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Article I General Provisions

§260-1: Introduction; purpose

The zoning regulations set forth in this chapter are in accordance with and promote the implementation of the Lincoln Comprehensive Plan and the Rhode Island General Laws. The Town of Lincoln recognizes the following purposes each with equal priority:

A. Promoting the public health, safety, and general welfare of the Town of Lincoln.
B. Providing for a range of uses and intensities of use appropriate to the character of the Town and to reflect current and expected future needs.
C. Providing for orderly growth and development which recognizes:
   (1) The goals and patterns of land use contained in the Lincoln Comprehensive Plan;
   (2) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or ground water pollution;
   (3) The values and dynamic nature of freshwater ponds, the shoreline and freshwater wetlands;
   (4) The values of unique or valuable natural resources and features;
   (5) Availability and capacity of existing and planned public and/or private services and facilities;
   (6) The need to shape and balance urban and rural development; and
   (7) The use of innovative development regulations and techniques.

D. Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
E. Providing for the protection of the natural, historic, cultural, and scenic character of the Town or areas therein.
F. Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.
G. Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
H. Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing.
I. Providing for the opportunities to establish low and moderate income housing.
J. Promoting safety from fire, flood, and other natural or man-made disasters.
K. Promoting a high level of quality in design in the development of private and public facilities.
L. Promoting implementation of the Lincoln Comprehensive Plan.
M. Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
N. Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.
O. Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances and special use permits.

§260-2: Statement of consistency

This chapter is consistent with the Lincoln Comprehensive Plan adopted by the Lincoln Town Council in August of 2003 (Ordinance 03-25), pursuant to Title 45, Chapter 22.2, of the Rhode Island General Laws, as amended to the date of this ordinance.

§260-3: Construction and interpretation

In the instance of uncertainty in the construction or application of any section of the chapter, the chapter shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of the Lincoln Comprehensive Plan.

§260-4: Compliance required

All buildings or structures hereafter erected, reconstructed, altered, enlarged or moved and all uses of premises or land in the Town shall be in conformity with the provisions of this chapter. Uses and structures, existing on the effective date of this chapter shall be permitted to continue under the provisions of Article IX, Nonconformance, of this chapter. No building, structure, premises of land shall be used for any purpose or in any manner other than what is permitted in the district in which such building, structure, premises, use or land is located except as hereinafter provided.

§260-5: Supersession

This Zoning Chapter supersedes any and all previous zoning ordinances enacted prior to the effective date of this chapter.

§260-6: Zoning Maps

The "Zoning Map of Lincoln," numbered 1 through 45, shall constitute the Official Zoning Map of the Town and is hereby adopted and made part of this chapter. The Official Zoning Map shall consist of Zoning Overlay Maps in the office of the Town Clerk dated the effective date of this chapter and shall depict all zoning districts and overlay zoning districts. Amendments to said maps shall be clearly shown with reference to the corresponding Town Council record documenting said amendment.

A. Labels. The districts, their abbreviations and common names are designated, by way of example, as follows: "UU-DD-OOO." The first part of the designation is the usage classification. The second part is the dimensional classification. The third part, if any, refers to the presence of an overlay classification. See below for the common names of the abbreviations.

UU	Common Name (See Article III)
RA	Residential Agricultural
RS	Residential Single-Family
RL	Residential Limited
RG	Residential General
BL	Business Limited
ML	Manufacturing Limited
MG	Manufacturing General
CR1	Commercial Recreation 1
CR2	Commercial Recreation 2 (less restrictive)
VCMU	Village Commercial Mixed Use
DD	Dimensional Requirements (See Article IV)
40	40,000 square feet lot
20	20,000 square feet lot
12	12,000 square feet lot
9	9,000 square feet lot
7	7,000 square feet lot
.05	Floor to Area Ratio (FAR) of 0.05
OOO	Common Name (See Article VIII, Overlay Zones)
AHZ	Airport Hazard Zone
APC	Area of Planning Concern Overlay District
RFZ	Rural Flexible Zone
WWPOD	Watershed and Wellhead Protection Overlay District
MCOD	Mill Conversion Overlay District
FHOD	Flood Hazard Overlay District

B. Boundaries. The boundaries between districts as shown on the Zoning Maps shall be determined according to the following criteria unless otherwise indicated:

(1) Where a boundary is shown as following a street or other right-of-way, the boundary shall be the centerline of said street or other right-of-way, unless indicated otherwise.

(2) Where a boundary is shown outside of a street or other right-of-way and approximately parallel thereto, the boundary shall be deemed parallel to the nearest line thereof, and the figure placed on the Zoning Maps shall be the distance in feet between them as measured at a right angle from such line, unless indicated otherwise.

(3) Where the boundary of a district follows a river, stream, pond, or other watercourse, the boundary line shall be deemed to be the limit of the mean high water mark unless indicated otherwise.

(4) Where the boundary line of a district follows an individual property line, it shall be deemed along that property line as it legally existed at the time of adopting such district division line. Any subsequent revision, alteration, replatting or

relocating of a property line shall not effect the location of a zoning district divisional line.

(5) Where the location of the district boundary line is otherwise uncertain, the Zoning Enforcement Officer shall determine its position in accordance with the distance in feet from other lines as given or as measured from the scale of the maps. The Zoning Enforcement Officer's decision may be appealed to the Zoning Board of Review.

(6) Where a lot is divided by a zone boundary line, the site of the building within the zone will determine the use. If any part of the structure is divided by a zone boundary line, the most restrictive zone will apply.

Article II Definitions
§260-7: Definitions

Where the following words or terms are used in this chapter they shall have the meanings defined in this article. Words used in the singular shall include the plural and the plural shall include the singular. Unless otherwise specified, all distances shall be measured in feet and shall be measured parallel to the ground, in any direction. Terms not defined in this chapter shall have the meaning customarily assigned to them.

ABUTTER: One whose property abuts, that is, adjoins at a border, boundary, or point with no intervening land.

ACCESSORY FAMILY DWELLING UNIT: An accessory dwelling unit attached to a single-family dwelling unit which may have a separate entrance and egress, living quarters, as well as kitchen and bath facilities.

ACCESSORY STRUCTURE: A structure containing an accessory use, or is itself an accessory use.

ACCESSORY USE: A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use is restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.

AFFORDABLE HOUSING: "Affordable housing" means residential housing that has a sales price or rental amount that is within the means of a household that is moderate income or less. In the case of dwelling units for sale, housing that is affordable means housing in which principal, interest, taxes, which may be adjusted by state and local programs for property tax relief, and insurance constitute no more than thirty percent (30%) of the gross household income for a household with less than one hundred and twenty percent (120%) of area median income, adjusted for family size. In the case of dwelling units for rent, housing that is affordable means housing for which the rent, heat, and utilities other than telephone constitute no more than thirty percent (30%) of the gross annual household income for a household with eighty percent (80%) or less of area median income, adjusted for family size. Affordable housing shall include all types of year-round housing, including, but not limited to, manufactured housing, housing originally constructed for workers and their families, accessory dwelling units, housing accepting rental vouchers and/or tenant-based certificates under Section 8 of the United States Housing Act of 1937, as amended, and assisted living housing, where the sales or rental amount of such housing, adjusted for any federal, state, or municipal government subsidy, is less than or equal to thirty percent (30%) of the gross household income of the low and/or moderate income occupants of the housing.

AGGRIEVED PARTY: An aggrieved party, for purposes of this chapter, shall be: Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the Zoning Ordinance of a city or town; or anyone requiring notice pursuant to this chapter, or R.I.G.L. § 45-24-53.

AGRICULTURAL LAND: As defined in R.I.G.L. § 45-22.2-4. Land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Agricultural land includes that defined as prime farmland or additional farmland of statewide

importance for Rhode Island by the Soil Conservation Service of the United States Department of Agriculture.

AIRPORT HAZARD: As defined in R.I.G.L. § 1-3-2. Airport hazard means any electronic transmission device or structure, which, as determined by the federal aviation administration, interferes with radio communication between airport and aircraft approaching or leaving the airport, or any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to the landing or taking off of aircraft.

AIR SUPPORTED STRUCTURE: A temporary or permanent structure made from a membrane-like fabric either fully or partially supported by air pressure. An air-supported structure typically has cable restraints; anchoring supports; primary blowers; and/or, backup inflation units. Air supported structures are generally used for warehouse or indoor commercial recreational purposes. (Also known as air-inflated structures, air domes, or membrane structures.)

APPLICANT: An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.

APPLICATION: The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by an approving authority for development review, approval, or permitting purposes.

BUFFER: Land which is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING ENVELOPE: The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height, and bulk; by other regulations; and/or any combination thereof.

BUILDING HEIGHT: The vertical distance from the grade plane to the top of the highest point on the roof. This highest point excludes spires, chimneys, flagpoles, and the like, which are regulated in §260-28. The grade plane represents the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six feet away from the building, between the building and a point six feet from the building.

CAPACITY or LAND CAPACITY: The suitability of the land, as defined by geology, soil conditions, topography, and water resources, to support its development for uses such as residential, commercial, industrial, open space, or recreation. Land capacity may be modified by provision of facilities and services.

CERTIFICATE OF COMPLETENESS: A certificate issued by the Zoning Enforcement Officer indicating that a submitted application is complete.

COASTAL FEATURES: As defined in Chapter 23 of Title 46 of the Rhode Island General Laws.

COMMON OWNERSHIP: Either:

A. Ownership by one or more individuals or entities in any form of ownership of two or more contiguous lots; or
B. Ownership by any association (such ownership may also include a municipality) of one or more lots under specific development techniques.

COMMUNITY RESIDENCE: A home or residential facility or, any facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

A. Whenever six or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to Chapter 24 of Title 40.1 of the Rhode Island General Laws. All requirements pertaining to local zoning are waived for these community residences;
B. A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to Chapter 24 of Title 40.1 of the Rhode Island General Laws;
C. A residence for children providing care or supervision, or both, to not more than eight children including those of the caregiver and licensed by the state pursuant to Chapter 72.1 of Title 42 of the Rhode Island General Laws;
D. A community transitional residence providing care or assistance, or both, to no more than six unrelated persons or no more than three families, not to exceed a total of eight persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than 60 days nor more than two years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

COMPREHENSIVE PLAN: The Comprehensive Plan adopted and approved pursuant to Chapter 22.2 of Title 45 of the Rhode Island General Laws.

CONDOMINIUM ASSOCIATION: A community association combining individual home ownership with shared use or ownership of common property and facilities organized in accordance with Rhode Island General Laws.

DAY CARE; DAY-CARE CENTER: Any other day-care center which is not a family day-care home.

DAY CARE; FAMILY DAY-CARE HOME: Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or fewer individuals who are not relatives of the caregiver, but may not contain more than a total of eight individuals receiving day care.

DAYS: Calendar days; unless otherwise revised by law.

DEMOLITION: An act or process that destroys a structure in part or whole.

DENSITY, RESIDENTIAL: The number of dwelling units per unit of land.

DEVELOPMENT: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use of land.

DEVELOPMENT PLAN REVIEW: The process whereby authorized local officials review the site plans, maps, and other documentation of a development to determine the compliance with the stated purposes and standards of the ordinance.

DISTRICT: See "zoning use district."

DRAINAGE SYSTEM: A system for the removal of water from land by drains, grading, or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and ground waters, and the prevention and/or alleviation of flooding.

DWELLING UNIT: A structure or portion thereof providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and containing a separate means of ingress and egress.

ESTATE LOT: A large privately owned lot composing all or part of an area of open land.

EXTRACTIVE INDUSTRY: Any industry or business engaged in the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

FAMILY: A person or persons related by blood, marriage, or other legal means. See also "household."

FEDERALLY INSURED OR ASSISTED HOUSING:

A. Low income housing units insured or assisted under Sections 221(d)(3) and 236 of the National Housing Act (12 U.S.C. § 1701 et seq.).
B. Low income housing units produced with assistance under Section 8 of the US Housing Act of 1937 (42 U.S.C. § 1401 et seq.); and
C. Rural low income housing financed under Section 515 of the Housing Act of 1949 (12 U.S.C. § 1715Z).

FLOATING ZONE: An unmapped zoning district adopted within the ordinance, which is established on the Zoning Map only when an application for development, meeting the zone requirements, is approved.

FLOODPLAINS or FLOOD HAZARD AREA: As defined in R.I.G.L. § 45-22.2-4. An area that has a one percent (1%) or greater chance of inundation in any given year, as delineated by the federal emergency agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448), 42 U.S.C. 4011 et seq.

GROSS FLOOR AREA: See the Rhode Island Building Code. The floor area within the perimeter of the outside walls of a building without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

GROUNDWATER: “Groundwater” and associated terms, as defined in R.I.G.L. § 46-13.1-3. Water found underground which completely fills the open spaces between particles of sand, gravel, clay, silt, and consolidated rock fractures. The zone of materials filled with groundwater is called the "zone of saturation".

HALFWAY HOUSES: A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

HARDSHIP: See Article X, Variances.

HISTORIC DISTRICT or HISTORIC SITE: As defined in R.I.G.L. § 45-22.2-4. One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and has been registered, or is deemed eligible to be included, on the State Register of Historical Places pursuant to R.I.G.L. § 42-45-5. “Historic site” means any real property, man-made structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the State Register of Historic Places pursuant to R.I.G.L. § 42-45-5.

HOME OCCUPATION: Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.

HOUSEHOLD: One or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term “household unit” shall be synonymous with the term “dwelling unit” for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:

A. A family, which may also include servants and employees living with the family; or
B. A person or group of three or fewer unrelated persons living together.

INFEASIBLE: Any condition brought about by any single factor or combination of factors, as a result of limitations imposed on the development by conditions attached to the approval of the comprehensive permit, to the extent that it makes it impossible for a public agency, nonprofit organization, or limited equity housing cooperative to proceed in building or operating low or moderate income housing without financial loss, within the limitations set by the subsidizing agency of government, on the size or character of the development, on the amount or nature of the subsidy, or on the tenants, rentals, and income permissible, and without substantially changing the rent levels and unit sizes proposed by the public agency, nonprofit organization, or limited equity housing cooperative.

INFRASTRUCTURE: Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities.

LAND DEVELOPMENT PROJECT: A project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including, but not limited to, planned development and/or residential, commercial,

institutional, recreational, open space, and/or mixed uses as may be provided for in this Zoning Chapter.

LOT: Either:

A. The basic development unit for determination of lot area, depth, and other dimensional regulations of a parcel of land; or

B. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

LOT AREA: The total area within the boundaries of a lot, excluding any street right-of-way, reported in square feet.

LOT BUILDING COVERAGE: That portion of the lot that is or may be covered by buildings and accessory buildings.

LOT DEPTH: The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot depth is an average of the depth.

LOT FRONTAGE: That contiguous portion of a lot abutting a street right-of-way, even if it extends along more than one street right-of-way.

LOT LINE: A line of record, bounding a lot, which divides one lot from another lot or from a public or private street or any other public or private space and shall include:

A. FRONT: The lot line separating a lot from a street right-of-way. In the case of a lot fronting on more than one street, the lot line with the shortest frontage on a street shall be the front lot line; and meet dimensional requirements of a corner lot.

B. REAR: The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

C. SIDE: Any lot line other than a front or rear lot line (maximum of two side lot lines per lot).

LOT, THROUGH: A lot which fronts upon two parallel streets, or which fronts upon two streets, which do not intersect at the boundaries of the lot.

LOT WIDTH: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.

MERE INCONVENIENCE: See Article X, Variances § 260-65.

MIXED USE: A mixture of land uses within a single development, building, or tract.

NONCONFORMANCE:

A. Building, structure, or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of this Zoning Chapter and not in conformity with the provisions of such ordinance or amendment.

B. Nonconformance shall be of only two types:

(1) NONCONFORMING BY USE—A lawfully established use of land, building, or structure which is not a permitted use in that zoning district. A building or

structure containing more dwelling units than are permitted by the use regulations of this Zoning Chapter shall be nonconforming by use; or

(2) NONCONFORMING BY DIMENSION—A building, structure, or parcel of land not in compliance with the dimensional regulations of this Zoning Chapter. Dimensional regulations include all regulations of this Zoning Chapter, other than those pertaining to the permitted uses.

C. A building or structure containing more dwelling units than are permitted by the use regulations of this Zoning Chapter shall be nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of this chapter, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

OPEN SPACE: Any parcel or area of land or water set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that the area may be improved with only those buildings, structures, streets, and off-street parking and other improvements that are designated to be incidental to the natural openness of the land.

OVERLAY DISTRICT: A district established in this Zoning Chapter that is superimposed on one or more districts or parts of districts and that imposes specified requirements in addition to, but not less than, those otherwise applicable for the underlying zone.

PERFORMANCE STANDARDS: A set of criteria or limits relating to elements, which a particular use, or process either must meet or may not exceed.

PERMITTED USE: A use by right, which is specifically authorized in a particular zoning district.

PERSON: An individual, corporation, association or partnership, or other legal entity.

PLANNED DEVELOPMENT: A “land development project,” as defined herein, and developed according to plan as a single entity and containing one or more structures and/or uses with appurtenant common areas.

PLANNING BOARD OR COMMISSION: The body established by the Town Council which has the responsibility to prepare a Comprehensive Plan and make recommendations concerning that plan to the Town Council.

POLITICAL SIGNS: Any sign urging the election or defeat of any candidate seeking public office, election as an official in a private organization, or urging the passage or defeat of any ballot measure.

PREAPPLICATION CONFERENCE: A review meeting of a proposed development held between applicants and reviewing agencies as permitted by law and municipal ordinance, before formal submission of an application for a permit or for development approval.

RECLAMATION FACILITY: A facility that is not a junkyard and in which recoverable resources such as automobile parts and engine parts are collected, stored, dismantled, and salvaged, essentially by machine operation within a completely enclosed building.

RECYCLING FACILITY: A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, plastic containers, and metal cans are collected, stored, flattened, crushed, or bundled, essentially by hand within a completely enclosed building.

SETBACK LINE OR LINES: A line parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure, or accessory structures over 500 square feet, must be erected or placed.

SPECIAL USE: A regulated use, which is permitted pursuant to the special use permit issued by the Zoning Board of Review, Article XI, Special Use Permits. Formerly referred to as a "special exception."

STRUCTURE: A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below, the surface of land or water.

SUBSTANDARD LOT OF RECORD: Any lot lawfully existing at the time of adoption or amendment of this Zoning Chapter and not in conformance with the dimensional and/or area provisions of this chapter.

TEMPORARY STRUCTURE(S): Includes but is not limited to: truck bodies, container boxes, and plastic, metal, or wood-sheathed structures without plumbing.

TOWN: Unless otherwise specified, is the Town of Lincoln, Rhode Island.

USE: The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

VARIANCE: Permission to depart from the literal requirements of this Zoning Chapter. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by this Zoning Chapter. There shall be only two categories of variance, a use variance or a dimensional variance.

A. USE VARIANCE: Permission to depart from the use requirements of this Zoning Chapter where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of this Zoning Chapter.
B. DIMENSIONAL VARIANCE: Permission to depart from the dimensional requirements of this Zoning Chapter, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be the primary or sole grounds for relief.

WATERS: As defined in R.I.G.L. § 46-12-1. Waters shall include all surface waters including all waters of the territorial sea, tidewaters, all inland waters of any river, stream, brook, pond, or lake, and wetlands, as well as all groundwaters.

WETLANDS, FRESHWATER: As defined in R.I.G.L. § 2-1-20. Fresh water wetlands includes but is not limited to, marshes, swamps, bogs, ponds, rivers, river and stream flood plains and banks, areas subject to flooding or storm flowage, emergent and submergent plant communities in

any body of fresh water including rivers and streams and that area of land within fifty feet (50') of the edge of any bog, marsh, swamp or pond.

ZONING: The reservation of certain specified areas within a community or city for building and structures, or use of land, for certain purposes with other limitations such as height, lot coverage, and other stipulated requirements.

ZONING CERTIFICATE: A document signed by the Zoning Enforcement Officer, as required in this Zoning Chapter, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of this Zoning Chapter or is an authorized variance therefrom.

ZONING MAP: The map or maps which are a part of the Zoning Chapter and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Town.

ZONING ORDINANCE: An ordinance enacted by the Town Council pursuant to Chapter 24 in Title 45 of the Rhode Island General Laws and in the manner providing for the adoption of ordinances in the Town's Home Rule Charter, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the Comprehensive Plan of the Town, which includes a Zoning Map, and which complies with the provisions of this chapter.

ZONING USE DISTRICTS: The basic unit in zoning either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. Each district may include sub-districts. Districts may be combined. The Town of Lincoln Zoning Districts are defined as follows:

(1) Residential Districts

(a) RA-40: Residential Agricultural: The residential agricultural district is established to promote low-density residential growth in areas which were historically used for agriculture and/or have natural limitations for development.

(b) RS-20: Residential Single Family: This residential single-family district is established to promote low to moderate density single family residential areas throughout the Town.

(c) RS-12: Residential Single Family: This residential single-family district is established to promote moderate to high-density single-family residential areas throughout the Town.

(d) RL-9: Residential Limited: The residential limited district is established to promote moderate to high-density single family and two-family residential areas throughout the Town.

(e) RG-7: Residential General: The residential general district is established to promote high-density single family, two-family, and three-family residential areas in appropriate locations throughout the Town.

(2) Business Districts

(a) BL 0.5: Business Limited: The business limited district is created to provide areas for commercial activities that depend upon a vehicular traffic and serve the daily shopping needs of the community.

(3) Manufacturing Districts

(a) ML 0.5: Manufacturing Limited: The manufacturing limited district is established to provide opportunities for light manufacturing and industrial uses such as assembly, storage and related activities which are of a less intensive nature than those allowed in the Manufacturing General district. Office use and related services, as they directly relate to the light manufacturing and industrial uses, are allowed in this district.

(b) MG 0.5: Manufacturing General: The manufacturing general district is established to provide opportunities for a wide array of manufacturing and industrial activities. The intent is to concentrate these activities in areas where minimal infringement upon the character of established residential areas will result. Office use and related services, as they directly relate to the manufacturing and industrial uses, are allowed in this district.

(4) Commercial Recreation Districts

(a) CR 1: Commercial Recreation: The commercial recreation district is established to provide opportunities for a wide array of outdoor recreational and open space activities in appropriate locations within the Town. (less restrictive)

(b) CR 2: Commercial Recreation: The commercial recreation district is established to provide opportunities for a wide array of recreational facilities and open space activities in appropriate locations within the Town. Refer to Town of Lincoln Ordinance 01-7.

(5) Village Commercial Mixed Use Districts

(a) VCMU: Village Commercial Mixed Use: The Village Commercial Mixed Use District is established to promote small scale business and residential uses consistent with the pedestrian characteristics that exist and which the Town wishes to maintain and which are unique to the village areas of Lincoln. The VCMU will provide flexibility in the use of a property and will provide development appropriate for the villages and surrounding areas.

Article III Use Regulations
§260-8 through §260-19: Use Tables

	RA	RS	RL	RG	BL	ML	MG	CRI	CR2	VCMU
§260-8: Agricultural Uses										
§260-8A: Keeping of Animals for Home Use	P	S	N	N	N	N	N	N	N	N
§260-8B: Keeping and raising of animals for profit	S	N	N	N	N	S	S	N	N	N
§260-8C: Raising crops for profit	P	S	N	N	N	S	S	S	N	N
§260-8D: Commercial Nursery	S	N	N	N	P	N	N	N	N	N
§260-8E: Retail sale of produce grown on premises *[*location subject to approval]*	P*	S*	N	N	N	N	N	N	N	S*
§260-9: Residential Uses										
§260-9A: Single-family detached	P	P	P	P	S	N	N	S**	N	P
§260-9B: Two-family	N	N	P	P	N	N	N	N	N	P
§260-9C: Three-family	N	N	S	P	N	N	N	N	N	P
§260-9D: Multi-family, 4 or more units	N	N	N	S	N	N	N	N	N	S
§260-9E: Bed and Breakfast	S	S	N	N	N	N	N	N	N	S
§260-9F: Temporary lodging, 6 to 25 rooms	N	N	N	N	S	S	S	N	N	N
§260-9G: Temporary lodging, 26 or more rooms	N	N	N	N	S	S	S	N	N	N
§260-9H: Mobile Homes	N	N	N	N	N	N	N	N	N	N
§260-9I: Community residence	P	P	P	P	P	N	N	N	N	P
§260-9J: Nursing home, convalescent home	N	N	N	S	S	N	N	N	N	N
§260-9K: Family day-care home	P	P	P	P	P	N	N	N	N	P
§260-9L: Customary home occupation	P	P	P	P	S	N	N	N	N	P
§260-9M: Accessory family dwelling unit	S**	S**	S**	S**	S**	N	N	N	N	S**
§260-9N: Accessory affordable dwelling unit	S**	S**	S**	S**	S**	N	N	N	N	S**
§260-9O: Senior residential community	N	N	N	S**	S**	N	N	N	N	N
§260-10: Recreational Uses										
§260-10A: Public playground	P	P	P	P	S	N	N	S	S	S
§260-10B: Golf course	N	N	N	N	S	N	N	P	P	N
§260-10C: Drive-in theater	N	N	N	N	N	S	N	N	P	N
§260-10D: Animal Racetrack	N	N	N	N	N	N	N	N	S**	N
§260-10E: Sports stadium	N	N	N	N	N	N	N	N	S	N
§260-10F: Ice rinks	N	N	N	N	N	S	N	N	P	N
§260-10G: Camps	N	N	N	N	N	N	N	S	S	N
§260-10H: Water recreation activities	N	N	N	N	S	S	S	S	S	N
§260-10I: Open space	P	P	P	P	P	P	P	P	P	P
§260-10J: Indoor recreation	N	N	N	N	P	P	S	N	P	S

	RA	RS	RL	RG	BL	ML	MG	CR1	CR2	VCMU
§260-10K: Outdoor recreation	N	N	N	N	S	S	N	S	S	**N**
§260-11: Governmental and Institutional Uses										
§260-11A: School or college	S	S	S	S	P	N	N	N	N	S
§260-11B: Vocational or trade school	N	N	N	N	P	S	N	N	N	N
§260-11C: Religious institution	S	S	S	S	P	N	N	N	N	S
§260-11D: Charitable institution (no commercial activity)	N	N	N	N	P	P	N	N	N	**S**
§260-11E: Library, Gallery	S	S	S	S	P	N	N	N	N	S
§260-11F: Hospital or clinic	N	N	N	N	P	S	S	N	N	N
§260-11G: Treatment of mental illness or substance abuse	N	N	N	N	S	S	S	N	N	N
§260-11H: Fire or police station	S	S	S	S	P	P	P	N	S	P
§260-11I: Government building	S	S	S	S	S	P	P	N	N	S
§260-11J: Cemetery	S	S	S	S	N	N	N	N	N	S
§260-11K: Prison or correctional institution	N	N	N	N	N	N	N	N	N	N
§260-12: Office Uses										
§260-12A: Professional offices	N	N	N	S**	P	P	P	N	N	S
§260-12B: Business services	N	N	N	N	P	P	P	N	N	S
§260-12C: Bank	N	N	S**	N	P	P	P	N	N	S
§260-12D: Use with drive up window (not including restaurants)	N	N	N	N	P	P	P	N	N	N
§260-12E: Professional office for use by resident of premises	N	N	N	N	P	N	N	N	N	P
§260-13: Restaurant and Entertainment Uses										
§260-13A: Restaurant (not including liquor or entertainment)	N	N	N	N	P	P	P	S	P	S
§260-13B: Restaurant (including liquor and/or entertainment	N	N	N	N	P	P	P	N	P	S
§260-13C: Restaurant with drive-up window	N	N	N	N	P	P	P	N	N	N
§260-13D: Gambling or gaming (as allowed by state law)	N	N	N	N	N	N	N	N	S**	N
§260-13E: Tavern, bar, or nightclub	N	N	N	N	S	S	S	N	S	S
§260-13F: Microbrewery	N	N	N	N	S	S	S	N	S	S
§260-14: Service Business Uses										
§260-14A: Barber and beauty service	N	N	N	N	P	P	S	N	N	P
§260-14B: Shoe repair, laundry	N	N	N	N	P	P	N	N	N	P
§260-14C: Mortuary or funeral home	N	N	N	N	P	S	N	N	N	S
§260-14D: Radio or television station	N	N	N	N	N	S**	S**	N	N	N
§260-14E: Gasoline filling station (no automotive repair)	N	N	N	N	S	P	S	N	N	S

	RA	RS	RL	RG	BL	ML	MG	CRI	CR2	VCMU
§260-14: Service Business Uses Continued										
§260-14F: Gasoline station with automotive repair	N	N	N	N	S	P	S	N	N	S
§260-14G: Automotive repair	N	N	N	N	S	P	S	N	N	N
§260-14H: Kennel	N	N	N	N	P	S	N	N	N	N
§260-14I: Veterinary Office	N	N	N	N	P	P	S	N	N	S
§260-14J: Day-care center	N	N	S	S	P	S	S	N	N	S
§260-14K: Photo-duplication and printing under 5,000s.f.	N	N	N	N	P	P	P	N	N	N
§260-14L: Caterer	N	N	N	N	P	P	N	N	N	S
§260-14M: Telecommunications tower	N	N	N	N	S**	S**	S**	N	N	N
§260-14N: Telecommunications antennas or equipment installed at or attached to existing structure (other than existing tower)	N	N	N	N	S**	S**	S**	N	N	N
§260-14O: Telecommunications antennas or equipment installed at or attached to existing tower	N	N	N	N	S**	S**	S**	N	N	N
§260-15: Retail and Sales Uses										
§260-15A: Retail trade, neighborhood establishment, 2,500s.f. gross floor area or less	N	N	N	S**	P	P	N	N	N	P
§260-15B: Convenience store	N	N	N	S**	P	P	N	N	N	P
§260-15C: Retail trade establishment more than 2,500s.f. gross floor area	N	N	N	N	P	P	N	N	N	N
§260-15D: Auto, truck, or boat sales	N	N	N	N	S	S	N	N	N	N
§260-15E: Liquor sales	N	N	N	N	P	P	N	N	N	S
§260-15F: Wholesale sales (within enclosed structure)	N	N	N	N	S	P	P	N	N	N
§260-15G: Wholesale sales (outdoor storage)	N	N	N	N	N	S	S	N	N	N
§260-15H: Vehicle rental agency	N	N	N	N	P	P	S	N	N	N
§260-16: Transportation Uses										
§260-16A: Airport	N	N	N	N	N	S	S	N	N	N
§260-16B: Heliport	N	N	N	N	N	S	S	N	N	N
§260-16C: Rail or motor freight terminal	N	N	N	N	N	P	P	N	N	N
§260-16D: Commercial off-street parking	N	N	N	N	S	P	P	N	N	N
§260-16E: Rail or bus passenger station	N	N	N	N	S	P	P	N	N	N

	RA	RS	RL	RG	BL	ML	MG	CRI	CR2	VCMU
§260-17: Storage Uses										
§260-17A: Storage of sand and gravel	N	N	N	N	N	S	S	N	N	N
§260-17B: Open storage or wrecking of scrap, or salvage material (does not include burning)	N	N	N	N	N	N	N	N	N	N
§260-17C: Storage of flammable material	N	N	N	N	N	N	S**	N	N	N
§260-17D: Retail warehousing and enclosed interior storage	N	N	N	N	S	P	P	N	N	N
§260-17E: Retail warehousing and exterior storage	N	N	N	N	S	S	P	N	N	N
§260-17F: Wholesale warehousing	N	N	N	N	N	P	P	N	N	N
§260-17G: Reclamation Facility	N	N	N	N	N	P	P	N	N	N
§260-17H: Temporary structures	N	N	N	N	S	S	S	N	N	N
§260-18: Service Industry Uses										
§260-18A: Laundry or dry-cleaning plant	N	N	N	N	N	N	P	N	N	N
§260-18B: Auto body or paint shop	N	N	N	N	N	S	P	N	N	N
§260-18C:Machine or welding shop	N	N	N	N	N	P	P	N	N	N
§260-18D: Car wash	N	N	N	N	S	P	P	N	N	N
§260-19: Manufacturing Uses										
§260-19A:Manufacture, processing, or packaging of foodstuffs	N	N	N	N	S	P	P	N	N	N
§260-19B: Textile mill products and apparel manufacturing	N	N	N	N	N	S	P	N	N	N
§260-19C: Lumber and wood products, furniture, and associated manufacturing	N	N	N	N	N	S	P	N	N	N
§260-19D: Processes involving nuclear fission or fusion	N	N	N	N	N	N	N	N	N	N
§260-19E: Mining, quarrying, gravel pits, or removal of earth for sale	N	N	N	N	N	N	N	N	N	N
§260-19F: Biologic technologies	N	N	N	N	S	P	P	N	N	N
§260-19G: Arts and Crafts manufacturing	N	N	N	N	P	P	P	N	N	N
§260-19H: Manufacturing and machine parts manufacturing	N	N	N	N	S	P	P	N	N	N
§260-19I: Paper and allied products, printing and publishing	N	N	N	N	N	S	P	N	N	N
§260-19J: Chemicals and allied products manufacturing	N	N	N	N	S	S	P	N	N	N
§260-19K: Stone, clay, or glass products manufacturing	N	N	N	N	N	N	P	N	N	N

	RA	RS	RL	RG	BL	ML	MG	CR1	CR2	VCMU
§260-19L: Asphalt production	N	N	N	N	N	N	N	N	N	N
§260-19: Manufacturing Uses Continued										
§260-19M: Brewery or distillery	N	N	N	N	N	N	N	N	N	N
§260-19N: Cement	N	N	N	N	N	N	N	N	N	N
§260-19O: Hazardous waste disposal or processing	N	N	N	N	N	N	N	N	N	N
§260-19P: Slaughter of animals	N	N	N	N	N	N	N	N	N	N
§260-19Q: Smelting	N	N	N	N	N	N	N	N	N	N
§260-19R: Paint production	N	N	N	N	N	S**	S	N	N	N
§260-19S: Rubber and plastics	N	N	N	N	N	N	N	N	N	N
§260-19T: Glue manufacture	N	N	N	N	N	S**	S	N	N	N
§260-19U: Petroleum production and related industries	N	N	N	N	N	N	N	N	N	N
§260-19V: Incinerator	N	N	N	N	N	N	N	N	N	N
§260-19W: Electric generation	N	N	N	N	N	N	N	N	N	N
§260-19X: Electric co-generation	N	N	N	N	S	S	S	N	N	N
§260-19Y: Electronic and computer component recycling	N	N	N	N	S	S	S	N	N	N
§260-19Z: Other manufacturing uses not specifically listed	N	N	N	N	N	S**	S**	N	N	N

Legend:

A. Permitted uses are denoted with a "P".
B. Uses not permitted are denoted with an "N".
C. Uses permitted only upon approval of the Zoning Board of Review are denoted with an "S" for special use permit. "S**" denotes that specific restraints for the issuance of the special use permit are listed in the use descriptions in §260-21 et seq. of this chapter.
D. Any number of uses may be located on a lot; provided each use is permitted and all other requirements of this chapter are met.
E. The uses listed in this table are described in more detail in §§ 260-8 through 260-21.

§260-20: Accessory uses

A. An accessory use shall not be permitted without the principal use to which it is related. An accessory use shall be restricted to the same lot as the principal use, and must also be under the same ownership as the principal use.

B. An accessory use must not alter the character of an area, nor be detrimental to the area.
   (1) Specifically underground storage tanks containing heating fuel are prohibited.

C. Any accessory use customarily incident, directly related, and subordinate to a use permitted in the district will be permitted as an accessory use.

D. Any accessory use customarily incident, directly related, and subordinate to a use permitted by a special use permit may be permitted by a special use permit upon application to the Zoning Board of Review.

E. Accessory uses for CR1 District. Accessory uses for a CR1 District should comprise a significant minority of the total land area on a given parcel. The accessory uses allowed are:
   (1) Meeting facilities.
   (2) Eating establishments.
   (3) Retail uses directly accessory to the main outdoor recreation function of the property.

F. Accessory uses for CR2 District are:
   (1) Meeting facilities.
   (2) Small supportive retail operations. *Editor's Note: Original Subsection (f)3, Eating establishments, which immediately followed this subsection, was repealed 9-18-2001 by Ord. No. 01-7.*
   (3) Commercial off-street parking.

§260-21: Use descriptions

The following descriptions match the category number and use number in the Table of Uses. These descriptions are meant to clarify the uses covered by §260-8 through §260-19.

§260-8: Agricultural uses

A. Includes livestock for food production, fish and fowl, and raising of cattle and hens for purposes of producing milk and eggs; but not including apparatus for food processing of these products, nor animals for scientific or laboratory testing. No wholesale or retail sales.
B. Includes breeding of livestock for food production, pets, fish, racehorses and/or fowl. Farmhouse and storage of farm-related equipment are allowable accessory uses.
C. Includes raising of vegetables, fruit, hay, sod, trees, flowers, plants and similar crops commonly used for household consumption; but not including food processing, canning and baking.
D. Includes the raising and sale of flowers, trees and plants used for decoration and landscaping.
E. Includes farm stands, limited to food, trees, flowers, plants, and similar crops. *Subject to location approval by Zoning Board of Review.

§260-9: Residential uses

A. One dwelling unit or household unit as defined in this chapter. There shall be no more than one main residential building on any one lot.
   (1) ** A special use permit for this use in a CR1 Zone shall be constrained so that development of the site for residential use is limited to RA-40 dimensional requirements.

B. Two dwelling units or household units as defined in this chapter, including semidetached structures. There shall be no more than one main residential building on any one lot.

C. Three dwelling units or household units. There shall be no more than one main residential building on any one lot.

D. Four or more units or household units. There shall be no more than one main residential building on any one lot.

E. A facility offering temporary lodging and breakfast. The facility shall not have more than five units for temporary lodging. The facility shall not have cooking on premises.

F. Includes hotels, motels, and bed and breakfasts with more than five units but less than 26 units. Cooking on premises is allowed for guests only, not open to general public.

G. Includes hotels and motels. Cooking on premises is allowed for guests only, not open to public.

H. The use or storage of one or more residential mobile homes, mobile home parks, and trailer parks. In the case of fire or other acts of God resulting in severe damage to a building, a mobile home may be used as temporary housing while necessary repairs are conducted to make the damaged structure usable, and in no case shall the mobile home remain on site for more than one year. This does not exclude a property owner, in a residential district, from storing one recreational camper/mobile home as long as it is not used for living/sleeping space.

I. As defined in R.I.G.L. § 45-24-31(15), and this chapter: A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following: a) Whenever six or fewer children or adults with retardation reside in any type of residence in the community, as licensed by the state pursuant to Chapter 24 of Title 40.1 of the Rhode Island General Laws. All requirements pertaining to local zoning are waived for these community residences; b) A group home providing care or supervision, or both, to not more than eight (8) persons with disabilities, and licensed by the state pursuant to Chapter 24 of Title 40.1 of the Rhode Island General Laws; c) A residence for children providing care or supervision, or both, to not more than eight (8) children including those of the caregiver and licensed by the state pursuant to Chapter 72.1 of Title 42 of the Rhode Island General Laws; d) A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8) persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor more than two (2) years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

J. Includes retirement home, home for aged, extended care, and convalescent housing.

K. Home day care in lieu of parental care or supervision is offered at the same time to six or fewer individuals who are not relatives of the caregiver, but may not contain more than a total of eight individuals receiving day care. As licensed by the State of Rhode Island and local fire marshal.

L. Customary home occupation performed by the occupant and using no more than 400 square feet of floor area, providing such activity shall not be visible from a lot line and that there is no exterior advertising. A customary home occupation must have no employees except members of the family living on the premises. The use shall not result in a noticeable increase in parking or vehicular traffic, nor shall it adversely impact the surrounding area.

M. Accessory Family Dwelling Units: Dwelling unit attached to a single family dwelling unit which may have a separate entrance and egress, living quarters, as well as kitchen and bath facilities. The accessory family dwelling unit can only be occupied by relatives of the owner of the primary residence. The owners of the primary residence shall be required to submit annually to the Town a letter of occupancy of relatives as a condition of the special use permit. This special use permit shall be renewed by the Zoning Board of Review every five years from the date of the granting of the original special use permit.

N. Accessory Affordable Dwelling Units: Dwelling unit attached to a single family dwelling unit which may have a separate entrance and egress, living quarters, as well as kitchen and bath facilities which can only be occupied by a person or family making 80% or less of Area Median Income and which is deed restricted as affordable for a minimum of 30 years. This unit must qualify as an affordable housing unit under R.I.G.L. Chapter 45-53. The owners of the primary residence shall be required to establish an affordable housing monitor agent and comply with the requirements as set out in R.I.G.L. Chapter 45-53.

O. Senior Residential Communities: A senior residential community is a community of single family residential dwelling units or attached multi-family dwelling units with respect to which the following conditions are applicable: the community shall contain a minimum of five (5) acres of Lot Area with a total density that shall not exceed fifteen (15) dwelling units per acre of lot area, the maximum percentage of Lot Building Coverage shall be thirty five percent (35%), in addition the requirements set forth in Article XI – SPECIAL USE PERMITS, all proposed Senior Residential Community projects shall specifically address and include written evidence for the record of meeting the requirements set forth in Article XII –SPECIAL CONDITIONS, occupancy is limited to require that at least 80% of the occupied units must be occupied by at least one person fifty-five (55) years of age and older. Moreover, no person eighteen (18) years of age and younger may be a permanent resident of any unit. Notwithstanding anything to the contrary in the foregoing, individuals with handicaps are permitted as residents in the community.

§260-10: Recreational uses

A. Includes uses owned by government or private groups. This also allows for special charitable events, provided any necessary licensing is obtained.

B. Includes public and private courses, miniature golf and Par-3 courses.

C. The outdoor display of movies for profit.

D. Any type of animal racing or competition, but excluding any form of illegal animal racing or competition. This use is subject to a host community agreement.

E. The field and seating for athletic events with an open air or roofed structure.

F. Includes indoor/outdoor recreational and/or competitive skating, other than established by local municipality for public use.
G. Outdoor grounds for temporary tent erection for recreational use. Permanent structures in place of tents will be subject to a special use permit.
H. Includes canoe and boat launching ramps and docks; bathing beaches or public pools; water parks. Marinas or storage of motorized boats, in the water, shall not be allowed.
I. Includes community gardens, forest reserve, wildlife refuge; but not for raising crops for commercial use.
J. Includes bowling alleys, indoor playgrounds and athletic activities, arcades, and movie theaters, and other similar forms of indoor recreation not covered elsewhere in the Table of Uses.
K. The field and seating for non-athletic recreational events with no structure or an open-air structure.

§260-11: Government and institutional uses

A. Preschool, elementary through high school and postsecondary educational institution, both private and public, excluding schools owned and operated by the Town of Lincoln. Includes classrooms, office and assembly use, lecture hall, library and other facilities for instructional purposes; laboratory facility for teaching and research; bookstore; gymnasium for athletic events, indoor and outdoor sports facility; cafeteria, dining hall; day-care facility; dormitory; health-care facility.
B. Public and private institutions providing instruction and/or training in automotive, construction, metallurgical, chemical, and similar industrial operations.
C. Church, synagogue, other places of worship including retreat centers.
D. Facility owned and operated by not-for-profit, nongovernmental organization or entity; including nonprofit clubs, civic, social, or fraternal.
E. Includes nonprofit library, museum and art gallery.
F. Hospital (not animal hospital), medical diagnostic or treatment facility, center for occupational and physical therapy; medical, surgical or psychiatric treatment of disease or disability; whether on an inpatient or outpatient basis; health maintenance organization.
G. Facility for the treatment of drug, alcohol or substance abuse.
H. Includes use for temporary housing of prisoners and training facilities.
I. Includes Town, state and federal buildings not covered elsewhere in the Table of Uses.
J. Cemetery, historic cemetery or memorial park; but not including funeral homes.
K. Any type of prison or correctional facility, other than the temporary housing of prisoners at police station or courthouse.

§260-12: Office uses

A. Includes dentist, real estate services, insurance agencies, security and commodity trading, law offices, accounting, architectural, engineering and the administrative functions of a corporation, foundation or association.
   (1) ** A special use permit for such a use in a RG Zone shall be for a use under 2,500 square feet in gross floor area, shall not overly intrude into the residential nature of an area and shall be on in an appropriate location on an appropriate street right-of-way for such a use.

B. Includes advertising agency, interior designer, photocopy duplication, mailing services, private employment service, credit reporting and collection.

C. Includes commercial banks, savings-and-loan associations, credit unions and other bank-related service, including automated teller machines; but not including a drive-up window.

(1) ** A special use permit for such a use in a RL Zone shall be for a use under 2,500 square feet in gross floor area, shall not overly intrude into the residential nature of an area and shall be on in an appropriate location on an appropriate street right-of-way for such a use.

D. Any use, other than as a restaurant or gasoline service, for which customers drive up for service or purchase of goods or food within their vehicle.

E. Professional use by resident of home. This use does not include customary home occupations. (See use § 260-9L.)

§260-13: Restaurant and entertainment uses

A. Includes business primarily preparing and serving food for consumption either on premises or for take out.

B. Includes business primarily preparing and serving food for consumption either on premises or for take out, and may include the preparation and service of liquor; and may have entertainment.

C. Restaurant that allows customers to remain in vehicle when ordering and receiving food or products.

D. Any establishment used for gambling or gaming excluding greyhound racing, pari-mutuel wagering and/or electronic or mechanical lottery terminals, only as permitted by state law; excepting, however, "casino-type" table games, including but not limited to, blackjack, poker and any and all card games, roulette baccarat and/or dice tables are expressly prohibited. [Amended 9-18-2001 by Ord. No. 01-7]

E. Any business primarily involved with liquor sales and consumption on premises and/or providing live or prerecorded entertainment.

F. Manufacturing beer, ale and/or hard cider for on-site retail sales and/or consumption.

§260-14: Service business uses

A. Includes hair salons, barbers, manicurists, beauty service, tanning salons.

B. Includes shoe repair, self-service laundry, drop-off dry cleaning and retail on-site dry cleaning of items dropped off on site.

C. Facility and establishment that arranges for and prepares funerals, including preparation of corpses for burial, related ceremonial function rooms.

D. Includes the erection of wireless transmitting and receiving antennas, including satellite dish type as accessory uses.

(1) ** In granting a special use permit, the Zoning Board of Review may impose conditions, to the extent the Board concludes such conditions are necessary, to minimize any adverse effect of the proposed tower on adjoining properties. Any

such uses or structures shall be considered "commercial construction" subject to the review of the Area of Planning Concern Review Committee (APC). Recommendation of the APC shall be sought prior to the zoning hearing. The APC hearing shall have complete authority to review compatibility with neighboring land uses and may make recommendations for physical construction. Any person(s) placing a tower structure shall provide a commercially viable bond prior to construction as approved by the Town Solicitor to the Town of Lincoln for the cost of demolition of said structure once its use is abandoned. Any tower structure authorized within the Town shall be removed from the site and regraded to a natural condition within 90 days of abandonment of authorized use.

E. Gasoline sales, including alternate fuels, with no service of automobiles, but including the accessory sales of related products.

F. Automobile service station, primarily selling gasoline or alternative fuels, also performing automobile repairs.

G. Automobile repair shop, including lubrication shops, transmission shops, muffler and brake service and automobile upholstering. Sale of gasoline or alternate fuels is not permitted.

H. For storage and breeding of dogs, cats and other household animals.

I. Veterinary service and animal hospital.

J. Day-care center; or day care in lieu of parental care or supervision is offered at the same time to more than six individuals who are not relatives of the caregiver, or more than a total of eight individuals receiving day care.

K. Retail photo-duplication and printing with a gross floor area of less than 5,000 square feet.

L. Business providing a supply of food for consumption at a different location.

M. Includes an above-grade tower, including self-supporting lattice towers, guy towers or monopole towers or similar structure more than 35 feet in height for communications equipment principally intended for the transmittal or reception of commercial, governmental and related radio, television, microwave, cellular phone and similar telecommunications signals. Monopole-type towers with multiple users, or co-use of existing structures is encouraged, so as to minimize the numbers of towers, to conserve the value of land and buildings in the surrounding area and to minimize visual impacts. Including the accessory buildings, storage facilities and related equipment required for broadcasting and telecommunications towers or any other such equipment necessary for telecommunications antennas.

(1) ** In granting a special use permit, the Zoning Board of Review may impose conditions, to the extent the Board concludes such conditions are necessary, to minimize any adverse effect of the proposed tower on adjoining properties. Any such uses or structures shall be considered "commercial construction" subject to the review of the Area of Planning Concern Review Committee. Recommendation of the APC shall be sought prior to the zoning hearing. The APC hearing shall have complete authority to review compatibility with

neighboring land uses and may make recommendations for physical construction. Camouflage of towers, such as sky blue or tree green paint may be a requirement of the APC. Any person(s) placing a tower structure shall provide a commercially viable bond prior to construction as approved by the Town Solicitor to the Town of Lincoln for the cost of demolition of said structure once its use is abandoned. Any tower structure authorized within the Town shall be removed from the site and regraded to a natural condition within 90 days of abandonment of authorized use.

N. Includes antennas, towers or similar structures installed on tops of or attached to existing buildings, water tanks or similar facilities if the total height of the tower/structure exceeds 55 feet above grade. Includes the accessory buildings, storage facilities and related equipment required for or any other such equipment necessary for telecommunications antennas that may be attached to or on the facades of buildings or structures.

(1) **In granting a special use permit, the Zoning Board of Review may impose conditions, to the extent the Board concludes such conditions are necessary, to minimize any adverse effect of the proposed tower on adjoining properties. Any such uses or structures shall be considered "commercial construction" subject to the review of the Area of Planning Concern Review Committee. Recommendation of the APC shall be sought prior to the zoning hearing. The APC hearing shall have complete authority to review compatibility with neighboring land uses and may make recommendations for physical construction. Any person(s) placing a tower structure shall provide a commercially viable bond as approved by the Town Solicitor to the Town of Lincoln for the cost of demolition of said structure once its use is abandoned. Any tower structure authorized within the Town shall be removed from the site and regraded to a natural condition within 90 days of abandonment of authorized use.

O. Includes antennas, equipment or other similar structures installed at or attached to existing towers or similar structures, including the accessory buildings, storage facilities and related equipment required for broadcasting and telecommunications towers or any other such equipment necessary for telecommunications antennas.

(1) ** In granting a special use permit, the Zoning Board of Review may impose conditions, to the extent the Board concludes such conditions are necessary, to minimize any adverse effect of the proposed tower on adjoining properties. Any such uses or structures shall be considered "commercial construction" subject to the review of the Area of Planning Concern Review Committee. Recommendation of the APC shall be sought prior to the zoning hearing. The APC hearing shall have complete authority to review compatibility with neighboring land uses and may make recommendations for physical construction. Any person(s) placing a tower structure shall provide a commercially viable bond prior to construction as approved by the Town Solicitor to the Town of Lincoln for the cost of demolition of said structure once its use is abandoned. Any tower structure authorized within the Town shall be removed from the site and regraded to a natural condition within 90 days of abandonment of authorized use.

§260-15: Retail and sales

A. Sale of apparel and accessories; household appliances; art supplies; bakeries; books, newspapers and periodicals; camera and photographic supplies; custom tailoring; dairy products; drugstore; fabric store; floor covering retail; florists; fruits and vegetables; gift

shop; groceries and delicatessens; hobby shops; home furnishings and equipment; jewelry; office supplies, stationery or art supplies; radio, television, audio/video, computer equipment, videotape sales, service or rental; shoe store; sporting goods; hardware, garden supplies, paint glass, yard equipment. The gross floor area shall not exceed 2,500 square feet.

(1) ** A special use permit in a RG Zone shall only be issued if the use is found to not intrude into the residential nature of the area and that the use is located on an appropriate street right-of-way.

B. Retail sale of newspapers and periodicals; dairy products; fruits and vegetables; groceries and delicatessens; and related convenience items. The gross floor area shall not exceed 2,500 square feet.

(1) ** A special use permit in a RG Zone shall only be issued if the use is found to not intrude into the residential nature of the area and the use is located on an appropriate street right-of-way.

C. Sale of products and goods with gross floor area of greater than 2,500 square feet.

D. Automotive, marine craft, aircraft and accessories for both new and used vehicles.

E. Sale of liquor along with products and food related to the consumption of liquor.

F. All goods sold are only displayed and stored within a completely enclosed structure. Includes building materials, contractors equipment, durable goods and apparel, electrical, plumbing, heating equipment and supplies; groceries and related products; machinery equipment and supplies.

G. Includes building materials, contractors equipment, durable goods and apparel, electrical, plumbing, heating equipment and supplies; groceries and related products; machinery equipment and supplies.

H. For short-term rental or lease of automobiles. Also included is the on-site storage of up to 15 cars available for rent or lease (including limousines and taxi-cabs). Does not include trucks or vehicles with a gross vehicle weight over 10,000 pounds.

§260-16: Transportation uses

A. Also includes maintenance, accessory outdoor maintenance and storage.

B. Landing area for helicopters; also includes accessory structures for outdoor maintenance and storage.

C. Includes truck and trailer rental; public utility service yard, railroad yard, accessory outdoor maintenance and storage.

D. Garage or open lot primarily for passenger and/or commercial vehicles. No gasoline service and no automotive repairs. The parking area shall meet the construction requirements of Article V.

E. Includes bus or rail passenger terminal, rapid rail transit, accessory indoor maintenance.

§260-17: Storage

A. Commercial storage of sand, gravel, and road salt; including the processing of these materials.

B. Includes any short-term storage of scrap or salvage material, including parts and mechanical equipment, which are no longer usable.

C. Includes any material, which is potentially flammable or explosive.
   (1) ** The issuance of a special use permit shall be dependent on the placement of suitable protection of surrounding areas and suitable preventive measures taken for storage.

D. Includes self-storage and other facilities, which allow storage of goods, products or equipment for the retail consumer.

E. Wholesale storage of goods and products for the commercial consumer. This does not include flammable or explosive material. (See use § 260-19C.)

F. Temporary storage structures including but not limited to: truck bodies, container boxes, and plastic, fabric, metal, or wood-sheathed structures without plumbing and electricity.

G. Reclamation facility, indoor

H. Recycling facility, indoor

§260-18: Service industry uses

A. Drop-off service allowed as an accessory use.

B. Automotive repair and service allowed as accessory uses.

C. Does not include wholesale manufacture.

D. Cleaning of exterior and/or interior of automobiles and vans, including self-service bays.

§260-19: Manufacturing

A. Includes canning or packaging, beverage manufacturing or bottling; canning and preserving fruits and vegetables.

B. Includes rug and carpet weaving; fur goods; woven fabrics, felt, lace, yarn threads, leather; includes dying plants and finishing of textiles. On-site retail sales shall be considered as an accessory use.

C. Includes furniture and fixture manufacturing; millwork, veneer, plywood and structural wood products; toys, sporting goods, wooden containers and other articles and merchandise made from wood. Includes repair and refinishing of furniture and wood products. Sale of products made primarily on the premises is allowed as an accessory use.

D. Nuclear reactors for generating power or processing of nuclear products; storage of nuclear fuels and other materials; storage, reclaiming or disposal of radioactive waste.

E. Excavation of the earth for purpose of extracting metals, ore, coal, salt, sand, gravel and other materials for sale. This use restriction is not meant to interfere with the grading and excavation of land necessary for the construction of a building, structure or infrastructure. These restrictions include strip mining and oil and gas exploration or drilling.

F. Industries that research into or produce products related to processes that promote human health diagnostics and therapeutics, agricultural biology, veterinary products, environmental remediation techniques and manufacture of instruments that assist in biological research. Noxious or offensive uses are prohibited.

G. Manufacture of articles from metal, wood, stone, glass, clay, ceramic, paper, leather, provided that in a BL-0.5 Zone no more than 2,500 square feet be used, and there be no more than five employees.

H. Manufacture of agricultural machinery, communication equipment, computer and business hardware, construction, lighting and wiring equipment, engines, general office and industrial machinery, household appliances, audio and video parts and equipment and metal tools.

I. Printing and publishing of books, newspapers and periodicals; printing, binding and publishing; converted paper and paperboard products; industrial printing, including business forms, greeting cards; paperboard containers and boxes.

J. Manufacturing or primary use of bleaches, dyes, industrial organic and inorganic chemicals, soaps, detergents, perfumes, cosmetics. Does not include manufacture of chlorine or acid, which is prohibited.

K. Includes manufacturing, compounding, assembly or treating articles and merchandise from: brick, tile, cut stone, glass, neon signs and structural clay products. Does not include cement, gypsum, lime or plaster.

L. Includes the distillation, manufacture or refining of asphalt, tar, creosote, coal and/or bituminous concrete.

M. Brewery or manufacture or distillation of alcohol, other than a microbrewery. (See use § 260-13F.)

N. Includes cement, lime, gypsum, plaster of paris processing, storage or manufacture.

O. Includes disposal of any hazardous waste whether generated on site or not.

P. Slaughter of animals whether for meat production or not. Includes tanning or curing of hides, rendering of fats or oils, wool pulling or scouring or dead animal reduction.

Q. Includes smelting of metals and minerals, including blast furnaces.

R. Includes production or manufacture of paint, oil, shellac, turpentine, lacquer or varnish.

(1) ** The issuance of a special use permit shall be contingent on the applicant showing that the use will not emit noxious or offensive odors and must additionally show that an excessive quantity of the product will not be stored on site.

S. Includes floor coverings, footwear, sporting goods, toys and novelties and other products made primarily from rubber or plastic; tire manufacturing, tire retreading or tire recapping.

T. Glue manufacture.
(1) ** The issuance of a special use permit shall be contingent on the applicant showing that the use will not emit noxious or offensive odors and must additionally show that an excessive quantity of the product will not be stored on site.

U. Manufacturing products derived from petroleum. Includes the refining and distillation of petroleum; including tar distillation.

V. Furnace or container for burning of waste materials.

W. Generation of electricity as the primary use of the land, including but not limited to coal, oil, gas or nuclear plants.

X. Cogeneration of electricity as an accessory use of the property.

Y. Electronic and computer component recycling.

Z. Any manufacturing use not specifically listed in the Use Tables shall be presumptively prohibited, but may be considered as a special use and the provisions of Article XI, Special Use Permits, will apply.
(1) ** In addition to any other requirements, the applicant will have the burden of showing that the use will not be noxious, nor will emit odors, smoke, gases, noise or vibration, nor will present a danger of explosion.

Article IV Dimensional Requirements
§260-22: Definitions

The following words, terms and phrases, as used in this article, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:

AREA: Means lot area. The minimum total area within the boundaries of a lot, excluding any street right-of-way. Reported in square feet.

CVR: Maximum lot building coverage. That portion of the lot that is or may be covered by buildings, accessory buildings, and pools.

DISTRICT: The zoning district.

FAR: Maximum floor area ratio. The total floor area of the building divided by the total lot area. The total floor area does not include basements or floor area below the grade plane.

FRONT: Front setback. The minimum distance between the front lot line and a line parallel to the front lot line and is required for all lot lines separating the lot from a street right-of-way. Reported in feet.

HEIGHT: Building height. The maximum vertical distance from the grade plane to the top of the highest point on the roof. This highest point excludes spires, chimneys, flagpoles and the like, which are regulated in § 260-28. The grade plane represents the average of finished ground level adjoining the building at all exterior walls. (See Article II, Definitions.)

REAR: Rear setback. The minimum distance between the rear lot line and a line parallel to the rear lot line. Reported in feet.

SIDE: Side setback. The minimum distance between a side lot line and a line parallel to the side lot line. Reported in feet.

USE: The primary use on the lot. Institutional refers to uses listed in §260-11, Government and institutional uses.

WIDTH: Lot width. The minimum horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line. In the case of a lot fronting on more than one street, the lot line with the shortest frontage on a street shall be the front lot line. Reported in feet.

§260-23: Residential Districts

District	Use	Area	Width	Front	Rear	Side	Cvr	Ht
RA-40	Single-family	40,000	150	40	75	35	15%	35
	Other use	40,000	150	40	75	35	15%	35
RS-20	Single-family	20,000	120	30	50	25	20%	35
	Other use	20,000	120	30	50	25	20%	35
RS-12	Single-family	12,000	100	25	45	20+ (a)	20%	35
	Other use	12,000	100	25	45	20+ (a)	20%	35
RL-9	Single-family	9,000	75	25	40	15+ (b)	25%	35
	Two-family	12,000	100	25	40	15+ (b)	25%	35
	Three-family	15,000	125	25	40	15+(b)	25%	35
	*Affordable Two-family	9,000	75	25	40	15+(b)	25%	35
	*Affordable Three-family	10,500	90	25	40	15+(b)	25%	35
	Other use	9,000	100	25	40	15+ (b)	25%	35
RG-7	Single-family	7,000	60	20	35	10+ (c)	25%	35
	Two-family	8,500	70	20	35	10+(c)	25%	35
	Three-family	10,000	80	20	35	10+(c)	25%	35
	Multi-family	7,000+(d)	60+(f)	20	35	10+(c)	25%	35
	*Affordable two-family	7000	60	20	35	10+(c)	25%	35
	*Affordable three family	8,000	70	20	35	10+ (c)	25%	35
	**Affordable Multi-family	6,000+ (e)	50+ (f)	20	35	10+ (c)	25%	45
	Other use	7,000	60	20	35	35	25%	35

Legend:

(a) Plus five feet for every 10 feet of building height over 25 feet.

(b) Plus four feet for every 10 feet of building height over 25 feet.

(c) Plus three feet for every 10 feet of building height over 25 feet.

(d) Square feet plus 1,500 square feet for each family unit over one.

(e) Square feet plus 1,000 square feet for each family unit over one.

(f) Plus 10 feet for each family unit over one.

*To qualify for an Affordable Housing Density Bonus, a minimum of one unit must be classified as an affordable housing unit.

**To qualify for an Affordable Housing Density Bonus, a minimum of fifty percent (50%) of the total units must be classified as affordable housing units (In calculating the number of required affordable housing units, fractions of an affordable housing unit shall be rounded up to the next whole number).

§260-24: Business and Manufacturing Districts

District	Area	Width	Front	Rear	Side	FAR	Height
BL-0.5	10,000	100	25	25	25	0.5	50
ML-0.5	30,000	250	50	40	40	0.5	75
MG-0.5	40,000	250	50	40	40	0.5	75

Additional: BL use shall be at least 50 feet from residential or commercial recreation zoning boundary district. If this distance is not feasible or unduly burdensome, a suitable buffer may be substituted, subject to review by the Zoning Enforcement Officer. ML use shall be at least 100 feet from Residential or Commercial Recreation Zoning District. MG use shall be at least 100 feet from Residential or Commercial Recreation Zoning District.

§260-25: Commercial Recreation Districts. [Amended 9-18-2001 by Ord. No. 01-7]

District	Area	Width	Front	Rear	Side	Cover	Height	FAR
CR1	40,000	250	40	40	40	5.0%	25	0.050
CR2	40,000	250	75	75	40	7.5%	60	0.075

Additional: The following additional conditions shall apply in a CR2 Commercial Recreational District as set forth in that certain map or plan entitled "LINCOLN GREYHOUND PARK PROPOSED ZONING AMENDMENTS" which said map or plan is attached hereto, made a part hereof and incorporated herein by reference.

As presented on said map or plan, in ZONE "A" – Only commercial off street parking as an Accessory Use and Outdoor Recreation by Special Use Permit shall be allowed. Any and all other Uses and Accessory Uses are specifically prohibited.

As presented on said map or plan, in ZONE "B" – Permitted Uses, Uses allowed by Special Use Permit and Accessory Uses shall be allowed except that Gambling or Gaming Uses as set forth in §260-13 D are specifically excluded.

As presented on said map or plan, in ZONE "C" – Permitted Uses, Uses allowed by Special Use Permit and Accessory Uses shall be allowed.

CR2 use height restriction of 60 feet is an absolute restriction and there is not a height modification available under §260-28.

All new buildings in Commercial Recreation Districts are subject to development plan review. This review shall also consider:

1) Shielding parking areas from the street and adjacent lots by use of natural elements.
2) Maximizing the amount of land left in its natural state.

§260-26: Village Commercial Mixed Use Districts

District	Use	Area	Width	Front	Rear	Side	Cover	Ht.
VCMU	Single-family	7,000	60	20	35	10+(c)	25%	35
	Two-family	8,500	70	20	35	10+(c)	25%	35
	Three-family	10,000	80	20	35	10+(c)	25%	35
	Multi-family	7,000+(a)	60+(c)	20	35	10+(c)	25%	35
	*Affordable two-family	7000	60	20	35	10+(c)	25%	35
	*Affordable three-family	8,000	70	20	35	10+(c)	25%	35
	**Affordable Multi-family	6,000+(b)	50+(c)	20	35	10+(c)	25%	45
	Other use	7,000	60	20	35	35	25%	35

Legend:

(a) Square feet plus 1,500 square feet for each family unit over one.

(b) Square feet plus 1,000 square feet for each family unit over one.

(c) Plus 10 feet for each family unit over one.

*To qualify for an Affordable Housing Density Bonus, a minimum of one unit must be classified as an affordable housing unit.

**To qualify for an Affordable Housing Density Bonus, a minimum of fifty percent (50%) of the total units must be classified as affordable housing units (In calculating the number of required affordable housing units, fractions of an affordable housing unit shall be rounded up to the next whole number).

§260-27: Corner lots, through lots, and irregular shaped lots

A. Corner lots.
   (1) The minimum front setback shall be the required setback on all lot lines separating a lot from a street right-of-way.
   (2) The remaining setbacks shall be equal to half of the sum of the rear setback and side setback for that district.

B. Through lots.
   (1) The minimum front setback shall be the required setback on the lot line with the shortest frontage on a street right-or-way separating a lot from a street right-or-way. In the case of a through lot that fronts on a developed and undeveloped street right-of-way, the front lot line shall be the lot line that separates the lot from the developed street right-of-way.
   (2) The lot line opposite and most distant from the front lot line shall be the rear lot line. Any lot line other than a front or rear lot line shall be side lot lines, (maximum of two side lot lines per lot), excluding irregular shaped through lots.
   (3) Irregular shaped through lots shall have a front setback in accordance with section B(1) of this section. The remaining lot lines shall have the minimum setback equal to the setback requirement of that common lot line on the adjacent lot.

C. Triangular lots.
(1) The front setback shall be the required minimum setback from the lot line separating a lot from a street right-of-way.
(2) The side setback shall meet the requirement for that district and run parallel to the side lot lines.
(3) The rear setback shall be defined as: following a radius of the minimum rear setback requirement from the point of intersection of the side lot lines.

D. Irregular shaped lots.
(1) The front setback shall be the required minimum setback from all lot lines separating a lot from a street right-of-way.
(2) The remaining lot lines shall have a minimum setback equal to the setback requirement of that common lot line on the adjacent lot.

§260-28: Height modification. [Amended 11-18-1997 by Ord. No. 97-8]

A. Roof structures permitted above maximum height.
(1) The following roof structures are permitted above the maximum height as specified in the preceding tables, provided that the total area of all such structures is not more than 1/3 of the total roof area:
(a) Fire or parapet walls.
(b) Steeples.
(c) Structures for housing elevators and elevator shafts.
(d) Stairways.
(e) Skylights.
(f) Roof-mounted flag poles, but shall not be more than 15 feet above the highest point on the roof.

(2) The following roof structures are permitted above the maximum height as specified in the preceding tables, provided that the total area of all such structures is not more than 1/3 of the total roof area, and that such structures shall be set back from the edge of the roof a minimum of one foot for every foot by which they extend above the roof:
(a) Heating and air-conditioning equipment.
(b) Ventilating fans.
(c) Chimneys or roof-mounted smokestacks, but shall not be more than 40 feet above the highest point on the roof.
(d) Solar collectors.
(e) Storage tanks for water.
(f) Residential use of television, radio or satellite dish antennas less than 1,200 square inches or masts, but shall not be more than 15 feet above the highest point on the roof.
(g) Other similar equipment required to operate and maintain a building.

B. Height restrictions for freestanding structures other than buildings.
(1) Silos for agricultural uses shall not exceed 75 feet in height. This height limit applies to both attached and freestanding silos.
(2) Freestanding flagpoles shall not exceed the height of any existing permitted principal building on the lot by more than 15 feet.
(3) Freestanding smokestacks:
(a) Are not permitted in Residential or Commercial Recreation Zones;

(b) Are not permitted on vacant lots;
(c) In BL, ML and MG Zones, shall not exceed a height of 40 feet over any permitted principal building on the lot.

(4) Freestanding television antennas, radio antennas, masts, satellite dishes and similar structures for residential use shall not exceed the height of any existing permitted principal building on the lot by more than 15 feet.
(5) Lights used to illuminate parking areas shall not exceed a mounting height of more than 20 feet in all districts.
(6) Freestanding telecommunications tower shall not exceed 150 feet.
(7) Where telecommunications antennas or related equipment intended for the receiving or transmitting of commercial telecommunication signals is attached to an existing structure, such facilities shall be exempt from the height limitations of this chapter, provided that such antennas or related equipment:
(a) Are not higher than 15 feet above the highest point of the structure;
(b) Comply with all applicable Federal Communications Commission and Federal Aviation Administration regulations; and
(c) Comply with all Building Codes and other applicable requirements.

§260-29: Yard exceptions

The space between a lot line and the minimum front, side or rear setback shall be open and unobstructed, with the following exceptions:

A. Ordinary projections of windowsills, cornices and other ornamental features may extend up to one foot into the space between the required setbacks and the lot line.

B. In a Residential District, a permitted accessory structure may be placed in an area bounded by the front yard and a line six feet from the side and rear lot lines. Such an accessory structure shall not exceed more than 15 feet in height, nor have an area greater than 500 square feet. Any larger accessory structure shall not be in the area between the lot lines and the setback lines, and shall not intrude into the front yard. The front yard is the area bounded by the street right-of-way, a line parallel to the street at the closest point of the building to the street right-of-way, and the side lot lines.

C. Landscape features such as trees, fences, shrubs, and terraces may be placed in any setback area. Such features are restricted by §260-30.

D. Signs as permitted in Article VI, Signs, may be placed in any setback area. Such signs are restricted by §260-30.

E. In BL, ML, and MG Districts, an outdoor telephone booth may be located in any setback area.

F. Handicapped access ramps may be located in any required setback area.

G. Swimming pools, in a residential district, must be in the rear yard of property. Pools can be placed a minimum of six feet off rear and side property lines. Pools or yard area surrounding pool must be enclosed by a non-climbable fence, which has a height of no less than six feet.

§260-30: Vision clearance at corners

In all districts, at any street intersection, no building, structure or sign shall be erected and no vegetation shall be maintained above a height of three feet in the triangle formed by the two street lines and a third line joining points on the street lines 20 feet from the intersection. Poles not exceeding 12 inches in outside diameter, designed for the support of lights, utilities, and signs, may be erected in this triangle.

§260-31: Screening and fencing of refuse collection areas

All commercial and manufacturing uses, and residential uses of four dwelling units or more, shall provide trash and/or garbage collection areas enclosed on at least three sides by a solid wall, opaque fence or compact planting screen of at least five feet in height, if such area is not within an enclosed building or structure. Such collection areas shall be kept clean and well maintained.

Article V Parking and Loading
§260-32: Off-street parking requirements

A. Accessory parking is recognized as an integral and important part of all types of development, and any use of the land is required to take care of its own parking needs by providing space to park the cars used by occupant, employees and visitors. No land shall be used or occupied and no building or structure shall be erected, altered, used or enlarged unless adequate off-street parking is provided. The following requirements shall be deemed as the minimum number of spaces required for each use:

Use	Minimum Number of Required Parking Spaces
Residential	2 spaces for each dwelling unit
Senior Residential Communities	1.5 spaces per dwelling unit
Temporary lodging	1 space for each room or suite, plus 1 space for every 2 employees
Government and Institutional Service	1 space for each employee, plus 1 space for each 300 square feet of gross floor area
Elementary and Junior high schools	3 spaces for each classroom
Private and Public High Schools	3 spaces for each classroom, plus 1 space for every 10 students of capacity
Postsecondary School or College	1 space for each 3 students of capacity
Office Uses	1 space for every 300 square feet of gross floor area
Restaurants and Entertainment	1 space for every 4 seats or for every 4 persons of capacity, plus 1 space for each employee
Retail, Sales and Service Business	1 space for every 200 square feet of gross floor area
Transportation uses	1 space for each 400 square feet of gross floor area
Manufacturing and Wholesale uses	1 space for every 2 employees
All other uses	1 space for every 300 square feet of gross floor area

B. Construction requirements.
   (1) In allocating space for off-street parking facilities, each car space shall have a minimum width of 9 feet and a minimum length of 20 feet.
   (2) There shall be adequate space allocated to permit access to all car spaces, with adequate off-street area for approach, turning and exit. In no case shall the gross

lot area per car space be less than 240 square feet. The requirements of this subsection do not apply to detached single- or two-family dwellings.

(3) The interior of parking areas shall be suitably landscaped. Such landscaping shall be appropriately located to prevent long, uninterrupted rows of parking spaces and to provide for orderly traffic flow in the parking area.

(4) Parking areas shall be covered with a hard, dust-free surface. Parking areas for more than 20 cars shall have each space marked with painted lines. However, in environmentally sensitive areas, the Zoning Enforcement Officer may allow the use of pervious materials to minimize runoff.

(5) Lighting fixtures used to illuminate parking areas shall direct the light away from adjoining property and away from adjacent streets. Freestanding light poles shall not exceed 20 feet in height.

(6) Parking areas for more than 20 cars shall be suitably illuminated. However, parking areas shall not be illuminated from 1/2 hour after closing time to 1/2 hour before opening time, or from 10:00 p.m. to 6:00 a.m. Written authorization is required from the Zoning Enforcement Officer for lighting between 10pm and 6am.

(7) Parking areas shall provide for appropriate and adequate drainage of surface water. Parking areas shall not drain onto a public road. The requirement for this subsection does not apply to detached single family or two family dwellings.

(8) Where possible, the parking area should be separated from a street right-of-way by a six-foot landscaped setback.

(9) The location and extent of the curb cuts shall be determined by the responsible agency. Numerous, unnecessary or excessive curb cuts are prohibited.

C. Plans for new parking areas of more than 20 cars shall be submitted to the Zoning Enforcement Officer for review. All necessary state or local permits shall be part of the submittal requirements. The Zoning Enforcement Officer may forward these plans to the Planning Board for review.

D. All parking facilities, provided under this article, must be constructed on the site of the main use. Off-street parking for business or manufacturing use shall not be located in a Residential District.

E. Any parking area shall be kept by the owner in a neat and attractive manner. The owner shall be responsible for the maintenance of the landscaping.

F. A parking area for more than 20 cars adjacent to or within a Residential District shall have an opaque fence maintained between such parking area and the adjoining Residential District. Such fence shall be not less than four or more than six feet in height. A compact evergreen screen not less than five feet in height may be used in place of the fence.

G. No part of an off-street parking area required for any building or use shall be included as part of an off-street parking area similarly required for another building or use. This shall not prohibit the joint use of a parking area if the total of spaces meets or exceeds the sum of the requirements for the various uses computed separately. Spaces may be shared by two or more uses if the applicants can clearly show that the periods of parking area usage will not be simultaneous with each other.

H. No recreational vehicles shall be stored for a period in excess of three months unless it is in a condition for safe and effective performance of the function for which it is intended and, where applicable, registered and inspected under state law.

I. The off-street parking spaces associated with a use as provided for by this article shall be a continuing obligation of the present or future owner of any premises and shall not be reduced, changed, encroached upon or discontinued unless a change in the parking requirements occurs due to a change in use of the premises.

§260-33: Additional residential requirements

A. In any Residential District, the parking or storage of commercial vehicles over 10,000 pounds of gross vehicle weight and/or commercial trailers or house trailers shall not be permitted except where such parking or storage is directly related to an accessory or a permitted use or legal nonconforming use on the premises. The parking or storage of any commercial vehicles labeled for a business use shall not be allowed in any residential district, unless permitted by a legal non-conforming use, except when registered to the property owner.

B. No unregistered, unserviceable, discarded, worn-out or junked automobile, truck or trailer of any kind or type, or body, engine, part or accessory shall be parked or stored on any residentially zoned property other than in a completely enclosed building in excess of three months.

§260-34: Off-street loading

A. No land shall be used or occupied and structures shall be erected or used for commercial or industrial purposes unless the off-street loading space required herein is provided. Off-street loading spaces shall be provided, subject to the requirements of this section, for any enlargement or alteration to any existing structure or use.

B. The off-street loading spaces required by this chapter shall be in all cases on the same lot or parcel of land as the use or structure they are intended to serve. In no case shall any required off-street loading space be part of an area used to satisfy the off-street parking requirements of this chapter. To the extent possible, loading areas shall be to the rear of any building.

C. For each commercial and industrial enterprise of over 2,500 square feet of gross floor area or ground area, in which commodities are sold, displayed, serviced, repaired, altered, or fabricated as a principal use of the enterprise, there shall be at least one off-street loading space. For uses with more than 40,000 square feet of gross floor area, there shall be at least two off-street loading spaces. For uses with more than 80,000 square feet of gross floor area, there shall be at least three off-street loading spaces. Thereafter, there shall be at least one off-street loading space for each additional 40,000 square feet of gross floor area. Additional off-street loading spaces shall be required by the Zoning Enforcement Officer when necessary to provide adequate area for off-street loading.

D. Each off-street loading space shall provide a minimum space of 60 feet in length, 14 feet in width, and 15 feet of vertical clearance.

E. Detailed plans for off-street loading space provisions shall be required before the issuance of any building permit.

Article VI Signs

§260-35: Signs permitted in all districts

The following signs are permitted in all zoning districts:

A. Nameplates: One sign, no greater than 1.5 square feet in area displaying the name and address of the occupant or identifying a permitted use or accessory use. Only one sign per use or dwelling unit is allowed.

B. Government signs: Signs erected by or on behalf of any federal, state, or local government agency, for official traffic control, informational signs, hazard warning signs, legal notices, railroad crossing signs or other similar required signs.

C. Temporary signs:

(1) Political signs incidental to a Town, state, or federal election or referendum, or signs political in nature. Such signs shall not be illuminated. Such signs shall be removed within seven days after the election or referendum. Also see §260.41 for additional requirements.

(2) Real estate signs for the sale, rent, or lease of the property on which they are located. The sign shall be removed within seven days of the date of occupation of the unit advertised. In Residential Districts, the sign shall not exceed 12 square feet; in Business, Manufacturing and Commercial Recreation Zones, the sign shall not exceed 32 square feet.

(3) Charity signs for events by nonprofit or charitable organizations, provided that the sign is not erected for more than 30 days prior to the event and is removed within seven days of the conclusion of the event. Such signs shall be limited to 32 square feet in area. Such signs must be reviewed by the Zoning Enforcement Officer before being installed.

(4) Other temporary signs may be permitted for no longer than 15 days, and may be no larger than 60 square feet. Such signs must be reviewed by the Zoning Enforcement Officer before being installed.

D. Announcement boards used to announce activities or events for institutional uses listed in §260-11, Government and institutional uses. Such signs shall be located on the premises of that listed use. The sign shall not exceed 20 square feet in area.

§260-36: Signs prohibited in all districts

The following signs are prohibited in all zoning districts except as provided in §260-35:

A. Safety hazard: Signs determined by the Zoning Enforcement Officer to constitute a hazard to traffic or public safety by reason of size, location, or type of illumination.

B. Flashing: Signs containing an intermittent or sequential light source. Exposed neon type lighting shall not be allowed on exterior of buildings.

C. Projecting over street right-of-way: Non-government signs erected over a street right-of-way. This would not include temporary banner-type signs allowed by the governing Highway Department.

D. Overnight illuminated signs: Signs shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m. or during the period from 1/2 hour after closing time to 1/2 hour before opening time. Written permission is required from the Zoning Enforcement Officer if between 10pm and 6am.

§260-37: Residential Districts

A. Additional permitted signs:
   (1) For an allowable use, other than a dwelling [uses in § 260-9A, B, C and D (four or fewer units)], one sign no greater than 20 square feet.
   (2) For an allowable use, other than a dwelling [uses in § 260-9A, B, C and D (four or fewer units)], one sign greater than 20 square feet, but less than 40 square feet may be granted by a special use permit. In making this determination, the Zoning Board of Review shall also consider; without limitation,
      (a) The residential nature of the surrounding lots.
      (b) The aesthetic compatibility of the sign with the surrounding lots and structures.
   (3) For a lawfully maintained, nonconforming use, one sign no greater than 20 square feet.
      (a) Location: A sign in a Residential District shall be placed no closer than six feet to any lot line.
      (b) Illumination: Signs in a Residential District shall be illuminated only by a continuous white light. This illumination shall be placed such that it is directed away from adjacent lots. No illumination shall be allowed between 10pm and 6am.

§260-38: Commercial Districts

A. Additional permitted signs:
   (1) One sign attached to the primary building, for each permitted use; or
   (2) One freestanding sign, not itself an integral part of or attached to the primary building, per lot shall be permitted.

B. Maximum sign area:
   (1) The maximum area of all signs on the premises shall be limited to 64 square feet.
   (2) In calculating the sign area, the following shall be used:
      (a) The entire area within the polygon enclosing the extreme limits of the graphic or writing;
      (b) Any frame or other material forming an integral part of the display or used to differentiate the sign from the background;
      (c) Excluding necessary supports or uprights on which the sign is placed.
   (3) Larger signs may be permitted by a special use permit. The Zoning Board shall also include without limitation, the following factors in making its decision:
      (a) The aesthetic impact of the sign on the roadside;
      (b) The total amount of sign area on the premises;
      (c) The visibility of the use.

C. Location of signs.
   (1) Signs shall not project above the roofline of the main use.
   (2) Freestanding signs shall not project more than 20 feet above average ground level, measured within a fifteen-foot radius of the sign.
   (3) No sign shall be placed within 50 feet of a Residential District boundary.
   (4) All signs for the use must be contained on the lot that the use is performed.

D. Lighting of signs. Signs may be illuminated by any conventional method except that no revolving, moving spotlights, or exposed neon lights shall be permitted. Signs which are lit by stationary flood or spotlights shall be so oriented that the light is directed away from any adjacent properties and street rights-of-way.

§260-39: Commercial Recreation Zones (CR1, CR2)

A. Additional permitted signs.
   (1) A sign no larger than 20 square feet.
   (2) Signs larger than 20 square feet in area may be allowed by a special use permit.
   (3) No sign shall be placed within 50 feet of a Residential District boundary.

B. Lighting of signs. Signs may be illuminated by any conventional method except that no revolving, moving spotlights, or exposed neon lights shall be permitted. Signs which are lit by stationary flood or spotlights shall be oriented so that the light is directed away from any adjacent properties and street rights-of-way.

§260-40: Village Commercial Mixed Use Zones (VCMU)

A. Additional permitted signs:
   (1) One sign attached to the primary building, for each permitted use; or
   (2) One freestanding sign, not itself an integral part of or attached to the primary building, per lot shall be permitted.

B. Maximum sign area:
   (1) The maximum area of all signs on the premises shall be limited to 32 square feet.
   (2) In calculating the sign area, the following shall be used:
      (a) The entire area within the polygon enclosing the extreme limits of the graphic or writing;
      (b) Any frame or other material forming an integral part of the display or used to differentiate the sign from the background;
      (c) Excluding necessary supports or uprights on which the sign is placed.
   (3) Larger signs may be permitted by a special use permit. The Zoning Board shall also include the following factors in making its decision:
      (a) The aesthetic impact of the sign on the roadside;
      (b) The total amount of sign area on the premises;
      (c) The visibility of the use.

C. Location of signs.
   (1) Signs shall not project above the roofline of the main use.
   (2) Freestanding signs shall not project more than 20 feet above average ground level, measured within a fifteen-foot radius of the sign.
   (3) All signs for the use must be contained on the lot that the use is performed.

D. Lighting of signs. Signs may be illuminated by any conventional method except that no revolving, moving spotlights, or exposed neon lights shall be permitted. Signs which are lit by stationary flood or spotlights shall be so oriented that the light is directed away from any adjacent properties and street rights-of-way.

§260-41: Political signs [Amended 4-20-1999 by Ord. No. 99-6]

In a campaign for public or private office, the candidate for such office shall be deemed responsible for the posting of political signs. In a campaign regarding a ballot measure, the president or chief officer of the committee supporting or opposing such ballot measure shall be deemed responsible. The candidate, chief officer or committee president shall be liable to pay any fees or costs for the removal of illegal signs.

A. No political sign shall be larger than 9 (nine) square feet and have a minimum height of 2 (two) feet.

B. No political sign shall be erected prior to 30 days before an election.

C. All political signs shall be placed on private property with the permission of the property owner.

D. No political signs shall be placed on public property.

§260-42: Enforcement

A. A permit shall be obtained for the erection of all signs except:
   (1) Temporary real estate signs;
   (2) Temporary political signs;
   (3) Nameplates;
   (4) Government signs.

B. The requirements of this article shall be enforced by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall provide written notice to the person and/or persons responsible. Each day that any sign remains in violation of this section shall constitute a separate violation. Failure to remedy any violation 24 hours after notification shall result in a fine not exceeding $50, and $200 for any subsequent violation. Unabated violations shall be referred to the Town Solicitor for further action as provided by law.

Article VII Inclusionary Zoning

§260-43: Inclusionary Zoning

A. *Findings*: A diverse housing stock is necessary in this community in order to serve people of all income levels. Based upon the review and consideration of the recent Lincoln Affordable Housing Production Plan, it has become clear that the provisions of this Article are necessary in order to preserve the diversity of housing opportunities for the residents and working people of Lincoln.

The program defined by this Article is necessary to provide continuing housing opportunities for low and moderate income persons in Lincoln. It is necessary to help maintain a diverse housing stock and to allow residents and employees of Lincoln to have better access to housing and jobs. The local and statewide trend of increasing housing costs as identified in the Lincoln Affordable Housing Production Plan will, without intervention, result in inadequate supplies of affordable housing for low and moderate income residents and employees.

Remaining land for residential development in Lincoln is limited. It is essential that at least ten percent (10%) of such land be developed into housing units affordable to low and moderate income households. The primary objective of this Article is to obtain affordable rental and homeownership units within qualified subdivisions or land development projects. Some provisions of this Article provide for alternatives to the production of such on-site units. Those provisions recognize the fact that individual sites and economic factors can make on-site production less desirable than the alternatives for particular developers. However, the intent and preference of this Article is that wherever possible, affordable units constructed pursuant to this Article be located on-site.

B. *Purpose:*

The purposes of this Article are to:

(1) Implement the Lincoln Affordable Housing Production Plan, and the Housing Element of the Lincoln Comprehensive Plan,

(2) Promote the construction of rental and homeownership housing that is affordable for the low and moderate income households of Lincoln,

(3) Maintain a balanced community that provides housing for people of all income levels, and

(4) Help Lincoln achieve the 10% low-moderate income housing goal set by the State of Rhode Island.

C. *Definitions:*

The definitions contained in Article II shall apply to the provisions of this Article.

D. *Inclusionary Units or In-Lieu-Of Fee Required*

(1) All residential development projects shall include the number of Inclusionary Units required under Paragraph E or, if applicable, shall pay the in-lieu-of fee required under Paragraph N. No building permits shall be granted for a residential development project without compliance with this Article.

(2) Exemptions: This Article shall not apply to the reconstruction of any Dwelling Units that were destroyed by fire, flood, earthquake or other act of nature.

(3) It is permissible to apply for a subdivision of four (4) lots or fewer where one (1) of the lots has an area three (3) times or more, greater than the area required for that zone. However, further subdivision of the larger lot will be treated as a major subdivision and shall be subject to the requirements set out in this Article.

E. *Number of Inclusionary Units:* Any proposed residential development containing five or more dwelling units is required to include at least twenty percent (20%) of the total number of dwelling units within the proposed development as affordable units. The Inclusionary Units must be affordable for a minimum of thirty (30) years through a deed restriction or through being held in a community land trust. The Town of Lincoln prefers that Inclusionary Units be built on-site. However, developers who satisfactorily demonstrate to the Planning Board that building the inclusionary units on-site is infeasible may request to make a payment in-lieu-of fee or to build the inclusionary units off-site. The Town, at the applicant's expense, may have an independent real estate consultant determine feasibility of building the Inclusionary Units on-site. Developers must round up to the next highest number for fractional units. As an alternative, an in-lieu-of fee may be paid for the fractional unit. The amount of the in-lieu-of fee will be in direct proportion to the percentage (out to two (2) decimal places) of a single unit that is represented by the fractional remainder of the above Inclusionary Unit calculation.

F. *Density Bonus*: All projects shall be entitled to a density increase of twenty-five percent (25%) in accordance with the provisions of this section. This density bonus qualifies as a locally provided subsidy. Any project shall be entitled to an increase in the maximum lot coverage allowed for the site on which the project is located following the calculation of density, lot coverage, and setbacks. Any request for other density increases beyond twenty-five percent (25%) will be strictly considered under a Comprehensive Permit.

G. *Unit Mix*: The unit mix (i.e. the number of bedrooms per unit) of the Inclusionary Units shall be in the same proportion as the unit mix of the market rate units. If only one Inclusionary Unit is required and the other units in the project have various bedroom numbers, the number of bedrooms for that unit will be an average of the number of bedrooms located in the market rate units in the qualified development rounded to the nearest whole number.

H. *Location of Inclusionary Units*: Except as provided for in this Article:

(1) Inclusionary Units shall be dispersed among the market rate units throughout the qualified development.

(2) The Inclusionary Units must have access to all on-site amenities.

(3) All Inclusionary Units shall be built on the same site as the remainder of the project.

I. *Unit Types Permitted in Inclusionary Subdivisions or Land Development Projects:* The Town of Lincoln encourages developers of inclusionary subdivisions or land development projects to provide a variety of housing types in the subdivision. Permitted housing types for an Inclusionary Subdivision include the following: single family, duplex, and triplex. Townhouse style buildings are also permitted in an Inclusionary development. Each Inclusionary Unit in a single family development will have the appearance of a single family home pursuant to Design Guidelines in Section J.

J. *Design Guidelines*

(1) The exterior appearance of the Inclusionary Units in any development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type for Inclusionary Units as for market rate units and have the appearance of a single family home.

(2) The interior appearance and finishes of the Inclusionary Units may differ from market rate units in regard to interior finishes and gross floor areas provided that the bedroom combination of affordable units shall be in proportion to the bedroom combination of the market rate units.

K. *Inclusionary Housing Agreement at Preliminary Plan*

(1) Approval: The Inclusionary Housing Agreement must be approved before the developer receives preliminary plan approval.

(2) Agreements Required: Applications for residential development projects seeking preliminary plan approval shall be approved only concurrently with the approval of an Inclusionary Housing Agreement pursuant to this Article. This section shall not apply should the developer choose to pay an in-lieu-of fee.

(3) Information in the Inclusionary Housing Agreement:

(a) The location, structure, proposed tenure, and size of the proposed Market Rate and Inclusionary Units.

(b) The calculations used to determine the number of required Inclusionary Units.

(c) A site plan depicting the location of the Inclusionary Units.

(d) The mechanisms that will be used to assure the Inclusionary Units remain affordable for the required term.

(e) For phased developments, a phasing plan.

(f) A marketing plan for the process by which qualified households will be reviewed and selected to either purchase or rent the affordable units.

(g) Any other information reasonably requested by the Planning Board to assure compliance with the purposes and provisions of this section.

(4) The Town will provide its preferred format for Inclusionary Housing Agreement upon request.

L. *Timing of Construction and Assurance:*

(1) Phasing of Construction: The Inclusionary Housing Agreement shall include a phasing plan (if a phased development) that provides for the timely and integrated development of the Inclusionary Units as the proposed project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the development of the market rate units. Building permits shall be issued for the qualified development project based upon the phasing plan. The phasing plan may be adjusted when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and affordable housing units. The phasing plans shall also provide that the affordable housing units shall not be the last units built in any development.

(2) *Assurance of Completion of Inclusionary Units:* It is the responsibility of the original developer to ensure development of any required Inclusionary Units prior to the assigning or conveying of any subdivided lot and/or dwelling unit. A developer must either construct the required Inclusionary Units prior to construction of any market rate units or obtain a surety bond in an amount not

less than 1.5 times the amount of the established cash in-lieu-of fee for each required Inclusionary Unit. The surety bond shall be held in escrow by the Town until such time as the Inclusionary Units are constructed. The Town of Lincoln prefers that Inclusionary Units be built prior to or concurrent with the market rate units.

M. *Off-site Construction of Inclusionary Units*: Inclusionary Units may be constructed off-site only upon a determination by the Planning Board that on-site construction is infeasible. If this option is chosen, then the off-site Inclusionary Units must be constructed prior to or concurrently with the construction of the proposed market rate project. The Inclusionary Unit size and count must meet the same requirements as if the Inclusionary Units were constructed on-site. If subdivision or land development project approval of the proposed off-site location is not required, no Certificate of Occupancy will be issued for any corresponding market rate units prior to the Inclusionary Unit construction completion or payment of the required in-lieu-of fees. Planning Board approval of the agreement to build off-site Inclusionary Units is required.

N. *In-Lieu-of Fees:*

(1) The Town of Lincoln prefers that Inclusionary Units be constructed on-site. To that end, developers must prove that providing the Inclusionary Units on-site is infeasible to the Planning Board (As provided for in this Article, if approved). Planning Board approval of the agreement to pay an in-lieu-of fee in order to providing Inclusionary Units in a residential development is required. The amount of the fee in-lieu-of providing Inclusionary Units shall be determined using the fee schedule calculation set forth in subsection N. (3). For projects constructed in phases, in-lieu-of fees shall be paid prior to the issuance of each building permit in the proportion that the phase bears to the overall project. The in-lieu-of fees shall be paid into the Affordable Housing Trust Fund as established and administrated by the Town of Lincoln's Town Council or their designee.

(2) For projects to be developed on subdivided lots, in-lieu-of fees shall be paid by the Developer prior to issuance of final subdivision approval or in such cases where subdivision approval is not required, prior to issuance of a building permit for the project or as determined by the project's adopted Conditions of Approval.

(3) An In-lieu-of Fee is due from developers of residential projects where payment of affordable housing in-lieu-of fees and/or fractional unit fees was included as a condition of project approval. The fee amount due per each whole affordable dwelling unit required of a project shall be forty percent (40%) of the average anticipated sale price of market rate units in the project. The Planning Board may request an independent appraisal of potential market rate sale price at the applicant's expense. Projects with fractional unit requirements shall pay an amount equal to the applicable in-lieu-of fee amount for a whole unit multiplied by the fractional requirement calculated out to two (2) decimal places. This in-lieu-of fee shall be reviewed and may be adjusted as necessary by the Town of Lincoln's Town Council.

O. *Requirements:*

(1) Manner of Compliance: All permanently affordable obligations of rental housing projects shall be met through on-site units, unless the developer shows that developing the approved inclusionary units on-site is financially infeasible. All rental Inclusionary Units must be restricted as affordable for a minimum of 30 years. The Town's preferred affordability period is ninety-nine (99) years for all projects.

(2) Determination of Rental Rates for Affordable Units: Maximum Rents: Rents charged for Inclusionary Rental units in any project must on average, be affordable to households earning eighty percent (80%) or less of the Area Median Income (AMI) as determined by United States Department of Housing and Urban Development (HUD). No affordable unit may rent at a rate which exceeds affordability for a household earning fifty percent (50%) to eighty percent (80%) of AMI as determined by HUD. Up to date AMI statistics may be obtained from Rhode Island Housing & Mortgage Finance Corporation (RIHMFC) at www.rihousing.com.

(3) Sales Prices for Affordable Units: The maximum sales price for an affordable ownership unit shall be set by Rhode Island Housing according to its accepted formula. Within a development, the average price charged for affordable ownership units in any project shall be a price affordable to a household earning no more than 80% of the AMI as defined by HUD if subsidized by Federal Funds. If the project instead receives a state or local subsidy, the price must be affordable to a household earning no more than 120% of the AMI as defined by HUD.

(4) Approved Purchasers of Affordable Units: A developer or owner shall select an eligible purchaser after completing a good faith marketing and selection process, as provided or approved by the Town of Lincoln. Upon request, the Town may provide the developer or owner of an affordable unit with a list of households certified by the Town as eligible to purchase the unit. However, a developer or property owner may select an income eligible purchaser who is not on a furnished list so long as the Town can verify the purchaser's income and asset eligibility and the unit is sold at an affordable price as described in this chapter.

(5) Purchasers of Affordable Units Required to Reside in Those Units: A purchaser of an affordable unit shall occupy the purchased unit as their primary residence. No person shall rent an affordable ownership unit. Ownership units must remain exclusively owner occupied for the entire required affordability period.

(6) Resale Restrictions Applicable to Affordable Units: All affordable ownership units as developed under this Article shall be subject to the following restrictions: A seller of an affordable unit must select a low-income purchaser by a method that complies with a Town approved good faith marketing and selection process. At the request of a seller, the Town will provide the seller with the description of a process that meets this requirement. Upon request, the Town may provide the seller with a list of households certified by the Town as income eligible to purchase the unit. All purchasers of affordable units shall be part of an income eligible household.

(7) Resale Price for Affordable Units: The resale price of any affordable unit shall not exceed that which is affordable to a household earning no more than eighty percent (80%) to one-hundred twenty percent (120%) of the AMI as defined by HUD at the time of the sale and depending on subsidy as described in the above sub-section (3).

(8) Deed Restriction or Incorporation into a Community Land Trust Required: No person offering an affordable unit for sale shall fail to lawfully reference in the

grant deed conveying title of any such unit and recorded with the Town's Land Evidence Records, a covenant or Declaration of Restrictions in a form approved by the Town. Such covenant or Declaration of Restrictions shall reference applicable contractual arrangements, restrictive covenants, and resale restrictions as are necessary to carry out the purposes of this Article.

(9) Requirements may be amended in furtherance of the purposes of this section.

P. *Monitoring:* The Lincoln Housing Authority, or another selected agency as determined by the Town of Lincoln's Town Council, will be designated as the monitoring agent to ensure compliance with the requirements of this Article.

Q. *Equitability:* The process for approval or denial of any development under this Article will be reviewed by an independent entity upon petition by either the Town or the applicant to assure a fair and equitable process. The petitioning party will be responsible for any costs associated with the review.

Article VIII Overlay Zones
§260-44: Airport Hazard Zone (AHZ)

A. *Purpose*: It is hereby found and declared that airport hazards may endanger the lives and property of users of the airport and of occupants of land and other persons in its vicinity. The creation or establishment of an airport hazard is a public nuisance and an injury to the community. It is necessary in the interest of public health, safety, and general welfare that the creation or establishment of airport hazards be prevented.

B. *Height restriction*: Within an airport hazard zone overlay district, the height of structures and trees shall be restricted to a height below the airport approach plan as prepared by the Rhode Island Airport Corporation for the North Central Airport. All new construction or alteration that increases the height of an existing structure shall supply a site plan. This site plan shall display the altitude of the land above mean sea level and shall clearly note the height of the structure above mean sea level. Additionally, the applicant shall provide the distance between the structure and the end of the airport runway and the direction of the airport, and such distances shall be clearly noted on the site plan.

C. *Existing hazards*: This overlay zone shall not require the removal, lowering or other change or alteration of any structure not in conformance prior to the adoption of the overlay zone.

D. *Replacing nonconforming structures*: Before a nonconforming structure may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher or replanted, a special permit shall be granted from the Zoning Board of Review. No permit shall be granted that would allow the structure in question to be made higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted.

E. *Abandonment*: Whenever the Zoning Enforcement Officer determines that a nonconforming structure has been abandoned as defined in *§260-54K* of this ordinance, or more than 80% torn down, destroyed, deteriorated, or decayed: 1) no permit shall be granted that would allow the structure to exceed the applicable height limit or otherwise deviate from the zoning regulations; and 2) whether application is made for a permit under this section or not, the Zoning Enforcement Officer may by appropriate action compel the owner of the nonconforming structure, at his own expense, to lower, remove, reconstruct or equip the object as may be necessary to conform to the height limit or, if the owner of the nonconforming structure shall neglect or refuse to comply with such order for 10 days after notice thereof, the Zoning Enforcement Officer may proceed to have the object so lowered, removed, or reconstructed, or equipped and assess the cost and expense thereof upon the object or the land whereon it is located. Unless an assessment is paid within 90 days from the service of notice thereof on the agent or owner of the object or land, the sum shall bear interest at the rate of 10% per annum until paid, and shall be collected in the same manner as are general taxes.

F. *Variances for airport hazards*: Any person desiring to erect any structure, or increase the height of any structure, or otherwise use his property, in violation of the height restriction may apply to the Zoning Board of Review for a variance from the limitation. Variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations of Chapter 3 of Title 1 of the Rhode Island General Laws.

G. *Standards for approval*: In granting any permit or variance, the reviewing board or agency may, if it deems the action advisable and reasonable in circumstance, condition the permit or variance to require the owner of the structure or tree in question to permit the Town, at the property owners expense, to install, operate, and maintain suitable obstruction markers and obstruction lights thereon.

§260-45: Area of Planning Concern Overlay District (APC)

A. Purpose**:** The purpose of this section is to create an overlay district in which additional review guidelines shall be considered. Based on the Comprehensive Plan – Land Use element, the areas designated within this overlay district may have a greater impact on the community as a whole or the immediate surrounding neighborhoods if left to private development or redevelopment. New construction, substantial alteration, or a change in use within the Area of Planning Concern Overlay District shall be subject to a review by the Area of Planning Concern Review Committee. "Substantial alteration" is defined as an enlargement by 50% or more.

B. Overlay District: The Area of Planning Concern Overlay District (APC) is hereby established and construed as an overlay district. Within the APC all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide alternative to such requirements.

C. The Area of Planning Concern Review Committee shall consist of seven members: the Planning Board Chairman; a Planning Board member, other than the Chairman, appointed by a vote of the Planning Board; the Town Council President, or the President's designee; the Zoning Enforcement Officer; the Town Engineer; the Town Administrator, or designee; and the Town Planner.

D. The Area of Planning Concern Review Committee shall have the authority to recommend site-specific guidelines to the permitting authority reviewing the proposed project. The APC recommendations shall be incorporated as conditions of approval. These guidelines shall ensure new construction, substantial alteration, or change in use is developed in a manner consistent with the Comprehensive Plan. These guidelines shall be specific and objective. These guidelines are part of this chapter and are embodied in Subsection H of this section. These guidelines shall be adopted in a manner consistent with Article XVII.

E. A decision of the Area of Planning Concern Review Committee shall be appealable to the Zoning Board of Review in a manner consistent with Article XVI.

F. The Area of Planning Concern Committee shall adopt regulations governing the procedural conduct of the Committee's meetings. The presence of five members shall be required for a quorum. Meetings are not required to be set at regular intervals. Notice of a meeting shall be made at least 14 days prior to the date of the meeting. The applicant shall bear all costs of notification. At a minimum, such notification shall consist of a newspaper advertisement and letters to property owners located within 200 feet of the proposed project. Meetings shall be open to the public and the Committee may hear testimony and opinion from the applicant and members of the public.

G. Applicants to the Committee shall provide nine copies of site plans and other materials or forms that may be reasonably required by the Committee.

H. *Guidelines:* The guidelines for the Area of Planning Concern districts are as follows:

(1) Lincoln Mall Area (Assessor's Plat 31; Lots 36, 38, 39, 40, 41, 42, 44, 45, 164, 165, 166, 167, 169, 197. Assessor's Plat 41; Lots 1, 7, 9, 10, 11, 12, 18A, 19, 51, 54, 57, 60, 61, 63, 67, 71, 72, 73, 74): This area includes both the mall and the land surrounding it to the east and west. Given its proximity to the highway, this area should attract creative proposals that will integrate the mall with adjoining land uses. Development standards for this area are described below:

a. The current use of the Lincoln Mall site should be continued and encouraged.
b. Proposed developments shall strive to continue and enhance the overall design theme of the district. Consideration shall be given to building architecture, landscape elements, and sign design.
c. Proposed developments shall strive to preserve an adequate amount of undeveloped or properly landscaped areas within the project. A landscape design plan for the project is encouraged.
d. The portion of Albion Road lying to the north and east of the mall should be encouraged to contain uses that will be compatible with the mall and will be advantageous for the mall to allow direct access via the mall's current easterly entrance drive.
e. Proposed developments abutting the Albion Road neighborhood shall strive to protect the existing residential neighborhood.
f. Proposed developments shall strive to reduce erosion and sediments by the retention of existing vegetation and the minimization of development on steep slopes. Use of new innovative engineering methods are encouraged.
g. Proposed developments should not increase the traffic impact on nearby areas. Designs to reduce the negative impacts of existing or proposed traffic are encouraged.
h. Proposed developments shall not increase the light impact on nearby areas.

(2) Lincoln Park: Assessor's Plat 42; Lots 24, 25, 28, 29, 30, 41, 47, 48, 49, 50.

a. Reuse of this site in some form may be possible and the town should consider the best long-term potential use. It must be stated that to conform to the intent of the 1994 voter referendum in which the voters overwhelmingly approved that there should be no expansion of gambling without voter approval, see *§133-1 and §133-2* of the Lincoln Code.
b. Buffering of the surrounding land uses should be of primary consideration.
c. Proposed development shall not increase the traffic impact on nearby neighborhoods. Any significant traffic impacts caused by an enlargement, expansion, or reuse of Lincoln Park should be properly mitigated.
d. Proposed development shall not increase the light impact on nearby neighborhoods.
e. Proposed development shall not increase the noise impact on nearby neighborhoods.

f. Development should be of the most benefit to the Town in terms of taxes and jobs.

§260-46: Rural Flexible Zone (RFZ)

A. Purpose: Rural Flexible Zoning is hereby established to preserve open land, sensitive natural areas, and rural community character that would be lost under conventional development. The intent in establishing this overlay district is to permit a reasonable amount of residential development in the form of smaller, compact neighborhoods of single-family detached homes in an open setting, located and designed to reduce the perceived intensity of development, preserve natural features and farmland, and provide privacy and neighborhood identity.

Specific objectives are as follows:

(1) To preserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands by setting them aside from development.

(2) To preserve scenic views and elements of the Town's rural character, to minimize perceived density by minimizing views of new developments from existing roads and promote alternatives to strip residential development lining roadsides in the town

(3) To provide greater design flexibility and creativity resulting in more economical and efficient location of services and infrastructure by reducing the road length, utility runs, and the amount of paving required for residential development.

(4) To create compact neighborhoods with direct visual access to open land with amenities in the form of neighborhood open space and with a strong neighborhood identity that respects the natural features of the land including wetlands, watercourses, forests, prime agricultural land, steep slopes, plants, wildlife, historic sites scenic areas, and character.

(5) To allow for greater flexibility and creativity in the layout of residential subdivisions.

(6) To implement the goals of the Town's Comprehensive Plan and Open Space/Recreation Plan (SCORP).

(7) To reduce erosion and sediments by the retention of existing vegetation and the minimization of development on steep slopes.

(8) To create new woodlands through natural succession and reforestation where appropriate, and to encourage the preservation and improvement of habitat for various forms of wildlife including provision of wildlife corridors connecting open spaces needed by wildlife to ensure their survival.

(9) To preserve areas of the Town with productive agricultural soils for continued or future agricultural use where allowed by zoning by preserving blocks of land large enough to allow for efficient farm operations.

(10) To provide for the preservation and maintenance of open space within the Town to achieve the above-mentioned goals and those goals as outlined in the Comprehensive Plan of the Town and for active or passive recreational use by residents.

B. Overlay District: The Rural Flexible Zone District (RFZD) is hereby established and construed as an overlay district. Within the RFZD all regulations of the underlying

district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide alternative to such requirements.

C. Permitted uses and dimensions: The following uses and dimensions shall not be exceeded in any rural flexible zoning overlay district:

(1) Only single-family dwellings are permitted in RFZ Districts.

(2) The number of dwelling units per land area in a RFZ District shall not exceed one hundred and ten percent (110%) of the number per land area allowed in the underlying zone.

(3) In a RFZ District, a smaller lot area may be granted in exchange for a dedication of open space.

a. Individual lot areas may be as small as the minimum lot sizes shown in Table 1, provided that the average lot size for all lots created, including any land reserved as open space, shall be no smaller than the required average lot, shown in Table 1.

b. The total number of building lots which can be created from any parcel under the Town of Lincoln Subdivision Regulations and zoning shall be determined by dividing the net developable area by the required average lot size shown in Table 1.

(4) A minimum of forty percent (40%) of the land in a RFZ District is required to be dedicated to open space unless the Planning Board approves a lesser amount.

(5) Each lot shall have adequate access on a public way or a common driveway which meets the standards of this section.

(6) To the extent feasible, all buildings shall be located out of view from any road, and protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public road shall have the frontage normally required in the zoning district

(7) All lots within a RFZ development shall meet the front, rear and side yard requirements specifies in Table 1.

(8) Each structure shall be integrated into the existing landscape of the property so as to minimize its visual impact through use of vegetative and structural screening, landscaping, grading and placement on or into the surface of the lot.

(9) Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archaeological sites, farmland wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.

(10) A minimum of forty percent (40%) of the total development parcel must be permanently protected as common open space. At least seventy percent (70%) of the common open space shall be retained in contiguous areas, unless the Planning Board approves a lesser amount. Watercourses, lakes, ponds, wetlands and slopes over 25% may not be included in common open space calculations.

(11) The Planning Board may permit up to three percent (3%) of the open space area to be paved or built upon for structures accessory to the dedicated use of open space including, pedestrian walks, bicycle paths, playgrounds, farm related structures.

(12) All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for conservation, forestry or agricultural uses which preserve the land in essentially its natural condition.

(13) The land shall be owned by a homeowner's association, and a permanent conservation easement of deed restriction must be conveyed to the Town or, with

Town approval, to a non-profit trust of conservation organization whose principal purpose is to conserve farmland or open space.

(14) A non-profit homeowner's association shall be established, requiring membership of each lot owner in the RFZ development. The association shall be responsible for the perpetual maintenance of all common lands, common open space, recreational and thoroughfare facilities. A homeowner's association agreement or covenant shall be submitted with the final subdivision application guaranteeing continuing maintenance of such common utilities, land facilities, and assessing each lot a share of maintenance expenses. Such an agreement is subject to the review and approval of the Planning Board and shall be recorded in the Town of Lincoln's Land Evidence Records. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in a reasonable order and condition in accordance with the agreement, the town may after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development. The assessment shall become a lien on each and every unit and the amount of such lien shall be included on the real estate tax bill.

(15) Applicants for RFZ development projects shall follow all procedures specified in the Town of Lincoln's Land Development and Subdivision regulations.

C. Promulgation of regulations: The Planning Board shall be empowered to promulgate regulations and guidelines to further the implementation of, and promotion of, sensitive construction within this overlay zone. The Planning Board shall review proposals for rural flexible development subject to the provisions of this chapter and the regulations promulgated under this section.

Table 1: Dimensional and Density Requirements for RFZ Development

Zone	Min. Lot Area for Standard Sub-Division (sq. ft)	RFZ Min. Lot Area (sq. ft)	RFZ Average. Lot Area (sq. ft)	RFZ Min. Common Open Space (percent)	Min Frontage for Standard Sub-division (ft.)	RFZ Min. Frontage for Individual lots (ft.)	RFZ Min. Front Setback	RFZ Min. Rear Setback	RFZ Min. Side Setback	RFZ Min. Distance Between buildings	RFZ Max. Imperv. Surface Coverage Buildable Land (percent
RA-40	40,000	12,000	40,000	40	150	50	25	30	15	30	25
RS-20	20,000	8,000	20,000	40	120	50	20	20	10	20	25

§260-47: Watershed and Wellhead Protection Overlay District (WWPOD)

A. Purpose: The Watershed and Wellhead Protection Overlay District is hereby established to preserve surface and sub-surface water resources through the use of commonly accepted best management practices during and after development.

B. Overlay District: The Watershed and Wellhead Protection Overlay District (WWPOD) is hereby established and construed as an overlay district. Within the WWPOD all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide alternative to such requirements.

C. Activities Subject to Review: All new construction and substantial alteration to structures within this overlay district shall be subject to an additional review by the Lincoln Water Commission.

D. This review shall include the following factors:
(1) Minimizing the flow of runoff into the water supply;
(2) Removing or prohibition of any potentially polluting uses;
(3) Incorporation of commonly accepted best management practices during and after development.

§260-48: Flood Hazard Overlay District (FHOD)

A. Purpose: The purpose of this overlay district is to minimize hazards to persons and property from inland flooding, to protect water courses from encroachment and to maintain the capacity of floodplains to retain and carry off floodwaters. For the purpose of this section, "other development" is defined as any action which constitutes a use of land or structure, exclusive of actions, which require the issuance of a building permit under the Building Code. Such development shall include, but not necessarily be limited to the following:
(1) Earth, gravel, and mineral removal or extraction;
(2) Alteration of the topography by cutting, filling or grading;
(3) The storage of bulk materials outside of a structure;
(4) Construction or placement of facilities not normally requiring a building permit such as sheds, tanks, paved areas and similar facilities.

B. Overlay District: The Flood Hazard Overlay District (FHOD) is hereby established and construed as an overlay district. The FHOD applies to any construction or other development which lies wholly or partly within Special Flood Hazard Zones A, A1 - A30 as identified on the Town Flood Insurance Rate Maps (FIRM), and the National Flood Insurance Program and the Federal Emergency Management Agency on the "Floodway - Flood Boundary and Floodway Map of the Town of Lincoln, Rhode Island, Panel 4 of 9, Community-Panel Number 445400 0004, Map Revised: August 2, 1982," on file with the Town Clerk, Town Engineer, and Building Inspector. These maps as well as the accompanying Federal Emergency Management Agency - Flood Insurance Study, Town of Lincoln, Rhode Island, Providence County – February 2, 1982 are incorporated herein by reference. Within the FHOD all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide alternative to such requirements.

C Regulations: In addition to applicable requirements of the Building Code, the Town of Lincoln's Land Development and Subdivision regulations, and this chapter, the following requirements shall apply to any construction or other development when located wholly or partly within Zones A, A1 - A30:
(1) Except where covered by a building permit issued under the authority of the Building Code, any proposed construction or other development shall require the issuance of a development permit by the Building Inspector.
(2) Prior to the issuance of a development permit, the applicant shall submit evidence that all necessary permits and approvals from all government agencies

from which approval is required by federal, state, or local law have been obtained.

(3) The applicant shall provide data showing the minimum and maximum elevation above sea level of the lot or site.

(4) No flood area may be altered or relocated nor shall any other encroachment be permitted in a manner which will, in the opinion of the Building Inspector, result in any decrease in flood-carrying capacity. Where any alteration or relocation is authorized, notification shall be made to the Rhode Island Department of Environmental Management and the office of the Federal Insurance Administration and adjacent communities.

(5) The filling of land may be permitted in Zone A only under the following conditions:

(a) Said filling shall not encroach upon a flood-prone area as prescribed in Subsection C (4) above.

(b) Where it is determined that filling will raise the flood level, said filling shall be offset by removal of an equivalent amount of material.

(6) Adequate drainage shall be provided for any construction or other development so as to reduce the exposure of the lot or site or any other land areas to flood hazards.

(7) No outdoor storage of bulk materials or equipment shall be permitted in Zones A, A1 - A30 which is likely to cause damage to property, obstruction of floodwaters, create a potential fire hazard or pollute the waters during flood periods. Such material or equipment shall include but not be limited to lumber or other floatable materials, water-soluble materials, volatile or flammable materials, acids or poisons.

(8) Provisions shall be made for anchoring facilities, equipment and yard features which are capable of flotation or movement in floodwaters. Such items shall include but not necessarily be limited to: fences, planters, sheds, animal shelters, tanks, storage boxes, vehicles, boats and other items normally positioned or stored on a lot or site outside of a structure.

(9) In A, A1 - A30 Zones, for new or substantially improved mobile home parks:
(a) Stands or lots shall be elevated so that the lowest floor of the mobile home is at or above flood elevation.
(b) Adequate drainage and access for a hauler shall be provided.
(c) If pilings are used for elevation, construction standards for pilings shall be met.

D. Floodways adopted: Floodways are those portions of the special flood hazard area which must be preserved in order to discharge the one-hundred-year flood without cumulatively increasing the water surface elevation more than one foot at any point. The floodway areas designated by the National Flood Insurance Program and the Federal Emergency Management Agency on the "Floodway - Flood Boundary and Floodway Map of the Town of Lincoln, Rhode Island, Panel 4 of 9, Community-Panel Number 445400 0004, Map Revised: August 2, 1982," are hereby adopted as the official regulatory floodway encroachment areas for this subsection. In the Floodway, as designated on the Flood Boundary and Floodway Map, the following provisions shall apply:

(1) All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in an increase in flood levels during the occurrence of the one-hundred year flood.

(2) The placement of mobile homes, except in an existing mobile home park or mobile home subdivisions, are prohibited in the floodway.

§260-49: Mill Conversion Overlay District (MCOD)

A. Purpose**:** The purpose of this section is to create an overlay district: 1. to allow for conversion of Lincoln's historic mills while preserving the character of nearby residential and commercial neighborhoods; 2. to encourage the preservation, re-use, and renovation of historic mill properties; and 3. to promote diversified housing opportunities and uses such as commercial, retail or office use, or a combination of such uses.

B. Overlay District: The Mill Conversion Overlay District (MCOD) is hereby established and construed as an overlay district. Within the MCOD all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide alternative to such requirements.

C. Location: The MCOD shall consist exclusively of the following properties:

Sayles Finishing Plant Assessor's Plat 2 Lots 17, 74, 77, 81, 82, 84, 86, 87, 88, 88A, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 105, 107, 109, 113, 115

Lonsdale Bleachery Complex – Assessor's Plat 5 Lots 1, 55, 56, 58, 60, 61, 62, 63, 64, 65, 67, 69, 70, 71, 72, 74, 75, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 92, 93, 95, 96, 98, 99, and Assessor's Plat 12 Lot 210

Cotton Warehouse - Assessor's Plat 35 Lots 176 and 193

D. Special Permit Required: Within the MCOD a Mill Conversion Project (MCP) may be constructed upon the issuance of a special use permit by the Zoning Board. No other use or structures shall be permitted in conjunction with an MCP, except as specifically provided herein. A proposed MCP must encompass the entire building and /or complex. The application must describe all proposed uses and existing uses to remain within the project.

E. Special Permit Granting Authority: The Zoning Board shall serve as the special use permit granting authority pursuant to this section. The MCOD special use permit may be combined with other requested special use permits for the proposed project. An application for a special use permit shall be governed by the following rules.

F. Application: An application for a special use permit shall be submitted to the Zoning Board on forms furnished by the Zoning Enforcement Officer in accordance with its regulations. In addition, the applicants shall submit:

1. *Plans*: The following plans:

(a) A site plan and all supporting documents as set forth in the application;

(b) A plan at an appropriate scale showing the topography of the site at a minimum of two foot intervals, as well as vegetation and special features, including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more than 8" caliper, rock outcroppings, slopes in excess of 15%, existing and proposed trails and paths, open vistas, structures of historical importance and biological or wildlife habitats, and proposed conservation and recreation easement areas;

(c) A plan illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, and typical elevations, as well as general height, bulk and appearance of structures. Perspective drawings may be subsequently required by the Zoning Board.
(d) A floor plan to scale for each floor of each building indicating, if applicable:
1. Number of units
2. Number of bedrooms
3. Proposed use of the floor space
4. Location of affordable dwelling units
(e) A plan describing the care, custody, and control of all dams and water rights, if applicable to the site.

2. Narrative Reports: The following narrative reports or data is required:
(a) A proposed development schedule showing the beginning of construction, the rate of construction and development, including construction phases if applicable, and the estimated date of completion;
(b) A development impact statement prepared by a qualified professional detailing the impact of the development, at all phases including construction and operation, on:
1. The Town's capacity to furnish public services, including but not limited to, roads, police, fire, emergency services, schools, sewer, and water;
2. Vehicular and pedestrian traffic, water and air quality, noise and light pollution and other environmental concerns;
(c) Information pertaining to any organization which the Applicant proposes to form whether the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval as to form by the Town Solicitor;
(d) Copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Solicitor,
(e) A concise narrative prepared by a preservation consultant including any and all historical information to be submitted to the Zoning Board. This narrative will include:
1. Architectural history of all structures on site, including period, style, method of building construction, and association with any particular architect or builder.
2. Any important association with one or more historic persons or events.
3. Any cultural, political, economic, or social history of the site or any of its structures to the Town, State of Rhode Island, or the United States of America.
(f) Evidence that the proposed MCP is consistent with the applicable standards of the National Park Service and/or the Rhode Island State Historical Society.
(g) Any and all other information that the Zoning Board may reasonably require in a form acceptable to it to assist in determining whether the Applicant's proposed development meets the objectives of this Section.

3. Additional Information: The applicant is strongly encouraged to meet with the Zoning Enforcement Officer before submitting the proposed MCP. The Zoning

Enforcement Officer may require additional supporting documentation and/or plans based on the nature and complexity of the proposed MCP.

G. Fees: The applicant shall pay an administrative fee pursuant to the rules of the Zoning Board.

H. Waiver: The Zoning Board may waive the submittal of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Zoning Board's decision pursuant to this section.

I. Standards: In order to be eligible for consideration for a special use permit pursuant to this Section, the proposed development shall meet all of the following standards:

(1) *Buffer*: A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied residential properties, except for driveways necessary for access and egress to and from the MCP, provided, however, that existing structures and existing access roadways are exempt from the requirements set forth herein. However, existing structures and parking areas shall not be made more non-conforming except for American's with Disability Act (ADA) compliance. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Zoning Board may waive the buffer requirement when the Zoning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein,

(2) *Removal and Replacement of Vegetation*: Within the site, no clear cutting shall be permitted, except as authorized by special permit and incidental to construction of buildings, roads, trails, and parking areas. The Zoning Board may require suitable landscaping or replacement of vegetation.

(3) *Roadways*: The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by the owner of the roadway.

(4) *Number of Parking Spaces*: The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of Article V or other applicable provisions herein. The Zoning Board may increase the required parking by up to 10% to serve the needs of residents, employees, visitors and service vehicles. **The Zoning Board may reduce the otherwise required number of parking spaces where the applicant demonstrates that an adequate number of spaces will be provided.**

(5) *Commercial Vehicles*: Commercial vehicles owned or operated by owners or tenants of the MCP, or their agents, servants, licensees, suppliers and invitees shall be parked inside a garage or suitably screened and designated area, except for delivery or service vehicles in the active service of receiving or delivering goods or services.

(6) *Parking Areas*: All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways. All parking areas shall conform to Article V of this ordinance. Parking lots shall be located to the rear or side of all buildings and shall not be located in front setbacks or in buffer areas; provided, however, that the Zoning Board may waive these provisions for existing parking lots and/or existing buildings. Parking lot layouts shall be planned to permit landscaped buffers, or

screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional fencing, hedges, walls or landscape berms to define parking areas is encouraged.

(7) *Paving*: Paving should be textured or of different materials at pedestrian crossings and walkways is encouraged. The use of stone, brick, or cultured stone pavers for entrance walkways is encouraged. The use of textured materials for walkway borders is encouraged.

(8) *Paths*: The Zoning Board may require paths, which shall be attractively designed with regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways or sidewalks on adjacent sites.

(9) *Loading*: Loading areas may be required by the Zoning Board where deemed necessary for the efficient operation of the MCP. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.

(10) *Stormwater Management*: The stormwater management system(s) shall be designed in accordance with the Town of Lincoln's Land Development and Subdivision Regulations, as amended.

(11) *Utilities*: All electric, gas, telecommunications, water distribution lines, and sewer lines shall be placed underground, except upon a demonstration of exceptional circumstances. The facility shall be served by the municipal water and sewerage systems.

(12) *Emergency Systems*: The MCP shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the local Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

(13) *Lighting*: Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources.

(14) *Signage Plan:* The applicant shall provide a signage plan for the proposed MCP. This signage plan must conform to Article VI of this ordinance.

J. Number of Dwelling Units: The maximum number of dwelling units shall be established by the Zoning Board after reviewing the following criteria.

(1) Existing Structures;
(2) Trip Generation, traffic safety, and internal site traffic;
(3) Character of the proposed MCP and its relation to the surrounding neighborhood(s);
(4) Character of the existing buildings and the potential for re-use thereof;
(5) Number of affordable units, beyond the minimum required, proposed by the applicant;
(6) Development impact statement; and
(7) Reports and recommendations of all other reviewing boards.

K. Number of Bedrooms: The Zoning Board shall ensure the diversification of dwelling units within an MCP by establishing the number of dwelling units with one, two, or three bedrooms, but not more than 10% of the units shall be three bedrooms.

L. Expansion of Existing Buildings: Existing buildings within an MCOD may be expanded, provided that such expansion:
   (1) Is consistent with the existing building's historic character and scale; and
   (2) Does not cause substantial detriment after considering the factors set forth in Section 260-49F.

M. New Buildings: Within the MCP, new buildings may be constructed in accordance with the following requirements:
   (1) The number, type, scale, architectural style, and uses within such new building shall be subject to Zoning Board approval.

N. Affordable Dwelling Units: As a condition of granting a special use permit for a MCP, a minimum of twenty (20) percent of the total number of dwelling units shall be required and restricted as affordable dwelling units for a period not less than thirty (30) years.
   (1) The thirty-year restriction shall be approved as to form and substance by legal counsel to the Zoning Board. Following the thirty-year affordability period, a right of first refusal upon the transfer of such restricted units shall be granted to the Lincoln Housing Authority for a period of not less than 120 days after notice thereof;
   (2) Affordable dwelling units shall be integrated into the overall development of an MCP so as to prevent the physical segregation of such units;
   (3) The Applicant shall be encouraged to seek designation as affordable dwelling units which qualify as part of the affordable housing inventory as approved and compiled by Rhode Island Housing and Mortgage Finance Corporation. The Zoning Board may require that the Applicant affirmatively take steps to utilize the Lincoln Housing Authority, a public agency, a non-profit agency, limited dividend organization, or other appropriate entity, so as to timely furnish all forms and information necessary to have those units referenced in said paragraphs designated as affordable dwelling units, qualifying as part of the affordable housing inventory. The Zoning Board may require submission of application, forms, and appropriate information to Rhode Island Housing and Mortgage Finance Corporation as a condition of approval.

O. Review by Other Boards and Commissions: The Zoning Board may require the MCP to be review by other Town boards and commissions based on the nature and complexity of the proposed MCP.

P. Action by the Zoning Board: The Zoning Board after considering reports from other Boards and/or Commissions may grant a special use permit for a MCP where it makes the following findings:
   (1) The proposed MCP constitutes an appropriate renovation as defined above; and
   (2) The proposed MCP does not cause substantial detriment to the surrounding neighborhood after considering;
      a. Noise, during the construction and operational phases;
      b. Pedestrian and vehicular traffic;
      c. Environmental harm;
      d. Visual impact caused by the character and scale of the proposed structure(s); and
      e. For the consequences that may be set forth in the Development Impact Statement for the MCP.

Article IX Nonconformance

§260-50: Definitions

As used in this article, the following terms shall have the meanings indicated:
NONCONFORMANCE: A building, structure (including a sign), or parcel of land, or use thereof, which was lawfully in existence at the time of adoption or amendment of this chapter, and not in conformity with the provisions of this chapter or amendment.

§260-51: Lawfully existing or established buildings, structures and uses

A building, structure or use of land was lawfully established if it was in existence prior to the effective date of this chapter, or was established in conformance with the Zoning Ordinance in effect at the time the use was first established. A lot was lawfully established if it was of record or shown on a recorded plat prior to the effective date of this chapter. All other lots that were not lawfully established are not protected by this section. For the purposes of this chapter, the creation and/or the use of a parcel of land for a particular use which was legal at the time the parcel of land was created and/or so used shall not serve to create the lawful establishment or lawful existence of any use that was not legal at the time of creation and/or use of the land, regardless of subsequent changes in allowable legal use.

§260-52: Most restrictive regulations to apply

A building, structure or parcel of land nonconforming by more than one factor, such as by use, dimension, area or parking, shall comply with all regulations of this article. Where the regulations conflict, the most restrictive regulations shall apply.

§260-53: Existence by variance or special use permit

A nonconforming building, structure, or parcel of land or the use thereof, which exists by virtue of a variance or a special use permit (or special exception) granted by the Board, shall not be considered a nonconformance for the purposes of this article, and shall not acquire the rights of this article. Rather, such building, structure, sign, parcel of land, or use thereof shall be considered a use by variance or a use by special use permit and any moving, addition, enlargement, expansion, intensification or change of such building, structure, sign, parcel of land or use thereof to any use other than a permitted use or other than in complete conformance with this chapter shall require a further variance or special use permit from the Zoning Board of Review.

§260-54: Building or structure nonconforming by use

A. Definition. A lawfully established use of land, building, or structure, which is not a permitted use in the zoning district in which it is located, as set forth in Article III, is nonconforming by use.

B. Purpose. Nonconforming uses are incompatible with and detrimental to permitted uses in the zoning districts in which they are located. Nonconforming uses cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing nonconforming uses shall not justify further departures from this chapter for themselves and other properties.

C. Treatment in residential zones. Nonconforming uses in residential zones are to be treated in stricter fashion than nonconforming uses located in nonresidential zones. Due to the disruption which nonconforming uses cause to the peace and tranquility of a residential zone, nonconforming uses therein should be eventually abolished or reduced to total conformity over time.

D. Continuance of use. Nothing in this chapter shall prevent or be construed to prevent the continuance of a nonconforming use of any building or structure for any purpose to which such building or structure was lawfully established.

E. Maintenance and repair. A building or structure containing a nonconforming use may be maintained and repaired except as otherwise provided in this article.

F. Moving. A building or structure containing a nonconforming use shall not be moved in whole or in part either on or off the lot on which it is located unless the use contained within such building or structure is made to conform to the use regulations of the zone in which it is located.

G. Enlargement or addition. A building or structure containing a nonconforming use shall not be added to or enlarged in any manner, including any addition or enlargement in floor area or volume, unless the use contained within such building or structure, including such addition or enlargement, is made to conform to the use regulations of the zone in which it is located.

H. Expansion. A nonconforming use of a building or structure shall not be expanded into any other portion of the building or structure which contains a conforming use or which is unoccupied or unused.

I. Intensification.

(1) A nonconforming use of a building, structure or land shall not be intensified in any manner. Intensification shall include, but not be limited to, increasing hours of operation, increasing the number of dwelling units, increasing the seating capacity of a place of assembly, or increasing the size of the parking area. However, this section shall not prohibit the reconfiguration of existing dwelling units within a building or structure so long as such reconfiguration complies with the requirements of Subsection I(2) below.

(2) A conforming use within a building or structure which is nonconforming by dimension may be intensified, provided that such intensification is in conformance with the use and lot area per dwelling unit regulations, if applicable, for the zone in which it is located.

J. Change of use.

(1) Within any residential zone, a nonconforming use shall only be changed to a permitted use. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use.

(2) Within any business or manufacturing zone, a nonconforming use may be changed to a permitted use, or may be changed to a different nonconforming use by special use permit in accordance with Article IX. A nonconforming use, if changed to a permitted use, may not be changed back to a nonconforming use. A change in ownership is not a change in use.

K. Abandonment. If a nonconforming use is abandoned, it may not be reestablished. Abandonment of a nonconforming use shall consist of some overt act, or failure to act for duration of one (1) year, which could reasonably lead one to believe that the owner of the nonconforming use neither claims nor retains any interest in continuing the nonconforming use unless the owner can demonstrate intent not to abandon the use. An involuntary interruption of nonconforming use, such as by fire and natural catastrophe, does not establish the intent to abandon the nonconforming use. However, if any nonconforming use is halted for a period of one year or more, the owner of the nonconforming use will be presumed to have abandoned the nonconforming use, unless that presumption is rebutted by the presentation of sufficient evidence of intent not to abandon the use.

§260-55: Building or structure nonconforming by dimension

A. Definition. A lawfully established building, structure or parcel of land not in compliance with the dimensional regulations of this chapter is nonconforming by dimension. Dimensional regulations include all regulations of this chapter, other than those pertaining to the permitted use. A lawfully established building, structure or parcel of land, or use thereof, not in compliance with the parking regulations of this chapter as set forth in Article V is also nonconforming by dimension. A lawfully existing or lawfully established lot that is not in compliance with the dimensional regulations of this chapter, including, but not limited to those regulations for minimum lot size, lot width and lot frontage, (also know as a substandard lot of record) is also nonconforming by dimension.

B. Purpose. Buildings or structures that are nonconforming by dimension are likely to cause overcrowding and congestion in the neighborhoods, contribute to unhealthy conditions, and are contrary to the purposes of this chapter. Buildings or structures that are nonconforming by dimension cause disruption of the comprehensive land use pattern of the Town, inhibit present and future development of nearby properties, and confer upon their owners a position of unfair advantage. It is intended that existing buildings or structures that are nonconforming by dimension shall not justify further departures from this chapter for themselves or for any other property.

C. Continuance. Nothing in this chapter shall prevent or be construed to prevent the continuance of the use of any building or structure nonconforming by dimension for any purpose to which such building or structure are lawfully established.

D. Maintenance and repair. A building or structure nonconforming by dimension may be maintained or repaired except as otherwise provided in this section.

E. Moving. A building or structure nonconforming by dimension shall not be moved in whole or in part to any other location on the lot in which it is located unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located.

F. Addition and enlargement. A building or structure nonconforming by dimension shall not be added to or enlarged in any manner, unless such addition or enlargement conforms to all of the dimensional regulations of the zone in which the building or structure is located. Such addition or enlargement may be permitted by dimensional variance. See Article X.

G. Expansion. A conforming use within a building or structure which is nonconforming by dimension (other than by lot area per dwelling unit) may be expanded into any other portion of the building or structure which is unoccupied or unused.

H. Intensification. A conforming use within a building or structure which is nonconforming by dimension may be intensified, provided that such intensification is in conformance with the use and lot area per dwelling unit regulations, if applicable, for the zone in which it is located.

I. Change in use. A conforming use within a building or structure nonconforming by dimension may be changed to any other conforming use.

J. Demolition. A building or structure nonconforming by dimension, if voluntarily demolished, shall not be reconstructed, unless it conforms to the dimensional regulations of the zone in which it is located. Such voluntary demolition shall be considered an abandonment of the use as set forth in § 260-54K. If such building or structure is involuntarily demolished, destroyed, or damaged, it may be repaired or rebuilt to the same size and dimension as previously existed.

§260-56: Land nonconforming by use

A. Continuance. The lawfully established nonconforming use of land, where no building is involved, may be continued, provided that no such nonconforming use of land shall in any way be expanded or intensified either on the same or adjoining property.

B. Change of use. The nonconforming use of land shall not be changed to a different use, unless such use conforms to the regulations of the zone in which it is located.

§260-57: Land nonconforming by area

A. Creation of substandard lots. No lot areas shall be reduced so that the total lot area, setbacks, or lot width shall be less than the minimum dimensional requirements of Article IV.

B. Enlargement of undersized lots. Lawfully established lots which have less than the minimum area requirements, may be maintained and may be changed by adding additional land to such lots without prejudice to the rights of the owner of such lots pursuant to the provisions of this section.

C. Dimensional requirements. The side and rear setback requirements for a structure may be reduced and the building coverage requirements for a structure may be increased for a substandard lot of record in the proportion that the area of such substandard lot is reduced from the minimum area requirements of the zone in which the lot is located. The necessary computations and determination of the required building side and rear setbacks for each substandard lot would be made by the Zoning Enforcement Officer at the time of application for a building permit.

§260-58: Nonconforming by dwelling units

A building or structure containing more dwelling units than are permitted by the use regulation of this chapter shall be nonconforming by use. A building or structure containing a permitted number of units by the use regulations of this chapter, but not meeting the lot area per dwelling

unit regulation, or not meeting the dimensional regulations per dwelling unit shall be nonconforming by dimension.

§260-59: Buildings and structures nonconforming by parking

A building or structure is considered nonconforming by parking if the lawfully established use of the building or structure does not meet the parking requirements of Article V. No use shall be expanded, enlarged, or intensified unless additional parking spaces are supplied to meet the requirements of Article V for such expansion, enlargement, or intensification.

Article X Variances
§260-60 Application for relief

An application for relief from the literal requirements of this chapter because of hardship may be made by any person, provided the property owner joins in the filing of the application, by filing with the Zoning Enforcement Officer an application describing the request and supported by such data and evidence as may be required by the Zoning Board of Review. The Zoning Enforcement Officer shall immediately transmit each application received to the Zoning Board of Review and shall transmit a copy of each application to the Planning Board.

§260-61: Notice and hearing

A. The Zoning Board of Review, immediately upon receipt of an application for a variance of the literal terms of the Zoning Ordinance, shall request that the Planning Board and/or staff shall report its findings and recommendations, in the form of development plan review (see Article XIV, § 260-73), including a statement on the general consistency of the application with the goals and purposes of the Comprehensive Plan of the Town, in writing to the Zoning Board of Review within 45 days of receipt of the application from that Board.

B. The Zoning Board of Review shall hold a public hearing on any application for variance in an expeditious manner, after receipt, in proper form, of an application, and shall give public notice thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation in the town. Notice of hearing shall be sent by first-class mail to the applicant, and to at least all those who would require notice under Article XVII and (R.I.G.L. § 45-24-53). The notice shall include the street address of the subject property.

§260-62: Costs

All costs of notification shall be borne by the applicant.

§260-63: Approval

Approval of an application for a variance requires a concurring vote of four of the five members of the Zoning Board of Review. All applications for a variance require development plan review conducted by the Planning Board. This review is advisory to the Zoning Board. (See Article X) (*§*260-61)

§260-64: Standards for approval

In granting a variance, the Zoning Board of Review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings that:

A. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to the physical or economic disability of the applicant, excepting those physical disabilities addressed in the Rhode Island General Laws 44-24-30(16);

B. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;

C. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which this ordinance is based; and

D. The relief to be granted is the least relief necessary.

§260-65: Additional standards for approval

The Zoning Board of Review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

A. Use variance. In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance.

B. Dimensional variance. In granting a dimensional variance, the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted, shall amount to more than a mere inconvenience. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

Article XI Special Use Permits
§260-66: Procedure

A. An application for a special use permit may be made by any person, provided the owner of the subject property must join in the application, by filing with the Zoning Enforcement Officer an application describing the request and supported by such data and evidence as may be required by the Zoning Board of Review.

B. Public notice shall be given thereof at least 14 days prior to the date of the hearing in a newspaper of general circulation in the city or town. Notice of hearing shall be sent by first-class mail to the applicant, and to all those who would require notice under Article XVII. The notice shall include the street address of the subject property.

C. All costs of notification shall be borne by the applicant.

D. Findings of fact and written decisions shall be recorded and retained.

E. The concurring vote of four of five members of the Zoning Board of Review sitting at the hearing shall be required to decide in favor of an applicant for a special use permit.

F. All applications for a special use permit shall be subject to development plan review conducted by the Planning Board. This review shall be advisory to the Zoning Board of Review. (See Article XIV) (§260-73)

G. Appeals of the decision of the Zoning Board of Review may be taken pursuant to R.I.G.L. §45-24-69. (See Article XVI.)

§260-67: Standards for approval

A use requiring a special use permit under the applicable provisions of this ordinance may be permitted by the Zoning Board of Review following a public hearing only if, in the opinion of the Board, such proposed use and its location on the site meets each of the following requirements, in addition to any other applicable requirements, criteria and/or standards enumerated in this ordinance which may be applicable to the relief being sought. When a use is permitted by special use permit, the Zoning Board may grant dimensional relief in conjunction with said special use permit if the special use could not exist without the dimensional variance. The Zoning Board of Review shall consider the special use permit and the dimensional variance together to determine if granting the special use is appropriate based on both the special use criteria and the dimensional variance evidentiary standards below:

A. The special use is specifically authorized by this chapter, and setting forth the exact subsection of this chapter containing the jurisdictional authorization;
B. The special use meets all the criteria set forth in this chapter authorizing such special use;
C. The granting of the special use permit will not alter the general character of the surrounding area; and
D. The granting of the special use permit will not impair the intent or purpose of this ordinance, nor the Comprehensive Plan.

Article XII Special Conditions
§260-68: Applicability to variances, special uses and determinations

In granting a variance, special use permit, or in making any determination upon which it is required to pass after a public hearing under a Zoning Ordinance, the Zoning Board of Review may apply such special conditions that may, in the opinion of the Board, be required to promote the intent and purposes of the Comprehensive Plan and the Zoning Ordinance. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. These special conditions are not meant to change the standard for granting a variance, special use permit or other determination, but are meant to lessen the impact of such a grant. Those special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to provisions for:

A. Minimizing adverse impact of the development upon other land and neighborhoods, including the type, intensity, design, and performance of activities;

B. Controlling the sequence of development, including when it must be commenced and completed;

C. Controlling the duration of use or development and the time within which any temporary structure must be removed;

D. Assuring satisfactory installation and maintenance of required public improvements;

E. Designating the exact location and nature of development; and

F. Establishing detailed records by submission of drawings, maps, plats, or specifications.

Article XIII Vested Rights

§260-69: Completion of application

Any application for development under this chapter, including an application for a building permit, special use permit, variance, or land development project, shall be deemed substantially complete when all required documents, including plans, along with required fees, are received by the official designated to receive such applications. Required documents shall include only those documents specified by this chapter, and/or rules adopted and published by the permitting authority prior to the filing of the application.

§260-70: Time of filing to determine applicable regulations

Any application for development under this chapter that is substantially complete prior to the enactment or amendment of this chapter, shall be reviewed according to the regulations applicable in the Zoning Ordinance in force at the time the application was filed.

§260-71: Time limit

If such application is approved, the applicant must begin construction or exercise the right granted in the application if no construction is involved, not more than one year after the date of the approval. The Zoning Board may, upon written request of the applicant, for good cause shown, extend the decision of the applicant for a period not to exceed six months. The request need not be advertised. All construction must be completed not more than two years after the date of approval, unless otherwise specifically set forth to the contrary in the approval. The granting of an extension also extends the 2 year period in which the construction must be completed.

Article XIV Special Provisions
§260-72: Land development projects

A. The Town recognizes that commercial and industrial construction has the potential for impact on the Town. Therefore, according to the Town of Lincoln's Land Development and Subdivision Regulations, all proposed nonresidential land development projects shall be considered as major land development plans and shall be reviewed by the Planning Board.

B. All new construction or substantial alteration of a commercial or industrial site is required to submit to a development plan review as specified in *§260-73.* "Substantial alteration" is defined as an enlargement by 50% or more. This review shall be conducted by the Area of Planning Concern Committee.

C. The development plan review by the Area of Planning Concern Committee shall be conducted before the Planning Board review. The APC Committee shall review and make their recommendations on the application according to *§260-73(D)*. These recommendations shall be submitted to the Planning Board for consideration during their review. The Planning Board may incorporate the APC recommendations as a condition of approval.

D. A project subject to a development plan review shall supply a total of nine copies of the site plans. The site plans shall include an overall site layout plan, a detailed parking layout, landscape plan, signage plan, and a lighting plan.

§260-73: Development plan review

A. Development plan review of applications for uses requiring a special use permit, a variance, a Zoning Ordinance amendment, and/or a Zoning Map change shall be required. The review shall be conducted by the Planning Board and shall be advisory to the permitting authority.

B. The Zoning Enforcement Officer may also submit an advisory comment to the permitting authority for applications requiring a special use permit, a variance, a Zoning Ordinance amendment, and/or Zoning Map change. The review by the Zoning Enforcement Officer shall be at the Officer's discretion. This comment shall be submitted before or simultaneously with the development plan review by the Planning Board.

C. The applicant shall supply a site plan by a registered RI Land Surveyor or Professional Engineer, drawn to scale showing the accurate dimensions of the lot, all proposed construction, all front, side and rear yard dimensions, proposed parking areas, and other such information as may be reasonably required by the Planning Board.

D. Development plan review shall be limited to:
   (1) Prevention of strip commercial development directly on Lincoln roadsides.
   (2) Protection of historic, architectural, archaeological and other cultural resources.
   (3) Consistency of development with the Comprehensive Plan.
   (4) Reduction of the effects of erosion, stormwater runoff and contaminant runoff.
   (5) Protection of surface water, groundwater, and wetlands.
   (6) Promotion of energy conservation.
   (7) Protection of the overall neighborhood character.

(8) Reduction of negative traffic impacts.
(9) An adequate amount of the property left undeveloped or properly landscaped.

Article XV Administration and Enforcement

§260-74 Zoning Enforcement Officer

A. It shall be the duty of the Zoning Enforcement Officer to enforce the provisions of this chapter.

B. The Zoning Enforcement Officer shall have as minimum qualifications, the same requirements as the Director of Public Works.

C. The Zoning Enforcement Officer shall be responsible for:
   (1) Acting as the Administrative Officer for the Zoning Board of Review;
   (2) Certifying completeness of submitted applications. Applications are not assigned to a hearing date until they have received a Certificate of Completeness.
   (3) Issuing any required permits or certificates;
   (4) Collection of required fees;
   (5) Keeping of records showing the compliance of uses of land;
   (6) Authorizing commencement of uses or development under the provisions of this Zoning Chapter;
   (7) Inspection of suspected violations;
   (8) Issuance of violation notices with required corrective action;
   (9) Collection of fines for violations.

D. In order to provide guidance or clarification, the Zoning Enforcement Officer shall, upon written request, issue a zoning certificate or provide information to the requesting party as to the determination by the official or agency within 20 days of the written request. In the event that no written response is provided within that time, the requesting party shall have the right to appeal to the Zoning Board of Review for the determination. The Zoning Enforcement Officer may charge a reasonable fee.

§260-75: Zoning certificates

A. No building, structure, or sign shall be erected, substantially altered, or relocated and no land shall be placed in use until a certificate authorizing such has been issued by the Zoning Enforcement Officer.

B. No certificate shall be issued for any use not specifically permitted in this chapter, except when the Zoning Enforcement Officer receives a statement, in writing, from the Zoning Board of Review indicating the grant of an appeal, special use permit, or variance; or, a statement, in writing, from the Town Council indicating an amendment to this chapter.

§260-76: Maintenance of Zoning Chapter

A. The Town Clerk shall be the custodian of the Zoning Chapter and Zoning Map or Maps.

B. The Planning Board, its designee and/or staff under the supervision of the Board shall be responsible for the maintenance and update of the text and Zoning Map comprising the Zoning Ordinance. Changes, which impact the Zoning Map, shall be depicted on the map within 90 days of the authorized change(s).

C. The Planning Board shall be responsible for review of the Zoning Chapter at reasonable intervals; and whenever changes are made to the Comprehensive Plan of the Town, for the identification of any changes necessary and for the forwarding of these recommended changes to the Town Council for consideration.

§260-77: Zoning Board of Review

A. Establishment.

(1) The Zoning Board of Review shall consist of five members, each to serve terms of five years. The Zoning Board of Review shall also include two alternates to be designated as the "first" and "second" alternate members, their terms to be one year. These alternate members shall sit and may actively participate in hearings. The first alternate shall vote if a member of the Board is unable to serve at a hearing and the second alternate shall vote if two members of the Board or the first alternate member are unable to serve at a hearing. In the absence of the first alternate member, the second alternate member shall serve in the position of the first alternate. No member or alternate may vote on any matter before the Board unless they have attended all hearings concerning that matter. Refer to §C15-5 (Zoning Board of Review) of the Town Charter and §260-78.

(2) All members shall be appointed by the Town Council. The membership term shall begin on August 1. If a vacancy occurs, the Town Council shall appoint a new member for the length of the unexpired term.

(3) The current members of the Zoning Board of Review may serve the rest of their term. However, in reappointing members, their terms shall be limited so that one appointment expires each year. This may result in an appointment for less than five years, during the first five years after the effective date of this chapter.

(4) All members of the Zoning Board of Review shall be residents of Lincoln and no member shall be an elected official or an employee of the Town.

(5) On the first meeting in August, the Zoning Board of Review shall organize by electing from its membership a Chairman, Vice Chairman and Secretary.

(6) The Chairperson, or in his absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses by the issuance of subpoenas.

B. Procedures.

(1) Meetings shall be held at the call of the Chairman and at such other times as the Zoning Board of Review may determine.

(2) All hearings of the Zoning Board of Review shall be open to the public.

(3) The Secretary shall be responsible for keeping the minutes of the proceedings and actions, precisely showing the vote of each member upon each question. The minutes shall be filed immediately in the office of Zoning Board of Review and the Town Clerk's office, and shall be a public record.

C. Powers and duties.

(1) The Zoning Board of Review shall have the following powers and duties:

(a) To hear and decide appeals in a timely fashion where it is alleged there is error in any order, requirement, decision, or determination made by an administrative officer or agency in the enforcement or interpretation of this chapter.

(b) To authorize, upon application, in specific cases of hardship, variances in the application of the terms of this Zoning Chapter.

(c) To authorize, upon application, in specific cases, special use permits.

(d) To refer matters to the Planning Board, or to other boards or agencies of the Town as the Zoning Board of Review may deem appropriate, for findings and recommendations.

(e) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved except that one or

more state or federal agency approvals shall be revoked in the instance where and necessary state or federal agency approvals are not received within a specified time period.

(f) To sit as the Planning Board of Appeal, hearing appeals of decisions of the Planning Board on matters of review and approval of land development and subdivision projects.

(g) To hear and decide other matters, according to the terms of this chapter or other statutes, and upon which the Board may be authorized to pass under this chapter or other statutes.

(2) The Zoning Board of Review is required to vote as follows:

(a) Five active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall rescue himself or herself, shall not sit as an active member, and take no part in the conduct of the hearing. Only five active members shall be entitled to vote on any issue;

(b) The concurring vote of three of the five members of the Zoning Board of Review sitting at a hearing shall be necessary to reverse any order, requirement, decision, or determination of any zoning administrative officer from whom an appeal was taken; and

(c) The concurring vote of four of the five members of the Zoning Board of Review sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the Board, upon which it is required to pass under this chapter, including variances and special use permits.

§260-78: Planning Board of Appeal

A. The Zoning Board of Review shall sit as the Planning Board of Appeal, to hear an appeal by an aggrieved party from any decision of the Planning Board. Such appeal must be taken within 20 days after the decision has been recorded and posted in the office of the Town Clerk. The appeal shall be in writing and shall state clearly and unambiguously the issue or decision, which is being appealed. Upon receipt, the Planning Board of Appeal shall require the Planning Board to transmit all papers, documents, or plans, or a certified copy, constituting the record of the action. An appeal shall stay all proceedings in furtherance of the action being appealed.

B. The Planning Board of Appeal shall hold a public hearing on the appeal within 60 days of the receipt of the appeal, give public notice, as well as due notice to the parties of interest. The Board shall render a decision within 10 days of the close of the public hearing. The cost of notice required for the hearing shall be borne by the appellant. The hearing of the Planning Board of Appeal may be held on the same date and place as the Zoning Board of Review. However, such meeting shall be held as a separate meeting from any Zoning Board of Review meeting and separate minutes and records of votes shall be maintained by the Planning Board of Appeal. The Planning Board of Appeal shall keep complete records of all proceedings including a record of all votes taken, and shall put all decisions on appeals in writing. The Planning Board of Appeal shall include in the written record the reasons for each decision.

C. The Planning Board of Appeal shall not substitute its own judgment for that of the Planning Board, but must consider the issue upon the findings and record of the Planning

Board. The Planning Board of Appeal shall not reverse a decision of the Planning Board except on a finding of prejudicial error, clear error, or lack of support by the weight of the evidence in the record.

D. The concurring vote of three of the five members of the Planning Board of Appeal sitting at the hearing shall be necessary to reverse any decision of the Planning Board.

E. In the instance where the Planning Board of Appeal overturns a decision of the Planning Board, the proposed project application shall be remanded to the Planning Board at the stage of processing from which the appeal was taken, for further proceedings before the Planning Board and/or the final disposition, which shall be consistent with the Planning Board of Appeal's decision.

F. An aggrieved party may appeal a decision of the Planning Board of Appeal to the Superior Court, pursuant to R.I.G.L. §45-23-71.

§260-79: Application procedures; fees

A. Application procedures for the filing of appeals, request for variances, special use permits, development plan review, site plan review, and such other applications as may be specified in this Zoning Chapter, shall be prepared by the Zoning Enforcement Officer.

B. Reasonable fees may be required, in an amount to be established by the Town Council, to be paid by the appellant or applicant for the adequate review and hearing of applications, issuance of zoning certificates and recording of the decisions thereon.

C. Applications for appeals, request for variances, special use permits, development plan review, site plan review, and such other applications as may be specified in this Zoning Chapter shall be accompanied by a filing fee of $250.00, plus reasonable abutter notification fees.

D. Any application for Zoning Ordinance amendment shall be accompanied by a filing fee of $250, plus petitioner will pay cost of advertising fees.

§260-80: Violations and penalties

A. The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated, or maintained contrary to any of the provisions of this ordinance is hereby declared to be a violation of this chapter and unlawful.

B. Any person who violates any provision of this chapter shall be fined not more than $500 for each offense. Each day of existence of any violation shall be deemed to be a separate offense. Any fine shall inure to the Town.

C. The Town may also cause suit to be brought in the supreme or Superior Court, or any Municipal Court, including a Municipal Housing Court having jurisdiction, in the name of the Town, to restrain the violation of, or to compel compliance with, the provisions of its Zoning Chapter. The Town may consolidate an action for injunctive relief and/or fines under this chapter in the Superior Court of the county in which the subject property is located.

§260-81: Decisions and records

A. Following a public hearing, the Zoning Board of Review shall render a decision within 45 days. The Zoning Board of Review shall include in its decision all findings of fact and conditions, showing the vote of each member participating thereon, and the absence of a member or his or her failure to vote. Decisions shall be recorded and filed in the office of the Zoning Enforcement Officer and Town Clerk within 60 working days from the date when the decision was rendered, and shall be a public record. The Zoning Board of Review shall keep written minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations, findings of fact, and other official actions, all of which shall be recorded and filed in the office of the Zoning Board of Review in an expeditious manner upon completion of the proceeding. For any proceeding in which the right of appeal lies to the superior or Supreme Court, the Zoning Board of Review shall have the minutes taken either by a competent stenographer or recorded by a sound-recording device. In the event that an appellant wishes to obtain a transcript of any such stenographic or recorded record, the appellant shall bear all costs of such transcript. The action of the Zoning Board of Review shall be posted in a location visible to the public in Town Hall for a period of 20 days following the Zoning Board's date of the decision.

B. Any decision by the Zoning Board of Review, including any special conditions attached thereto, shall be hand deliver or mailed to the Zoning Enforcement Officer of the town, and to the Associate Director of the Division of Planning of the Rhode Island Department of Administration. Any decision evidencing the granting of a variance, modification, or special use shall also be recorded in the land evidence records of the Town by the applicant.

§260-82: Resubmissions of same application

No application for a variance involving the same parcel(s) and the same request which was denied by the zoning board after a public hearing or was withdrawn by the applicant or owner with prejudice may be re-submitted for a variance for a period of one (1) year from the date of the denial or withdrawal, unless the zoning board determines that there is a substantial change of circumstances that justifies the re-submitted application. The burden of proof to demonstrate sufficient change of circumstance to warrant the re-submission of a variance request within the one (1) year period shall be upon the applicant or owner.

§260-83: Judicial aid in enforcement

The Supreme Court, the Superior Court, or the Lincoln Municipal Court, within their respective jurisdictions, or any Justice of those Courts in vacation, shall, upon due proceedings in the name of the Town, instituted by the Town Solicitor, have power to issue any extraordinary writ or to proceed according to the course of law or equity or both:

A. To restrain the erection, alteration, or use of any building, structure, sign, or land erected, altered, or used in violation of the provisions of this Zoning Chapter, and to order its removal or abatement as a nuisance;

B. To compel compliance with the provisions of this Zoning Chapter;

C. To order the removal by the property owner of any building, structure, sign, or improvement existing in violation of this Zoning Chapter and to authorize some official

of the Town, in the default of the removal by the owner, to remove it at the expense of the owner;

D. To order the reimbursement for any work or materials which shall have been done or furnished by or at the cost of the Town;

E. To order restoration by the owner, where practicable; and/or

F. To issue fines and other penalties.

Article XVI Appeals

§260-84: Procedural regulations

A. An appeal from any decision of an administrative officer or agency charged in the chapter with the enforcement of any of its provisions may be taken to the Zoning Board of Review by an aggrieved party.

B. An appeal from a decision of the Zoning Board of Review may be taken by an aggrieved party to the Superior Court for the county in which the city or town is situated.

§260-85: Zoning Board of Review

A. An appeal to the Zoning Board of Review from a decision of any other Zoning Enforcement Officer may be taken by an aggrieved party. The appeal shall be taken within 45 days of the date of the recording of the decision by the Zoning Enforcement Officer or agency by filing with the officer or agency from whom the appeal is taken and with the Zoning Board of Review a notice of appeal specifying the ground thereof. The officer or agency from whom the appeal is taken shall forthwith transmit to the Zoning Board of Review all the papers constituting the record upon which the action appealed from was taken. Notice of the appeal shall also be transmitted to the Planning Board.

B. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Zoning Board of Review, after an appeal shall have been duly filed, that by reason of facts stated in the certificate a stay would, in the Officer's opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of competent jurisdiction on application thereof and upon notice to the officer or agency from whom the appeal is taken on due cause shown.

C. The Zoning Board of Review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties of interest, and decide the matter within 45 days. Upon the hearing, any party may appear in person or by agent or by attorney. The cost of any notice required for the hearing shall be borne by the appellant.

D. Participation in a zoning hearing or other proceeding by a party shall not be a cause for civil action or liability except for acts not in good faith, intentional misconduct, a knowing violation of law, transactions where there is an improper personal benefit, or malicious, wanton, or willful misconduct.

E. In exercising its powers, the Zoning Board of Review may reverse or affirm wholly or partly and may modify the order, requirement, decision, or determination appealed from and may make such orders, requirements, decisions, or determinations as ought to be made, and to that end shall have the powers of the officer from whom the appeal was taken. All decisions and records of the Zoning Board of Review respecting appeals shall conform to the provisions of Article XV.

§260-86: Appeals to Superior Court

A. An aggrieved party may appeal a decision of the Zoning Board of Review to the Superior Court for the county in which the Town is situated by filing a complaint setting forth the reasons of appeal within 20 days after the decision has been recorded and posted in the office of the Town Clerk. The decision shall be posted in a location visible to the public

in the Town Hall for a period of 20 days following the recording of the decision. The Zoning Board of Review shall file the original documents acted upon by it and constituting the record of the case appealed from, or certified copies thereof, together with such other facts as may be pertinent, with the Clerk of the Court within 30 days after being served with a copy of the complaint. When the complaint is filed by someone other than the original applicant or appellant, the original applicant or appellant and the members of the Zoning Board shall be made parties to the proceedings. The appeal shall not stay proceedings upon the decision appealed from, but the Court may, in its discretion, grant a stay on appropriate terms and make such other orders as it deems necessary for an equitable disposition of the appeal.

B. If, before the date set for hearing in the Superior Court, an application is made to the court for leave to present additional evidence before the Zoning Board of Review and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for the failure to present it at the hearing before the Zoning Board of Review, the Court may order that the additional evidence be taken before the Zoning Board of Review upon conditions determined by the Court. The Zoning Board of Review may modify its findings and decision by reason of the additional evidence and shall file that evidence and any new findings or decisions with the Superior Court.

C. The review shall be conducted by the Superior Court without a jury. The Court shall consider the record of the hearing before the Zoning Board of Review and, if it shall appear to the Court that additional evidence is necessary for the proper disposition of the matter, it may allow any party to the appeal to present the evidence in open court, which evidence, along with the report, shall constitute the record upon which the determination of the Court shall be made.

D. The Court shall not substitute its judgment for that of the Zoning Board of Review as to the weight of the evidence on questions of fact. The Court may affirm the decision of the Zoning Board of Review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

(1) In violation of constitutional, statutory, or ordinance provisions;
(2) In excess of the authority granted to the Zoning Board of Review by statute or ordinance;
(3) Made upon unlawful procedure;
(4) Affected by other error of law;
(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

§260-87: Appeal of enactment of zoning ordinance or amendment

A. An appeal of an enactment of or an amendment to a zoning ordinance may be taken to the Superior Court for the county in which the Town is situated by filing a complaint, as set forth herein, within 30 days after the enactment or amendment has become effective. The appeal may be taken by an aggrieved party or by any legal resident or landowner of the Town or by any association of residents or landowners of the Town. The appeal shall not stay the enforcement of the Zoning Ordinance, as enacted or amended, but the Court may, in its discretion, grant a stay on appropriate terms, which may include the filing of a bond, and make such other orders as it deems necessary for an equitable disposition of the appeal.

B. The complaint shall set forth with specificity the area or areas in which the enactment or amendment does not conform to the Comprehensive Plan and/or the manner in which it constitutes a taking of private property without just compensation.

C. The review shall be conducted by the Court without a jury. The Court shall first consider whether the enactment or amendment of the Zoning Ordinance is in conformance with the Comprehensive Plan. If the enactment or amendment is not in conformance with the Comprehensive Plan, then the Court shall invalidate the enactment or the amendment, or those parts of the enactment or amendment, which are not in conformance with the Comprehensive Plan. The Court shall not revise the chapter to conform to the Comprehensive Plan, but may suggest appropriate language as part of the Court decision.

D. In the case of an aggrieved party, where the Court has found that the enactment or amendment of the Zoning Ordinance is in conformance with the Comprehensive Plan, then the Court shall next determine whether the enactment or amendment works as a taking of property from the aggrieved party. If the Court determines that there has been a taking, the Court shall remand the case to the legislative body of the Town, with its findings that a taking has occurred, and order the Town to either provide just compensation or rescind the enactment or amendment within 30 days.

E. The Superior Court shall retain jurisdiction, in the event that the aggrieved party and the Town do not agree on the amount of compensation, in which case the Superior Court shall hold further hearings to determine and to award compensation. Furthermore, the Superior Court shall retain jurisdiction to determine the amount of an award of compensation for any temporary taking, if that taking shall exist.

F. The Court may, in its discretion, upon motion of the parties or on its own motion, award reasonable attorney's fees to any party to an appeal, as set forth herein, including a municipality.

Article XVII Adoption and Amendment

§260-88: Power of Council to adopt and amend

For the purpose of promoting the public health, safety, morals, and general welfare, the Town Council shall have the power, in accordance with the provisions of this chapter and state law, to adopt, amend, or repeal, and to provide for the administration, interpretation, and enforcement of, a zoning ordinance. The Zoning Ordinance, and all amendments thereto, shall be consistent with the Comprehensive Plan, and shall provide for the implementation of the Comprehensive Plan.

§260-89: Procedure

The Zoning Enforcement Officer shall receive a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map(s). Immediately upon receipt of the proposal, the officer shall refer the proposal to the Town Council, and to the Planning Board for study and recommendation. The Planning Board shall report to the Town Council within 45 days after receipt of the proposal, giving its findings and recommendations as prescribed in § 260-90 of this article. Where a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map is made by the Town Planning Board, the requirements for study by the Board may be waived, provided that the proposal by the Planning Board include its findings and recommendations pursuant to § 260-90 of this article. The Town Council shall hold a public hearing within 65 days of receipt of a proposal, giving proper notice. The Town Council shall render a decision on any proposal within 45 days after the date of completion of the public hearing. The provisions of this section pertaining to deadlines shall not be construed to apply to any extension consented to by an applicant.

§260-90: Review by Planning Board

Among its findings and recommendations to the Town Council with respect to a proposal for adoption, amendment, or repeal of a zoning ordinance or zoning map, the Planning Board shall:

A. Include a statement on the general consistency of the proposal with the Comprehensive Plan of the Town, including the goals and policies statement, the implementation program, and all other applicable elements of the Comprehensive Plan; and

B. Include a demonstration of recognition and consideration of each of the applicable purposes of zoning, presented in Article I of this chapter.

§260-90: Notice and hearing requirements

A. No zoning ordinance shall be adopted, repealed, or amended until after a public hearing has been held upon the question before the Town Council. The Town Council shall first give notice of the public hearing by publication of notice in a newspaper of general circulation within the Town at least once each week for three successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard upon the matter of the proposed ordinance. Written notice, which may be a copy of the newspaper notice, shall be mailed to the associate director of the division of planning of the Rhode Island Department of Administration, and, where applicable, to the parties specified in Subsections B, C, D and E of this section, at least two weeks prior to the hearing. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:
   (1) Specify the place of the hearing and the date and time of its commencement;
   (2) Indicate that adoption, amendment, or repeal of a zoning ordinance is under consideration;

(3) Contain a statement of the proposed amendments to the ordinance that may be printed once in its entirety, or summarize and describe the matter under consideration;
(4) Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
(5) State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.

B. Where a proposed general amendment to an existing zoning ordinance includes changes in an existing Zoning Map, public notice shall be given as required by Subsection A of this section.

C. Where a proposed amendment to an existing ordinance includes a specific change in a Zoning District Map, but does not affect districts generally, public notice shall be given as required by Subsection A of this section, with the additional requirements that:
(1) Notice shall include a map showing the existing and proposed boundaries, zoning district boundaries, and existing streets and roads and their names, and city and town boundaries where appropriate; and
(2) Written notice of the date, time, and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located in or within not less than 200 feet of the perimeter of the area proposed for change, whether within the Town or within an adjacent city or town. The notice shall be sent by registered or certified mail to the last known address of the owners, as shown on the current real estate tax assessment records of the Town in which the property is located.

D. Notice of a public hearing shall be sent by first-class mail to the City or Town Council of any city or town to which one or more of the following pertain:
(1) Which is located in or within not less than 200 feet of the boundary of the area proposed for change; or
(2) Where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, within 2,000 feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.

E. Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district, or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is within 2,000 feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water department or agency, special water district, or private water company has filed with the Building Inspector in the city or town a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within 2,000 feet thereof.

F. No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless the defect is found to be intentional or misleading.

G. Costs of any notice required under this section shall be borne by the applicant.

H. Limitations, conditions, and restrictions. In granting a zoning ordinance amendment, the Town Council may limit the change to one of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations, conditions, and restrictions, including, without limitation:

(1) (a) Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of the zoning change;

(b) Those relating to the effectiveness or continued effectiveness of the zoning change; and/or

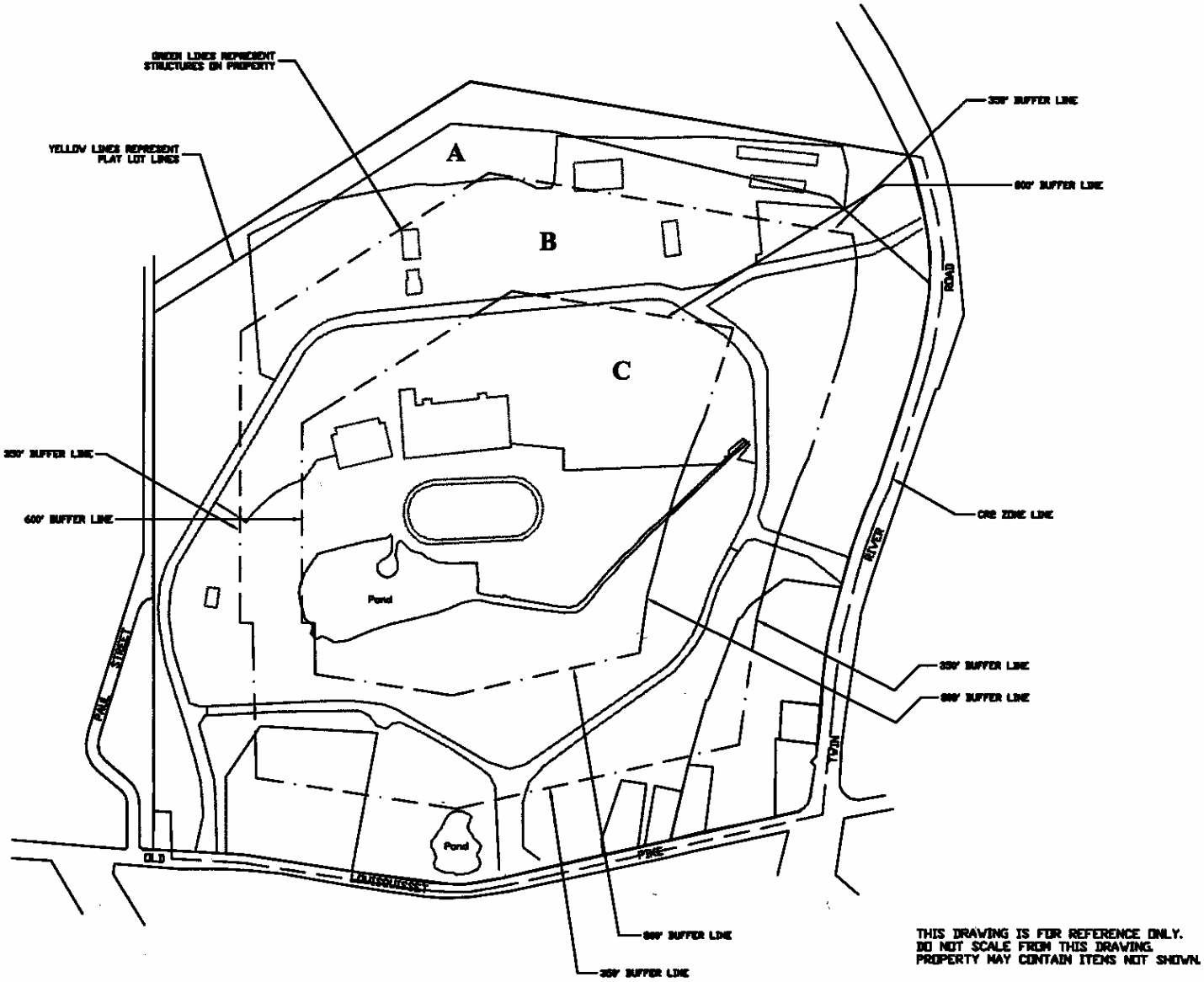
(c) Those relating to the use of the land; as it deems necessary;

(d) In the case of a conditional zone change, fees, held in escrow, equal to the original notice requirements. These fees would be used to publish the notice of reversion, if the conditions for change are not met.

(2) The Town Clerk and the Zoning Enforcement Officer shall cause the limitations and conditions so imposed to be clearly referenced on the Zoning Map and recorded in the land evidence records, provided, however, in the case of a conditional zone change, the limitations, restrictions, and conditions shall not be noted on the Zoning Map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two years or more after the zone change becomes effective, the Town or City Council may, after a public hearing as hereinbefore set forth, change the land to its original zoning use before the petition was filed. If any limitation, condition, or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.

I. The above requirements are to be construed as minimum requirements.

CR-2 Zoning Map – Lincoln Greyhound Park



APPLICATION INSTRUCTIONS

Instructions to Applicants Filing Applications for Variances or Special Use Permits or Relief from Mapped Street Ordinance or Appeals

All applications to be reviewed by the Town of Lincoln's Zoning Board of Review, according to the Lincoln Zoning Ordinance, must be filed forty-five (45) days before the 1st Tuesday of the month with the proper filing fee and items one through seven (1-7) below fully completed. The application must be filed with the Zoning Enforcement Officer in the Office of Building Inspections at Lincoln Town Hall.

Applications are scheduled on a first come, first serve basis. A maximum of eight (8) complete applications (including appeals) may be scheduled for review each month. **NO APPLICATION WILL BE SCHEDULED FOR A HEARING WITHOUT A CERTIFICATE OF COMPLETENESS FROM THE ZONING ENFORCEMENT OFFICER OR HIS/HER DESIGNEE**.

In order for an application to be Certified as Complete by the Zoning Enforcement Officer or his/her designee, the following items are **REQUIRED** for an application submission:

1. A completed application form (available from the Office of Building Inspections) that is signed by the property owner, and applicant (if different from owner) and lawyer (if applicable). The application must also include a list of all the property owners within 200 feet of the property's lot lines.

2 A 200' radius map drawn to scale. From the furthest corners of the lot or lots in question and all contiguous lots owned directly or indirectly by the owner and/or applicant. Show all lot numbers and plat numbers on each lot within the radius. (Maps are available from the Tax Assessor's Office).

3. A copy of the proposed site plans drawn to scale. It is **STRONGLY RECOMMENDED** that a registered land surveyor or engineer draws the site plan. As applicable, plans must show off-street parking.

4. A sketch that describes exactly what the applicant and/or owner intends to do. The sketches do not have to be architectural drawings but must accurately reflect your plans.

5. Picture(s) of existing conditions from at least two sides.

6. The above items must be separated in packages - one of each of the five (5) items above in each package for a total of **eleven (11)** complete packages.

7. Two (2) sets of self-adhesive mailing labels no larger than 1½" x 4" with the names, addresses, and zip codes of all property owners within the 200' radius and reported on the application form.

8. Check for the filing fee plus $1.00 for each abutter.

NOTICE OF APPEAL

TOWN OF LINCOLN - ZONING BOARD OF REVIEW

Date_____ Application No._____

The undersigned hereby applies to the Zoning Board of Review for a reversal of an administrative decision.

Applicant: _____ Address: _____

Site: Street Address: _____

Assessor's Plat No._____ Lot No._____

Owner of site: _____ Address: _____

Lessee: _____ Address: _____

Zoning designation of site: _____

Proposed use for site: _____

Will you be represented by Legal Counsel? Yes / No

If so, please provide names and addresses for notification purposes:_____

_____

Give lot numbers, names, and mailing addresses of property owners within 200 feet of the lot lines. Applicant is responsible for costs of mailing notification to these owners and to necessary state agencies.

Lot No.	Name	No.	Street	Town (City), State, Zip

- OTHER SIDE MUST BE COMPLETED -

Dimensions of lot: Area:_____ Frontage:_____ Depth:_____

Is there currently a building on the site?_____ Dimensions: _____

Current use of site: _____

Name and position of person, board, or commission making the decision: _____

_____

State reasons(s) given for decision :_____

_____

_____

Date of decision: _____
(Appeal must be taken within 45 days of recording the decision)

State the reason for requesting appeal: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Signature of applicant _____ Phone #_____

Print Name_____

Signature of owner (if different from applicant) _____

Print Name_____

APPLICATION FOR DIMENSIONAL VARIANCE
TOWN OF LINCOLN - ZONING BOARD OF REVIEW

Date_____ Application No._____

The undersigned hereby applies to the Zoning Board of Review for a variance in the provisions or regulations of the Zoning Ordinance.

Applicant:_____ Address:_____

Site: Street Address: _____

Assessor's Plat No._____ Lot No._____

Owner of site:_____ Address:_____

Lessee: _____ Address: _____

Zoning designation of site: _____

Proposed use for site: _____

Will you be represented by Legal Counsel? Yes / No

If so, please provide names and addresses for notification purposes: _____

_____

Give lot numbers, names, and mailing addresses of property owners within 200 feet of the lot lines. Applicant is responsible for costs of mailing notification to these owners and to necessary state agencies.

Lot No.	Name	No.	Street	Town (City), State, Zip

- OTHER SIDE MUST BE COMPLETED -

Dimensions of lot: Area:_____ Frontage:_____ Depth:_____

Is there currently a building on the site?_____ Dimensions: _____

Current use of site: _____

State the dimensional requirement: _____

_____

State the proposed dimension: _____

_____

State the reason for requesting this dimensional variance (include the section of the zoning ordinance you seek relief from):

_____

_____

_____

_____

_____

_____

_____

The stated reason must address the following criteria:

1. *The hardship from which the applicant seeks relief must be due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area; and is not due to an economic disability of the applicant;*
2. *The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;*
3. *The granting of this variance must not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan;*
4. *The relief requested is the least relief necessary; and*
5. *The hardship amounts to more than a mere inconvenience.*

Signature of applicant _____ Phone # _____

Print Name_____

Signature of owner (if different from applicant) _____

Print Name_____

NOTICE OF APPEAL FROM PLANNING BOARD

TOWN OF LINCOLN - PLANNING BOARD OF APPEAL

Date_____ Application No._____

Applicant:_____ Address:_____

Site: Street Address: _____

Assessor's Plat No._____ Lot No._____

Owner of Site:_____ Address:_____

Lessee: _____ Address: _____

Zoning designation of site: _____

Proposed use for site: _____

Will you be represented by legal counsel? Yes / No

If so, please provide names and addresses for notification purposes:_____

_____

Give lot numbers, names, and mailing addresses of property owners within 200 feet of the lot lines. Applicant is responsible for costs of mailing notification to these owners and to necessary state agencies.

Lot No.	Name	No.	Street	Town (City), State, Zip

- OTHER SIDE MUST BE COMPLETED -

Dimensions of lot: Area:_____ Frontage:_____ Depth: _____

Is there currently a building on the site?_____ Dimensions: _____

Current use of site: _____

Proposed use of site: _____

_____

Date of Planning Board meeting when issue was decided: _____
(Appeal must be filed within 20 days after the decision has been recorded and posted.)

State clearly and ambiguously the issue being appealed: _____

_____

_____

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The Planning Board of Appeal shall not substitute its own judgment for that of the Planning Board. The Planning Board of Appeal shall not reverse a decision of the Planning Board except on the finding of prejudicial error, clear error, or lack of support by the weight of the evidence in the record.

Signature of applicant _____ Phone # _____

Print Name_____

Signature of owner (if different from applicant) _____

Print Name_____

APPLICATION FOR SPECIAL USE PERMIT

TOWN OF LINCOLN - ZONING BOARD OF REVIEW

Date_____ Application No._____

The undersigned hereby applies to the Zoning Board of Review for a Special Use Permit, as described and allowed in the provisions of the Zoning Ordinance.

Applicant:_____ Address:_____

Site: Street Address:_____

Assessor's Plat No._____ Lot No._____

Owner of site:_____ Address:_____

Lessee: _____ Address: _____

Zoning designation of site: _____

Proposed use for site: _____

Will you be represented by legal counsel? Yes / No

If so, please provide names and addresses for notification purposes:_____

_____

Give lot numbers, names, and mailing addresses of property owners within 200 feet of the lot lines. Applicant is responsible for costs of mailing notification to these owners and to necessary state agencies.

Lot No.	Name	No.	Street	Town (City), State, Zip

- OTHER SIDE MUST BE COMPLETED -

Dimensions of lot: Area: _____ Frontage:_____ Depth: _____

Is there currently a building on the site?_____ Dimensions: _____

Current use of site: _____

Proposed use of site: _____

_____

Cite Authorization in Ordinance for granting this Special Use Permit: _____

Additional criteria: _____

_____

State the reason for requesting this special use permit (include the section of the zoning ordinance you seek relief from):

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Signature of applicant _____ Phone # _____

Print Name_____

Signature of owner (if different from applicant) _____

Print Name_____

APPLICATION FOR USE VARIANCE

TOWN OF LINCOLN - ZONING BOARD OF REVIEW

Date_____ Application No._____

The undersigned hereby applies to the Zoning Board of Review for a variance from the use provisions and regulations of the Zoning Ordinance.

Applicant:_____ Address:_____

Site: Street Address: _____

Assessor's Plat No._____ Lot No._____

Owner of site: _____ Address:_____

Lessee: _____ Address: _____

Zoning designation of site: _____

Proposed use for site: _____

Will you be represented by legal counsel? Yes / No

If so, please provide the names and addresses for notification purposes: _____

_____

Give lot numbers, names, and mailing addresses of property owners within 200 feet of the lot lines. Applicant is responsible for costs of mailing notification to these owners and to necessary state agencies.

Lot No.	Name	No.	Street	Town (City), State, Zip

- OTHER SIDE MUST BE COMPLETED -

Dimensions of lot: Area:_____ Frontage:_____ Depth:_____

Is there currently a building on the site?_____ Dimensions:_____

Current use of site: _____

Proposed use for site: _____

State the reason for requesting this use variance (include the section of the zoning ordinance you seek relief from):

_____

_____

_____

_____

_____

_____

_____

_____

The stated reason must address the following criteria:

1. *The hardship from which the applicant seeks relief must be due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area; and is not due to the physical or economic disability of the applicant, excepting those physical disabilities addressed in Rhode Island General Laws 44-24-30(16)*
2. *The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;*
3. *The granting of this variance must not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan;*
4. *The relief requested is the least relief necessary; and*
5. *The subject land or structure cannot yield any beneficial use if it required to conform to the provisions of the zoning ordinance.*

Signature of applicant _____ Phone # _____

Print Name_____

Signature of owner (if different from applicant) _____

Print Name_____

APPLICATION FOR EXTENSION OF DECISION

TOWN OF LINCOLN - ZONING BOARD OF REVIEW

Date: _____ Application No._____

The undersigned hereby applies to the Zoning board of Review for an extension, as described and allowed in the provisions of the Zoning Ordinance.

Applicant: _____Address: _____

Site: Street Address: _____

Assessor's Plat No. _____ Lot No. _____

Owner of site: _____Address: _____

Lessee: _____Address: _____

Zoning designation of site: _____

Type of decision granted: Dimensional Use Special Permit Appeal

Will you be represented by legal counsel? Yes / No

If so, please provide names and addresses for notification purposes: _____

_____

Give lot numbers, names, and mailing addresses of property owners within 200 feet of the lot lines. Applicant is responsible for costs of mailing notification to these owners and to necessary state agencies:

Lot No.	Name	No.	Street	Town (City), State, Zip

Date of Original Decision: _____

Conditions of Decision: _____

_____

Cite Authorization in Ordinance for granting this Decision: _____

_____

State the reason for requesting this Extension: _____

_____

_____

_____

_____

Print applicant name: _____ Phone # _____

Signature of applicant: _____

Print owner name: _____ Phone # _____

Signature of owner (if different from applicant): _____

NOTE

An updated abutter's list must be provided with application.

An updated radius map must be provided with application.

Filing fee is $50, plus the notification costs required by the ordinance and State Law.

CERTIFICATE OF COMPLETENESS
Town of Lincoln – Zoning Board of Review

Applicants Name:_____

Applicant's Address:_____

Applicant's Telephone Number:_____

Project's Address:_____

Assessor's Plat:_____ Lot(s):_____

Owner of Parcel (if different from applicant)_____

Address:_____

Telephone Number:_____

Type of Zoning Application (Use Variance, Dimensional Variance, Special Use Permit)

_____

Date filed:_____ Application Number:_____

Description of Project:_____

_____

_____

Action Taken by the Zoning Enforcement Officer:

❑ Zoning Application is Certified as Complete Date:_____

Referred to Zoning Board for hearing on:_____

❑ Application has Deficiencies – see attached Deficiency Report - Date:_____

_____Zoning Enforcement Officer