit structures in single or common ownership, provided that such grouping of structures conforms to Section 4.2 Schedule of Dimensional Requirements and the conditions in the following Subsections.

5.1.5 - Every dwelling in such a group shall front either on a street or other permanent open space at least 30 feet wide, or on a common yard or outer court within the lot. The minimum dimension of such a common yard, if flanked by buildings within the group, shall be at least equal to the height of the tallest flanking building but not less than 40 feet. No structure, other than an unenclosed shelter, fountain, or other ornamental feature shall be erected in any such yard or court.

5.1.6 - The least distance between separate buildings for dwelling purposes shall be not less than the following:

(a) Between the front or rear of one building and the front or rear of another building, the height of the tallest building, but not less than 40 feet.

(b) Between the front or rear of one building and the end of another building, one-half the height of the tallest building, but not less than 30 feet.

(c) Between the end of one building and the end of another building, one-fifth the sum of the heights of opposing buildings, but not less than 20 feet.

(d) Between any part of any building, except as above provided, one-fifth the sum of the heights of opposing buildings, but not less than 20 feet. This distance may be reduced to 10 feet in case the right angle projection of the wall of one building overlaps the wall of another building not more than 10 feet, provided there is no window in any wall thus overlapped.

5.1.7 - The overall length of a garden apartment or townhouse structure shall not exceed 200 feet between side yards or between permanent openings at least 8 feet high and 8 feet wide connecting front and rear yards at ground level. No exterior wall shall exceed 100 feet in length unless there is a lateral offset of at least 5 feet.

5.1.8 - An existing dwelling (or dwellings) may be incorporated in a building group provided that its placement is made to conform with all of the above requirements and with the State Building Code requirements of the buildings in the group.

5.2 Signs

5.2.1 Intent and Purpose

It is recognized that signs perform important functions in the community which are essential for the public safety and general welfare, such as communicating messages, providing information about goods and services available, and providing orientation. It is further recognized that because of their potential detrimental impact on the visual and perceptual environment, signs must be regulated in order to:

- (a) prevent hazards to vehicular and pedestrian traffic.
- (b) prevent conditions which have a blighting influence and contribute to declining property values.
- (c) provide for easy recognition and legibility of all permitted signs and other uses in the immediate vicinity.
- (d) preserve the amenities and visual quality of the Town and curb the deterioration of the community environment.
- (e) conserve energy.

It is the intent of this Section 5.2 to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, provide a more enjoyable and pleasing community and to encourage the most appropriate use of land.

5.2.2. Definitions

Accessory Signs. Any sign that advertises, or indicates the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter. *See Amendment, page 23A*

Non-Accessory Sign. Any sign not an accessory sign.

Sign. Any privately owned permanent or temporary device, billboard, placard, painting, drawing, poster, letter, word, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction which is on a public way or on private property within public view of a public way, public park or reservation.

Standing Sign. Any accessory sign that is not attached to a building.

Sign, Area of.

- (a) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting structure or bracing.
- (b) The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
- (c) The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross-section of that object.
- (d) In computing the area of signs, both sides of V-shaped signs, but only one side of back-to-back signs, shall be counted.

CHANGES IN ZONING BY-LAW
(To Amend April 26, 1978 By-Law)

Section 3.3 Schedule of Use Regulations - Residential

In the lines entitled "A detached dwelling containing only one dwelling unit." and "A dwelling unit containing not more than 2 dwelling units." delete the symbol "N" as appearing in the columns entitled "LBI", "LBII" and "LBIII" and substitute therefor in each case the symbol "SP".

Section 5.2.2 Definitions

Add the following sentence to the definition of "Accessory Signs":

A sign on the exterior of a structure which advertises a product or service on more than 25% of the total area of the sign which product or service does not constitute at least 25% of the gross sales made on the premises on which the sign is erected or maintained is not an accessory sign.

Section 5.2.4. General Requirements

Delete the first paragraph and substitute the following:

Movement. No sign shall contain any visible movable or moving parts (except for the hands of a traditional analog type, i.e., non-digital, clock whose face does not exceed 36 inches in diameter), any moving, flashing, or animated lights, or any automatically changing written or pictorial matter or message.

Section 5.2.6. (2)(a)

Delete the fourth sentence and substitute the following two sentences:

The area of the sign may not exceed the lesser of 15 percent of the wall area of such establishment or 65 square feet. The Board of Selectmen may in its discretion permit more than one identifying sign on an exterior wall provided that the aggregate area of such signs does not exceed the limits set forth herein.

Section 5.2.6. (2)(b)

Delete the first sentence and substitute the following:

One directory of the establishments occupying a building or identification of the principal such establishment at each public entrance to the building.

Above by-law changes approved by Town Meeting April 30, 1979

Approved by A. G. 5/22/79

Temporary Sign. Any sign, including its supporting structure, intended to be maintained for a continuous period of not more than 100 days in any calendar year.

5.2.3 Permits

No sign shall be erected, altered or enlarged until a permit has been issued by the Inspector of Buildings. Such permit shall be issued only if the sign complies or will comply with all applicable provisions of this By-Law. The provisions of this section shall not apply to temporary signs to be placed in a window or to signs permitted in Single Residence Districts, General Residence Districts, Apartment House Districts or Parking Lot Districts.

5.2.4 General Requirements

Movement. No sign shall contain any moving, flashing or animated lights, or visible moving or movable parts, except such portions of a sign as consist solely of indicators of time and/or temperature, or automatically changing message, provided that a sign with an automatically changing message shall be permitted only if the Chief of Police shall determine that the sign is not a hazard to traffic.

See Amendment page 23A

Illumination. No sign shall be illuminated between the hours of 10 P.M. and 6 A.M. unless, in the case of an accessory sign, the premises on which it is located are open for business. Signs may be illuminated only by the following means:

- (a) By a white, steady stationary light of reasonable intensity shielded and directed solely at the sign;
- (b) By interior non-exposed lights of reasonable intensity; or
- (c) By exposed gaseous tubes.

Window Signs. Permanent signs painted or placed on the inside of the glass of a window shall be permitted, provided that the aggregate area of such signs does not exceed 20 percent of the area of the window glass. Removable signs temporarily affixed to the window are permitted, provided that the aggregate area of the window covered by signs, including permanent signs, does not exceed 50 percent.

Temporary Signs. Temporary signs which comply with this By-Law shall be permitted. Before a temporary sign (other than a temporary

sign placed in a window) shall be erected, there shall be deposited with the Town Treasurer the sum of \$20.00 for each sign, and the Town Treasurer shall notify the Inspector of Buildings. The deposit shall be refunded only upon the removal of the sign. Temporary signs which do not comply with this By-Law may be authorized by the Inspector of Buildings for charitable and public safety purposes.

Removability. No sign shall be painted or posted on the surface of any wall without any intermediary removable surface.

5.2.5 Additional Requirements for Non-Accessory Signs

The erection of non-accessory signs is not permitted.

5.2.6 Additional Requirements for Accessory Signs

No accessory sign shall be permitted except accessory signs which meet the following additional requirements:

(1) Single and General Residence Districts. In an area zoned as a Residence District, the following are permitted:

(a) One sign displaying the street number and/or name of the occupant of the premises not exceeding 150 square inches in area. Such sign may include identification of an accessory professional office or other accessory uses permitted in a Residence District.

(b) Signs pertaining to the lease, sale or use of a lot or buildings provided that such signs do not exceed a total area of 9 square feet.

(c) One bulletin or announcement board, identification sign or entrance marker for each public entrance to the premises of a church, synagogue, school, or other permitted non-residential institutions.

(d) Standing signs shall be permitted on property, upon which a church, synagogue, school, or other permitted non-residential institutions are located, not exceeding 18 square feet in area, provided that there shall be no more than 2 such signs for each such use, plus one additional sign for each additional street where the lot fronts on more than one street.

(2) Local Business Districts (LBI, LBII, LBIII) and General Business Districts. In an area zoned as a Business District, signs permitted under 5.2.6 (1) and the following are permitted:

(a) One sign for each exterior wall of an establishment if such wall faces a public way, private way, or contains a public entrance. Any such sign must be either flat against the wall or perpendicular to the wall. If attached flat against the wall, the sign shall not project more than 12 inches outward or 6 inches upward from the wall roof, or facade of the building. The area of the sign may not exceed the lesser of 15 percent of the wall area of such establishment or 65 square feet. If perpendicular to the building, it may not project more than 5 feet from the building nor 3 feet over a public sidewalk, nor exceed 25 square feet in area. Such perpendicular sign may not project closer than 2 feet from the curb line. Roof signs and V-shaped signs attached to buildings are not permitted. The minimum vertical clearance to the underside of any sign projecting over a sidewalk or other pedestrian or vehicular passage shall be 10 feet above the surface of the sidewalk or passage.

see Amendment page 23A

(b) One directory of the establishments occupying a building at each public entrance to the building. Such directory shall not exceed an area determined on the basis of 1-1/2 square feet for each establishment occupying the building. *see Amendment page 23A*

(c) Standing Signs. The Board of Selectmen may, in its discretion, permit the erection of a standing sign (for a term not to exceed 5 years) if it finds that the sign complies with the purposes of this By-Law. If such permission is granted, the Board of Selectmen shall specify the size, type and location of the sign and impose such other terms and conditions as it shall deem necessary to promote the purposes of this By-Law; provided, however, that no such sign shall exceed 50 square feet in area or 25 feet in height above the ground. Each such permit may be renewable if the Board of Selectmen so determines.

(d) A metal or cloth awning, whether there is advertising or not, used primarily to protect the building front and/or entrance from the weather may be 7-1/2 feet from the ground and may project over the sidewalk more than 3 feet but in no event closer than 2 feet to the curb line notwithstanding any provision herein to the contrary.

(3) Apartment House Districts. In an area zoned as an Apartment House District, signs permitted under 5.2.6 (1) and the following: not more than one accessory wall or ground sign per lot up to a maximum of 18 square feet in area.

(4) Parking Lot Districts. The requirements for signs in Parking Lot Districts shall be as set forth in 5.6.7 of this By-Law.

(5) Regulatory Signs in All Districts. The requirements set forth in sub-paragraphs 5.2.6 (1) - (4) above will not apply to regulatory traffic or directional signs which are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business industry or residence. Such signs shall not carry the name of any business or product. Such signs shall not exceed 4 square feet in area.

(6) Signs at Town Boundaries. At the boundary line of the Town, and within a street right-of-way, a sign not exceeding 5 square feet in sign area indicating the meetings of any Town civic organization may be erected only after the granting of a permit by the Board of Selectmen.

5.2.7 Nonconformance of Accessory Signs

In lieu of the provisions of Section 1.5 of this By-Law, the following provisions shall apply to accessory signs:

Accessory signs legally erected before the adoption of this By-Law which do not conform to the provisions of this By-Law may continue to be maintained without a permit, provided, however, that no such sign shall be permitted if, after the adoption of this By-Law, it is enlarged or structurally altered in any substantial way, except to conform to the requirements of this By-Law; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35 percent of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this By-Law. Any exemption provided herein shall terminate with respect to any sign which:

(a) shall have been abandoned;

(b) shall advertise or call attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or

(c) shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the Inspector of Buildings.

5.2.8 Signs on Nonconforming Business Buildings

All signs to be erected hereafter on nonconforming business buildings shall be in compliance with the requirements of 5.2.4 and 5.2.6(2).

5.3 Swimming Pools

5.3.1 - A swimming pool is declared to be a structure and is a

permissible use when such use is incidental to a residential use within the Town or is associated with a municipal recreation use; a school; a clubhouse; a place of assembly, amusement or athletic exercise; or a multi-dwelling unit structure(s).

5.3.2 - Every outdoor swimming pool shall be completely surrounded at all times, whether or not the same be filled with water, by a fence or wall not less than 4 feet in height. Each such fence or wall shall be so constructed as not to have openings, holes or spaces larger than 4 inches in any dimension except for doors and gates and except for picket fences where the space between pickets shall not exceed 4 inches.

5.3.3 - All gates or doors opening through such enclosure shall be not less than 4 feet in height and shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

5.3.4 - All lighting of an outdoor swimming pool or its enclosure shall be directed at the pool and the light shall be shielded from shining upon any street or adjoining property.

5.4 Soil Removal

No land within the Town shall be used as a sand or gravel pit. No soil, loam, sand or gravel shall be removed from any land except when incidental to the construction of a structure or accessory use as authorized by this By-Law, without a special permit from the Board of Appeals and a building permit from the Inspector of Buildings.

5.5 Design and Site Plan Review

5.5.1 Objectives

The objectives of the design and site plan review procedure shall be to:

(a) determine that the specific site is an appropriate location for the proposed use, structure or condition;

(b) determine that the use as developed will not be detrimental or injurious to the neighborhood;

- (c) determine that there will be no nuisance or serious hazard to vehicles or pedestrians;
- (d) determine that adequate and appropriate facilities will be provided for the proper operation of the proposed use;
- (e) determine that the height and bulk of the proposed buildings will not be injurious to surrounding property and
- (f) determine that grading, drainage, lighting, planting and other exterior construction features meet a high standard of design in the interests of the safety, convenience and welfare of the public.

5.5.2 Procedure for Multi-Dwelling Unit Structures

With each submission of an application for multi-dwelling unit structures which require a special permit (SP₁) from the Board of Appeals, 2 copies of the following documents shall be attached:

- (a) General site plan showing proposed relationship of buildings, open space, roads, parking areas, walls, and surface drainage courses. Adjacent public or private roads and trunk utility lines intended to service the site shall be shown, as shall all adjacent structures. Such site plan shall be drawn at a scale not smaller than 20 feet to the inch.
- (b) Site sections and outline building elevations in each of 2 views perpendicular to one another at a scale not smaller than 20 feet to the inch.
- (c) A written statement of the proposal including: the number and size of dwelling units, number of parking spaces, square footage of site, buildings, and open space not occupied by driveway or parking. The Board of Appeals may, at its discretion, require that the written statement include an estimate of municipal revenues and costs expected to be generated by the project, including anticipated real estate valuation and public service needs.

The Board of Appeals shall refer all applications for special permits (SP₁) to the Planning Board for review and shall not make a decision on any application until a recommendation is received from the Planning Board, preferably at the public hearing, but in no case more than 10 days after the date of the public hearing.

After the public hearing, the Board of Appeals shall determine if the objectives as stated in Section 5.5.1 above are satisfied. If it is so satisfied, the Board of Appeals may issue a special permit (SP₁) and shall condition its issuance, among other qualifications, on the submission of the following documents to the Inspector of Buildings prior to the issuance of a building permit.

(a) Detailed site plan or plans showing: buildings, roads, walks and other open space. All land use shall be designated. All landscaping and site development details, including walls, fences, planting, outdoor lighting, street furniture and ground surface materials, shall be indicated. Boundary streets and points of vehicular and pedestrian access shall be shown indicating proposed new paving, planting and lighting by the Town and existing right-of-way development which is to remain. All utilities, easements or service facilities, insofar as they relate to work or services provided by the Town or by others, shall be shown. Proposed site grading, including typical existing and proposed grades at parcel lines shall be shown. There shall be a clear indication of those areas of the site that are proposed to be developed by others, and of easements to be provided.

(b) All building plans, sections, and elevations at 1/8" to 1'0" or other sufficiently large scale.

5.5.3 Procedure for all Other Uses

With each submission of an application for a special permit (SP or SP₁) for uses other than multi-dwelling unit structures, whether in a newly constructed building or in an existing building to be renovated or expanded, the following documents, to the extent required by either the Inspector of Buildings or the Board of Appeals, shall be attached:

(a) General site plan showing proposed location of building(s), open space, roads, parking areas, service areas, walls, planting, surface draining courses, adjacent public or private roads, trunk utility lines intended to service the site and all adjacent structures. Such site plan shall be drawn at a scale not smaller than 20 feet to one inch.

(b) Site sections and outline building elevations in each of 2 views perpendicular to one another at a scale not smaller than 20 feet to one inch.

(c) A written statement describing the proposed use including: number of seats or table capacity for restaurants, clubhouses,

or places of public assembly, anticipated number and frequency of events at clubhouses, places of public assembly, or anticipated pupil enrollment and use schedule for schools for profit, number of parking spaces, square footage of site, buildings, and open space not occupied by driveway or parking. The Board of Appeals may, at its discretion, require that the written statement include an estimate of municipal revenues and costs expected to be generated by the project, including anticipated real estate valuation and public services needs.

5.6 Off-Street Parking and Loading

5.6.1 - The regulations on parking contained in Section 5.6.7 for Parking Lot Districts shall be applicable to areas in all other Districts that are used for accessory parking of 5 or more automobiles.

5.6.2 - Loading or unloading shall not interfere with the public use of sidewalks, streets, or parking areas.

5.6.3 - For garden apartments parking space for automobiles shall be provided in the side yard or rear yard of the lot and shall not be less than one reasonably accessible space for each dwelling unit.

5.6.4 - For garden apartments constructed by the Belmont Housing Authority parking space for automobiles shall be provided and shall not be less than one reasonably accessible space for each 3 dwelling units.

5.6.5 - In an Apartment House District parking space for automobiles shall be provided and shall not be less than one and one-half reasonably accessible spaces for each dwelling unit to be located in the side yard or in the rear yard of the lot or enclosed within the building.

5.6.6 - Land in a Local Business District used for parking, loading or storage purposes, when adjacent and visible to land that is zoned and/or used for residential purposes, shall be screened from the view of the residential area by a 6 foot high opaque fence, wall, or evergreen hedge. When 5 or more parking spaces are provided, the regulations in Section 5.6.7 shall apply.

5.6.7 - Parking lots in a Parking Lot District shall have:

(a) A hard and dustless surface, well-drained and provided with curbing.

(b) Adjacent to any adjoining property, including public streets or accepted private ways, a screen of not less than 5 feet in height; except that a screen adjacent to a public street or accepted private way shall not be less than 2 feet or more than 3 feet in height if there is an access or egress opening for motor vehicles to such street or way. Such screen may be an opaque fence or wall, or evergreen hedge on a buffer strip of not less than 3 feet in width, provided that such screen is maintained in good condition. Access or egress openings through the screen will be limited to the width of the access or egress lane plus not more than 3 feet on either side of the lane.

(c) Adequate lighting reflected away from adjoining residential premises.

(d) No repair service.

(e) No signs except those containing information pertaining to parking (maximum sign area of 6 square feet each).

(f) Adequate stall size and adequate area for ingress and egress clearly delineated on the lot surface.

(g) Groups of not more than 30 parking spaces will be separated by a 6 foot landscaped walk or divider.

5.6.8 - For Local Business Districts, off-street parking shall be provided for each use in accordance with the following regulations except where a public parking lot or a Parking Lot District is within 600 feet walking distance of said use.

Local Business I and II Districts - One parking space for each 350 gross square feet of ground floor building area. One parking space for each 600 gross square feet of building area above ground floor.

Local Business III District - One parking space for each 250 gross square feet of ground floor building area. One parking space for each 400 gross square feet of building area above the ground floor.

Part or all of the required parking may be located off the lot so long as it is provided in a lot in common ownership within 600 feet walking distance of the building which it is intended to serve and located in a Business District.

5.6.9 - In a Planned Development Area, one and one-quarter parking spaces per dwelling unit of less than 2 bedrooms; one and one-half parking spaces per dwelling unit of 2 or more bedrooms; no less than one parking space will be provided for each unit either within the structure or within a separate structure. No exterior parking area may be forward of the building line along any street. Exterior parking will comply with all dimensional and setback requirements as set forth for Parking Lot Districts in Section 5.6.7 herein.

5.7 Corner Setback

Between the property lines of intersecting streets and a line joining points on such lines 20 feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents, no building or structure in any district may be erected, and no fence and no vegetation, except tree trunks, may be maintained or allowed to remain between a height of 3 feet and 8 feet above the plane through their center line grades, except that for a business use in a Local Business I, Local Business II, Local Business III or General Business district no part of a building shall be built closer to the point of intersection of right-of-way lines 10 feet.

5.8 Garden Apartments

No garden apartment building shall contain less than 5 dwelling units. No dwelling unit in such a building shall be constructed so that the living space thereof will exceed a depth of 4 feet below the mean finished grade of the ground adjoining the building.

5.9 Landscaping - Apartment Houses

For apartment houses the front yard and side yard and any other areas to be landscaped shall be done attractively with lawns, trees, shrubs and other plantings. Any landscaped area shall be properly maintained in a sightly and well-kept condition.

ARTICLE 4

MOVED: That the Town amend Article XXVI of the By-Laws of the Town, being the Zoning By-Law, by adding a new Section 5.10 thereto entitled "Cluster Development" as follows:

"5.10 Cluster Development

The Board of Appeals may grant a special permit (SP₁) for any tract of land in a single residence district to be developed as a cluster development subject to the requirements and conditions set forth below:

5.10.1. Objectives

The general objectives of cluster developments are to encourage:

- (a) Preservation of open space for park, recreation, conservation or agricultural purposes.
- (b) Better utilization of natural features of the land through a greater flexibility of design.
- (c) More efficient provision of municipal services.

5.10.2. Tract Size

The minimum tract areas upon which cluster developments may be permitted in the various single residence districts are:

- (a) Single Residence C - 84,000 sq. ft.
- (b) Single Residence B - 120,000 sq. ft.
- (c) Single Residence A - 180,000 sq. ft.

.../continued overleaf

ARTICLE 4 continued

restrictions on development and use of the open land as the Board of Appeals may deem appropriate after considering any comments which the Conservation Commission may choose to submit.

5.10.5. Dimensional Regulations

Except as otherwise provided in this section, a cluster development tract shall comply with the frontage, setback, distance between buildings and building heights set forth in the Schedule of Dimensional Regulations contained in Section 4.2 of this By-Law. If the cluster development is divided into one or more individual lots, the frontage of each lot on a street or on a private road or way within the cluster development tract shall be as specified by the Board of Appeals consistent with fire safety, aesthetics and the character of the cluster development tract.

5.10.6. Attached Dwelling Units

The Board of Appeals may in its discretion permit a cluster development to consist in whole or in part of attached dwelling units if such units are not inconsistent with the aesthetics and physical appearance of the other buildings in the immediate vicinity.

5.10.7. Limitation of Subdivision

No lot shown on a plan for which a permit is granted under this Section may be further subdivided and a notation to this effect shall be shown on the plan.

5.10.8. Application Procedure

All applications for special permits for cluster developments, whether or not containing attached dwelling units, shall be made and processed in accordance with the provisions of Sections 5.5.1 and 5.5.2 of this By-Law.

6. ADMINISTRATION

6.1 Enforcement

The Inspector of Buildings shall enforce this By-Law in the manner and with the powers as provided in General Laws, Chapter 40A and this By-Law. The Chief of the Fire Department shall refer to the Inspector of Buildings all violations of this By-Law that are discovered in the course of inspections by that department or otherwise. If the Inspector of Buildings is requested in writing to enforce a provision or provisions of this By-Law against any person allegedly in violation of the same and such officer declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within 14 days of receipt of such request.

6.2 Building Permit

6.2.1 - No permit shall be issued for the erection, alteration or moving of any building or part thereof, the plans and intended use for which are not in conformity with the provisions of this By-Law.

6.2.2 - Construction or operations under a building or special permit shall conform to any subsequent amendment of this By-Law unless the use or construction authorized by the permit is commenced within a period of not less than 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.

6.2.3 - It shall be unlawful to use or permit the use of any building or part thereof hereafter erected or altered or the yard dimensions of which are in any way reduced until the Inspector of Buildings shall have certified on the building permit that the building or part thereof so erected or altered, the proposed use thereof and the yard dimensions thereof conform to the provisions of this By-Law.

6.3 Unsafe Walls and Fire Escapes

Nothing herein shall prevent the restoration of a wall declared unsafe by the Inspector of Buildings nor the erection of iron fire escapes on any buildings existing at the time this By-Law goes into effect.

6.4 Board of Appeals

6.4.1 Membership

There shall be a Board of Appeals in the Town, to consist of 5 regular and 3 associate members to be appointed by the Board of Selectmen as provided for in General Laws, Chapter 40A. All

members shall be residents of the Town. In making the appointments, the Board of Selectmen shall consider those persons best qualified to carry out the statutory responsibilities of the Board. Initially, the 5 regular members shall be appointed for terms of one, 2, 3, 4 and 5 years respectively. Thereafter, one regular member shall be appointed each year for a term of 5 years. Associate members shall be appointed initially for terms of one, 2, and 3 years respectively. Thereafter, one associate member shall be appointed each year for a term of 3 years. In case of absence, inability to act or conflict of interest on the part of any member or in the event of a vacancy on the Board, the chairperson of the Board of Appeals may designate an associate member to serve. Any member may be removed for cause by the Board of Selectmen upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. No regular or associate member of the Board of Appeals shall represent before such Board any party or interest in any matter pending before it.

6.4.2 Powers

The Board of Appeals shall act as a permit granting authority and a special permit granting authority and shall have the following powers in accordance with the provisions of General Laws, Chapter 40A and this By-Law:

Appeals - To hear and decide an appeal taken by any person aggrieved by reason of his (her) inability to obtain a permit or enforcement action from the Inspector of Buildings under the provisions of General Laws, Chapter 40A and or this By-Law, by the Metropolitan Area Planning Council or by any person including an officer or board of the Town of Belmont or of an abutting town aggrieved by an order or decision of the Inspector of Buildings in violation of any provision of General Laws, Chapter 40A or of this By-Law.

Special Permits - To hear and decide an application for a special permit, as provided in this By-Law, only for uses in specified districts which are in harmony with the general purposes and intent of this By-Law and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards and limitations on time and use. A special permit shall lapse within a two-year period or a shorter period if so specified by the Board including any time required to pursue or await the determination of an appeal pursuant to General Laws, Chapter 40A

if a substantial use thereof has not sooner commenced except for good cause or in the case of a permit for construction if construction has not begun within the period except for good cause.

Variations - To hear and decide a petition with respect to particular land or structures for a variance from the terms of this By-Law, including a variance authorizing a use or activity not otherwise permitted in a particular zoning district, where the Board specifically finds that owing to circumstances relating to 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, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this By-Law. The Board of Appeals may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguard or limitation based upon the continued ownership of the land or structure to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the authorization, they shall lapse and may be reestablished only after a new notice and hearing.

6.4.3 Procedure

An appeal to the Board of Appeals may be taken by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the Inspector of Buildings, by the Metropolitan Area Planning Council and by any person including an officer or Board of the Town or of any abutting town aggrieved by an order or decision of the Inspector of Buildings in violation of any provision of this By-Law.

In the case of every appeal made to the Board of Appeals, every petition for a variance and every application for a special permit to said Board under the provisions of this By-Law, the Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of 2 successive weeks, the first publication to be not less than 14 days before the day of the hearing and by posting said notice in the Town Hall for a period of not less than 14 days before the day of the hearing. Notice shall be sent by mail,

postage prepaid, to parties in interest including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property line including owners of land in another municipality all as they appear on the most recent applicable tax lists, the Planning Board and the planning board of every abutting municipality. The assessors shall certify to the Board the names and addresses of the parties in interest.

A petition for a variance and an appeal from a decision of the Inspector of Buildings shall be filed with the Town Clerk who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within 65 days of the receipt of the petition from the Town Clerk and shall render a decision within 75 days from the date of filing.

In the case of a special permit, an application shall be filed with the Town Clerk who shall forthwith transmit it to the Board of Appeals. The Board shall refer all applications immediately upon receipt to the Planning Board for review and recommendation provided that, if said report and recommendation are not received by the Board of Appeals at the time of the public hearing, said Board may act without such report. The Board shall hold a public hearing within 65 days of the receipt of the application and shall render a decision within 90 days from the date of the public hearing.

If the Board of Appeals shall fail to act within 75 days of the filing of the appeal or petition as the case may be, or shall fail to act within 90 days of the required public hearing on an application, then the appeal, petition or application shall be deemed approved subject to the following requirements:

(a) The petitioner, after the expiration of the aforesaid periods, shall file with the Town Clerk a copy of his petition and an affidavit stating the date of the public hearing or filing as the case may be, and the failure of the Board of Appeals to render a decision within the required period.

(b) Upon receipt of the petition and affidavit the Town Clerk shall give notice of the filing to those persons entitled to a notice of the decision under General Laws, Chapter 40A, Section 15. The filing of a petition and affidavit in the office of the Town Clerk shall be deemed the equivalent of the filing of a decision for purposes of the provisions of General Laws, Chapter 40A, Sections 11 and 17.

(c) If no appeal is taken within the required statutory period, then the Town Clerk shall furnish the petitioner with a certified copy of the petition and affidavit together with a certificate that no appeal has been filed, all of which shall be recorded in the manner prescribed under General Laws, Chapter 40A, Section 11 in lieu of the documents required to be recorded under that Section.

6.4.4 Temporary Permit

The Board of Appeals may grant a special permit for a temporary building incidental to the development of a neighborhood, such permit to be for not more than one year and only upon application accompanied by a bond to the Town, effective in case the building is not removed prior to the expiration of the special permit. Such permits may be ordered renewed by the Board for successive periods of not more than one year each.

6.5 Repetitive Petitions

6.5.1 To Town Meeting

No proposed change in this By-Law which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within 2 years after the date of such unfavorable action unless adoption of the proposed change had been recommended in the final report of the Planning Board to the Town Meeting.

6.5.2 To Board of Appeals

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals shall be acted favorably upon within 2 years after the date of final unfavorable action unless (1) all but one of the members of the Planning Board consent to a re-petition after notice is given to parties in interest of the time and place of the proceedings to consider consent and (2) the Board of Appeals finds specific and material changes in the conditions upon which the previous unfavorable action was based, describes such changes in its records and similarly consents.

6.6 Penalties

Any person violating any provision of this By-Law shall be subject to a fine not exceeding \$100.00 for each offense. Each day or part thereof that any violation continues shall constitute a separate offense.

6.7 Amendment

This By-Law may be amended from time to time at an annual or special Town meeting. An amendment may be initiated by the submission to the Board of Selectmen of a proposed change by the Board of Selectmen, the Board of Appeals, an individual owning land in the Town to be affected by the amendment, registered voters of the Town pursuant to General Laws, Chapter 39, Section 10, the Planning Board and the Metropolitan Area Planning Council. Within 14 days of the receipt of a proposed change, the Board of Selectmen shall submit it to the Planning Board. A public hearing shall be held by the Planning Board within 65 days after the proposed change is submitted to the Board.

Any petition for the alteration of the boundaries of any zoning district shall be accompanied by an accurate plan, size 20 inches by 30 inches, at a scale no smaller than 80 feet to the inch showing the changes proposed by the petition. The Planning Board in its report to the Town on any petition to alter the boundaries of any zoning district or on its own initiative shall file with the Town a similar plan showing the changes recommended. The Town Meeting shall not act upon the question of altering the boundaries of any zoning district or districts until the same has been reported on by the Planning Board as herein provided or 21 days after the Planning Board hearing has elapsed without submission of such report. No action shall be taken by the Town except as to acceptance without amendment of the plan filed by the petitioner, or plan filed by the Planning Board as aforesaid or on some modification of either plan, made or approved by the Town Engineer.

6.8 Validity

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

6.9 Non-interference

This By-Law shall not interfere with or annul any By-Law, rule, or regulation provided that unless specifically stated herein where this By-Law is more stringent it shall control.

6.10 Effective Date

The effective date of an amendment to this By-Law shall be the date on which such amendment was adopted by a favorable two-thirds vote of Town Meeting subject to its publication in a town bulletin or pamphlet and posting or publication in a newspaper as provided in General Laws, Chapter 40, Section 32.

