Town of Lancaster Smart Growth Overlay District Article

Article ____ To see if the Town will vote to add "North Lancaster Smart Growth Overlay District" to the Lancaster Zoning Bylaws as Section 220-8.9 of Article III, by inserting the following sections: A. Purpose, B. Definitions, C. Applicability of North Lancaster Smart Growth Overlay District – Scope & Authority, D. Permitted Uses, E. Housing and Housing Affordability. F. Dimensional and Density Requirements, G. Parking Requirements, H. Stormwater Control, Rules and Regulations, I. Plan Approval of Projects, J. Plan Approval Procedures, K. Plan Approval Decisions, L. Change in Plans after Approval by PAA, M. Design Standards, N. Severability

§ 220-8.9: NORTH LANCASTER SMART GROWTH OVERLAY DISTRICT

A. PURPOSE.

The purpose of this Section 220-8.9 is to establish a North Lancaster Smart Growth Overlay District in order to encourage smart growth in accordance with M.G.L. Chapter 40R. The North Lancaster Smart Growth Overlay District provides housing opportunities in one or more mixed-use developments that promote compact design and pedestrian-friendly access to retail, employment, and other amenities. Additional objectives of this Section are to:

(1) Promote public health, safety, and welfare by encouraging and increasing a diversity of housing opportunities;

(2) Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet diverse population needs;

(3) Help to ensure the Town of Lancaster meets the Commonwealth's affordable housing requirement of greater than 10% deed-restricted inventory, and to sustain this level to maintain local control over the Town's affordable housing program;

(4) Establish requirements, standards, and guidelines to ensure predictable, fair, and cost-effective review and permitting of development;

(5) Enable the Town to receive Zoning Incentive Payments and Density Bonus Payments in accordance with M.G.L. Chapter 40R and 760 CMR 59.06 arising from the development of housing in the Smart Growth Overlay District;

(6) Enable the Town to receive Smart Growth Educational Aid payments for school children living in residential developments within the Smart Growth Overlay District pursuant to M.G.L. Chapter 40S, which are available only for new developments in 40R Smart Growth Overlay Districts; and

(7) To the extent not in conflict with the permissible criteria for disapproval under Section K and provisions for As-of-Right development under the Governing Laws, to generate positive tax revenue from mixed-use development where possible.

B. DEFINITIONS.

For purposes of this Section 220-8.9, the following definitions shall apply. All bolded terms shall be defined in accordance with the definitions established under the Governing Laws or Section 220-8.9C, or as set forth in the Plan Approval Authority (PAA) Regulations. To the extent that there is any conflict between the definitions or terms set forth in, or otherwise regulated by, the Governing Laws and those defined or used in this Section 220-8.9, inclusive of any applicable Design Standards, PAA Regulations, or any other applicable associated local zoning requirement

(e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the terms of the Governing Laws shall govern.

AFFIRMATIVE FAIR HOUSING MARKETING PLAN – A written plan of required actions that provide information, maximum opportunity, and otherwise attract eligible persons protected under state and federal civil rights laws that are less likely to apply for affordable housing.

AFFORDABLE HOMEOWNERSHIP UNIT – An Affordable Housing unit required to be sold to an Eligible Household.

AFFORDABLE HOUSING – Housing that is affordable to and occupied by Eligible Households.

AFFORDABLE HOUSING RESTRICTION – A deed restriction of Affordable Housing meeting the statutory requirements in M.G.L. Chapter 184, Section 31, and the requirements of Section E.(5) of this Bylaw.

AFFORDABLE RENTAL UNIT – An Affordable Housing unit required to be rented to an Eligible Household.

APPLICANT – The individual or entity that submits a Project application for Plan Approval.

AS-OF-RIGHT – A use allowed under Section D. without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval pursuant to Sections I through M shall be considered an As-of-Right Project, subject to review and approval by DHCD of any Municipal 40R regulations, guidelines, application forms, or other requirements applicable to review of Projects by the PAA under the 40R Zoning and 760 CMR 59.00.

DEPARTMENT OR DHCD – The Massachusetts Department of Housing and Community Development, or any successor agency.

DESIGN STANDARDS – Provisions of Section M made applicable to Projects within the NL-SGOD that are subject to the Plan Approval process of the PAA.

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

FARMERS MARKET – A public market for the primary purpose of connecting and mutually benefiting mainly Massachusetts farmers, artisans, communities, and shoppers while promoting and selling locally grown, raised and/or crafted goods.

GOVERNING LAWS – M.G.L. Chapter 40R and 760 CMR 59.00.

MIXED-USE DEVELOPMENT PROJECT – A Project containing a mix of residential uses and non-residential uses, as allowed in Section D.(2), and subject to all applicable provisions of this Section 220-8.9.

MOBILE MARKET – Outfitted buses, trucks, vans, carts, or any other vehicle with space to display and sell produce and/or prepared food.

MONITORING AGENT OR ADMINISTERING AGENT – The local housing authority or other qualified housing entity designated by the Select Board, pursuant to Section E.(2), to review and implement the Affordability requirements affecting Projects under Section E.

NL-SGOD – The North Lancaster Smart Growth Overlay District established according to this Section 220-8.9.

PLAN APPROVAL – Standards and procedures which all Projects in the NL-SGOD must meet pursuant to Sections H through L and the Governing Laws.

PLAN APPROVAL AUTHORITY (PAA) – The local approval authority authorized under Section I.(2) to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the NL-SGOD.

PAA REGULATIONS – The rules and regulations of the PAA adopted pursuant to Section I.(3).

PROJECT – A Residential Project or Mixed-use Development Project undertaken within the NL-SGOD in accordance with the requirements of this Section 220-8.9.

RESIDENTIAL PROJECT – A Project that consists solely of residential, parking, and accessory uses, as further defined in Section D.(1).

SHALL – For the purposes of this bylaw, the term "shall" has the same meaning as "must" and denotes a requirement.

WATER SUPPLY AND DEVELOPMENT AGREEMENT – An agreement reached by and between the City of Leominster and 702, LLC and executed on December 4, 2020 wherein the City of Leominster provides water to the 702, LLC development project under the terms and conditions contained therein, including certain use restrictions. See also "Intermunicipal Agreement between the City of Leominster and the Town of Lancaster for the Provision of Water Service" executed on March 21, 2021.

ZONING BYLAW – The Zoning Bylaws of the Town of Lancaster.

C. APPLICABILITY OF NORTH LANCASTER SMART GROWTH OVERLAY DISTRICT – SCOPE AND AUTHORITY.

(1) **Establishment.** The North Lancaster Smart Growth Overlay District, hereinafter referred to as the "NL-SGOD", is established pursuant to the authority of M.G.L.

Chapter 40R and 760 CMR 59.00 as an overlay district having a land area of approximately 80 acres in size shown on the Zoning Map of the Town of Lancaster, as amended, in the location depicted on the map entitled "North Lancaster Smart Growth Overlay District", prepared by the Montachusett Regional Planning Commission (attached as Exhibit 1). This map is hereby made a part of the Zoning Bylaw and Zoning Map and is on file in the Offices of the Town Clerk and Community Development and Planning Department. The NL-SGOD contains no subdistricts.

(2) **Applicability.** An applicant may seek development of a Project located within the NL-SGOD in accordance with the provisions of the Governing Laws and this Section 220-8.9, including a request for Plan Approval by the PAA. In such case, notwithstanding anything to the contrary in the Zoning Bylaw, such application shall not be subject to any other provisions of the Zoning Bylaw, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations. To the extent that there is any conflict between the Governing Laws and this Section 220-8.9, inclusive of the Design Standards, the PAA Regulations, and any applicable associated local zoning requirement (e.g., zoning requirement contained in another section of the Zoning Bylaw that is nonetheless incorporated by reference), the Governing Laws shall govern.

(3) **Underlying Zoning.** The NL-SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 220-8.9. Within the boundaries of the NL-SGOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).

(4) **Administration, Enforcement, and Appeals.** The provisions of this Section 220-8.9 shall be administered by the Building Inspector, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections I through M shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under this Section 220-8.9 shall be governed by the applicable provisions of M.G.L. Chapter 40A.

D. PERMITTED USES. THE FOLLOWING USES ARE PERMITTED AS-OF-RIGHT FOR PROJECTS WITHIN THE NL-SGOD.

(1) **Residential Projects.** A Residential Project within the NL-SGOD may include:

(a) Single-family, 2- and 3-family, and/or multi-family Residential Use(s) through homeownership and/or rental;

(b) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages);

(c) Accessory uses customarily incidental to any of the above permitted as follows:

i. Rental of one or two rooms within a single family detached dwelling, without housekeeping facilities;
ii. Accessory apartment in a single-family dwelling with no change in the principal use of the premises;
iii. Central dining, recreation and administrative facilities exclusively for the tenants of group facilities;

(d) Home occupation or professional office, provided as follows:
i. The principal operator resides on the premises, employs not more than one other person, and sells no products prepared by others;
ii. There is no indication of such occupation visible on the exterior of the building or on the lot, except for required parking and permitted signs; and
iii. The activity does not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood.

(e) Accessory buildings for noncommercial use by residents of the premises only, such as garages, boathouses, storage sheds, greenhouses.

(2) **Mixed-use Development Projects.** A Mixed-use Development Project within the NL-SGOD may include:

(a) Single-family, 2- and 3- family, and/or multi-family Residential Use(s), provided that the minimum allowable as-of-right density requirements for residential use specified in Section F.(1) shall apply to the residential portion of any Mixed-use Development Project;

(b) Any of the following non-residential uses (subject to the Water Supply and Development Agreement and any other existing restrictions):
i. Underground or overhead communications, gas, electrical, sewerage, drainage, water, traffic, fire, and police system services, appurtenant equipment, and installations
ii. Religious and educational uses
iii. Nonprofit community centers, places of public assembly, lodges, service or fraternal or civic corporations
iv. Long-term care facility
v. Registered marijuana dispensary
vi. Marijuana establishment (excluding marijuana retailers)
vii. Customary accessory uses if adjacent to the principal use or if permitted as a principal use
viii. Other customary accessory uses
ix. Heliports
x. Retail stores; craft, consumer, professional or commercial establishments dealing directly with the general public, unless more specifically listed below
xi. Shopping center
xii. Gasoline service stations, including minor repairs only
xiii. Sales, rental, and repairs of motor vehicles, mobile homes, farm
xiv. Car washing establishments

xv. Dry-cleaning and laundry establishments
xvi. Funeral parlor, undertaking establishments
xvii. Hotels, motels, inns
xviii. Restaurants
xix. Medical clinics
xx. Administrative offices of non-profit organizations
xxi. Other offices, banks
xxii. Art galleries
xxiii. Outdoor storage or display of goods
xxiv. Manufacture, assembly, packaging or treatment of goods sold or handled on the premises in connection with the principal use
xxv. Retail sales or restaurant
xxvi. Heliports
xxvii. Health and fitness center
xxviii. Commercial indoor amusement or recreation place or place of assembly

(c) Parking accessory to any of the above permitted uses, including surface, garage-under, and structured parking (e.g., parking garages); and

(d) The total gross floor area devoted to non-residential uses within a Mixed-use Development Project shall not exceed 49% of the total gross floor area of the Project.

(3) **Other Uses.** Any of the following non-residential uses may be permitted as-of-right, by Plan Approval:

(a) Farmers Market or Mobile Markets

E. HOUSING AND HOUSING AFFORDABILITY.

(1) **Number of Affordable Housing Units**.

(a) For all Projects containing at least 13 residential units, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing.

(b) For all projects under 13 units, the following affordable units shall be required:

Total Units	Minimum Affordable Units
6 to 9	1
10 to 12	2

For the calculation of AHU's, fractions of a dwelling unit shall be rounded up to the nearest whole number.

(c) Unless the PAA provides a waiver on the basis that the Project is not otherwise financially feasible, not less than twenty-five percent (25%) of rental dwelling units constructed in a Project containing rental units must be Affordable Rental Units pursuant to M.G.L. Chapter 40R. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit. A Project shall not be segmented to evade the Affordability threshold set forth above.

(d) Across all project sizes, whether ownership or rental, not less than eight percent (8%) of all units shall be made affordable to eligible applicants at sixty percent (60)% AMI and the balance of the affordable units shall be restricted to eligible applicants at eighty percent (80%) AMI.

(2) **Monitoring Agent**. The Lancaster Affordable Housing Trust, or its designee, shall be the Monitoring Agent designated by the Lancaster Select Board ("designating official"). In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the designating official or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the designating official. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the NL-SGOD, and on a continuing basis thereafter, as the case may be:

(a) Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
(b) Income eligibility of households applying for Affordable Housing is properly and reliably determined;
(c) The housing marketing and resident selection plan conform to all requirements, have been approved by DHCD specifically with regard to conformance with M.G.L. Chapter 40R and 760 CMR 59.00, and are properly administered;
(d) Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
(e) Affordable Housing Restrictions meeting the requirements of this section are approved by DHCD specifically with regard to conformance with M.G.L. Chapter 40R and 760 CMR 59.00, recorded with the Worcester Registry of Deeds.

(3) **Submission Requirements.** As part of any application for Plan Approval for a Project within the NL-SGOD submitted under Sections I through M (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), the Applicant must submit the following documents to the PAA and the Monitoring Agent:

(a) Evidence that the Project complies with the cost and eligibility requirements of Section E.(4);
(b) Project plans that demonstrate compliance with the requirements of Section E.(5); and
(c) A form of Affordable Housing Restriction that satisfies the requirements of Section E.(6).

These documents in combination, to be submitted with an application for Plan Approval, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled and appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

(4) **Cost and Eligibility Requirements.** Affordable Housing shall comply with the following requirements:

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

Prior to the granting of any Building Permit or Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Lancaster.

(5) **Design and Construction.** Units of Affordable Housing shall be finished housing units. With respect to the minimum required number for a given Project, units of Affordable Housing shall be equitably integrated and proportionately dispersed throughout the residential portion of the Project of which they are part, across all residential buildings, floors and distinct unit types in accordance with the affordable housing restriction and marketing and tenant selection plan approved by DHCD and be comparable in initial construction quality, size and exterior design to the other housing units in the Project. The Affordable Housing shall be indistinguishable from the unrestricted/market-rate units. Unless expressly required otherwise under one or more applicable state or federal housing subsidy programs, the bedroom-per-unit average for the Affordable Housing must be equal to or greater than the bedroom-per-unit average for the unrestricted/market-rate units.

(6) **Affordable Housing Restriction**. Each Project shall be subject to an Affordable Housing Restriction which is subject to approval by DHCD and recorded with the Worcester Registry of Deeds or district registry of the Land Court, and which contains the following:

(a) Specification of the term of the Affordable Housing Restriction, which shall be in perpetuity or the longest time that is legally allowed;
(b) Name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;

(c) Description of each Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity, initial unit designations and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project that are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Units and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project with the initially designated Affordable Rental Units identified in, and able to float subject to specific approval by DHCD in accordance with, the corresponding Affirmative Fair Housing Marketing Plan (AFHMP) and DHCD's AFHMP guidelines;

(d) Reference to an affirmative fair housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. Such plan shall be consistent with DHCD guidance and approved by DHCD. Consistent with DHCD guidance, such plan shall include a preference based on need for the number of bedrooms in a unit and a preference based on need for the accessibility features of a unit where applicable and may only provide for additional preferences in resident selection to the extent such preferences are also consistent with applicable law and approved by DHCD;

(e) Requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales or rentals from a list of Eligible Households compiled in accordance with the AFHMP;

(f) Reference to the formula pursuant to which rent of an Affordable Rental Unit, or the maximum resale price of an Affordable Homeownership Unit, will be set;

(g) Requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;

(h) Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction (AHR) by the Monitoring Agent;

(i) Provision that the AHR on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

(j) Provision that the AHR on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

(k) Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent, certifying compliance with the Affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability; and

(l) A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

(7) **Costs of Housing Marketing and Selection Plan.** The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

(8) **Age Restrictions.** Nothing in this Section 220-8.9 shall permit the imposition of restrictions on age upon Projects unless proposed or agreed to voluntarily by the Applicant. However, the PAA may, in its review of a submission under Section E.(3) allow a specific Project within the NL-SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units.

(9) **Phasing.** For any Project that is approved and developed in phases in accordance with Section H.(4), the percentage of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section E.(1). Where the percentage of Affordable Housing is not uniform across all phases, the unit dispersal and bedroom proportionality requirements under Section E.(5) shall be applied proportionately to the Affordable Housing provided for in each respective phase.

(10) **No Waiver.** Notwithstanding anything to the contrary herein, the Affordability provisions in this Section E shall not be waived unless expressly approved in writing by DHCD at the request of the Plan Approval Authority.

F. DIMENSIONAL AND DENSITY REQUIREMENTS.

(1) **Table of Requirements.** Notwithstanding anything to the contrary in this Zoning Bylaw, the dimensional requirements applicable in the NL-SGOD are as follows:

Lot Area	Minimum lot area = 44,000 square feet. At least 90% of the lot area requirement must be met without including any "wetland" as defined in M.G.L. Chapter 131, §40.
Lot Frontage	Minimum lot frontage = 100 feet.
Front Yard Setback	Not less than 30 feet.
Side & Rear Setback	Not less than 20 feet unless abutting a residential use, then the setback shall be not less than 40 feet.

Building Height	No building or portion thereof or other structure of any kind shall exceed 40 feet excluding chimneys, towers, spires, cupolas, antennas, or other projections of or attachments to a building that do not enclose potentially habitable floor space, provided that they do not exceed the height of the building by more than ten (10) feet or 20% of building height, whichever is greater.
Minimum As-of-Right Residential Density	(1) A density of at least eight (8) units per acre for Developable Land zoned for single-family residential use; (2) A density of at least twelve (12) units per acre for Developable Land zoned for 2- and/or 3-family residential use; or (3) A density of at least twenty (20) units per acre for Developable Land zoned for multi-family residential use.
Maximum As-of-Right Residential Density	Twenty-five (25) residential units per acre for Developable Land zoned for residential use.

G. PARKING REQUIREMENTS.
The parking requirements applicable for Projects within the NL-SGOD are as follows.

(1) **Number of Parking Spaces**. Unless otherwise found to be unduly restrictive with respect to Project feasibility and approved by the PAA, the parking requirements set forth in Section G. shall be applicable to all projects in the NL-SGOD by use, either in surface parking, within garages, or other structures.

The PAA may allow for additional visitor parking spaces beyond the maximum spaces per unit if deemed appropriate given the design, layout, and density of the proposed residential or other development. The PAA may allow for a decrease in any required parking as provided in Sections (2) and (3) below.

(2) **Shared Parking**. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit) if the Applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

(3) **Reduction in Parking Requirements.** Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of

any application for a Building Permit), if the Applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, or endanger public safety, and that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

(a) The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
(b) The availability of public or commercial parking facilities in the vicinity of the use being served;
(c) Shared use of off-street parking spaces serving other uses having peak user demands at different times;
(d) To the extent consistent with 760 CMR 59.04(1)(g) and 760 CMR 59.04(l)(i)1., age or other occupancy restrictions which are likely to result in a lower level of auto usage;
(e) Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
(f) Any applicable transportation demand management strategies that will be integrated into the Project or such other factors as may be considered by the PAA.

(4) **Parking Location and Design Standards**. The PAA will review the parking design documentation and evaluate for the following:

(a) Hazards. The parking area and access roads shall not create a hazard to abutters, vehicles or pedestrians.
(b) Placement of parking facilities. Parking facilities shall be at the rear or side(s) of the principal structure and shall not abut a public way for more than 20 feet. If site encumbrances make this requirement impossible to achieve, parking may be allowed to abut a public way only if the parking lot is buffered and screened from the public way using dense, native vegetation to the greatest extent possible. The design of the parking facility shall take into consideration natural, cultural and historical features and setting.
(c) Pedestrian and bicycle access. Provisions for pedestrian and bicycle access shall be safe and convenient, so that the development as a whole enhances rather than degrades access by foot or bicycle. Parking areas shall accommodate pedestrian access through the use of raised crosswalks, usable landscaped islands, benches, and abundant shade trees, among other design attributes. Parking shall further ensure an inviting pedestrian environment by providing safe, landscaped connections between vehicles stationed in parking areas and building entrances and exits. Such landscaping connections may include sidewalks, terraces, decorative fencing, stone walls, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Dedicated bicycle lanes shall be included where possible.
(d) Plantings. Landscaping meeting the requirements for plantings in parking area(s) under Section M.(6)(b) and (e) of Design Standards shall be provided.

(e) Emergency access. Appropriate access for emergency vehicles shall be provided to the principal structure. Such access need not be paved, yet shall be stable and constructed to withstand a fire vehicle.
(f) Size of facility. Parking lots shall be configured so that no section of lot shall contain more than 50 spaces, and each section of the lot shall be visually separated from any other section of the lot on- or off-premises through the use of major landscaping, earthen berms or grade changes. No more parking than is required by this bylaw shall be provided unless the applicant demonstrates to the satisfaction of the PAA that unusual circumstances justify the amount of parking proposed as being necessary despite reasonable efforts at parking demand reduction.

H. STORMWATER CONTROL, RULES, AND REGULATIONS.

(1) **Stormwater Management Permit(s)**. Site development shall fully comply with the Town of Lancaster's bylaws regarding Stormwater Control as well as Stormwater Rules and Regulations, including, but not limited to, Chapters 170 and 305. The PAA shall fulfill the role of permit granting authority in order to consolidate the As-of-Right plan approval process with the review of stormwater management and its permitting, including the Town's engineering peer review of stormwater management plans.

I. PLAN APPROVAL OF PROJECTS.

(1) **Plan Approval.** An application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of this Section 220-8.9. Such Plan Approval process shall be construed as an As-of-Right review and approval process as required by and in accordance with the Governing Laws. The following categories of Projects shall be subject to the Plan Approval process:
(a) Any Residential Project containing at least thirteen [13] residential units;
(b) Any Mixed-use Development Project; and
(c) Any Project seeking a waiver.

(2) **Plan Approval Authority (PAA).** The 40R Plan Approval Committee, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the NL-SGOD. The 40R Plan Approval Committee shall include one (1) representative member chosen by each of the following Town of Lancaster Boards from their membership: Planning Board, Zoning Board of Appeals, Conservation Commission, Affordable Housing Trust, and Economic Development Committee. The 40R Plan Approval Committee shall be appointed by the Lancaster Select Board for three (3) years.

(3) **PAA Regulations.** The Plan Approval Authority may adopt and from time to time amend reasonable administrative rules and regulations relative to Plan Approval. Such rules and regulations and any amendments thereof must be approved by DHCD.

(4) **Project Phasing.** An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased Project shall comply with the provisions of Section E.(9).

J. PLAN APPROVAL PROCEDURES.

(1) **Preapplication**. Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:
(a) Overall building envelope areas;
(b) Open space and natural resource areas;
(c) General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the NL-SGOD.

(2) **Required Submittals.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA and approved by DHCD, along with application fee(s) which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section E, the application shall be accompanied by all materials required under Section E.(3). All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals forty feet (1"=40') or larger, or at a scale as approved in advance by the PAA.

(3) **Filing.** An Applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the PAA.

(4) **Circulation to Other Boards.** Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Affordable Housing Trust (and Monitoring Agent, if already identified, for any Project subject to the Affordability requirements of Section E), Select Board, Board of Appeals, Board of Health, Conservation Commission, Economic Development Committee (if mixed-use), Fire Department, Planning Board, Police Department, Building Inspector,

Department of Public Works, and other applicable municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

(5) **Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of M.G.L. Chapter 40A. The decision of the PAA shall be made by simple majority vote, and a written notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the Applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

(5) **Peer Review.** The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. Chapter 40R, Section 11(a). Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.

K. PLAN APPROVAL DECISIONS.

(1) **Plan Approval.** Plan Approval shall be granted where the PAA finds that:

(a) The Applicant has submitted the required fees and information as set forth in the PAA Regulations;
(b) The Project as described in the application meets all of the requirements and standards set forth in this Section 220-8.9 and the PAA Regulations, or a waiver has been granted therefrom; and
(c) Any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section E., compliance with condition (b) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied or that approval is made subject to such satisfaction prior to any marketing, leasing, occupancy of the Project. Any Plan Approval decision for a Project subject to the affordability restrictions of Section E. shall specify the term of such affordability, which shall be in perpetuity or the longest time that is legally allowed.

The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 220-8.9, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

(2) **Plan Disapproval**. A Plan Approval application may be disapproved only where the PAA finds that:

(a) The Applicant has not submitted the required fees and information as set forth in the Regulations; or
(b) The Project as described in the application does not meet all of the requirements and standards set forth in this Section 220-8.9 and the PAA Regulations, or that a requested waiver therefrom has not been granted; or
(c) It is not possible to adequately mitigate extraordinary adverse Project impacts on nearby properties by means of suitable conditions.

(3) **Waivers.** Upon the written request of the Applicant and subject to compliance with M.G.L. Chapter 40R, 760 CMR 59.00 and Section E.(10), the Plan Approval Authority may waive dimensional and other requirements of Section F., and/or the Design Standards of Section M., in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the NL-SGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section 220-8.9.

(4) **Project Phasing.** The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased for the purpose of coordinating its development with the construction of Planned Infrastructure Improvements (as that term is defined under 760 CMR 59.00), or to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, unless otherwise explicitly approved in writing by DHCD in relation to the specific Project, the proportion of Affordable units in each phase shall be at least equal to the minimum percentage of Affordable Housing required under Section E.(1).

(5) **Form of Decision.** The PAA shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant.

(6) **Validity of Decision.** A Plan Approval shall remain valid and shall run with the land

indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

L. CHANGE IN PLANS AFTER APPROVAL BY PAA.

(1) **Minor Change.** After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA**.** The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision and provide a copy to the Applicant for filing with the Town Clerk.

(2) **Major Change.** Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections I through M.

M. DESIGN STANDARDS.

(1) **Adoption of Design Standards**. Any Project undergoing the Plan Approval process shall be subject to design standards as set forth below in this Section M. ("Design Standards").

(2) **Purpose**. The Design Standards are adopted to ensure that the physical character of Projects within the NL-SGOD:

(a) Will be complementary to nearby buildings, structures, and landscape;
(b) Will be consistent with the Housing Production Plan, an applicable master plan, an area specific plan, or any other plan document adopted by the Town; and
(c) Will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town or in the region of the Town.
(d) These standards are intended to be applied flexibly by the PAA as appropriate to the Project as part of the site plan review process to enable the purpose of this District to be realized, and in recognition of the As-of-Right nature of Projects proceeding under this article. Relief from design standard(s) shall be submitted in

writing by the Applicant to the PAA and comply with the requirements of Section J.(3) "Waivers".

(e) These standards apply to all site improvements, buildings and structures to enhance the appearance of the built environment within the NL-SGOD.

(3) **Building Placement**. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of Chapter 301, Subdivision of Land, of the Code of the Town of Lancaster, currently in effect; and shall be so designed that for the given location and type and extent of land use, the design of building form, building location, egress points, grading, and other elements of the development shall be so as to:

(a) Minimize the volume of cut and fill, the number of removed trees six-inch-trunk diameter and larger, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air or water pollution;

(b) Maximize pedestrian or vehicular safety and convenience within the site and egressing from it;

(c) Minimize obstruction of water views; minimize the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned; and minimize glare from headlights or area lighting; and

(d) Assure that the design and location of structures on the site avoid damage to or incompatibility with historical and archeological resources, such as antique buildings and structures, barns, stonewalls, earthworks and graves.

(4) **Building Design**.

(a) Primary wall and roof surfaces appear similar to the materials commonly found on existing buildings within the Town;

(b) Major dimensions of the building are approximately parallel or perpendicular to one or more nearby streets, if within 100 feet of such street;

(c) The building is not made in effect a sign through painting with bold colors or other graphics devices, or through otherwise unnecessary use of unconventional building form;

(d) There is some element of consistency with any buildings on abutting premises if facing the same street, such as eave height, wall materials, or window proportions; and

(e) If the building exceeds 35,000 cubic feet and contains at least twice the cubage of a principal building on any abutting lot, the building design uses breaks in massing, roof planes, wall planes, and other means to reduce the apparent difference in scale.

(5) **Disturbance Controls.** No activity shall be permitted unless the following are met:

(a) Standard. No sound, noise, vibration, odor, or flashing (except for warning devices, temporary construction or maintenance work, parades, special events, or other special circumstances) shall be observable without instruments more than 40 feet from the boundaries at locations within the District. However, the PAA may authorize on special permit an activity not meeting these standards, in cases where

the Authority determines that, because of peculiarities of location or circumstance, no objectionable conditions will thereby be created for the use of other properties.

(b) Performance compliance. For a proposed facility whose future compliance with this requirement is questionable, the Building Inspector may require that the applicant furnish evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with this standard.

(6) **Landscaping Requirements.**

(a) Applicability. Street, sideline, parking area, and district boundary plantings shall be provided as specified below when any new building, addition, or change of use requires a parking increase of 10 or more spaces. In performing site plan review, the PAA may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.

(b) Plantings. Required plantings shall include both trees and shrubs, and may include ones existing on the site. To be credited towards meeting these requirements, trees must be at least 2 1/2 inches in caliper four feet above grade, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet. To be credited towards meeting these requirements, shrubs must be at least 24 inches in height at the time of building occupancy, reach an ultimate height of at least 36 inches, and be of a species common in the area. Plantings shall consist of at least one tree per 30 linear feet of planting area length and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area.

(c) Street planting area. Street planting is required for nonresidential premises abutting an arterial street,. Required street planting shall be provided within 15 feet of the street property line along the entire street frontage except at drives.

(d) Sideline planting area. Sideline planting is required for premises abutting an arterial street. Required sideline planting shall be provided within five feet of the side lot line between the front lot line and the building setback (as built, not as required).

(e) Parking area plantings. A minimum of 2% of the interior area of parking lots containing 30 or more spaces must be planted. A minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 1,500 square feet of parking lot. Planting areas must each contain not less than 30 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.

(f) District boundary planting area. District boundary planting is required on any premises along the full length of any boundary abutting or extending into a residential area and being developed for a use not allowed in that residential area, unless abutting property is determined by the Building Inspector to be unbuildable

or visually separated by topographic features. Required planting shall be located within 10 feet of the boundary.

(g) Existing vegetation. Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of six-inch-trunk diameter or greater (measured four feet above grade), dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless dictated by plant health, access safety, or identification of the premises.

(h) Exceptions. Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.

(i) Maintenance. All plant materials required by this bylaw shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season.

(j) The Town Planner may provide a list of recommended plantings to achieve this purpose.

(7) **Lighting**. The regulation of outdoor lighting is intended to enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, provide for lighting that will complement the character of the Town, reduce glare, minimize light trespass, and reduce the cost and waste of unnecessary energy consumption.

(a) Applicability. The requirements of this section shall apply to outdoor lighting on lots and parcels in the District, but shall not apply to one- and two-family dwellings on lots on which they are the principal use, streetlighting, lights that control traffic, or other lighting for public safety on streets and ways.

(b) When an existing outdoor lighting installation is being modified, extended, expanded or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this section if twenty percent (20%) or more of the fixtures will be new or altered.

(c) Nonconforming temporary outdoor lighting necessitated by construction, special nonrecurrent events, or emergency contingencies may be used upon issuance of a temporary lighting permit by the Building Inspector.

(d) The following light sources are prohibited:

i. Neon signs;
ii. Mercury vapor and quartz lamps; and
iii. Searchlights.

(e) Definitions. For the purpose of this section, the following words and phrases shall have the following meanings:

i. **COLOR RENDERING INDEX (CRI)** - A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the floor of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from zero to 100, where 100 represents incandescent light.

ii. **CUTOFF ANGLE -** The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.
iii. **DIRECT LIGHT** - Light emitted from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.
iv. **FIXTURE** - The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens or diffuser lens.
v. **FOOTCANDLE** - A unit of illumination. One footcandle is equal to one lumen per square foot.
vi. **FULLY SHIELDED LUMINAIRE** - A lamp and fixture assembly designed with a cutoff angle of 90°, so that no direct light is emitted above a horizontal plane.
vii. **GLARE** - Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.
viii. **HEIGHT OF LUMINAIRE** - The vertical distance from the finished grade of the ground directly below to the lowest direct light-emitting part of the luminaire.
ix. **INDIRECT LIGHT** - Direct light that has been reflected off other surfaces not part of the luminaire.
x. **LAMP** - The component of a luminaire that produces the actual light.
xi. **LIGHT TRESPASS** - The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located, or on-site lighting producing more than 0.3 footcandles horizontal brightness at ground level at any point off premises, except within a street.
xii. **LUMEN** - A measure of light energy generated by a light source. One footcandle is one lumen per square foot. For purposes of this bylaw, the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.
xiii. **LUMINAIRE -** A complete lighting system, including a lamp or lamps and a fixture.

(f) Plan Contents. Wherever outside lighting is proposed, every application for a building permit, electrical permit, special permit, variance, or site plan shall be accompanied by a lighting plan which shall show:
i. The location and type of any outdoor luminaires, including the height of the luminaire;
ii. The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
iii. The type of lamp, such as metal halide, compact fluorescent, LED or high-pressure sodium;
iv. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross-section drawings, or other means.

(g) Control of Glare and Light Trespass.

i. Any luminaire with a lamp or lamps rated at a total of more than 2,000 lumens shall be of fully shielded design.
ii. All luminaires, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.
iii. Section E.(1) above shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of a building, but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.
iv. All lamps subject to this bylaw shall have a minimum color temperature of 2,000° K. and a maximum color temperature of 4,500° K.
v. Control of illumination levels. All parking areas and pedestrian facilities serving nonresidential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn while those facilities are open to the general public. Such illumination shall provide not less than 0.2 average maintained horizontal footcandles. However, in performing site plan review, the PAA may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is not necessary or appropriate for the protection of the public safety.

(h) Lamp Types.
i. Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 50 are not permitted. This subsection shall not apply to temporary decorative lighting which may include colored lamps, such as holiday lighting.
ii. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.
iii. A luminaire attached to the exterior of a building or structure for area lighting shall be mounted no higher than 20 feet above grade and shall be shielded to control glare.
iv. A luminaire attached to a pole shall be mounted no higher than 20 feet above grade and shall be shielded to control glare.

(i) Hours of Operations. Outdoor lighting shall not be illuminated between 11:00 p.m. and 6:00 a.m., with the following exceptions:
i. If the use is being operated, such as a business open to customers, or where employees are working, or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than 1/2 hour after activity ceases;
ii. Low-level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 footcandles.

(8) **<u>Signs and Illumination</u>.**

(a) General Regulations.

i. Interference with traffic. No sign shall be so placed or so worded, designed, colored or illuminated as to obscure or distract from signs regulating traffic.

ii. Motion. Flashing or moving signs are prohibited in all districts.

iii. Setbacks and corner clearance. No sign, including temporary signs, shall be closer than 20 feet to any street or lot line unless affixed to a building.

iv. Signs on Town property. All signs on Town property, except for temporary or directional signs, shall require a special permit from the Board of Appeals.

v. Sign content. Except for permitted directional signs, sign content shall pertain exclusively to products, services, or activities on the premises. Sign shall not display brand names, symbols, or slogans of nationally advertised products or services except in cases where the majority of the floor or lot area on the premises is devoted to that brand, product or service.

vi. Permitted Forms of Illumination. Illumination of signs and outdoor areas shall be indirect.

(b) Limitations on sign location and size.

i. General Location of Signs. All signs shall be placed on the premises to which their message pertains, with the following exceptions:

a Municipal, state or federal signs;

b Permitted temporary posters or political signs;

c Directional signs pertaining to an institutional, educational or recreational use, provided a special permit is granted by the PAA for their location and indirect illumination, if any.

ii. Freestanding signs. Freestanding signs shall be limited to one per premises, in the principal front yard only, and shall not be placed on a tree, rock, or utility pole. In residential areas, no such sign shall exceed three square feet in area on residential premises, nor 12 square feet on nonresidential premises or on premises for sale. In all other districts, such signs are limited to an area not greater than 30 square feet or one square foot for each four linear feet of the principal lot frontage, whichever is smaller.

iii. Attached signs.

a Attached signs may be placed only on the side of a building facing a street and shall not project more than three inches from the face of the building, nor above the line of the eaves, and shall not obscure any window, door, or other architectural feature. In residential areas, the maximum area of signs shall not exceed three square feet for each permitted family or home occupation on residential premises, or 12 square feet for each permitted nonresidential premises. In any other district, the aggregate area of all signs on any face of a building fronting a street shall not exceed 10% of the area of that face or 30 square feet, whichever is smaller.

b In the case of a shopping center, the maximum area of such signs on any face of the shopping center building shall not exceed one square foot to

each linear foot of such building face measured horizontally along such building face. Such signs shall be permitted on all faces of the building but shall be limited to major department stores, entrances and theaters.

(c) Exemptions for temporary and directional signs.

i. Temporary posters for noncommercial events, political signs. Such signs are limited to a period of 45 days preceding and seven days after the relevant event and to not more than one, not to exceed 12 square feet, per residential premises in residential areas nor more than two, not exceeding 20 square feet each, on all other premises.

ii. Directional signs. Accessory signs directing traffic to entrances or exits from the building or parking area are permitted in any district and all yards, provided:

a No freestanding directional sign exceeds two square feet in area, or is placed higher than three feet above the ground;

b No such sign is closer than 10 feet to a street lot line;

c The number of such signs is limited to the minimum necessary to give clear directions;

d The sign bears no advertising matter.

(d) Size, location and illumination exceptions. The PAA may grant exceptions regarding the size, location and allowable illumination of signs (such as allowing direct illumination) upon its determination that the objectives of facilitating efficient communication, avoidance of visual conflict with the environs, and good relationships between signs and the buildings to which they relate are satisfied, considering the following among other considerations.

i. Sign size is appropriate in relation to development scale, viewer distance, speed of vehicular travel, street width, and signage on nearby premises.

ii. Visibility of other public or private signage on nearby premises is not unreasonably diminished.

iii. Sign content is simple and neat, with minimum wording to improve legibility.

iv. Sign placement, colors, lettering style, and form are compatible with building design.

v. Sign design and location do not interrupt, obscure or hide architectural features of the building, such as columns, sill lines, cornices, or roof edges.

vi. Sign brightness is not inconsistent with that of other signs in the vicinity.

(e) Permit required; fees.

i. Permits. No sign of three square feet or more in area shall be erected, enlarged, or structurally altered without a sign permit issued by the Building Inspector.

ii. Fee. Signs shall be subject to an annual inspection fee as set forth in Chapter 1, General Provisions, Article III, Fees, of the Code of the Town of Lancaster

N. SEVERABILITY.

If any provision of this Section 220-8.9 is found to be invalid by a court of competent jurisdiction,

the remainder of Section 220-8.9 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 220-8.9 shall not affect the validity of the remainder of the Town's Zoning Bylaw.