

ARTICLE I
General Provisions
[Adopted 3-23-2016 ATM by Art. 29]

§ 78-1. Purposes.

- A. This bylaw enables the establishment of Neighborhood Conservation Districts (NCDs) in the Town of Lexington for the following purposes:
- (1) To recognize that the Town of Lexington contains unique and distinctive neighborhoods and areas which contribute significantly to the overall character and identity of the Town and which are worthy of preservation and protection. The Town aims to preserve, protect, and enhance these neighborhoods through the establishment of Neighborhood Conservation Districts;
 - (2) To promote conservation and preservation of existing buildings; to encourage new construction that will complement and be compatible with existing buildings, structures, settings and neighborhood character; and to foster appropriate reuse and upgrading of buildings and structures in designated neighborhoods;
 - (3) To provide residents and property owners with the opportunity to participate in planning the future of their neighborhoods;
 - (4) To promote wider public knowledge about and appreciation for Lexington's distinctive neighborhoods and their buildings, structures and settings; and
 - (5) By furthering these purposes, to enhance public welfare by offering current and potential Lexington residents a variety of neighborhoods from which to choose, thereby making the Town a more attractive and desirable place in which to live and work.
- B. An NCD designation is intended to enable the neighborhood and the buildings within it to be able to adapt to meet the needs of current and future owners, while conserving the neighborhood's distinctive character.
- C. An NCD designation identifies a neighborhood and specifies its distinctive architectural, aesthetic, historical, cultural, economic, and social contributions to the development of the Town of Lexington's character.

§ 78-2. Definitions.

ALTERATION — Any change to the exterior of a building, structure or setting, or part thereof, including construction, demolition, moving, reconstruction, rehabilitation, removal, replication, restoration, similar activities, or significant changes to the site itself.

BUILDING — A combination of materials forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER — The Building Commissioner of the Town of Lexington.

CERTIFICATE OF COMPATIBILITY — A form created and issued by the NCD Commission under this bylaw which states that a proposed plan for construction or alterations to a building, structure or setting within an NCD meets the regulations and guidelines adopted for that NCD, and which is signed by that NCD Commission's Chair or other officially delegated person responsible for its issuance.

CERTIFICATE OF HARDSHIP — A form created and issued by the NCD Commission under this bylaw, which states that owing to conditions especially affecting the building or structure but not affecting the NCD generally, failure to issue a certificate of compatibility would result in a substantial hardship to the applicant and that such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of the NCD, and which must be signed by that NCD Commission's Chair or other officially designated person.

CERTIFICATE OF NONAPPLICABILITY — A form created and issued by the NCD Commission under this bylaw, which states that proposed changes to a building, structure, or setting within an NCD are not subject to review under this bylaw, and which is signed by that NCD Commission's Chair or other officially designated person.

CONSTRUCTION — The erection of a new building or structure.

DEMOLITION — The act of pulling down, destroying, removing, or razing a building or structure or any substantial portion thereof or the act of commencing the work of total or substantial destruction with the intent of completing the same. "Demolition" as used herein shall be deemed to include demolition by neglect.

DEMOLITION BY NEGLIGENCE — A process of ongoing damage to the fabric, viability or functionality of an unoccupied building leading towards or causing its eventual demolition due to decay, structural failure or severe degradation over a period of time as a result of a general lack of maintenance; failure to secure the building from pests or vandals; or failure to take reasonable measures to prevent the ingress of water, snow, ice, and wind through the roof, walls, or apertures.

EXTERIOR ARCHITECTURAL FEATURES — Such portions of the exterior of a building or structure, including but not limited to the architectural style and general arrangement and setting thereof; the type and texture of exterior building materials; and the type and style of windows, doors, lights, signs and other appurtenant fixtures.

GUIDELINES — Advisory guidelines, duly adopted under this bylaw, to guide the review of proposed construction or alteration within a particular designated NCD.

HISTORICAL COMMISSION — The Lexington Historical Commission.

NCD AREA — The total geographic area covered by all of the properties studied under each § 78-3 study.

NCD COMMISSION — A public body established under this bylaw with the authority to review and approve or disapprove proposed construction or alteration to a building, structure, or setting in the NCD for compatibility with the design guidelines established for that NCD. A separate NCD Commission shall be established for each designated

NCD.

NEIGHBORHOOD CONSERVATION DISTRICT or NCD — A district approved by Town Meeting for those properties within an NCD Area that are not opted out properties.

OPTED OUT PROPERTIES — Properties in NCD Areas which shall be excluded from an NCD designation in accordance with § 78-3E.

PETITION — A document signed by at least 10 property owners, or for an NCD Area consisting of 14 or fewer properties, two-thirds of the property owners in said area, one signature per property, of a neighborhood stating the desire of the property owners to form an NCD, and including the supporting materials required to initiate the study process by which an NCD is established. **[Amended 3-20-2017 ATM by Art. 35]**

PLANNING BOARD — The Lexington Planning Board.

PROPERTY OWNER — An owner of a property as listed on the Town of Lexington's property tax rolls at the relevant time.

REGULATIONS — Mandatory regulations which describe the authority vested in the NCD Area's NCD Commission, duly adopted under this bylaw.

REPORT — The document prepared by a Study Committee recommending favorable or unfavorable action on a petition to establish an NCD.

SETTING — The characteristics of the site of a building, structure or undeveloped property, including, but not limited to, placement and orientation of the building or structure, and vegetation and landscaping.

STRUCTURE — A combination of materials other than a building, including a sign, fence, wall, terrace, walk, or driveway.

STUDY COMMITTEE — The group of five people appointed to review, recommend or reject a petition to create an NCD, as described in § 78-3C, or amend an existing NCD, as contemplated in § 78-3I.

TEMPORARY STRUCTURES — Structures which have no permanent foundation, and are intended to remain on a property only for a brief period of time, not to exceed 60 days.

§ 78-3. Designation of Neighborhood Conservation Districts.

- A. To be considered for designation as an NCD, a neighborhood must satisfy the following criteria:
- (1) The proposed NCD Area as a whole constitutes a recognizable neighborhood which has a distinctive character; and
 - (2) The proposed NCD Area contains buildings, structures, or settings that are significant to the architectural, aesthetic, cultural, economic or social history of Lexington; or
 - (3) The proposed NCD Area has generally cohesive features, such as the scale, size, type of construction, materials, or style or age of its buildings and

structures, or its land use patterns and landscaping.

- B. The designation of an NCD shall be initiated by petition of neighborhood property owners, submitted to the Historical Commission and containing signatures of at least 10 property owners, or for an NCD Area consisting of 14 or fewer properties, the signatures of two-thirds of the property owners in said area, electing to be included in the proposed NCD Area, one signature per property, which petition shall also include: **[Amended 3-20-2017 ATM by Art. 35]**
- (1) A general statement of the architectural, aesthetic, cultural, economic, social or historic qualities of the proposed NCD Area which make it appropriate for NCD designation, or
 - (2) A description of the cohesiveness of the proposed NCD Area in terms of scale, size, type of construction, materials or style or age of its buildings and structures, or its land use patterns and landscaping; and
 - (3) A preliminary map of the proposed NCD Area; and
 - (4) A general outline of the scope of the regulations and guidelines that would be proposed for the NCD.
- C. Upon receipt of a petition for NCD designation, the Historical Commission shall within 30 days hold a public hearing, notifying all property owners in the proposed NCD Area and all property owners within 100 feet of the proposed NCD Area, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors. Following such public hearing, the Historical Commission, by majority vote, shall determine whether the proposed NCD would be appropriate under the criteria set forth in § 78-3A. If the Historical Commission determines that an NCD would be appropriate, it shall convene a Study Committee to investigate and prepare a report on the appropriateness of such a designation for the proposed NCD Area. The Study Committee shall consist of five members, of which one shall be a designee of the Planning Board; one shall be a designee of the Historical Commission; and three shall be residents of the proposed NCD Area who shall be appointed by the Town Manager. When reasonably possible, the Study Committee should include an architect, landscape architect, or historic preservationist. Notice of a Study Committee's appointment shall be conveyed to all property owners in the proposed NCD Area and all property owners within 100 feet of the proposed NCD Area, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors, and such information shall also be made available, to the extent practicable, to prospective buyers through distribution to real estate brokers with offices in Lexington.
- D. The Study Committee, working with residents of the proposed NCD Area, shall meet to evaluate the appropriateness of an NCD designation for the proposed NCD Area; all such meetings being public meetings open to all interested parties. Within one year of its appointment, the Study Committee shall determine, by a supermajority of four positive votes, whether an NCD is appropriate, and shall prepare and file with the Historical Commission and the Planning Board a written

report explaining its decision. If the Study Committee determines that an NCD designation is appropriate, such report shall propose draft text for the applicable regulations and guidelines to be presented to Town Meeting, which shall include:

- (1) A statement of the significant architectural, aesthetic, cultural, economic, social or historical qualities of the proposed NCD Area; or
 - (2) A description of the cohesiveness of the proposed NCD Area in terms of scale, size, type of construction, materials or style or age of its buildings and structures, or its land use patterns and landscaping; and
 - (3) A map of the geographic boundaries of the proposed NCD Area, and
 - (4) A statement describing the nature of the authority to be vested in the proposed NCD Area's NCD Commission, proposed regulations implementing such authority and proposed guidelines for the NCD.
- E. A public hearing shall be convened jointly by the Historical Commission and the Planning Board within 60 days after the filing of a completed report to discuss the Study Committee's findings. Public notice shall be given by publication in a newspaper of general circulation in the Town not less than 14 days before the day of the hearing, by posting such notice in a conspicuous place in the Town for a period of not less than 14 days before the day of such hearing, and by conveying said notice by certified mail to all property owners in the proposed NCD Area and to property owners within 300 feet of the proposed NCD Area, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors. Said notice shall state that the report is available in the Planning Office and online at the Planning Board and Historical Commission websites, and that property owners in the proposed NCD Area may request a printed copy of the report at the Planning Office. Said notice shall also include the procedure and expiration date by which any property owner can elect, by right, to exclude their property from an NCD designation that may occur through this designation process. Each such property is herein called an "opted out property."
- F. Within 30 days of the close of the public hearing, but after the time period for determining opted out properties has expired, the Historical Commission and the Planning Board shall hold a joint meeting to incorporate any changes based upon public input and eliminate properties within the NCD Area from potential NCD inclusion.

If more than 25% of the properties in the NCD Area (one signature per property) are opted out properties, then the Historical Commission and Planning Board, acting jointly, may, at their option, redraw the proposed boundaries of the NCD Area to exclude certain properties if it results in a revised NCD Area that maintains the integrity of the study findings and contains at least 75% of NCD study area properties. Only if the original or revised NCD Area contains at least 75% of NCD study area properties may the NCD designation go forward. In that case, the Historical Commission and Planning Board, acting jointly, shall vote on a recommendation for NCD designation. If the vote is to not recommend an NCD

designation, then the proposed designation shall be deemed rejected.

If an NCD is favorably recommended by the Historical Commission and the Planning Board, acting jointly, they shall prepare a Town Meeting warrant article incorporating the NCD designation, area, regulations, and guidelines, and forward it to the Select Board for consideration at Town Meeting. A positive majority vote by Town Meeting is required to approve the NCD. **[Amended 3-27-2019 ATM by Art. 34]**

- G. Each NCD, as adopted by Town Meeting, shall identify its specific regulations and guidelines, establishing the nature and scope of review authority granted to the corresponding NCD Commission under this bylaw for activities within the NCD, including, but not limited to, selecting categories and types of construction or alteration that are exempt from or subject to review. The regulations shall permit accommodations for disability as required by the Fair Housing Act.
- H. The establishment of an NCD shall not be construed to prevent the construction or alteration of a building or structure located in the NCD under a building permit, zoning permit or other municipal approval duly issued prior to the effective date of that NCD's establishment by Town Meeting.
- I. Amendments to an NCD (including changes to regulations, guidelines, and the boundaries of the affected NCD) may be proposed by petition of 10 property owners, or for an NCD Area consisting of 14 or fewer properties, two-thirds of the property owners in said area, in the NCD, one signature per property, by the applicable NCD Commission, by the Historical Commission, or by the Planning Board. Upon receipt of a written request for any such amendment, the Historical Commission shall hold a public hearing, notifying all property owners in the NCD and all property owners within 100 feet of the NCD, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors. Within 30 days of such public hearing, the Historical Commission, by majority vote, shall determine whether the proposed amendments would be appropriate and may, at its option, appoint a Study Committee in the manner described in § 78-3C to prepare a report with its recommendations. If the Historical Commission deems that the proposed changes are within the scope of the original study, the Historical Commission shall bring the proposed amendments to Town Meeting for approval by majority vote. If the Historical Commission finds that significant changes are being proposed, the process outlined beginning in § 78-3D shall then be followed. **[Amended 3-20-2017 ATM by Art. 35]**
- J. The dissolution of an NCD may be proposed by petition of property owners in the NCD, one signature per property, that constitute 67% of all property owners in the NCD. Upon receipt of a written request for any such dissolution, the Historical Commission shall hold a public hearing, notifying all property owners in the NCD, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors. Within 30 days of such public hearing, the Historical Commission, by majority vote, may, at its option, appoint a Study Committee in the manner described in § 78-3C and shall prepare a report with its recommendations.

The Historical Commission shall then forward an NCD bylaw dissolution article to the Select Board for consideration at Town Meeting for approval by majority vote. **[Amended 3-27-2019 ATM by Art. 34]**

- K. All expenses of notice and advertisement for the establishment, modification, or dissolution of an NCD shall be borne by the petitioners. Any petition shall be accompanied by an agreement to pay these expenses.

§ 78-4. NCD Commissions.

- A. Following Town Meeting approval of an NCD designation, and recording of a boundary map of the NCD at the Middlesex South Registry of Deeds, an NCD Commission shall be appointed under this bylaw and shall consist of five members and two alternates. One member and one alternate shall be appointed by the Historical Commission and one member shall be appointed by the Planning Board. Three members and one alternate shall be residents of the NCD, to be appointed by the Town Manager. When reasonably possible, the NCD Commission shall include an architect, historic preservationist, or landscape architect.
- B. Members and alternates of the NCD Commission shall initially be appointed for staggered terms, and to two-year terms thereafter. Members who are residents of the NCD shall initially be appointed to staggered terms, and to three-year terms thereafter. Each NCD Commission member or alternate may continue to serve in office after the expiration of his or her term until a successor is duly appointed.

§ 78-5. Review of construction and alterations.

- A. The regulations and guidelines for each NCD shall establish the extent of review required for any construction or alteration proposed within that NCD.
- B. Except as otherwise provided in this bylaw or in the regulations and guidelines of an NCD, no building, structure, or setting within an NCD shall be constructed, demolished, or altered in any way not exempt from review, and no permit shall be issued for such construction, demolition, or alteration, unless the NCD Commission shall first have issued a certificate of compatibility, a certificate of nonapplicability, or a certificate of hardship.
- C. Exemptions from review:
- (1) All of the following categories or types of construction and alterations shall be exempt from review by the NCD Commission:
 - (a) Temporary structures,
 - (b) Interior alterations,
 - (c) Storm windows, storm doors, and screens,
 - (d) Color,
 - (e) Accessory buildings of less than 120 square feet of floor area and less

than 10 feet in height,

- (f) Alterations and exterior architectural features that are not visible from a public way or other areas open to public access, including, but not limited to, a public street, public way, public park or public body of water,
 - (g) The ordinary maintenance, repair or replacement in kind of exterior architectural and landscaping features or changes made to meet requirements deemed by the Building Commissioner to be necessary for public safety because of an unsafe or dangerous condition, or
 - (h) Changes explicitly permitted by other laws, including but not limited to laws related to zoning, subdivision control, and fair housing.
- (2) In addition, the regulations and guidelines for an NCD may provide for other categories or types of construction or alterations within that NCD that shall be exempt from review by its NCD Commission.
 - (3) Any property owner may request, and the NCD Commission shall issue, a certificate of nonapplicability for any construction or alteration that is exempt from the review of the NCD Commission pursuant to the foregoing.

D. Review:

- (1) Any person proposing construction or alteration not exempt from review shall first file an application with the NCD Commission for a certificate of compatibility or certificate of hardship, in such form as the NCD Commission may reasonably determine, together with such plans, elevations, specifications, photographs, description of materials, and other information as may be reasonably deemed necessary by the NCD Commission to enable it to make a determination on the application. The date of the filing of an application shall be the date of the receipt of the completed application by the NCD Commission.
- (2) Following submission of an application deemed complete by the NCD Commission, the Chair of the NCD Commission shall determine within 14 days whether the application involves features that are subject to review by the Commission. If the Chair of the NCD determines that the application is subject to review, the NCD Commission shall hold a public hearing within 45 days of the original filing date. Public notice of the time, place and purpose of the hearing shall be given at least 14 days prior to the hearing date by publication in a newspaper of general circulation in the Town and by conveying said notice to the applicant and all owners of properties within 100 feet of the property, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors, all at the expense of the applicant.
- (3) Following the close of the public hearing, the NCD Commission shall determine whether the proposed construction or alteration is compatible with the regulations and guidelines established for that NCD. If the NCD Commission determines that the proposed construction or alteration is

compatible with the general regulations and guidelines, it shall issue a certificate of compatibility. If the NCD Commission determines that the construction or alteration is not compatible, the NCD Commission shall provide the applicant with a written statement of the reasons for its disapproval. A certificate of hardship may be issued if the NCD Commission determines that, owing to conditions especially affecting the building or structure but not affecting the NCD generally, failure to issue a certificate of compatibility would result in a substantial hardship to the applicant and that such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of the NCD; provided that upon elimination of the hardship condition, any incompatible construction or alteration shall promptly be removed.

- (4) If the NCD Commission fails to issue a certificate or statement of disapproval within 60 days after the filing of the application, or such further time as the applicant may allow in writing, the certificate shall be deemed granted.
- (5) The NCD Commission shall within seven days file with the Building Commissioner copies of all certificates issued by it as well as any determinations of disapproval.
- (6) The regulations and guidelines for the NCD may provide that certain categories or types of construction or alteration shall be subject to advisory, nonbinding review by the NCD Commission, or an owner may request such nonbinding review of an otherwise exempt construction or alteration, in which event the review procedures shall be followed, but without the NCD Commission voting or rendering a binding determination.

§ 78-6. Decision criteria.

- A. In passing upon matters before it, the NCD Commission may consider, among other things:
 - (1) The architectural, aesthetic, cultural, economic, social or historical value and significance of the particular buildings, structures or settings affected, as well as the effects of the same on the NCD;
 - (2) The suitability of the construction's, alterations' or setting's general design, arrangement, and composition of its elements on the distinctive character of the NCD; the effect on the cohesiveness of the NCD in terms of scale and massing of the proposed changes relative to nearby buildings and structures in the NCD, the type of construction, style, the textures and materials of the features involved in the proposed construction or alteration;
 - (3) The setting and landscape characteristics, including their relationship to the street, topography, and existing vegetation, including mature trees, of the particular site involved in the construction or alteration, as well as the effects of same on the NCD;

- (4) For demolitions, the building, structure, or setting proposed to replace those demolished;
 - (5) Alterations necessary for conditions of hardship, as contemplated in § 78-5D(3); and
 - (6) All such other standards, factors, and matters contained in the regulations and guidelines for the NCD.
- B. In making its determination, the NCD Commission shall, among other things, allow for appropriate architectural diversity and encourage the compatible updating, expansion and renovation of buildings and structures in the NCD consistent with the distinctive characteristics of the NCD.

§ 78-7. Demolition by neglect.

- A. If the NCD Commission has reason to believe, through visual inspection or other means, that a building or structure in the NCD may be undergoing demolition by neglect, then the NCD Commission shall notify the Building Commissioner and the property owner, and the NCD Commission and the Building Commissioner shall jointly hold a public hearing to determine whether it is undergoing demolition by neglect, which shall require the concurrence of the Building Commissioner. In furtherance of determining its condition, the NCD Commission may, at any time, request an inspection of the building or structure by the Building Commissioner.
- B. If the NCD Commission and the Building Commissioner both determine that the building or structure is undergoing demolition by neglect, the NCD Commission and the Building Commissioner shall attempt to negotiate a voluntary agreement with the property owner for appropriate and timely repairs sufficient to structurally stabilize the building or structure and prevent further deterioration.
- C. In the event that the NCD Commission and the Building Commissioner both determine that they are not able to negotiate such an agreement with the property owner, for any reason, or that the property owner has agreed to undertake but has failed to satisfactorily complete such repairs in a timely manner, then the NCD Commission and the Building Commissioner may take such action as is permitted under § 78-9, including seeking a court order that specific repairs be undertaken to secure the building or structure against the elements, vandals and vermin; to halt further deterioration; and to stabilize it structurally. The NCD Commission may forbear from commencing an action in court for any reason.
- D. Upon completion of all repairs that have been agreed upon between the property owner and the NCD Commission and the Building Commissioner or that have been ordered by the NCD Commission and the Building Commissioner, or that have been ordered by the court, and upon certification by the Building Commissioner that said repairs have been completed, the NCD Commission shall certify that the building or structure is no longer undergoing demolition by neglect.

§ 78-8. Revision of regulations and guidelines.

The NCD Commission shall meet periodically with the property owners in the NCD for the purpose of determining whether the NCD regulations and guidelines are still appropriate. The first of these meetings shall occur three years from the date of the District's designation as an NCD, and shall occur at no less than seven-year intervals thereafter.

§ 78-9. Judicial review, enforcement, and lapse.

- A. The Building Commissioner shall be charged with the enforcement of this bylaw. The Building Commissioner is authorized to institute any and all proceedings in law or equity, as he deems necessary and appropriate to obtain compliance with the requirements of this by law, or to prevent violation thereof.
- B. Anyone found in violation of this chapter may be fined not more than \$300 for each day such violation continues, each day constituting a separate offense. No building permit shall be issued with respect to any premises upon which a building or structure subject to the provisions of this bylaw has been voluntarily altered or demolished in violation of this bylaw for a period of two years after the date of the completion of such demolition or alteration or the date by which the NCD Commission and the Building Commissioner both have determined that a building is undergoing demolition by neglect, whichever date is later, except pursuant to the issuance of a building permit pursuant to an agreement reached under § 78-7B, or as otherwise agreed to by the NCD Commission and the Building Commissioner. As used herein "premises" includes the parcel of land upon which the demolished building or structure was or is located. **[Amended 3-20-2017 ATM by Art. 35]**
- C. Any party aggrieved by a determination of the NCD Commission may, within 20 days after the filing of the notice of such determination with the Building Commissioner, file a written request with the NCD Commission for a review by a joint meeting of the Historical Commission and Planning Board. The Historical Commission and Planning Board shall hold a public hearing within 45 days of the request. Public notice of the time, place and purpose of the hearing shall be given at least 14 days prior to the hearing date by publication in a newspaper of general circulation in the Town and by conveying said notice to the applicant and all owners of properties within 100 feet of the property, at the address for such owners as listed in the then current real estate tax list of the Board of Assessors, all at the expense of the party aggrieved. The findings of this joint hearing, which may sustain or overrule the prior decision of the NCD Commission, shall be filed with the Building Commissioner within 60 days of the request, and shall be binding on the applicant and the joint committee, unless a further appeal is sought in a court with jurisdiction.
- D. Certificates of compatibility and certificates of hardship shall expire in 18 months, plus such time as may be required to pursue or await the determination of a judicial review as provided above, from their date of issuance, if construction has not begun by such date. Notwithstanding the above, the NCD Commission may grant one or

more extensions, of up to six months each, if there are unavoidable delays.

§ 78-10. Existing bylaws not repealed.

Nothing contained in this bylaw shall be construed as repealing or modifying any existing bylaw or regulation of the Town, but it shall be in addition thereto. If this bylaw imposes greater restrictions upon the construction or alteration of buildings, structures or settings than other bylaws or provisions of law, such greater restrictions shall prevail.

§ 78-12. Boundaries.

The Turning Mill NCD shall comprise the area shown on the boundary map of the NCD as recorded with the Middlesex South Registry of Deeds pursuant to § 78-4A.

§ 78-13. Definitions.

The following terms shall mean as follows when used in this article. All capitalized terms not defined in this article are used as defined in Chapter 78, Article I, of the Code of the Town of Lexington.

COMMISSION — The Turning Mill NCD Commission established pursuant to § 78-14.

PRIVACY SCREENING — Natural plantings to enhance privacy by, among other things, planting a mix of perimeter trees with understory shrubs like mountain laurel, rhododendrons and azaleas, contributing to privacy and enhancing the characteristic woodland aesthetic. The existence of trees and understory bush and shrubs that serve to partially hide the sight of neighboring property elements thus creating the illusion of being surrounded by open space. Where sloping land is involved, upslope properties may be able to provide the most effective privacy screening.

PROTECTED TREE — Any tree considered a Protected Tree under the Town's Tree Bylaw, Chapter 120 of the Code of the Town of Lexington. In addition, Protected Trees shall also include any tree located outside of a setback area that otherwise meets the definition of a Protected Tree under Chapter 120.

SETBACK AREA — The minimum setback area around a lot shall be measured in accordance with the larger dimension of 30 feet from the front and 15 feet from the two sides and from the rear of the lot, and the minimum front yard, side yard and rear yard dimensional requirements under the Zoning Bylaw of the Town of Lexington. For the purposes of establishing the setback area in which the provisions of this article shall apply, the measurement shall be from any point on any property line of the lot, to points along an imaginary line drawn representing the setback area as specified.

§ 78-14. Turning Mill NCD Commission.

The Commission shall be appointed pursuant to the terms of the § 78-4, and the following additional requirements:

- A. Members of the Commission appointed by the Town Manager shall be selected from a pool of candidates nominated by Property Owners in the NCD.
- B. Notwithstanding the provisions of § 78-14B, no neighbor representative member of the Commission may serve more than two consecutive terms. A member of the Commission may serve additional terms, provided at least a year has elapsed since that member last served on the Commission.

§ 78-15. Review of construction and alterations.

- A. Commission review shall be required for the following unless otherwise exempted from review pursuant to this article or Chapter 78, Article I:

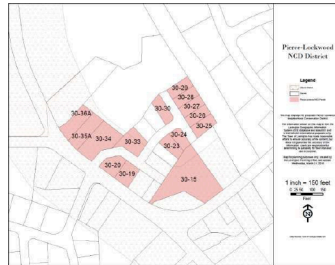
- (1) Demolition of an existing Building, or of a Structure over 200 square feet of floor area or over 10 feet in height;
 - (2) Construction of a Building or Alteration of an existing Building, or of a Structure over 200 square feet of floor area or over 10 feet in height if the Building or Alteration would be visible from a public way;
 - (3) Alteration of an existing Building or of a Structure that would involve the removal and replacement of the Building or Structure's siding, windows, and trim with materials not matching or not substantially similar in dimensions, texture, proportion, design, thickness, scale, and exposure only if the Alteration would be visible from a public way;
 - (4) Construction of a Building or Structure that would require excavation to modify the existing topography, or erection of retaining walls of more than four feet of vertical exposure; and
 - (5) The removal of any Protected Tree in conjunction with Construction or Alteration of a Building or of a Structure unless either documented by a licensed arborist to be necessary because of imminent demise or hazard, or evident to the untrained eye to be irreparably damaged.
- B. The following shall be exempt from review under this article:
- (1) Any Building, Structure, Setting or activity exempt from review pursuant to § 78-5C.
 - (2) Skylights and solar panels installed parallel to, and in close contact with, the plane of the roof;
 - (3) Handicapped-accessible ramps; and
 - (4) Plant material replaced in kind or similar in type or function.
- C. Except as otherwise provided in this article or Chapter 78, Article I, no Building or Structure, within the Turning Mill NCD shall be Constructed, Demolished or Altered in any way unless the Commission has issued a Certificate of Compatibility, a Certificate of Non-Applicability, or a Certificate of Hardship in accordance with Chapter 78, Article I, and this article.
- D. Review Guidelines. The Commission shall apply the criteria in § 78-6 and the following guidelines in reviewing applications pursuant to this article and Chapter 78, Article I. The Commission may, in its discretion, permit variances from these Guidelines where necessary to comply with the Americans with Disabilities Act, the Fair Housing Act, or any other applicable Federal or State law, or where the Commission determines that such variances do not substantially detract from the purposes of this article.
- (1) Landscaping. All landscaping Alterations in conjunction with new Construction, home additions and complete home Demolition and replacement and visible from a public way are reviewable by the Commission in

accordance with the following:

- (a) Applicants shall submit a before and after landscaping plan to the Commission before the commencement of any excavation, re-grading, Construction or tree removal. For additions, the required plan scope should include the limited area of development. For reconstruction, a full landscape plan of the lot is required.
 - (b) Privacy Screening is encouraged. Informal, naturalistic plantings to enhance privacy and the retention of mature, healthy landscape materials are preferred. Formal hedges, straight line hedges, regular spacing of shrubs, and defining boundaries with hedges should be avoided. A heavily wooded front yard is not required, but modest front yard screening is preferred to preserve the woodland character. Installation of lawns should be in addition to, but not instead of, trees and shrubs.
 - (c) Plants native to or adaptive in the woodland zone are preferred, including eastern hardwoods (oak, hickory, beech, red maple, birch) and pines. Hearty and drought-tolerant plants and broadleaf evergreen shrubs (laurel, rhododendron) are preferred for understory plantings with shade and drought tolerant fescues for lawn areas. Invasive species (such as Norway Maple) and species under threat of disease (such as hemlock) should not be used.
- (2) Tree Removal. Protected Trees within the Setback Area are governed by Chapter 120 and shall not be subject to Commission review. Where removal of a Protected Tree is proposed outside of the Setback Area, the Commission may require its replacement with a tree measuring at least three inches in diameter at breast height ("DBH") as defined in Chapter 120. Additionally, if a Protected Tree is removed during the 12 months preceding an application to the Commission, a tree removal and mitigation proposal regarding the Protected Trees previously already removed must submitted to the Commission.
 - (3) Exterior siding. The Commission will consider the use of original materials to replace existing siding appropriate. In addition, the Commission may also approve the use of modern alternatives such as cement shingles and other materials with contemporary design principles.
 - (4) Windows. Windows should be replaced with windows of a similar style, shape, and external appearance as existing windows. However, changes to the overall appearance of windows and surrounding architectural features of Buildings and Structures in which they are located may be accepted where such changes are otherwise consistent with the purposes of this article.
 - (5) Panel and trim details. When replacing damaged plywood, flat, exterior grade plywood or flat, painted PVC panel material are permitted. Use of materials such as zinc, copper, or aluminum to achieve modern or contemporary design appearance is also acceptable.

- (6) Garage and storm doors. Wooden or paintable doors with a flat profile are preferred. Paneled or embossed or vinyl doors should not be used.
- (7) Roofing. EPDM/rubber membrane roofing in gray or black, shingle and metal roofing are acceptable replacements for existing tar and gravel roofs. Copper and aluminum drip edges are also acceptable.
- (8) Roof design. The design of the roof either should be a shallow pitch of up to 4:12 or an asymmetric roof line which can have a slightly steeper pitch.
- (9) Fencing. Stone walls and split rail or other open wood fencing are preferred. Fencing should be minimal. Vinyl or PVC materials, and defining boundaries with walls and fences should not be used.
- (10) Paving. Asphalt paving is acceptable. Pervious paving materials could be considered if possible and appropriate for the site, including washed stone, washed stone on brick base, compacted stone and stone dust, bank run gravel, and rolled aggregate.
- (11) Demolitions. In addition to all other applicable criteria, the Commission may consider the following with respect to applications for Demolition:
 - (a) The likelihood that either the owner or some other person is willing to purchase, preserve, rehabilitate or restore the Building or Structure at issue; and
 - (b) Whether the owner has made reasonable efforts to locate a purchaser, or other person, to preserve, rehabilitate, and restore the Building or Structure.

ARTICLE III
Pierce-Lockwood Neighborhood Conservation District
[Adopted 4-11-2018 ATM by Art. 40]



§ 78-16. Purpose.

Pursuant to Chapter 78, Article I, of the Code of the Town of Lexington, this article describes the regulations and procedures associated with the administration of the Pierce-Lockwood Neighborhood Conservation District ("PLNCD"). The goals of the PLNCD are to preserve the architectural style and general size of the homes, and to emphasize the role the PLNCD played in the historical development of Lexington. The goals can best be described with the words, "coherence," "proportion," and "aesthetics."

Coherence is defined as having a sense of logical interconnectedness, consistency and harmony among parts. There is a balance between a home's uniqueness and its commonality with surrounding houses. This balance is vital to the neighborhood's identity. Architectural changes should maintain a harmony among parts, as well as a consistency with the architectural style of the surrounding homes.

Proportion is defined as having a comparative proper relation between elements or magnitudes such as size, quantity, ratio and number. A change in size leading to a large massing in relation to the size of surrounding Buildings and Structures means, taken as a whole, the Building or Structure is out of proportion to the neighborhood. Further, an addition that creates a change in size may detract from the original shape, affecting its aesthetics.

A neighborhood's sense of beauty is indeed its homes' uniqueness within commonality and includes considerations such as architectural style, shape, original windows, open porches and landscaping that fits within the natural beauty surrounding the Pierce-Lockwood NCD. It is defined by the history of the area, its relationship to the East Village Historic District and to historical Lexington.

§ 78-17. Definitions.

The following terms shall mean as follows when used in this article. All Capitalized terms not defined in this article are used as defined in Chapter 78, Article I.

COMMISSION — The PLNCD Commission established pursuant to § 78-19.

HDC — The Lexington Historic Districts Commission.

§ 78-18. Designation of Pierce-Lockwood PLNCD.

The PLNCD shall comprise the area shown on the boundary map of the PLNCD recorded with the Middlesex South Registry of Deeds pursuant to § 78-4A.

§ 78-19. PLNCD Commission.

- A. The Commission shall be appointed pursuant to the terms of § 78-4.
- B. The Commission shall meet at least twice annually and by request of a property owner in the PLNCD. Property owners in the PLNCD are encouraged to request an informal discussion at a formal meeting of the Commission to discuss possible plans for alterations to their property prior to initiating a formal review with the Commission.

§ 78-20. Commission review.

- A. Except as otherwise provided in this article, no Building, Structure, or Setting within the PLNCD shall be Constructed, Demolished, or Altered unless exempt from review pursuant to § 78-5C or this article, and no permit shall be issued for such construction, Demolition, or Alteration, unless the Commission shall first have issued a Certificate of Compatibility, a Certificate of Non-Applicability, or a Certificate of Hardship. Without limitation, review shall be required for the following:
 - (1) Alterations to Buildings or Structures, including, but not limited to, current roof lines, additions, style and size of windows, and the enclosure of porches;
 - (2) Alterations to Buildings or Structures requiring the issuance of a variance from the requirements of Chapter 135 of the Code of the Town of Lexington;
 - (3) Proposals to change the orientation of the Building or Structure in relation to its current position on a street;
 - (4) Installation of solid fences that would extend beyond the corners of the Building or Structure toward a street; or
 - (5) Additions of garages or paved parking areas.
- B. When an application for a Building Permit is filed for a property in the PLNCD, the Lexington Building Department will notify the applicant that the property is subject to the PLNCD regulations and guidelines. Application will then be made to the Commission for review pursuant to the procedures in Chapter 78, Article I.
- C. In addition to the application, such plans, elevations, specifications, photographs, description of materials and other information as may reasonably be deemed necessary by the Commission to enable it to make a determination will be required.
- D. The following shall be exempt from review pursuant to this article:
 - (1) Any Building, Structure, Setting or activity exempt from review pursuant to

§ 78-5C;

- (2) Skylights and solar panels installed in the same plane and in close contact with the plane of a roof;
- (3) Fences or entry gates of a height of four feet or less; and
- (4) Handicapped-accessible ramps.

§ 78-21. Decision criteria.

A. In passing upon matters before it, the Commission will consider the following criteria in addition to those in § 78-6:

- (1) The architectural, aesthetic, social and historical value and significance of the particular Buildings, Structures and Settings affected, as well as the effects of the same on the PLNCD. Retaining the basic bungalow, Dutch colonial and Federal colonial style of existing homes, including window and door styles, roof lines, and open front porches is encouraged.
- (2) Architectural features such as windows, front doors, exterior siding, garage doors, and roofing materials should be replaced in kind; chosen for consistency with original design; or, at least, compatible with abutting properties. The installation of solid fences which would wall off a home from the neighborhood will be discouraged.
- (3) The suitability of the Construction's or Alteration's general design, arrangement, and composition of its elements on the distinctive character of the PLNCD.
- (4) The effect on the cohesiveness of the PLNCD with respect to the scale and massing of the proposed changes relative to nearby Buildings and Structures in the PLNCD.
- (5) The type of construction, style, textures and materials of the features involved in the proposed Construction or Alteration. Limiting the size and mass of any proposed additions, with or without previous additions, is encouraged.
- (6) Changes in the orientation of a Building or Structure will be discouraged.
- (7) Attached garages and increasing the amount of paved surface will be discouraged.
- (8) The Setting and landscape characteristics, including their relationship to the street, topography, and existing vegetation, including mature trees, of the particular site involved in the Construction or Alteration, as well as the effect of same on the PLNCD. Proposed additions that will shade abutting properties will be discouraged, such as, for example, precluding the use of yards for gardens, or shading existing windows or porches.
- (9) For demolitions, the Building, Structure, or Setting proposed to replace those

demolished.

- B. In making its determination, the Commission shall, among other things, allow for appropriate architectural diversity and encourage the compatible updating, expansion and restoration of Buildings and Structures in the PLNCD consistent with the distinctive characteristics of the PLNCD.
- C. Although not used as decision-making criteria, the following are suggested additional guidelines for consideration when planning Alterations to Buildings, Structures or Settings within the PLNCD:
 - (1) Discussion with abutters concerning the installation of all allowable fences is encouraged. Hedges, split rail or picket fences may be acceptable fencing options.
 - (2) If trees must be removed, the replanting of native trees is encouraged, except where shading will have a negative impact on abutters.

§ 78-22. Historic District Commission.

Owners of properties within the PLNCD that are also in Lexington's East Village Historic District may seek approval for Construction, Alteration, or Demolition that triggers thresholds of either or both this bylaw or the laws and regulations applicable to Lexington's Historic Districts and subsequent review by the Commission and/or the Lexington Historic Districts Commission. Applicants to the Commission that have undergone review and received a Certificate of Appropriateness from the Lexington Historic Districts Commission may submit such paperwork and plans to the Commission as part of any application hereunder.