

COMMONWEALTH OF MASSACHUSETTS

TOWN OF LANESBOROUGH

OFFICE OF THE

PLANNING BOARD

ZONING BY-LAW-1965

REPRINTED WITH AMENDMENTS

& UPDATES

SEPTEMBER 2006

**ZONING BY-LAW
TOWN OF LANESBOROUGH, MASSACHUSETTS**

Table of Contents

	Page
PURPOSE	1
ENACTMENT	1
SECTION I Establishment of Districts	2
SECTION II Use Regulations	9
SECTION II Use Regulations Charts	11
TABLE 1	18
SECTION III Intensity Regulations	19
SECTION IV General Regulations	22
SECTION V Permits	33
SECTION VI Retail and Industrial Complexes	38
SECTION VII Wireless Communications Facilities	42
SECTION VIII Definitions	49

PURPOSE To protect the health, safety, convenience, and general welfare of all the inhabitants of Lanesborough by promoting the most efficient use of land while preventing over-crowding of the land and undue congestion of population, thus lessening danger from fire, and providing adequate light and air, pursuant to the General Laws, Chapter 40A inclusive and all additions and amendments thereto.

ENACTMENT Now therefore, be it enacted by the Town of Lanesborough, Massachusetts, this by-law to be known as "Zoning By-Law, The Town of Lanesborough, Massachusetts", as follows:

SECTION I

ESTABLISHMENT OF DISTRICTS

1-A. TYPES OF DISTRICTS. For the purpose of this by-law, the Town of Lanesborough is hereby divided into six districts as follows:

- R-1 Residential
- R-2 Residential
- R-3 Residential and Neighborhood Business
- R-A Residential and Agricultural
- B Business
- I Industrial

1-B. THE ZONING MAP. The boundaries of each of the above districts and as hereinafter referred to are hereby established as shown on a district boundary map (entitled "Zoning Map of Lanesborough, Massachusetts," dated January 8, 1965) on file in the office of the Town Clerk at the Town Hall. The Zoning Map, with all explanatory matter thereon, is hereby declared to be a part of this by-law.

1-C DISTRICT BOUNDARY LINES. The district boundary lines as shown on the zoning map are intended to follow street lines, railroad property lines, the low water line of the town brook and the center line of power lines, all where indicated on the map, and other lines where shown by dimension figures or indicated otherwise on the map. The base line for such dimension figures shall be the center line of the indicated street. Lot and map numbers on the Zoning Map refer to the 1962 assessor maps on file with the Board of Assessors at the Town Hall.

1-D LANESBOROUGH WATER SUPPLY PROTECTION DISTRICT.

- 1. PURPOSE OF THE DISTRICT. The purpose of this Water Supply Protection District is:
 - a. to promote the health, safety and general welfare of the

community by ensuring an adequate quality and quantity of drinking water for the residents, institutions and businesses of the Town of Lanesborough.

- b. to preserve and protect existing and potential sources of drinking water supplies.
 - c. to minimize the potential threat of economic losses to the Town of Lanesborough due to the temporary or permanent loss of its public water supplies.
2. SCOPE OF AUTHORITY. The Water Supply Protection District is an overlay district superimposed on Lanesborough's existing zoning districts. This overlay district shall apply to all new construction, or expansion of existing buildings, and new or expanded uses. Applicable activities or uses in the underlying zoning districts which fall within the Water Supply Protection District, must comply with the additional requirements of the district. Uses that are prohibited in the underlying zoning districts shall not be permitted in the Water Supply Protection District.
 3. DEFINITIONS. See Section VII for definitions of words and phrases that apply to this district.
 4. ESTABLISHMENT AND DELINEATIONS OF THE WATER SUPPLY PROTECTION DISTRICT. For the purpose of this district, there is hereby established within the Town of Lanesborough a Water Supply Protection District, consisting of aquifers or recharge areas which are delineated on a map. This map is at a scale of 1 inch to 1,000 feet and is entitled, "Water Supply Protection District, Town of Lanesborough", dated September 1, 1993. This map is hereby made a part of the Town Zoning By-Law and is on file in the Office of the Town Clerk.
 5. DISTRICT BOUNDARY DISPUTES. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds shall properly be located. At the request of the owner(s), the Town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.
 6. USE REGULATIONS.
 - a. Permitted Uses. Within the Water Supply Protection District, those uses or activities permitted within each underlying

zoning district are permitted excluding those uses or activities that are prohibited in Section VI-B of this by-law.

b. Prohibited Uses. The following uses are prohibited:

- following:
1. Landfills and open dumps as defined in 310 CMR 19.006
 2. Storage of liquid petroleum products, except the
 - A. normal household use, outdoor maintenance, and heating of a structure.
 - B. Waste oil retention facilities and emergency generators required by statute, rule, or waste regulations.
 - C. Treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters.
 3. Land filling of sludge or septage as defined in 310 CMR 32.05.
 4. Storage of sludge or septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31
 5. Storage of sodium chloride, calcium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
 6. Facilities that generate, treat, store or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.000, except the following:
 - A. very small quantity generators (VSQGs) as defined under 310 CMR 30.000 (VSQGs generate less than 220 lbs. per month).
 - B. waste oil retention facilities required by MGL Chapter 21, Section 52A.
 - C. water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters.
 7. Automobile graveyards and junkyards, as defined in MGL Chapter 140B, Section 1.
 8. Wastewater treatment works that require approval from the Massachusetts Department of Environmental Protection under 314 CMR 5.00 (systems that generate over 15,000 gallons per day) including privately owned sewage

treatment facilities, except the following:

- A. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works.
- B. The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s).
- C. Treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contaminated groundwater.
- D. Sewage treatment facilities in those areas with existing water quality problems when it has been demonstrated to the Department of Environmental Protection's and the Board of Health's satisfaction both that these problems are attributable to current septic problems and that there will be a net improvement in water quality.

9. Storage of hazardous materials, unless in a free standing container within a building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.

10. Industrial and commercial uses which discharge process wastewater on site.

11. Stockpiling of snow and ice containing sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal, if brought in from outside the district.

12. The use of septic system cleaners which contain toxic or hazardous chemicals.

c. Uses and Activities Requiring a Special Permit

The following uses and activities are permitted only upon the issuance of a Special Permit by the Planning Board under such conditions as they may require.

1. Enlargement or alteration of existing uses that do not conform to the Water Supply Protection District.

2. The application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-

domestic or non-agricultural uses in accordance with state and federal standards. The Special Permit shall be granted if such standards are met. If applicable, the applicant should provide documentation of compliance with a Yearly Operating Plan (YOP) for vegetation management under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management Plan (IMP program under 33 CMR 12.00).

3. The application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on ground water due to nutrient transport, deposition, and sedimentation.
4. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with or intended for normal household use, which are permitted in the underlying zoning (except as prohibited under Section B). Such activities shall require a Special Permit to prevent contamination of groundwater.

7. PROCEDURES FOR ISSUANCE OF SPECIAL PERMIT

- A. The Special Permit Granting Authority (SPGA) under this by-law shall be the Planning Board. The issuance of a Special Permit shall conform in all respects to the procedures and criteria established in MGL Chapter 40A, Section 9. Such Special Permit shall be granted if the Planning Board determines in conjunction with the Board of Health, the Conservation Commission, and the Lanesborough Village Fire and Water District that the intent of this by-law, as well as its specific criteria, are met. The Planning Board shall not grant a Special Permit under this section unless the petitioner's application materials include, in the Planning Board's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The Planning Board shall document the basis for any departures from the recommendation of the other Town boards or agencies in its decision.
- B. Upon receipt of the Special Permit application, the Planning Board shall transmit one copy to the Board of Health, the Conservation Commission and the Lanesborough Village Fire and Water District for their written

recommendations. Failure to respond in writing within thirty-five (35) days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.

- C. The Planning Board may grant the Special Permit only upon finding that the proposed use meets the following standards, and those specified in Section 6 of this by-law. The proposed use must:
 - 1. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and
 - 2. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water related natural characteristics of the site to be developed.

- D. The applicant shall file four (4) copies of the site plan and attachments. The site plan shall be drawn at a proper scale as determined by the Planning Board and be stamped by a professional engineer. The Planning Board may waive the requirement for a professional engineer at its discretion. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
 - 1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
 - 2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, Board of Health and the Lanesborough Village Fire and Water District. The Plan shall include:
 - a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and cleanup procedures.
 - b. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

- c. Evidence of compliance with the regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
- E. Written notice of any violations of this by-law shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or may also identify the actions necessary to remove or remedy the violations and future violations and a schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, the Conservation Commission and the Lanesborough Village Fire and Water District. The cost of containment, cleanup, and other action of compliance shall be borne by the owner and operator of the premises.

For situations that require remedial action to prevent adverse impact to the water resources within the Water Supply Protection District, the Building Inspector, the Board of Health, or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Building Inspector, the Board of Health, or any of their agents, if authorized to enter upon such premises under the terms of the Special Permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

8. SEVERABILITY

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any Special Permit previously issued thereunder.

SECTION II

	<u>Chart</u>	<u>Notes & Definitions</u>
II-A	R-1 Residential District	Permitted Uses
II-B	R-2 Residential District	Permitted Uses
II-C	R-3 Residential and Neighborhood Business District	Permitted Uses
II-D	R-A Residential and Agricultural District	Permitted Uses
II-E	B Business District	Permitted Uses
II-F	I Industrial District	Permitted Uses

PERFORMANCE STANDARDS

A. PURPOSE. These performance standards are established to permit nuisances to be measured in terms of their potentially dangerous or objectionable elements rather than by classification of use which may not reflect actual conditions or nuisances. They are also established to provide controls to protect the community from dangerous or objectionable elements and to protect any potential use from arbitrary exclusion.

New construction, new facilities and new activities shall not be permitted except in compliance with these standards. Any use already established on the effective date of this ordinance shall not be so altered or modified as to conflict with, or further conflict with, said performance standards.

B. REGULATION OF NUISANCE ELEMENTS. No land, or building or structure in any district shall be used or occupied for non-residential purposes in such a manner so that it will cause any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; electrical or other disturbance; glare, or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area of premises; provided that any use permitted by this ordinance may be undertaken and maintained in the respective district if it conforms to the regulations limiting dangerous and objectionable elements at the specified point or points of the determination of their existence, as provided herein.

- C. LOCATION WHERE DETERMINATIONS ARE TO BE MADE FOR ENFORCEMENT OF PERFORMANCE STANDARDS. The determination of the existence of any dangerous or objectionable elements shall be made:
1. At the points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.
 2. At or beyond the property lines of the use creating such elements for glare, and for odors wherever the effect is greatest.
- D. STANDARDS TO BE ENFORCED. Lighting, Glare and Heat. Every use shall be so arranged that any glare or radiant heat produced is shielded so that it is not perceptible at or beyond any boundary line of the lot on which the use is located. Exterior lighting including, but not necessarily limited to, lighting of exterior walls of buildings from an external light source, lighting of parking areas, walks and drives shall be of such intensities and shielded in such a manner as to divert direct light away from and minimize indirect light cast on adjacent property or public ways.
- E. FIRE AND EXPLOSION HAZARDS. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices approved by the town fire department.
- F. OUTDOOR STORAGE AND WASTE DISPOSAL. No materials or wastes shall be deposited on a lot in such form or manner that they may be transferred off the lot by natural causes or forces.
1. All materials or wastes which constitute a fire hazard or which may be edible by or attractive to rodents or insects shall be stored outdoors only in closed containers.
 2. No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground of any materials of such nature or temperature as can contaminate any water supply, or cause the emission of dangerous or offensive elements, shall be permitted, except in accordance with standards approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Lanesborough.

II-G. USES PERMITTED. Uses permitted as a matter or right in a district are denoted by an "X" under the district heading in the table of Section II. The uses are subject to restrictions specified elsewhere in this by-law.

II-H. USES REQUIRING SPECIAL PERMITS. Uses designated "ZBA" or "PBP" in the table of Section II may be authorized by special permit of the SPGA

(Special Permit Granting Authority), in accordance with the provisions of Section V-B of this by-law.

SECTION II USE REGULATIONS

Buildings, structures and premises may be used for any of the following purposes listed in this section under the appropriate districts.

Districts Permitted Uses

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
Single family dwellings	X	X	X	X	X	
Two family dwellings		X	X	X	X	
Multi-family dwellings			PBP	PBP	PBP	
Conversion of single or two family dwelling to multi-family dwellings			PBP	PBP	PBP	
Garden apartments			PBP		PBP	
Accessory uses such as patios, breezeways, outdoor fireplaces, storage sheds, and swimming pools but not limited to these specific uses	X	X	X	X	X	X
Private garages	X	X	X	X	X	
Community garages with a capacity of six cars		X				
Community Garages			X	X	X	X
Practice of a profession within the main building by a surgeon, physician, clergyman, architect, engineer, attorney or similar professional person <u>residing in such main buildings</u> without limit as to resident employees but with <u>a limit of one non-resident employee</u> and provided there is no external evidence of any profession other than permitted signs	X	X				
Practice of a profession by a surgeon,			X			

(Section II Use Regulations Continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
physician, clergyman, architect, engineer, attorney or similar professional person <u>in a dwelling, or office building without limit as to the number of employees</u> and provided there is no external evidence of any profession other than permitted signs						
Practice of a profession by a surgeon, physician, clergyman, architect, engineer, attorney or similar professional person <u>in a dwelling or office building without limit as to resident employees but with a limit of one non-resident employee</u> and provided there is no external evidence of any profession other than permitted signs				X	X	X
The use of a room or rooms in a dwelling or accessory building for a home occupation or trade conducted by a resident of the dwelling without limit as to resident employees but with a limit of one non-resident employee and provided there is no external evidence of any business other than permitted signs		X	X	X	X	X
Religious or educational use	X	X	X	X	X	X
Non-profit recreational use		X	X	X	X	X
The raising of crops not for commercial use	X	X	X	X		
Only if authorized by the Zoning Board of Appeals under Section V-B, Paragraph 2, subject to appropriate conditions where such are deemed necessary to protect the town, any other uses deemed to be in the public interest, provided they are not injurious, noxious or offensive						ZBA

(Section II Use Regulations continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
The use of land or structures for the primary purpose of agriculture, horticulture, floriculture or vitaculture including facilities for the sale of produce, wine and dairy products insofar as a majority of such products for sale have been produced by the owner of the land on which the sales facility is located, provided that:	X	X	X	X	X	X
a. Such activities are limited to parcels of more than 5 acres except in R-A zones;						
b. Piggeries and fur farms shall be located 500 feet from any lot line, except that 1 or 2 pigs may be kept in a R-A zone only in a suitable structure no less than 75 feet from any lot line;						
c. Any land use for the pasturing of animals must be properly fenced;						
d. Structures, shelters and waste storage for farm animals shall be located a minimum of 75 feet from any lot line.						
Keeping of domestic animals and/or fowl provided that accessory structures used for their care shall be at least 20 feet from any lot line		X	X	X	X	X
Renting of rooms or providing of board to not more than four persons in a dwelling		X	X	X	X	X
Rooming or boarding houses		ZBA	ZBA	ZBA	ZBA	
Motels & cabins			X	ZBA		
Nursing homes & rest homes		ZBA				
Nursing homes, rest homes & hospitals			X	X	X	X
Restaurants, provided they are accessory uses incidental to the operation			X			

(Section II Use Regulations Continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
of a motel and are located within such motel						
Grocery or drug stores, whether detached or attached to dwellings provided they do not exceed 1500 sq ft of floor area			X			
Commercial greenhouses				X	X	X
Windmills and wind electrical generator towers provided that the setback from any lot line is one and one-half times the overall height, minimum				ZBA	ZBA	ZBA
Campgrounds				ZBA	ZBA	ZBA
Picnic groves & children's camps				X	X	X
Fences	X	X	X	X	X	X
Riding stables & clubs				X	X	X
Golf courses (USEA regulation size)			ZBA	X	X	X
Restaurants, snack bars, lunch counters and establishments for the sale of beer, wine and liquor to be consumed on the premises			ZBA	ZBA		
Dog kennels and veterinary hospitals			ZBA	ZBA		
Private clubs			ZBA	ZBA		
Mobile home parks			ZBA	ZBA		
Drive-in theaters				ZBA		
Gravel, loam, sand and stone removal for commercial purposes				ZBA		
Rifle ranges, ski tows & boat liveries				ZBA		
Single mobile homes				ZBA		

(Section II Use Regulations Continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
Stores, salesrooms and showrooms for the conduct of retail business					X	X
Service establishments, such as barber shops, beauty shops, tailor shops, laundry agencies, self-service laundry and dry cleaning shops, shoe repair shops and dry cleaning, pressing and laundry shops, provided only non-explosive & non-flammable solvents are used and no work is done on the premises for retail outlets elsewhere					X	X
Banking, business and other professional offices and office buildings					X	X
Repair shops such as for radio, television, appliance and other similar consumer and industrial articles					X	X
Restaurants, snack bars & lunch counters					X	X
Package stores, cafes, taverns and other establishments where beer, wine and liquor is sold					X	X
Transportation services such as bus stations and taxis					X	X
Commercial places of entertainments such as theaters, bowling alleys, billiard rooms, dance halls, roller skating rinks, public gymnasiums, driving ranges & miniature or pitch & putt golf courses					X	X
Funeral homes and mortuaries					X	X
Places of business of plumbers, painters, cabinetmakers, building & construction contractors and similar uses compatible with the uses above mentioned					X	X

(Section II Use Regulations Continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
Warehouses, and buildings and yards used for storage, provided such yards are fenced from the view of abutting lots and the street as required under Section IV-F					X	X
Wholesale, jobbing or distributing establishments, provided no substantial quantities of flammable, explosive or toxic materials are involved					X	X
Shops for the making of custom articles, the major portion of which is sold at retail on the premises					X	X
Printing shops, machine shops, welding shops and sheet metal shops, provided that no power forges are employed nor more than one hundred horsepower be used as total capacity in electric motive power for each five thousand square feet of floor area employed for such purposes					X	X
Business colleges and private trade schools					X	X
Commercial parking lots, automobile lots, motor vehicle sales, agencies and car washes					X	X
Automobile filling stations and repair garages, except as permitted within motor vehicle sales agencies					ZBA	
Junk yards only as accessory uses incidental to main uses such as repair garages, provided they are fenced off from the view of abutting lots and the street as required under Section IV-F					ZBA	
Filling station/convenience store					ZBA	

(Section II Use Regulations Continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
Fast food eating establishments					PBP	
Any other use deemed by the Zoning Board of Appeals to be compatible and similar to those listed in this section and to be in the public interest					ZBA	
Laboratories; research, experimental and testing						X
An accessory use whether or not on the same parcel, which is necessary in conjunction with scientific research or development or related production, provided the ZBA finds that the accessory use does not have a substantial adverse effect on the surrounding area	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
Retail, service and industrial complexes (5,000 sq ft or more gross floor area)					PBP	PBP
Light manufacturing such as of clothing, portable electric appliances, leather goods, machinery parts and accessories, small tools and plastic processing such as molding and extruding, provided no power forges are employed, no basic materials are processed, and no more than one hundred horsepower be used as total capacity in electric motive power for each one thousand square feet of floor area employed for such purposes						X
Machine shops, welding shops, sheet metal shops, printing shops and other similar uses, provided that no power forges are employed and that no more than one hundred horsepower be used as total capacity in electric motive power for each one thousand square feet of floor area employed for such						X

(Section II Use Regulations Continued)

	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-A</u>	<u>B</u>	<u>I</u>
purposes						
Mixing and packaging of chemicals, drugs, detergents and other consumer and industrial products provided no chemical reactions are involved and any premises used for flammable materials meet the provisions of the applicable fire code of the National Fire Protection Association and that no explosive or poisonous substances are used in substantial quantities						X
Quarries, gravel processing plants and cement mixing plants						X
Foundry casting of metal not causing noxious fumes or odor						X
Municipal cemetery(ies)	ZBA	ZBA	ZBA	ZBA	ZBA	
Municipal park(s)/playground(s)		ZBA	ZBA	ZBA	ZBA	ZBA
Adult Entertainment						PBP

TABLE 1

<u>Zone</u>	<u>Type of Use</u>	<u>Minimum Lot</u>		<u>Minimum Setback</u>			<u>Max % Lot Coverage (See Definition)</u>	<u>Max Height</u>	
		<u>Area Sq. Ft.</u>	<u>Frontage Ft.</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>		<u>Stories</u>	<u>Ft</u>
R-1	All	22,500	150	30	20	40	20	2 1/2	35
R-2	One family dwelling	10,000	75	25	10	30	30	2 1/2	35
R-2	Two family dwellings	15,000	100	25	10	30	30	2 1/2	35
R-2	Other than dwellings	20,000	100	35	20	30	30	3	35
R-3 & B	One family dwelling	22,500	150	25	20	30	30	2 1/2	35

R-3 & B	Two family dwellings	27,500	175	25	20	30	30	2 1/2	35
R-3 & B	Multi-fam 1st 3 units	32,500	200	30	20	40	30	2 1/2	35
R-3 & B	Multi-fam 4 units	37,500	225	30	20	40	30	2 1/2	35
R-3 & B	Other than dwellings	22,500	150	35	20	30	(R-3) 30 (B) 50	3	35
R-3 & B	Garden apartments	See III-H	200	50	50	50	30	2 1/2	35
R-A	One family dwelling (2 acres)	87,120	200	30	20	40	20	2 1/2	35
R-A	Two family dwellings (2 acres)	87,120	200	30	20	40	20	2 1/2	35
R-A	Multi-fam 1st 3 units (2 1/2 acres)	108,900	250	30	20	40	20	2 1/2	35
R-A	Multi-fam 4 units (2 1/2 acres)	108,900	250	30	20	40	20	2 1/2	35
R-A	Other than dwellings (2 acres)	87,120	200	40	40	50	20	3	35
I	All	87,120	200	35	40	40	50	---	35

SECTION III
INTENSITY REGULATIONS

Buildings or structures hereafter erected, altered or added to in any district shall adhere to the minimum requirements shown in Table 1, except as noted in this section.

III-A. In accordance with General Laws, Chapter 40A, Section 5A or any amendments thereof, any lot lawfully laid out by plan or deed recorded in the Registry of Deeds prior to the adoption of this by-law may hereafter be built upon for residential use should it not meet the frontage and area requirements in Table 1, provided that it is in a district permitting residential use, has a minimum area of 5,000 square feet and a frontage of 50 feet and conforms to this by-law except as to area and frontage, and at the time of adoption of this by-law such lot was held in ownership separate from that of adjoining land.

III-B. HEIGHT REGULATION EXCEPTIONS. Height restrictions shall not include silos, conveyors, smokestacks, water tanks or towers, flagpoles, antennas, chimneys, transmission towers, fire towers, observation towers, monuments, nor a parapet wall extending not more than four feet above the limit of the height of the building on which it rests.

III-C. BUFFER ZONES. Where a "B" or "I" District abuts any "R" District; a buffer zone shall be established by doubling the appropriate side and/or rear setback dimensions listed in Table 1 for premises in such "B" or "I" Districts use for purposes other than those permitted in the abutting "R" Districts. If these requirements as set forth are different than any other buffer zone requirements as set forth under any conditional use as set forth in this by-law then the buffer zone of greater width shall be required.

III-D. CORNER LOT YARDS. On corner lots, the front yard requirements shall apply to both streets and/or ways.

III-E. FRONT SETBACK EXCEPTIONS. Where existing buildings on both sides of a proposed building within 150 feet of said proposed building are less than the setback dimensions of Table 1, the average setback dimension of the two adjacent existing buildings shall be the required setback for the proposed building, but in no case shall this be less than 15 feet.

III-F. DISPLAY OF GOODS. There shall be no display of goods of any type for sale or rent permanently or temporarily, in front of the required setback building line.

III-G. MULTI-FAMILY DWELLINGS. A maximum of four (4) dwelling units shall be allowed in a multi-family dwelling.

III-H. GARDEN APARTMENT REQUIREMENTS. In addition to or in modification of other applicable provisions and requirements of this by-law, the following shall apply to garden apartments:

1. The minimum lot area for the first dwelling unit of a garden apartment development shall be two acres and there shall be a minimum of 15,000 (fifteen thousand) square feet of additional lot area for each additional dwelling unit in the development. When garden apartments are shown to have access to a municipal sewer, the Planning Board may reduce these lot requirements.
2. In a garden apartment, more than one principle building shall be permitted on a lot provided that such lot meets the minimum frontage requirements for the district as specified in Table 1.
3. The maximum lot coverage of building, structures, internal roads, and parking areas, shall not exceed the maximum percent coverage requirement of the requirements table of this law.

4. No portion of any enclosing wall of any building and no portion of any other permissible structure shall be nearer than 50 feet to any property line or to any other building.
5. Within the development, usable land areas shall be provided for playgrounds and other recreational uses, suitably graded and landscaped, to serve the needs of the proposed development in accordance with reasonable site planning standards.
6. No space above the second and one-half story or below the first story of such building shall be used for dwelling purposes, except that a basement where the floor is less than three (3) feet below grade may contain living quarters of the building superintendent and his family.
7. No structure shall exceed two and one-half (2 1/2) stories or thirty five feet in height.
8. No more than six (6) dwelling units shall be provided for in any one building.
9. No space shall be considered available for parking which reduces the effective width of a driveway, providing access to more than dwelling unit, to less than sixteen (16) feet.
10. Parking and play areas shall be so designed and located as to be safely and conveniently accessible from the buildings they are intended to serve.
11. A garden apartment development having more than forty (40) dwelling units shall have a minimum of two access roadways from a public way
12. Within the development, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with reasonable site planning standards.
13. All streets throughout the development shall conform with the standards as set forth in the "Subdivision Rules and Regulations" of the Town of Lanesborough.
14. Front yards and all open areas shall be suitably landscaped and maintained with grass, trees, shrubs, or walks.
15. The proposed development shall so be located within relation to major thoroughfares and uses outside the development as not to create traffic hazards or congestion.

16. The proposed development shall be so located that essential community services, including water supply, sewerage system, drainage, police and fire protection shall be available and adequate for the development based on reports and recommendations from appropriate agencies, or that suitable provision will be made assuring these services.

SECTION IV

NON-CONFORMING USES, ACCESSORY USES & CONDITIONAL USES

1. The lawful use of any structure or land existing at the time of the adoption of this amended by-law may be continued, even if not in conformity with its provisions.
2. A structure lawfully begun under a building permit or special permit issued before the first publication of notice of the required public hearing by the Planning Board on these by-law amendments may be continued to completion and the lawful use of the structure may be continued even if not in conformity with the amended by-law.
3. The Building Inspector with approval by the Board of Health of those features which come under its jurisdiction may issue building permits for:
 - a. The alteration, reconstruction, extension or structural change to a one-family or two-family dwelling on a lot meeting the requirements of Paragraph III-A but non-conforming because of failure to meet one or more of the requirements of Table 1 provided this does not increase the non-conforming nature of such a structure;
 - b. Reconstruction of a one-family or two-family dwelling on a lot not meeting the requirements of Paragraph III-A provided that the size of the structure and the location of the structure on the lot shall not be changed;
 - c. The expansion or reconstruction of existing structures for the primary purpose of agriculture, floriculture, horticulture, or vitaculture.
4. Requirements for extension, reconstruction or change in use.
 - a. Any pre-existing non-conforming structure or use may be rebuilt or re-established within two (2) years if damaged or destroyed by fire or other catastrophe.
 - b. Pre-existing non-conforming structures or uses may be extended, altered or changed to another non-conforming use by special permit from the Zoning Board of Appeals provided that the Board finds that such change, extension or alteration shall not be substantially

more detrimental to the neighborhood than the existing non-conforming use.

- c. A non-conforming use of land or structure which has been abandoned or not used for a period of two (2) years or more shall not be re-established, except by special permit from the Zoning Board of Appeals, and any future use of such premises shall conform to this by-law.
- d. The Zoning Board of Appeals may impose reasonable conditions on applications for special permits designed to lessen the detrimental impact of any non-conforming use on adjacent properties and the general neighborhood whenever such is authorized to enlarge, expand, extend or convert to another non-conforming use under the provisions of this section.

IV-A. ACCESSORY BUILDINGS. Rear and side yards may contain accessory buildings or structures provided they cover not more than 30% of the combined area of such yards and are located not less than 10 feet from any lot line, front yards may contain accessory buildings or structures provided they meet the front setback requirements of this by-law, that they cover not more than 30% of the area between the front setback line and the front of the main building, and that they are located not less than 10 feet from either side lot line, where such is deemed necessary and not detrimental to the neighborhood. The Zoning Board of Appeals under Section V-B, Paragraph 2, may grant special permission to locate an accessory building or structure closer to a lot line than 10 feet, but in no case less than 5 feet.

IV-B. FLOOD PLAIN/WETLANDS PROTECTION.

1. PURPOSES. The purpose of this district are:
 - a. To provide that lands in the Town of Lanesborough subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof.
 - b. To protect, preserve and maintain the water table and the water recharge areas within the town so as to preserve present and potential water supplies for the public health and safety of the residents of the Town of Lanesborough.
 - c. To assure the continuation of the natural flow pattern of the water course(s) within the Town of Lanesborough in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of flood inundation.
2. DISTRICT DELINEATION. The general boundaries of the Flood Plain District are shown on the Lanesborough Flood Insurance Rate Map (FIRM), dated June 15, 1982, Zones A. A 1-30 to indicate the 100 year flood plain. The Exact boundaries of the District are defined by the 100 year water surface elevations shown on the FIRM and further defined by the Flood Profiles contained in the Flood Insurance Study, dated June 15, 1982. The floodway boundaries are

delineated on the Lanesborough Flood Boundary Floodway Map (FBFM), dated June 15, 1982, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two maps as well as the accompanying study are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Inspector, Selectmen and Assessors. (Definition accepted in February 14, 1983 Special Town Meeting)

3. USE REGULATIONS.

- a. The flood plain district shall be considered as overlying other districts, any uses permitted in the portions of the districts so overlaid shall be permitted subject to all the provisions of this section.
- b. In the flood plain district no new building or structure shall be erected, constructed, altered, enlarged or moved, no dumping filling or earth transfer or relocation shall be used for any purposes except:
 1. Conservation of water, plants and wildlife.
 2. Outdoor recreation, including play areas, nature study, boating, fishing and hunting were otherwise legally permitted, but excluding buildings and structures.
 3. Non-commercial signs (as permitted in the residential district), wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided such uses do not affect the natural flow pattern on any water course.
 4. Grazing and farming, including truck gardening and harvesting of crops.
 5. Forestry and nurseries.
 6. Dwellings lawfully existing prior to the adoption of these provisions, but not including any enlargement and/or extension thereof.

4. BOARD OF APPEALS. In the flood plain district, The Board of Appeals may grant permission for any use and/or structure, subject to the following:

- a. The request has been referred to the Planning Board and the Board of Health for the recommendation of such Boards. In the event that such recommendations are not received within sixty days the Board of Appeals may consider the application without these recommendations.
- b. The land is shown to be neither subject of flooding nor unsuitable for the proposed use because of hydrological and/or topographic conditions.
- c. The proposed use will not be detrimental to the public health, safety and welfare.
- d. The proposed use will comply in all respects to the provisions of the underlying districts within which the land is located.

IV-C. PARKING REQUIREMENTS. In any district where permitted no use of premises shall be authorized or extended and no building or structure shall be erected or enlarged, unless there is provided for such extension, erection, or enlargement, off-street automobile parking space indoors, or if outdoors, treated with a surface binder, gravel, or crushed stones, within 300 feet of the main building, structure or use of the premises, in accordance with the following minimum requirements. An area of 200 square feet of appropriate dimensions for the parking of an automobile, exclusive of drives or aisles, shall be considered as an off-street parking space. In the interests of safety, for all uses except single family dwellings, it shall be required that drives be provided so that entry to and exit from said off-street parking spaces does not require the backing of automobiles on to or off of from the street.

1. Two spaces for each dwelling unit within the building or buildings on the premises.
2. One space for each sleeping room in a tourist home, boarding house, motel or cabin.
3. One space for each two beds in a hospital.
4. One space for each four beds in a nursing home or rest home.
5. One space for each 200 square feet or fraction thereof of any retail, wholesale, or service establishment, of office or professional building and one space for each two employees.
6. One space for each two employees and one space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverages, and for theaters, auditoriums, and other places of amusement or assembly.
7. One space for each three persons employed or anticipated to be employed on the largest shift for all types of shops, buildings, storage, manufacturing, or other permitted uses.
8. Adequate spaces to accommodate customers, patrons, and employees at automobile filling stations, drive-in establishments, open-air retail businesses and amusements, and other permitted uses not enumerated herein. Frequent parking of such automobiles on a public street or way adjacent to the premises shall be considered evidence of the inadequacy of the off-street parking space provided.

IV-D. OFF-STREET LOADING. Where use of premises requires frequent truck deliveries, there shall be provided adequate off-street parking for said deliveries. The required area shall be in addition to that required for automobile parking. The access to said off-street loading areas shall not create a traffic hazard. Frequent parking of trucks on a public or private street or way adjacent to the premises shall be considered evidence of the inadequacy of the off-street loading area.

IV-E. FENCING OF STORAGE AND JUNK YARDS. Such yards shall be concealed from view from abutting premises and the street by a suitable and well kept fence. A permit for such fence shall be obtained from the Building Inspector, the application for which shall include a written description of such fence. Before

issuing the permit, the Building Inspector shall determine that such a fence will meet the provisions of this by-law and will not detract from the neighborhood.

IV-F. SIGNS AND BILLBOARDS. Signs and billboards shall be permitted only in accordance with the following regulations:

1. R-1, R-2, R-3, and R-A Districts. Signs pertaining to the lease, sale or use of a lot or building, not more than two in number, with a total area of two square feet in R-1 Districts, six square feet in R-2 Districts, and 20 square feet in R-3 and R-A Districts.
2. B and I Districts. One free standing sign shall be permitted per lot. The maximum area of the sign shall be 50 square feet for the first business on the lot. The sign area may increase by 25 square feet per business for each additional business. Each business shall be permitted a maximum of two signs attached to the outside of the building. The total area of the two signs shall not exceed 150 square feet.
3. Billboards. Permitted in B and I Districts only. Zoning Board of Appeals approval necessary. Billboards are also regulated by the State Outdoor Advertising Board.
4. Temporary signs and off-premises signs. No signs shall be located off the premises to which it applies; except that directional, informational, or signs for identification may be allowed by permit issued by the Building Inspector where such signs shall serve the public convenience and not be detrimental to the neighborhood with respect to size, location, or design. Such permits shall not be valid for more than 90 days.
5. Public safety requirements. In the interest of public safety, the following regulations shall be required:
 - a. Signs shall not protrude or extend more than six inches over public property except by authorization of the Zoning Board of Appeals under Section V-B, Paragraph 2.
 - b. Blinking lights, blinking illuminated signs, signs with moving parts, and signs making noises shall not be permitted.
 - c. Illuminated signs within the required front yard shall utilize a minimum of red in order not to interfere with the visibility of traffic lights, automobile tail and brake lights, and emergency vehicle warning lights.
 - d. Signs hung from, or in any way affixed to any other sign.
 - e. Signs within ten (10) feet of any lot line.
 - f. Any spotlight illuminating a sign shall be controlled so as not to have the beams therefrom cast into the eyes of oncoming motorists or onto any adjacent residential districts premises.
6. Permits. No sign shall be erected on any property, or affixed to the

outside of any structure without the person erecting the same first having obtained thereof a permit from the Building Inspector. The application for said permit shall include a plan of the premises or building on which such sign is to be located, including the location of any existing buildings, structures or signs and the location of the proposed sign and shall include a drawing and description of such sign, the foregoing to enable the Building Inspector to determine that such sign will come within the provisions, spirit and intent of this section of this by-law. A record of all applications, plans and permits shall be kept on file by the Building Inspector.

7. Non-conforming signs and billboards. Any sign or billboard legally in existence at the time of adoption of this by-law, may be continued in use. If such sign or billboard be removed or altered by act of God, vandalism or accident, it may be restored to its former condition if such sign needs to be changed, painted, relettered or repaired, the same may be done, provided, however, where such restoration, repair or change would allow conformity with the provisions of Paragraph 5 above, without undo expense, the conformity shall be required, under no other circumstances may any non-conforming sign or billboard be restored, replaced or re-erected.

IV-G. VISIBILITY AT CORNERS. On any corner lot there shall be no building, structure, shrubbery, planting, or fence other than of flat woven or welded wire construction, such as will obstruct traffic visibility, within the height of two and one-half (2 1/2) and ten (10) feet above the plane of the intersecting streets and within the area formed by the intersecting street lines and a straight line joining such street lines at points which are 25 feet distant from the point of intersection, measured along such street lines.

IV-H. MOBILE HOMES AND MOBILE HOME PARKS. Mobile homes shall be permitted only in accordance with the following regulations:

1. A special permit from the Zoning Board of Appeals is required for dwelling use of a single mobile home on a lot by the owner of such mobile home lot. The mobile home and lot shall meet the intensity regulations as given in Section III for single family dwellings in those districts where permitted.
2. Mobile home storage. A mobile home or trailer may be stored by its owner in the rear or side yard provided such mobile home or trailer is not used for dwelling or business purposes and is not within 10 feet of any lot line.
3. Temporary uses. A mobile home or trailer may be used for a temporary dwelling or office during construction of a building on the premises in any district provided such mobile home or trailer meets the yard requirements of the district in which it is to be

located, and the owner of such mobile home or trailer shall have obtained a permit from the town Board of Health, such permit being for a period of six months, but shall be renewable by the Board of Health for additional periods of six months each.

4. Mobile home parks. Where permitted, a mobile home park for the parking of two or more mobile homes or trailers used for permanent or temporary dwelling purposes shall be permitted subject to plot plan approval by the Zoning Board of Appeals after a public hearing and subject to the following special requirements:
 - a. The minimum size of the lot on which such use is located shall be five acres.
 - b. All access roadways and mobile home parking berths shall be provided with a dust-proof surface.
 - c. There shall be at least 3,000 feet of lot area for each mobile home to be accommodated thereon, and the parking berths shall be so laid out that there shall be at least 30 feet between mobile homes.
 - d. No mobile home shall be parked within 40 feet of any street line or lot line.
 - e. A site plan showing roadways, parking berths, service structures and facilities drainage, landscaping, lighting, fire hydrants and provisions for sanitary facilities shall be filed with the Zoning Board of Appeals 30 days prior to said public hearing. Following the public hearing and approval by the Zoning Board of Appeals, an application for a building permit shall be filed with the Building Inspector. Such permit shall be accompanied by a copy of the final site plan as approved by the Planning Board. Upon approval of the town Board of Health of those features of said site plan that come under its jurisdiction, the Building Inspector shall issue a building permit.

IV-I. SITE PLAN. A plan of land indicating but not limited to the following:

1. The existing and proposed grades and the location of natural features such as streams, swamps, rock outcrops, etc.;
2. The proposed use or uses of land and buildings, and the proposed location, size and height of buildings;
3. The location and design of off-street parking and loading areas;

4. All means of vehicular ingress and egress to and from the site onto public ways;
5. Location of all existing and proposed site improvements, including drains, culverts, retaining walls and fences, location of water supply and sewage disposal systems;
6. The proposed outdoor lighting, signs, screening and landscaping;
7. Such other information as may be reasonably required by the Board of Appeals, the Planning Board or the Selectmen, for determination that the proposed development is in compliance with the provisions, intent and purposes of this by-law (and with reasonable site planning standards).

IV-J. SCREENING. All screens shall be established and maintained in a slightly and well-kept condition and shall be designed to comply with the following requirements:

1. A screen may consist of plant materials, at least three (3) feet in height at the time of planting, which are of a type that may be expected to form a year-round, dense screen and will reach a height in maturity of at least five (5) feet, or a masonry wall or wooden fence from five (5) to six (6) feet in height at least fifty (50) percent solid, designed in an attractive manner to obscure any view.
2. Any existing growth of trees and shrubs may take the place of the required planting, wall or fencing, if, in the judgment of the Building Inspector, such growth provides equivalent screening. Additional planting or landscaping shall be provided and maintained whenever the Building Inspector finds that sufficient planting and landscaping does not exist on the site or that it is inadequate.
3. A screen at variance with the requirements as set forth herein may be substituted if, in the judgment of the Building Inspector, it provides equivalent screening.

IV-K. EARTH REMOVAL REGULATIONS. The excavation and removal of more than 50 cubic yards of gravel, topsoil, rock, clay, hardpan, or any combination of these or other elements which constitutes the soil of an area shall be prohibited with the following exceptions and special requirements:

1. Where a valid building permit exists for the construction of a private dwelling, the removal of soil for the purpose of construction of the dwelling and landscaping of the immediate area in which the dwelling is situated, not to exceed an area of one-half acre or volume of 500 cubic yards removed from lot.
2. For other than private dwellings, such as multiple housing

developments, commercial, or industrial developments, the removal of soil shall be limited to areas covered by structures, roads, sidewalks, and parking lots.

3. For existing dwellings, the repair of subsurface sewage disposal systems shall permit the removal of as much soil as necessary to effect the proper repair of the system requiring only the approval of the Health Inspector and/or the Board of Health.
4. For earth removal not involving building construction:
 - a. No permit shall be issued under this section until a plan for rehabilitation of the land, showing existing and proposed final contours, and time schedule for finishing the operation and restoring the land for its ultimate re-use, has been submitted to the Board of Appeals, and has been reviewed and approved by the Planning Board.
 - b. A bond with surety satisfactory to the Board of Appeals has been furnished to the town and approved as to form by the Town Counsel in the amount sufficient in the opinion of the Board of Appeals to secure the performance of the restoration of the land in accordance with the approved plan, and for preserving the appearance of the area, and for meeting the requirements of public safety.
 - c. The Board of Appeals may impose certain conditions and restrictions with regard to the length of time the permit will remain in force; the hours of the day during which activities related to the removal of earth materials may be conducted; method of excavating earth materials; routes of transporting such materials from premises; trees, stumps, other debris; provision for landscaping, screening, fencing, or other barriers against nuisances and hazards to public safety and welfare; to protect the area from becoming unsightly.

IV-L. EROSION AND SEDIMENT CONTROL. Site design, materials, and methods of construction or operation shall be designed to avoid erosion damage, sedimentation or uncontrolled surface runoff.

1. The following requirements must be complied with whether Special Permit is required or not.
 - a. Slopes of 10% or greater which result from grading, construction, or other land alteration shall be stabilized either through a structural retaining wall or cribbing, or through vegetive slope stabilization, comprising not less than 4 inches of topsoil planted densely with plants having shallow fibrous roots sufficient to retain the soil, such as grasses, legumes, dogwood, amur privet, rugose, rose or bayberry. The Building Inspector may require mulch or other temporary stabilization measures. Either a constructed surface or cover vegetation will be provided immediately following

filling or stripping.

- b. Placing more than 100 cubic yards of fill on any lot or raising ground level by 3 vertical feet or more within any lot shall require a permit from the Building Inspector. Reasonable care shall be taken to avoid harmful diversion of water affecting adjoining properties; that mature trees shall be reasonably protected; that no resultant slope shall exceed one foot vertical to two feet horizontal. Either a constructed surface or vegetation will be provided immediately following fillings or stripping.
2. Special permits required. Each of the following shall require a Special Permit from the Zoning Board of Appeals:
- a. Placing more than 200 cubic yards of fill per acre on any parcel.
 - b. Exposing more than two acres of bare earth through either removal or filling unless in conjunction with agricultural activity or in conjunction with road construction.
 - c. Construction or grading of more than 3,000 square feet of land where the average natural slope exceeds 25%.

Application for Special Permit shall include a plan showing existing and proposed grades at key locations, vegetation (or other surface cover) and description of temporary or permanent impoundment basins or other methods proposed for controlling erosion, sedimentation, or other soil

instability during and after construction. The Board of Appeals may require the applicant to submit a report from the Soil Conservation Service or soil loss calculation prepared by a soil scientist or engineer in cases of doubt as to adequacy of proposed measures. The Board may also require the furnishing of a performance bond or other security during the construction period. The Board of Appeals shall obtain a recommendation from the Conservation Commission. Such Special permit shall be granted only if the Board determines that adequate provisions have been made for control of erosion, sedimentation, and runoff, both during and after construction; for avoidance of unsightly conditions; and for protection against other environmental degradation.

IV-M. FENCING - NON AGRICULTURAL. Fencing shall not interfere with traffic safety, and shall require a permit from the Building Inspector (also see IV-H for corner lots)

IV-N. FAST-FOOD EATING ESTABLISHMENTS. Any fast-food eating establishment shall:

- A. Require a Special Permit from the Planning Board under the provisions of Chapter 40A of the General Laws as amended
- B. Comply as a minimum with the requirements and procedures listed

below:

Location and access ways:

1. Minimum lot size 87,120 square feet (2 acres) with a minimum frontage of 200 feet, a minimum front setback of 50 feet, and a buffer zone of 50 feet if located adjacent to any residential or institutional use. These requirements shall apply whether this use is freestanding or connected to another structure.
2. The proposed use shall be so located with relation to major thoroughfares and uses in the neighborhood as not to create traffic hazards and as not to adversely affect such other uses in the neighborhood.
3. The proposed use shall not draw excessive traffic to and through local streets in nearby residential areas.
4. The location of any driveways that provide access and exit to the proposed use shall not be less than 100 feet from the adjacent lot line of a Residence District, residential or institutional use or park or playground.
5. Within the property's boundaries, vehicular and pedestrian circulation facilities shall be provided for safe and convenient use in accordance with site planning standards.
6. Conform with performance standards set forth in this by-law.

IV-0. FILLING STATIONS AND CONVENIENCE STORE REQUIREMENTS. Any filling stations or convenience stores shall:

- A. Require a Special Permit from the Board of Appeals under the provisions of Chapter 40A of the General Laws as amended.
- B. Be designed to conform to the following requirements which shall apply whether the use is freestanding or connected to another structure.
 1. The minimum lot area shall be 43,560 square feet (one acre).
 2. The minimum frontage on a street shall be 150 feet.
 3. The width of driveways and sidewalk openings measured at the street lot line shall be 25 feet.
4. The minimum distance of driveways measured at the lot line shall be twenty (20) feet.
 - a. from the corner line shall be 35 feet.
 - b. from the interior side lot line shall be 20 feet.
 - c. from other driveways on the sale lot shall be 20 feet.
5. The minimum setback of any building from all street lot lines shall be 40 feet.

6. No part of any structure shall be located nearer than 20 feet to any street boundary.
7. A raised curb at least 6 inches in height shall be constructed and maintained along the edges of all pavement on the lot except at the bases of buildings and at driveway openings.
8. If a convenience store or filling station is located adjacent to a residential or institutional use, a buffer zone of 40 feet shall be provided.
9. Conform with the performance standards as set forth in this by-law.
10. No repairs shall be performed.
11. The area of the lot not planted and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Inspector, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across the public ways.

SECTION V
PERMITS

V-A. APPLICATIONS FOR PERMITS.

1. No building shall be constructed, reconstructed or added to without a building permit having been issued by the Building Inspector. No permit shall be issued until all such construction, alteration, addition or the use thereof shall comply in all respects to the provisions of this By-Law or with a decision rendered by the Zoning Board of Appeals, nor unless or until the town Board of Health has approved those features of such building or use which come under its jurisdiction.

Any application for such a permit shall be accompanied by a plan, drawn with sufficient accuracy to allow the Building Inspector to establish the conformity of such building or use with this By-Law provided that in R-A Districts such plan shall only be required to include the area within 200 feet of the outside lines of the proposed structure. Such plan shall show the actual shape and dimensions of the lot to be built upon, the location, size and sill elevation above finished grade of all buildings or structures already on the lot, the location, size and sill elevation above finished grade of new buildings or structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure, the location of sewage disposal systems, provisions for necessary storm drainage, and such other information as may be necessary to provide

for execution and enforcement of this By-Law. A record of all applications, plans, and permits shall be kept on file by the Building Inspector.

Where a lot, in accordance with the intensity regulations given in Table 1, may contain only one dwelling, the Building Inspector may issue a permit for the building of a new dwelling prior to the removal of an existing dwelling provided that at the same time said Building Inspector shall issue a non-renewable permit for temporary occupancy of the existing dwelling for a period not to exceed six months, provided further that such existing dwelling be removed within nine months of the date of said permits, and that the new dwelling complies with all of the provisions of this By-Law.

2. Any violation of Chapter 131, Section 40 of the Massachusetts General Laws (Wetlands Protection Act) shall prohibit the issuance of the building permit. If a building permit is in existence at the time of the violation, that permit will be rescinded until receipt of Certificate of Compliance from the Conservation Commission.
3. If construction or operations under a building permit has not begun within six months from the date of issue of the permit, the permit is void. If the permit holder applies for a new permit, construction or operations must comply with any amendments that have come into effect since the date of issue of the voided permit. Construction under a building permit shall conform to any subsequent amendment of the By-Law unless construction is continuing through to completion as continuously and expeditiously as is reasonable.

V-B. SPECIAL PERMIT GRANTING AUTHORITY. Any Board designated as Special Permit Granting Authority in the By-Law may hear and decide upon applications for Special Permits upon which such Board is specifically authorized to act under this By-Law in accordance with the provisions of Section 9, Chapter 40A of the General Laws.

1. Required Hearing and Notice

Special Permits may be issued only following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority. Notice of Public Hearing shall be given by the Special Permit Granting Authority by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such a notice in a conspicuous place in the town hall for a period of not less than fourteen (14) days before the day of such hearing, and by mailing it to "Parties In Interest" as provided in Section 11, Chapter 40A (G.L.) which include the Planning Board, and the Planning Board of every abutting municipality, the petitioner, abutters, owners of land directly opposite on any public or private street or way, and the owners of land within three hundred feet of the property line, all as they appear on the most recent applicable tax list, as certified by the Board of Assessors.

2. Review by Other Boards and Agencies

The Special Permit Granting Authority within ten (10) days after receipt of an application for a Special Permit shall transmit, for review, copies thereof to the Board of Health, the Planning Board, the Board of Selectmen, the Conservation Commission, the Board of Water Commissioners of the Lanesborough Village Fire and Water District and any other town board or agency at the discretion of the Special Permit Granting Authority. All boards or agencies to which such application is referred for review shall make, in writing, to the Special Permit Granting Authority such recommendations as they deem appropriate. Failure of a board or agency to make such recommendation within thirty-five (35) days of receipt by such board or agency of the application for review shall be deemed lack of opposition thereto.

3. Findings Required

Before granting a Special Permit for any use requiring such permit under the provisions of this By-Law, The Special Permit Granting Authority shall find that the proposed use:

- a. Is in compliance with all provisions and requirements of this By-Law, and in harmony with its general intent and purpose.
- b. Is essential or desirable to the public convenience or welfare at the proposed location.
- c. Will not be detrimental to adjacent uses or to the established or future character of the neighborhood.
- d. Will not create undue traffic congestion, or unduly impair pedestrian safety.
- e. Will not overload any public water, drainage or sewer system or any other municipal facility to such an extent that the proposed use or any existing use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting public health, safety or general welfare.

4. Conditions, Safeguards and Limitations

Special permits may be issued subject to such conditions, safeguards or limitations as the Special Permit Granting Authority may impose for the protection of neighboring uses or otherwise serving the purpose of this By-Law. Such conditions, safeguards or limitations may include, but are not limited to, the following:

- a. Front, side or rear yards greater than the minimum required by this By-Law: screening buffers or planting strips, fences or walls as specified by the Authority.
- b. Limitations upon the size, number of occupants, method and time of operation time duration of the permit, or extent of facilities.
- c. Regulation of number or location of driveways, or other traffic features; and off-street parking or loading, or other special features beyond the minimum required by this By-Law.

Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the Special Permit and of the building permit, if any.

5. Site Plan Required

Any application for a Special Permit shall be accompanied by a site plan drawn to scale indicating the location, size and height of proposed buildings, site improvements, and containing such other information as may be required by the Special Permit Granting Authority.

6. Decisions and Vote Requirements

The Special Permit Granting Authority shall act within ninety (90) days following the date of the public hearing. Failure to take final action upon an application for Special Permit within said ninety (90) days shall be deemed to be a grant of the permit applied for.

A Special Permit issued by a Special permit Granting Authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five member board and a unanimous vote of a three member board.

7. Expiration of Special Permit

A Special permit shall lapse in one (1) year, which shall not include such time required to pursue to await the determination of an appeal as allowed by Section 27, Chapter 40A of the General Laws, if a substantial use or construction has not begun under the permit by that date, except for a good cause.

V-C. ZONING BOARD OF APPEALS. There is hereby established a Zoning Board of Appeals of five members, and two associate members to be appointed by the Selectmen, as provided in Chapter 40A of the General Laws, which shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in said Chapter 40A and subject always to the rule that it shall give due consideration to promoting the public health, safety, convenience and welfare and conserving property values, that it shall prescribe appropriate conditions and safeguards in each case to assure that no building of use will be injurious, noxious, offensive or detrimental to a neighborhood. The Zoning Board of Appeals shall act on the following matters:

1. Variances. When the Building Inspector has refused a permit or when a particular use is not expressly permitted in the district, an application for variance may be obtained from and filed with the Town Clerk. The application is forwarded to the Zoning Board of Appeals to be acted upon in accordance with Section 10, Chapter 40A of the General Laws.
2. Special Permits. The Zoning Board of Appeals shall hear and decide on applications for special permits upon which the Zoning Board of Appeals is specifically authorized to act under this By-Law in accordance with applicable provisions of Section V-B herein.

3. Appeals. The Zoning Board of Appeals under the provisions of Chapter 40A of the General Laws shall hear and decide appeals by any person aggrieved by reason of his inability to obtain a permit from any administrative board or official under the provisions of this By-Law.

V-D. REPEAL OR MODIFICATION. This By-Law or any amendment thereof, any boundary lines or districts of the zoning map may be modified or repealed from time to time as provided under the general Laws.

V-D1A. AMENDMENT. This By-Law may be amended from time to time in an annual or special town meeting in accordance with the provisions of Chapter 40A of the General Laws.

- B. Prior to any action by the town meeting on any zoning amendment proposal, the Planning Board shall hold a public hearing thereon, first causing notice of the time and place of such hearing and of the subject matter, sufficient for identification, to be published in a newspaper or general circulation once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing. No amendment shall be adopted until the Planning Board has submitted a final report with recommendations to the town meeting or until twenty (20) days shall have elapsed after such hearing without submission of such report.

- C. The Town of Lanesborough hereby adopts, by its vote, Section 8 of Chapter 40A of the General Laws, which provides that no proposed By-Law making a change in any existing Zoning By-Law which has been unfavorably acted upon by a town meeting, shall be considered on its merits by the town meeting within two (2) years after the date of such unfavorable action unless the adoption of such proposed By-Law is recommended in the final report of the Planning Board required by Chapter 40A of the General Laws.

1. No action shall be taken under any such article unless the report of the Planning Board shall have been made thereon.
2. It shall be the duty of the Planning Board to make continuous and careful study of the resources, possibilities, and needs of the town, and when necessary, prepare and submit to the town meeting modifications or repeals to the existing Zoning By-Law and the zoning map, in accordance with the general Laws.

V-E. VALIDITY. The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

V-F. ENFORCEMENT. The Building Inspector is the Enforcing Officer of these Zoning By-Laws. Any person violating any of the provisions of this By-Law may be fined not more than the maximum allowable under state law for each offense under Section 7, Chapter 40A of the General Laws.

V-G. REPEAL OF FORMER BY-LAWS. Upon the acceptance of the foregoing By-Law by the town and approval of same by the Attorney General and its publication as required by law, all By-Laws heretofore existing and relating to zoning shall be annulled and repealed.

SECTION VI
RETAIL, SERVICE AND INDUSTRIAL COMPLEXES

VI-A. PURPOSE. It is the purpose of these requirements to provide regulations and conditions for the planning and design of shopping centers, plazas and malls, industrial complexes, industrial parks and industrial buildings in order to:

1. Ensure harmony with the purpose of the By-Law.
2. Control the impacts of major commercial and industrial developments on the surrounding area and the town as a whole.
3. Encourage the design of commercial and industrial facilities to be compatible with the special conditions of the site and the character of the area.
4. Preserve and enhance the environmental quality of the town.
5. Make the most economical use of energy resources, municipal services, streets, and utilities.

VI-B. DEFINITION. A building or complex of buildings for commercial or industrial, or office, hotel, motel or other service uses with a gross floor area of 5,000 square feet or greater on a common site or sites of two (2) acres or greater which is integrated in terms of utilities and services and/or in respect to the conduct of business activities on the site.

VI-C. REQUIREMENTS.

1. Any proposed Retail Service or Industrial Complex as defined shall conform to the requirements of this section as set forth and shall require a Special permit from the Planning Board under the provisions of Section 9, Chapter 40A of the General Laws as set forth and shall be subject to the following special requirements which are in addition to, or in modification of, other applicable provisions and requirements of the By-Law.

This provision shall also apply to the expansion of any such existing facility which is or creates a shopping center, plaza or mall, industrial complex, industrial park or industrial building, or office or hotel or motel or service establishment, as defined by this By-Law.

2. Site Requirements

- a. Stores, public spaces, parking, loading areas, and other uses shall be located on the site and be designed to provide a safe, convenient and attractive environment which is compatible with the surrounding areas and to ensure harmony with the purpose of this By-Law.
- b. A circulation system shall be designed for automobiles, public transportation vehicles, pedestrians, wheelchairs, and emergency service and delivery vehicles, so that circulation routes are clearly defined and provisions for safety are made, especially at points where circulation routes intersect.
- c. The site shall be designed so as to adequately accommodate storm drainage and snow removal.
- d. The proposed use shall be so located with relation to major thoroughfares and uses in the neighborhood, as not to affect other uses in the neighborhood, and as not to create traffic hazards or congestion.
- e. The proposed use shall be designed to minimize excessive traffic to and through local streets in nearby residential areas.

3. Impact Statement*

The application for such shopping center, plaza, mall, industrial complex, industrial park or industrial building, or office or hotel or motel or service establishment must be accompanied by an impact statement prepared by a duly authorized engineer, planner architect, landscape architect and/or land surveyor or a combination thereof as as appropriate which details the probable effect of the proposed development both during construction and after completion. The proposed development shall not create any undue adverse impacts as identified by the impact statement and the analysis reports of the various town boards and departments. All appropriate reports shall be submitted to the Planning Board within thirty-five (35) days after the public hearing. This impact statement shall be comprehensive enough to enable the Planning Board and other reviewing agencies to make valid judgments based upon it and must include the following:

- a. An analysis of resulting demands on public utilities and services and on future demand for them, including, but not limited to, sewer, water, and drainage systems, police, fire and public works.

- b. An analysis on increased traffic volumes and the effect of this increase on nearby uses and area.
- c. An analysis on architectural, site planning, and other design features assuring environmental quality of the facility and compatibility with the surrounding areas.
- d. A report of anticipated effects of demolition or alteration of existing buildings, if any.
- e. A report of architectural, site planning, and other design features assuring public safety in both day to day and emergency situations.
- f. An engineering report detailing the effect on nearby water systems such as, but not limited to, aquifers, groundwater supplies, wetlands, rivers, lakes and floodplains, including erosion and siltration during the construction and other impacts on natural resources and environments, and proposed controls to minimize adverse impacts.
- g. An impact study on local wildlife and its habitat.

4. Action By The Planning Board

In reviewing an application for determination that a proposal under this section meets the site requirements and will not create undue adverse impacts, the Planning Board shall consider:

- a. The development plans.
- b. The impact statement.
- c. The reports of the Public Works Department, Building Inspector, Health Department, Water District, Highway Department, Fire Department, Police Department, and Conservation Commission analyzing the developing plans and verifying the impact statement.
- d. Overall design of the development and the location, spacing, bulk, and height of proposed buildings and structures, and their effect on adjacent uses and the surrounding area.
- e. Vehicular and pedestrian traffic within the site and in the surrounding area.
- f. Architectural and open space design features enhancing the comforts, convenience, and amenities for shoppers, employees, others using the facility; enhancing the general appearance of the development; or contributing to public health, safety, or

welfare.

- g. Provisions for off-street parking and loading facilities as per Section IV-D and IV-E.
- h. Character, size, mix, and compatibility of the proposed uses and their effect on the existing uses and environment in the area.
- i. Consistency with the Zoning By-Law of Lanesborough, Massachusetts, Federal, State or Local land use regulations and plans.

* Some or all of the Impact Statement requirements may be waived at the discretion of the Planning Board.

VI-D. APPLICABILITY. Any other provision of these By-Laws to the contrary notwithstanding, the provisions of this Section VI shall not apply in any way to any project for which a building permit has been issued prior to the effective date of this Section VI and/or for which clearing, grading, earthwork, general site work and/or construction related activities have been commenced prior to the effective date of this Section VI.

SECTION VII

WIRELESS COMMUNICATIONS FACILITIES

A. Purpose:

The Town of Lanesborough seeks to allow telecommunications and wireless services with minimal effect to the public health, safety and general welfare, and to minimize the visual impact of such facilities.

B. Definitions:

1. Above Ground Level (AGL): a measurement of height from the natural grade of a site to the highest point of a structure.
2. Co-locate: A term meaning that more than one wireless communications facility can be installed and operated on a single tower.
3. Elevation: The measurement of height above sea level.
4. Monopole: A Style of tower characterized by a single round pole having the general configuration of a flag pole. The monopole does not appear to be significantly larger at its base than at the point of maximum height.
5. Telecommunications tower: A structure with antennas, if any, designed to facilitate the following types of services: cellular telephone service, personal communications services, and/or enhanced specialized mobile radio services.
6. Wireless Communication Facility: Any tower (including antennas, if any), or antenna placed on existing buildings or structures, or any device, wiring or equipment designed to facilitate or be utilized in connection with the provision of the following types of specialized mobile radio service as well as any structures, buildings and/or appurtenances utilized primarily for the installation and operation of equipment necessary for the provision of such services. This definition does not include an antenna used by a federally licensed amateur radio operator. This definition does not include TV antennas or satellite dishes.
7. SPGA: Special Permitting Granting Authority
8. Lattice: Open Structure Tower
9. Monitoring Protocol: The testing protocol, initially the Cobbs Protocol, which is to be used to monitor the emissions from existing and new communications wireless facilities.

10. EMF: Electro Magnetic Field

11. Non-operational: The unexcused failure to daily operate the facility, except for repair, refurbishment or upgrading for a consecutive period of one year or more.

C. Special Permit Requirements:

A wireless communications facility shall require a building permit in all cases and may be permitted as follows:

1. All wireless communication facilities shall require a Special Permit from the Planning Board. (SPGA)

2. For new tower construction, or major modifications of an existing tower, a tower construction special permit is required.

(1)The applicant shall provide a written, irrevocable commitment valid for the duration of the existence of the tower, to rent or lease available space for collocation on the tower at fair market prices and terms, without discrimination to other wireless communications providers.

(2)If the applicant is not simultaneously applying for a communications wireless facilities special permit, it shall provide a copy of its existing lease/contract with a wireless communications provider. A facility construction special permit shall not be granted for a tower to be built on speculation.

3. If the applicant is not the owner of the property, the property owner shall sign the application. The applicant shall also submit a signed contract between the applicant and the property owner. If the property owner is a public entity, the applicant shall submit authorization from the entity. If the owner is the Town of Lanesborough, a lease agreement between the Town and the applicant shall establish authorization from the Town.

4. No wireless communications facilities shall be erected or installed except in compliance with the provisions of this Section. Any proposed modifications to an existing wireless communications facility including, but not limited to extension in the height, addition of antennas or panels, or construction of a new or replacement facility shall be subject to these provisions and shall require a new application. The SPGA may, at its discretion, waive any application requirements for modifications to existing facilities.

Wireless communication facilities shall, if feasible, be located on pre-existing load-bearing structures, buildings or towers, provided such installation shall preserve the character of the structure, building or tower. The applicant shall demonstrate that there are no pre-existing structures, buildings or towers available prior to approaching the SPGA with an application proposing the construction of a new structure or mount for an antenna.

5. Providers of wireless communication services shall report to the Building Inspector and the SPGA any cessation in the use or operation of any wireless communications facility that exceeds 30 days. All facilities, attachments, and accessory structures which have not been used for a period of one (1) year shall be dismantled and removed at the applicants or property owner's expense.

D. Siting and Construction Guidelines:

The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities:

1. To the maximum extent possible, all services providers will co-locate on a single structure. Structures shall be designed to accommodate the maximum number of users technologically practical. The intent of this condition is to reduce the number of towers located within the Town of Lanesborough.

2. The base of the tower, including any attachments, shall be set back a minimum of 150% of its' vertical height from any property boundary or existing residential or public structure erected nearer to any existing residential or public structure.

3. All towers shall be pre-engineered to fail at a pre-determined height enabling the structure to collapse upon itself in the event of a catastrophic failure.

4. No wireless communications facility shall exceed 150 feet in height as measured from the mean finished grade at the base of the tower. Exterior lighting of the towers and any accessory structures shall be prohibited.

5. Siting shall be such that the view of the facility and tower shall be as limited as possible when viewed off site. Facilities shall be screened to provide an effective year round visual buffer. The buffer shall be of sufficient height and depth to sufficiently screen the facility. The SPGA shall determine the types of plants and materials and the size of the buffer based on conditions of the site. Existing vegetation shall be used for screening wherever possible.

6. Existing on site vegetation shall be preserved to the maximum extent practicable. Clearing of land shall be performed in a manner which will maximize preservation of natural beauty and conservation of natural resources.
7. All wireless communications facilities shall be painted, colored, and/or constructed of materials that minimize glare.
8. Fencing shall be provided to control access to wireless communications facilities and shall reflect the visual character of the neighborhood or natural surroundings.
9. Signage is limited to providing the following information, and must adhere to the Town's current signage bylaw: the facility, the owner and operator and an emergency telephone number where the owner can be reached on a 24 hour basis must be clearly displayed; a no trespassing sign; a sign displaying the Federal Communications Commission registration number; and any signs required to warn of danger.
10. Site parking shall be provided so as to not block the access road at any time.
11. There shall be no on site storage of any kind.
12. All network interconnections from the communications site shall be buried.
13. Monitoring and evaluation of Compliance.

(a) Pre-testing. After the granting of a special permit and before the applicant's wireless communications facilities begin transmission, the applicant shall pay for an independent consultant, hired by the Town of Lanesborough, to monitor the background levels of EMF radiation around the proposed facility site and/or repeater locations to be utilized for the applicant's wireless communications facilities. The independent consultant shall use the Monitoring Protocol. A report of the monitoring results shall be prepared by the independent consultant and submitted to the Building Inspector, the Board of Health, the Board of Selectmen, the Town Clerk and the SPGA.

(b) Post Testing. After transmission begins, the owner(s) of any wireless communications facility(ies) shall pay for an independent consultant hired by the town, to conduct testing and monitoring of EMF radiation emitted from said site, and to report results of said monitoring as follows:

[1]There shall be routine annual monitoring of emissions by the independent consultant using actual field measurements of radiation, utilizing the Monitoring Protocol. This monitoring shall measure

levels of EMF radiation from the wireless communications facility site's primary antennas as well as from repeaters (if any). A report of the monitoring results shall be prepared by the independent consultant and submitted to the Building Inspector, the Board of Health, the Board of Selectmen, the Town Clerk and the SPGA.

[2]The activation of any additional permitted channels, or an increase of radiated power of 25% or more, shall require a new test of the EMF.

(c) Excessive emissions: Should the monitoring of a Wireless Communication Facility site reveal that the site exceeds the FCC 96-326 standard (or current standard), then the permit holder of all facilities utilizing that site shall be so notified. The permit holder shall submit to the Building Inspector a plan for the reduction of emissions to a level that complies with the FCC 96-326 standard (or current standard) within 10 business days of notification of noncompliance. That plan shall reduce emissions to the standard within 14 days of initial notification of noncompliance. Failure to accomplish the reduction of emission within 14 days of initial notification of noncompliance shall be a violation of the special permit and subject to enforcement as specified in Section V-F. of the Town of Lanesborough Zoning By Laws. If public health is at issue, the Building Inspector shall issue a cease and desist order to the owners. The owner(s) of the facilities and antennas on the facility site are the responsible parties and shall be held accountable until compliance is achieved.

(d) Operational Noise, as measured by the latest standards of the American Standards Institute, shall not exceed 60 decibels for more than 15 minutes in any one-day when measured from an unobstructed distance from the nearest inhabited structure, except for temporary construction or maintenance work, and shall not likewise exceed 40 decibels from 1,000 feet.

(e) Structural Inspection: Permit holders shall pay for an independent consultant (a licensed professional structural engineer), hired by the town, to conduct inspections of the towers structural integrity and safety. Towers shall be inspected every 5 years. A report of the inspection results shall be prepared by the independent consultant and submitted to the Building Inspector. Any major modification of an existing facility that includes changes to tower dimensions or antenna numbers or type shall require a new structural inspection.

(f) Unsafe Structure. Should the inspection of any tower reveal any structural defect(s) which, in the opinions of the independent consultant render(s) that tower unsafe, the following actions must be taken within 10 business days of notification of unsafe structure: the permit holders of the tower shall submit a plan to remediate the structural defect(s). This

plan shall be initiated within 10 days of the submission of the remediation plan and completed as soon as reasonably possible. Failure to accomplish this remediation plan of structural defect(s) within 10 business days of initial notification shall be a violation of the special permit and subject to enforcement as specified in Section V-F of the Town of Lanesborough Zoning By Laws. The owner(s) of the facilities and antennas on the facility site are the responsible parties and shall be held accountable until compliance is achieved.

5. Application Requirements:

For an application to be considered complete, the following information must be submitted:

1. A color photograph or rendition of the proposed Wireless Communication Facility including, but not limited to, the proposed tower with its antenna and/or panels. A rendition shall also be prepared illustrating views of the proposed Wireless Communication Facility from the surrounding areas.
2. A landscape plan showing the proposed site before and after development including topography and screening proposed to protect abutters.
3. A description of the Wireless Communication Facility including, but not limited to. The height of any towers and antennas, access roads and power supplies, the type, size and number of transmitters and a technical report which demonstrates that the maximum height of the installation is the minimum feasible to provide the intended service.
4. The technical and other reasons for the proposed location, height and design including, but not limited to, a survey of all sites which are feasible for providing the intended services both within and directly adjacent to the Town of Lanesborough and the reason(s) the proposed site was selected over at least one alternative site.
5. A survey of all pre-existing structures, buildings or towers which are capable of supporting the equipment necessary to provide the intended service, and a technical report, which demonstrates why any such structure, building or tower cannot be used by the applicant.
6. A description of the capacity of the tower including the number and type of panels antenna and/or transmitter receivers that it can accommodate, and the basis for these calculations.
7. A statement that the sound levels under normal operating conditions, whether emanating directly from, or as a result of the natural wind blowing throughout the wireless communications facility, measured at the boundary of the lot on which it is sited, shall not be greater than 60 decibels at the property line. Any supplemental or back up generators shall have residential type mufflers.

8. A statement of the intended coverage area to be supported by the proposed Wireless Communication Facility and delineation on the zoning district map of all areas in the Town of Lanesborough, which will not be served by the proposed installation for the primary site and alternate site.

9. A description of the special design features utilized to minimize the visual impact of the proposed wireless communication facilities, such as but not limited to glare, lighting, and other unique aspects at the site, deemed appropriate by the SPGA.

10. If the applicant is not simultaneously applying for a personal wireless service facilities special permit, it shall provide a copy of its existing lease/contract with a Wireless Communication Facility provider. A tower construction permit shall not be granted for a tower to be built on speculation.

11. Within thirty days after filing the application for any new tower or extension in height thereto, the applicant shall arrange to fly a balloon at the primary and an alternate site at the maximum height of the proposed installation on a weekend day between the hours of 10:00 AM and 4:00 PM. The balloon shall be of a size and color that can be seen from every direction for a distance of one mile. The applicant shall be responsible for posting the date and location of the balloon(s) as a legal advertisement at least 14 days, but not more than 21 days before the flights in a least two different issues of a newspaper with a general circulation in the Town of Lanesborough.

12. A bond for removal of the tower equal to the cost of removing the tower facilities, within 180 days of being deemed Non-operational.

13. An applicant must execute a covenant with the SPGA agreeing to remove, within 180 days of notice from the Town of Lanesborough, the Wireless Communication Facility not-operational for a period of twelve months, unless the reason for the Non-operation status is the result of major natural occurrence.

14. The SPGA may impose as a condition of any facility special permit that the project proponent be required to mitigate any radio or television interference demonstrated to have resulted from the operation of the facility.

F. Severability:

The invalidity, unconstitutionality, or illegality of any provision in this bylaw shall not have any effect upon the validity, constitutionality, or legality of any other provision of this bylaw.

SECTION VIII - DEFINITIONS

Abandonment - The term "abandonment" as used herein shall mean voluntary discontinuance of a non-conforming use of buildings or land for a period of at least two (2) years. Any of the following shall constitute "abandonment":

1. Premises have been devoted to another use.
2. Characteristic equipment or furnishing of non-conforming use have been removed from premises and have not been replaced by same or similar.
3. Failure to renew the license required.
4. Failure to take all necessary steps to resume the non-conforming use.

Accessory Uses - A use of a building, structure or land customarily incidental and subordinate to the main use or building and located on the same lot with such main use or building.

Adult bookstore-an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.

Adult motion picture theatre-an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.

Adult paraphernalia store-an establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.

Adult video store-an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting,

describing, or relating to sexual conduct or sexual excitement as defined in said section thirty-one of said chapter two hundred and seventy-two.

Establishment which displays live nudity for its patrons-any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in section thirty-one of chapter two hundred and seventy-two.

Agricultural Use - Land used for farming in all its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, floricultural, horticultural or viticultural commodities, the raising of livestock, the keeping of poultry, swine, cattle, and other domesticated animals used for food purposes, bees, fur-bearing animals and any practices, including forestry or lumbering operations performed by a farmer; including necessary farm structures, vehicles and equipment. This term does not include riding stables or kennels.

Aquifer - A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

Automobile Lot - An open area used for the display of automobiles intended for sale.

Billboard - An off-premises sign.

Buffer - An intervening area defined from lot lines which is intended to prevent unreasonable intrusion of activity on that lot upon abutting properties.

Buffer Zone - An area of a specified size which shall be bordered by a six (6) foot wide strip densely planted with shrubs or trees which are of a type that may be expected to form a year round dense screen at least six (6) feet high within three (3) years, or a wall, barrier or fence of uniform appearance at least five (5) feet high but not more than six (6) feet above finished grade, or above the roof level, if on a roof. Such screening shall be maintained in good condition at all times within said buffer zone. No principle or accessory structure, no driveways nor any off-street parking or loading areas or storage or other use shall be permitted within said buffer zone, utility easements may be provided if necessary to insure continuity with adjoining properties, subject to the recommendation of the Planning Board.

Building - An independent structure having a roof supported by columns or walls, resting on its own foundation, and designed for the shelter, housing or enclosure of persons, animals or property

of any kind.

Campground - A wooded area of not less than ten (10) acres, including a buffer zone 250 feet wide between the campsite and abutting land, with a maximum of four (4) sites per acre to be used as a density regulation for the total area, equipped with facilities for overnight camping and travel trailers. Facilities shall include restrooms with lavatories, toilets and showers. An office may be included but a restaurant or other retail establishment may be provided only if permissible elsewhere under this by-law. Camping and parking to be permitted on a seasonal basis from April 1 to December 31.

Cemetery(ies) (municipal) - Area of land owned and maintained by Town of Lanesborough for the purpose of providing burial plots.

Children's Camp - Any place of camp character, as the term is commonly understood, used wholly or in part for recreational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children who are not members of the family or personal guests of the operator. The site may or may not be equipped with tents or temporary or permanent buildings, and may be operated as a day camp or as a resident camp.

Dwelling Unit - One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one (1) family.

Dwelling, One Family - A detached residential building designed for use as a dwelling unit, but not including mobile homes whether placed on a foundation or not.

Dwelling, Two Family - A detached residential building containing two (2) dwelling units

Dwelling, Multi-Family - A residential building designed for or occupied by three (3) or four (4) families, with the number of families in residence not exceeding the number of dwelling units provided.

Educational Use - The use by a public or parochial school, or a duly organized private school giving regular instruction in subjects ordinarily taught in the public schools, at least five (5) days a week for eight (8) or more months a year.

Fast Food Eating Establishment - A place that has as its principal business the sale of prepared or quickly prepared foods or drinks in disposable containers or wrappers for consumption either on or off the premises.

Filling Station - An area of land including structures thereon, which is used or designed to be used to supply motor vehicles with gasoline, oil, grease, and customary accessories, and possibly including facilities for lubrication, washing, polishing and minor repairs.

Filling Station/Convenience Store - An area of land including structures thereon, which is used or designed to supply motor vehicles with fuels, such as gasoline or diesel fuel, oil and minor accessories, and to sell at retail cold and hot drinks, packaged foods, snacks, other foods, tobacco products, newspapers, magazines and similar convenience goods. No motor vehicle repairs of any kind are to be made on the premises.

Garage, Private - A garage, not available to the public, used for storage purposes only and in which no business or industry is conducted.

Garage, Community - A group of private garages not more than one story high.

Garden Apartments - A building or group of buildings with a maximum of six (6) dwelling units per building on a single lot, designed for rental of the individual dwelling units, or for sales as condominiums or cooperative units having common open spaces, and designed in accordance with the special requirements for such dwellings as set forth in this by-law.

Height of a Building - The vertical distance measured from the average finished grade along the front of a building to any of the following: 1) the highest point of the ceiling of the top story in case of a flat roof; 2) the deck line of a mansard roof; and 3) the average height between the plate and ridge of a gable, hip or gambrel roof.

Home Occupation - Dressmaking, preserving, home cooking or baking, but not including a beauty parlor, barber shop, tourist home or similar establishment offering services to the general public.

Hospital or Sanitarium - As defined in Section 71 of Chapter III of the General Laws.

Hotel or Inn - A building with six (6) or more rooms in which lodging is offered to paying guests with customary hotel services including feeding in a central dining room on a transient or permanent basis.

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

Kennel - Structure and other facilities for the keeping of more than

three (3) dogs or other household mammal pets, more than six (6) months old, for sale or boarding purposes.

Living Space - The interior of a dwelling or housekeeping unit exclusive of basements, stairwells, garages, attics, walls and partitions.

Lot - A single tract of land held in identical ownership throughout, defined by metes and bounds or lot lines in a deed or conveyance, or shown on a duly recorded plan, and meeting the requirements of this by-law including minimum size, frontage and access from a public way.

Lot, Access to - Access to the major portion of a lot must not be less than the minimum frontage. In addition, access to the buildable portion must be free of natural barriers to travel, such as rivers, swamps, cliffs, ravines, ponds, etc.

Lot, Corner - Any lot which occupies the interior angle at the intersection of two (2) streets the center line of which make an angle of less than 135 degrees of each other.

Lot, Coverage of - Includes all buildings, structures, internal roads, parking areas, driveways, sidewalks, etc. that are impervious to water. Parking areas, driveways, etc. not covered with impervious material are not considered as part of lot coverage.

Lot, Frontage - The width of a lot as measured at the front street line, in the case of a corner lot the owner shall have the privilege of specifying which street lot line shall be deemed to be the front line, and shall so specify when obtaining a building permit.

Mobile Homes and Trailers - A vehicle without motive power designed to be drawn by a motor vehicle and to be used for office, living or sleeping purposes either standing on wheels or on rigid supports.

Motel or Cabin - A building or group of buildings, whether detached or connected units designed as individual sleeping units, each with separate entrances and toilet facilities with off-street parking facilities on the same lot. An office may be included, but a restaurant may be provided only if permissible elsewhere under this by-law.

Motor vehicle Sales Agencies - A building used for storage and display of motor vehicles intended for sale. A repair garage and/or filling station may be included where such are not the principal business and no external evidence of such use exists except permitted signs.

Non-Conforming Use - A building, structure, or use of land existing at

the time of adoption of this by-law which is not in conformity with the regulations of the district in which it is located.

Nursing or Convalescent Home - As defined in Section 71 of Chapter III of the General Laws.

Parking Lot, Commercial - An open area used for the parking of automobiles for a fee.

Picnic Groves - A wooded area of not less than five acres, equipped with facilities for outdoor picnics and related facilities but not including commercial amusements not conducted solely for patrons.

Piggery - Structures and other facilities for the keeping of any number of swine.

Private Club - Land and/or buildings used exclusively by members of an organized group and not open to the public.

Profession - The occupation of physician, surgeon, dentist, lawyer, clergyman or similar occupation.

Recharge Areas - Areas that collect precipitation or surface water and carry it to aquifers.

Repair Garage - Any garage other than a private garage available to the public operated for gain, and used for storage and/or repair of motor vehicles.

Rest Home - As defined in Section 71 of Chapter III of the General Laws.

Rooming or Boarding House - A dwelling in which one or more rooms are rented by the resident family for transient guests with or without meals as an accessory use.

Setback, Front - The shortest distance between the front property line and the front of the building or structure. Minimum setback dimensions are given in Table 1.

Setback, Rear - The shortest distance between the rear property line and the rear of the building or structure. Minimum setback dimensions are given in Table 1.

Setback, Side - The shortest distance between the side property line and the side of the building or structure. Minimum setback dimensions are given in Table 1.

Sign - Any device designed to inform or attract the attention of persons not on the premises on which the device is located,

whether affixed to the ground, or a building, structure, or vehicle, or other conveyance. Sign area measurements shall be taken on only one face of the sign, but advertising matter may be displayed on both sides of any permitted sign. For the purpose of this by-law the following shall not be included in the application of regulations here: memorial signs, tablets, historical markers, legal notices, identifications, informational, directional or warning signs erected or required by government agencies, signs painted on or attached to duly registered motor vehicles; and signs inside of store windows as commonly used in the conduct of retail business.

Story - That portion of a building contained between any floor and the ceiling above it. If more than half is below the finished grade, it is not considered a story.

Story, Half - A story under a sloping roof at the top of a building, the floor of which is not more than two (2) feet below the wall plate.

Street - A public way, or a private way whether shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying lots along it for frontage under the Subdivision Control Law.

Street Line - The right-of-way line of a street as established under public authority, or as shown on a plan approved by the Planning Board, or if neither of the above apply, a line parallel to the center line of the street measured back a distance equal to one-half of the normally required right-of-way.

Structure - Anything constructed or erected at a fixed location on the ground, above the ground or under the ground to give support, provide shelter or satisfy other purposes, including but not limited to permanent property line fences, swimming pools, tennis courts, etc. Setback dimensions of Table 1 apply to all structures including any part thereof, except fences.

Trade - A mechanical occupation such as plumber, electrician, machinist, carpenter or welder.

Toxic or Hazardous Materials - All substances defined as toxic or hazardous - under Massachusetts General Laws (MGL) Chapter 21C and 21E and 310 CMR 30.00. This would include any substance or mixture of physical, chemical or infectious characteristics posing a significant, actual or potential hazard to human health if such substance or mixture were discharged to land or water. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids or alkalis, and also include such

products as solvents and thinners in quantities greater than normal household use.

Water Supply Protection District - The zoning district defined to overlay other zoning districts in the town of Lanesborough.

Yard - The unoccupied areas of the lot between the structure(s) and the lot lines.

Yard, Front - The area of the lot between the front of the structure(s) and the front lot line.

Yard, Rear - The area of the lot between the rear of the structure(s) and the rear lot line.

Yard, side - The area of the lot between the side of the structure(s) and the side lot line between the front and rear yards.