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2 **ARTICLE 11 ADMINISTRATION**

3 **SECTION 11.0 PURPOSES**

4 The purposes of this Article are:

- 5 • To in order to inform applicants about the application process;
- 6 • To provided an efficient procedure for granting BUILDING permits and use permits;
- 7 • To provide for enforcement of this Ordinance, and (4)
- 8 • To set forth the powers and duties of the Board of Appeals.

9 **SECTION 11.1 ADMINISTRATION**

10 This Ordinance shall be administered and enforced by the BUILDING COMMISSIONER. The BUILDING  
11 COMMISSIONER shall require such plans and specifications as may be necessary to determine  
12 compliance with this Ordinance and with all pertinent laws of the Commonwealth. BUILDINGS,  
13 STRUCTURES and SIGNS may not be erected, substantially altered, moved, or changed in use and land  
14 may not be substantially altered or changed in use except in compliance with this Ordinance, after all  
15 necessary permits have been received under federal, state, and local law. The BUILDING  
16 COMMISSIONER shall not issue any permits under this Ordinance except in compliance with its  
17 provisions.

18 **SECTION 11.1.10 BUILDING PERMITS, USE PERMITS, AND PLOT PLANS**

19 An applicant for construction of any STRUCTURE which requires a BUILDING PERMIT under the  
20 STATE BUILDING CODE shall comply with all requirements of this Ordinance in addition to the  
21 requirements of the State BUILDING Code. Any person proposing a use of land that does not require a  
22 BUILDING permit, and which is different use from the existing land use on the property, shall file an  
23 application for a USE PERMIT with the BUILDING COMMISSIONER which shall be processed in the  
24 same manner as a BUILDING permit.

25 **11.1.11 Initial Consultation with Building Commissioner**

- 26 A. Any person proposing to construct a STRUCTURE or alter the use of land shall  
27 first contact the BUILDING COMMISSIONER 'S office to determine what type of  
28 approval, if any, is required for the proposed construction or land use. The  
29 BUILDING COMMISSIONER shall make an initial determination as to whether or  
30 not the proposed application is permitted in the ZONING DISTRICT, and if

1 permitted, what type of review it requires, as provided in Section 12.1. The  
2 BUILDING COMMISSIONER shall inform the applicant of all required approvals  
3 and the procedures and submission requirements for each.

4 B. If the application requires only a BUILDING PERMIT or a use PERMIT (i.e. it is a  
5 use “by-right”), the BUILDING COMMISSIONER shall instruct the applicant to  
6 file an application with the BUILDING COMMISSIONER’s office. If the  
7 application requires Site Plan Review or a Special Permit, the BUILDING  
8 COMMISSIONER shall refer the applicant to the Office of Planning and  
9 Economic Development. If the application requires approval from the  
10 Historical Commission and/or the Conservation Commission, the BUILDING  
11 COMMISSIONER shall refer the applicant to the appropriate commission.

12 C. If an application requires approval of a Site Plan Review or Special Permit,  
13 once such approval is granted, the applicant shall submit an application for a  
14 BUILDING PERMIT or USE PERMIT, together with a copy of such approval to the  
15 BUILDING COMMISSIONER, as provided in Section 12.1.20.

#### 16 **11.1.12 Filing Plot Plan**

17 Unless otherwise ordered by the BUILDING COMMISSIONER , all applications for BUILDING PERMITS  
18 made in conformity with the provisions of the BUILDING ORDINANCE, Chapter 12.08 of the City  
19 Ordinance) or for USE PERMITS under this Ordinance shall be accompanied by plans in duplicate,  
20 drawn to scale, showing the actual dimensions, radii and angles of the LOT to be built upon based  
21 upon a survey of the subject property, the exact size and location on the LOT of the BUILDING and  
22 ACCESSORY BUILDINGS to be erected and such other information as may be necessary to determine  
23 and provide for the enforcement of this Ordinance. One copy of such plans, when approved by the  
24 BUILDING COMMISSIONER, shall be returned to the owner.

#### 25 **11.1.13 Pending Applications for Building Permits**

26 Nothing herein contained shall affect any permit issued before the first notice of hearing by the  
27 Planning Board on a proposed amendment to this Ordinance, provided that construction work under  
28 any such permit is commenced within six (6) months after its issue.

#### 29 **11.1.14 Use Permits**

30 USE PERMITS shall be required for any new USE of land or any change of use of an existing  
31 STRUCTURE, where no BUILDING PERMIT is required. Any application for a USE PERMIT shall be  
32 accompanied by a plot plan as provided in Section 11.1.12, indicating existing and proposed uses of  
33 the land. The BUILDING COMMISSIONER shall determine whether or not the use is permitted in the  
34 district and if permitted, what level of review it requires. If the use does not require any form of Site  
35 Plan or Special Permit review and the application is in compliance with this Ordinance and other

1 applicable laws, the BUILDING COMMISSIONER shall issue a use PERMIT as provided in Section  
2 11.1.15.

3 **11.1.15 Action on Building or Use Permit**

4 The BUILDING COMMISSIONER shall grant or deny a BUILDING or use PERMIT as soon as practical, but  
5 in no event in more than thirty days of receiving a complete application, and shall inform the  
6 applicant by sending the permit or denial by mail, or by delivering it in person to the applicant at the  
7 BUILDING COMMISSIONER’S Office, within that thirty (30) day period. The issuance of a BUILDING  
8 PERMIT or use PERMIT does not relieve an applicant or an owner of the responsibility to obtain all  
9 required permits under this Ordinance or any other applicable local, state, or federal law or  
10 regulation.

11 **11.1.16 Certificate of Occupancy**

12 Procedures and requirements for issuance of a certificate of occupancy shall be as prescribed by state  
13 law.

14 **SECTION 11.1.20 PENALTIES AND ENFORCEMENT**

15 The BUILDING COMMISSIONER may take any lawful action deemed necessary to prevent or remedy a  
16 violation. Violations include non-compliance with any provision of this Ordinance, any conditions  
17 under which a permit or approval is issued pursuant to this Ordinance, and any decision rendered by  
18 any City board or the City Council pursuant to this Ordinance. The following remedies are available  
19 for a violation of this Ordinance:

20 **11.1.21 Fines**

- 21 A. A criminal fine of not more than \$100 for a first offense and \$300 for each  
22 subsequent offense. Each day such a violation continues shall constitute a  
23 separate offense.
- 24 B. A fine imposed through a non-criminal complaint pursuant to M.G.L. Chapter  
25 40, Section 21D. The fine for any violation disposed of through this procedure  
26 shall be \$100 for a first offense and \$300 for each subsequent offense. Each  
27 day such a violation continues shall constitute a separate offense.

28 **11.1.22 Injunctive Relief**

29 The BUILDING COMMISSIONER or City Council may enjoin a violation by bringing an action in  
30 Superior Court pursuant to M.G.L Chapter 40A, Section 7.

1 **11.1.23 Refusal to Grant Other Permits or Approvals**

2 Municipal officials shall refuse to issue any type of permit, license, or certificate of occupancy for a  
3 new use of land where there is violation of this Ordinance, except where necessary to remedy such  
4 violation.

5 **SECTION 11.2 BOARD OF APPEALS**

6 **SECTION 11.2.10 POWERS OF ZONING BOARD OF APPEALS – PERMIT GRANTING AUTHORITY**

7 The Board of Appeals designated as the permit granting authority as defined in M.G.L. Chapter 40A,  
8 Section 1A, shall have the following powers.

9 **11.2.11 Appeals**

10 An appeal to the Zoning Board of Appeals, may be taken by any person aggrieved by reason of his  
11 inability to obtain a permit or enforcement action from any administrative officer under the  
12 provisions of this Ordinance. Such an appeal may also be taken by the Pioneer Valley Planning  
13 Commission, an abutting city or town, or any person, including an officer or board of the City who is  
14 aggrieved by an order or decision of the BUILDING COMMISSIONER or of any other administrative  
15 official where such an order or decision is alleged to be in violation of any provision of this  
16 Ordinance or of M.G.L Chapter 40A.

17 **11.2.12 Special Permits**

18 The Board of Appeals has the power to hear and decide applications for those Special Permits for  
19 which the board is expressly empowered to act under this Ordinance. In such cases, the Board of  
20 Appeals shall follow the procedures and apply the criteria contained in Section 12.4 of this  
21 Ordinance.

22 **11.2.13 Variances**

23 The Board of Appeals has the power to hear and grant petitions for variances, where it finds:

- 24 A. That owing to circumstances relating to soil conditions, shape or topography  
25 of land or STRUCTURES and especially affecting such land or STRUCTURES, but  
26 not affecting generally the ZONING DISTRICT in which it is located, a literal  
27 enforcement of the provisions of this Ordinance would involve substantial  
28 hardship, financial or otherwise, to the petitioner;
- 29 B. That desirable relief may be granted without substantial detriment to the  
30 public good; and

1 C. That granting such relief would not nullify nor substantially derogate from the  
2 intent or purpose of such Ordinance or by-law.

3 **11.2.14 Section 6 Findings**

4 The Board of Appeals has the power to make findings relative to the extension or enlargement of  
5 NONCONFORMING USES and STRUCTURES under M.G.L, Ch. 40A, Section 6, as provided in Section  
6 10.1 of this Ordinance.

7 **SECTION 11.2.20 PROCEDURE FOR APPLICATION**

8 Applications shall be made within thirty (30) days, as provided by M.G.L. Chapter 40A, or as  
9 otherwise provided in the rules of the Board of Appeals, by filing with the BUILDING COMMISSIONER  
10 and with the Board of Appeals, an application or a notice of appeal specifying the grounds thereof.  
11 In the case of an appeal, the BUILDING COMMISSIONER shall forthwith transmit to the Board of  
12 Appeals all the papers constituting the record upon which the action appealed from was taken. If the  
13 application does not involve an appeal, the applicant shall file an application as otherwise required  
14 by the Board of Appeals for a Section 6 finding or variance, or as required in Article 12 for a Special  
15 Permit.

16 **SECTION 11.2.30 PUBLIC HEARINGS**

17 **11.2.31** Public hearings shall be required for all appeals, variances and Special Permits. The  
18 Board of Appeals shall require notice be given by publication in a newspaper of  
19 general circulation in the city once in each of two successive weeks, the first  
20 publication to be not less than fourteen (14) days before the hearing, and by posting  
21 such notice in a conspicuous place in City Hall for a period of not less than fourteen  
22 (14) days before the date of the hearing.

23 **11.2.32** Notices shall be sent by mail, postage prepaid, to the petitioner, abutters, owners of  
24 land directly opposite on any public or private STREET or way, owners of land within  
25 three hundred (300) feet of the property line as they appear on the most recent  
26 applicable tax list including those in another city or town, the Planning Board and  
27 Planning Boards of all abutting cities and towns. Such notice shall be prepared,  
28 published, posted and mailed by the City Clerk.

1 **SECTION 11.2.40 DECISIONS – NOTICE – APPEAL**

2 **11.2.41 Vote**

3 A concurring vote of three (3) members of the Board shall be required to grant a finding, and a  
4 concurring vote of four members of the Board shall be required to grant a variance, Special Permit,  
5 or appeal.

6 **11.2.42 Decision Timeframe**

7 The decision of the Board of Appeals shall be made within one hundred (100) days after the filing of  
8 an appeal application or petition **except** in regard to a Special Permit when such decision shall be  
9 made within ninety (90) days. Failure of the Board of Appeals to act within the allowed time shall be  
10 deemed to be an approval of the appeal, application, or petition.

11 **11.2.43 Record**

12 The Board of Appeals shall file a detailed record of its proceedings, indicating the vote of each  
13 member, the reason for its decision, and official actions, within fourteen (14) days in the office of the  
14 City Clerk. The decision of the Board of Appeals shall be a public record.

15 **11.2.44 Record of Decision**

16 No variance or Special Permit or any extension, modification, or renewal thereof, shall take effect  
17 until a copy of the decision bearing the certification of the City Clerk that twenty (20) days have  
18 elapsed, and that no appeal has been filed, or denied, is recorded in the Registry of Deeds.

19 **11.2.45 Notice of Decision**

20 Notice of the decision shall be issued to the owner and to the applicant. Each notice of a decision  
21 shall specify that appeals from the order or decision may be made to the Superior Court, Land Court,  
22 or the Hampden County Housing Court, and by filing a copy of the complaint with the City Clerk  
23 within twenty (20) days of the filing order or decision with the City Clerk.

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5 *Article 12 Special Permit and Site*  
6 *Plan Reviews*

7	<i>Section 12.0</i>	<i>Purpose</i>
8	<i>Section 12.1</i>	<i>Applicability and General Provisions</i>
9	<i>Section 12.2</i>	<i>Administrative Site Plan Review (Tier 1)</i>
10	<i>Section 12.3</i>	<i>Planning Board Site Plan Review (Tier 2)</i>
11	<i>Section 12.4</i>	<i>Planning Board Special Permit Review (Tier 3)</i>
12	<i>Section 12.5</i>	<i>City Council High Impact Special Permit</i>
13		<i>Review (Tier 4)</i>
14	<i>Section 12.6</i>	<i>Special Permit for Dimensional Variations</i>
15	<i>Section 12.7</i>	<i>Site Plan Review for Religious, Educational</i>
16		<i>and Child Care Uses</i>

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