Article 4 Use Regulations

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ARTICLE 4 USE REGULATIONS

SECTION 4.0 PURPOSE

The purpose of Article 4 is to establish regulations, standards, and review procedures for different uses of land in each of the ZONING DISTRICTS established by Article 3.

SECTION 4.1 GENERAL PROVISIONS

Section 4.1.10 Applicability of Use Regulations

Except as otherwise provided in this Ordinance or by superseding state or federal law, BUILDINGS, STRUCTURES, or land shall be used only for the purposes permitted in the specified districts as provided in this article.

Section 4.1.20 Determination of Use

The BUILDING COMMISSIONER, with guidance from this ordinance, shall determine whether any specific USE falls within a USE category listed in Table 4-4, Use Table, and if so, which category of USE. The determination of the Commissioner may be appealed to the Board of Appeals as provided in Section 11.2. When different USES occur together on a LOT and/or in the same BUILDING, (for example retail and office and/or residential) the USE which triggers the highest level of review shall determine the level of TIERED REVIEW for the entire application.

Section 4.1.30 Uses Not Listed

Any use not listed in Table 4-4, Use Table, shall be construed to be prohibited, except that the BUILDING COMMISSIONER may determine that a use not listed in the Use Table may be allowed if the use is substantially similar in character and impact to another use listed as permitted in the zoning district, subject to the same review and approval procedures as the listed Use.

SECTION 4.2 TIERED REVIEW LEVELS

Section 4.2.10 Tiered Review System

This Ordinance designates some USES as permitted AS OF RIGHT in specified districts, requiring only a BUILDING PERMIT as described in Article 11 and Article 12. Such USES are designated by a "Y" in Table 4-4, Use Table. USES not allowed are shown with an "N" in Table 4-4. For all other USES in Table 4-4, this Ordinance establishes a TIERED REVIEW based on the scale and potential impact of the particular USE. These tiers are outlined in Table 4-1.

Section 4.2.20 Determination of Applicable Tiered Review

4.2.21 Tier Specified in Use Table

If Table 4-4 specifies that a certain USE is subject to a specific tier of review (1, 2 or 3), then that review level applies regardless of the size or impact of the USE.

4.2.22 Tier Not Specified in Use Table

In order to provide review procedures that match the scale of development, Table 4-4 designates many USE categories with a "T" designation. In that case, such USE is subject to SITE PLAN and/or Special Permit approval and the applicable TIERED REVIEW shall be based on the thresholds found in Table 4-2. These thresholds include common impact measurements such as number of DWELLINGS, FLOOR AREA, and BUILDING HEIGHT. It is the threshold that triggers the highest TIERED REVIEW that is the determining factor. In the case of a MIXED-USE BUILDING, or a USE where the threshold in Table 4-2 is not clear, then the TIERED REVIEW level shall be determined by the BUILDING COMMISSIONER, with guidance from this ordinance.

4.2.23 Higher Thresholds for Reuse of Existing Structures

Where an application for a proposed USE designated as "T" in table 4-4 involves the REUSE or expansion of an existing STRUCTURE in which at least three existing exterior walls will remain in place, the applicable tier shall be based on the thresholds in Table 4-2, Thresholds for TIERED REVIEW under the section *Reuse of Existing Structures*. The applicable TIERED REVIEW shall be based on the parameter in Table 4-2 (number of DWELLING UNITS, FLOOR AREA or HEIGHT) that triggers the highest level of TIERED REVIEW. The proposed size of the STRUCTUREs as modified (not in their existing condition) shall be used in determining which thresholds apply. In the case of a MIXED-USE BUILDING, or a USE where the threshold in Table 4-2 is not clear, then the level of TIERED REVIEW level shall be determined by the BUILDING COMMISSIONER.

4.2.24 Expansion of Uses and Changes of Tenancy and Use

A. A change of tenancy in an existing building in which the existing use is continued and no exterior site alterations are made, shall not require any approvals under this ordinance.

B. A new use occurring within an existing building shall not require any approvals under this ordinance, provided that the new use is not listed on Table 4-4 as requiring a Tier 3 special permit, that the building is not enlarged, and that no exterior site alterations are made.

C. As used in this section 4.2.24, the term "exterior site alterations" means any development occurring outside of an existing structure, excluding changes in the content of existing signage, the repair, replacement,

upgrading, and maintenance of existing site facilities (such as landscaping, lighting, curb cuts, and parking, and changes to facades and storefronts.

D. Where an expansion of a building, or the construction of one (1) or more new buildings is proposed on the site of an existing building which is to be retained, such expansion or construction shall be reviewed according to the number of dwelling units or floor area as shown on Table 4-2. In applying Table 4-2, only the dwelling units and floor area being added to the site shall be counted in determining the applicable tier of review. If the building, lot or use is nonconforming, the provisions of Article 10 "Nonconforming Uses, Structures, and Lots" shall apply to any expansion or construction.

E. The reuse of an existing building shall be reviewed as provided in Tables 4-2 and 4-4. A change of use within an existing building shall be reviewed as provided in B above.

Table 4-1 Description of Tiered Review		
Level of Tiered Review	**Applicable to**	**Process Description**
1. Administrative Site Plan Review coordinated by the Office of Planning & Economic Development	Designated "1" in Table 4-4 OR Designated "T" in Table 4-4and based on thresholds in Table 4-2	Section 12.2
2. Planning Board Site Plan Review	Designated "2" in Table 4-4 OR Designated "T" in Table 4-4and based on thresholds in Table 4-2	Section 12.3
3. City Council Special Permit Review	Designated "3" in Table 4-4 OR Designated "T" in Table 4-4 and based on thresholds in Table 4-2	Section 12.4

Table 4-2 Tiered Review Thresholds			
	Tier 1 **Administrative Site Plan Review**	**Tier 2** **Planning Board Site Plan Review**	**Tier 3** **City Council Special Permit Review**
Thresholds for New Structures with Uses Designated "T" in Table 4-4			
Multi-Family Dwellings	3 to 5 dwelling units	6 to 9 dwelling units	10 and more dwelling units
Non-residential use or mixed-use building Floor Area	less than 20,000 square feet	20,000 to 149,999 square feet	150,000 or more square feet
Building Height or height of any structure	less than 50 feet	50 to 149 feet	150 feet or more
Thresholds for Reuse of Existing Structures with Uses designated "T" in Table 4-4			
Multi-Family Dwellings	3 to 10 dwelling units	11 to 25 dwelling units	26 and more dwelling units
Non-residential use or mixed-use building Floor Area	less than 30,000 square feet	30,000 square feet to 224,999 square feet	225,000 square feet or more
Building Height or height of any structure	less than 75 feet	75 to 224 feet	225 feet or more

Section 4.2.30 Non-Applicability to Dimensional Variations and Nonconforming Uses or Structures

The TIERED REVIEW process above does not apply to Special Permits for dimensional variations, as provided in Section 12.5, or to findings allowing expansion of certain NONCONFORMING USES or STRUCTURES, as provided in Section 10.1.50.

Section 4.2.40 Site Plan Review for Exempt Uses

Section 12.6 establishes Site Plan Review procedures for religious, educational and certain child care uses that are exempt from USE regulation and subject to a limited form of Site Plan Review under state law. The procedures in Section 12.6 supersede any other review provisions in this Ordinance.

SECTION 4.3 USE REGULATIONS

Section 4.3.10 Key

In Table 4-4, the following key shall apply:

Table 4-3 Key for Use Table

Symbol	Meaning
Y	USE allowed AS OF RIGHT.
D	USE allowed AS OF RIGHT subject to limited Site Plan Review as provided in Article 12, Section 12.6 pursuant to M.G.L. Chapter 40A, Section 3 (DOVER AMENDMENT)
T	USE permitted subject to Site Plan Review or Special Permit review under Sections 12.2 through 12.4 or Section 12.6, determined based on the review thresholds set forth in Table 4-2 and the subsections in 4.2.200
1	USE permitted subject to Administrative Site Plan Review (Section 12.2).
2	Use permitted subject to Planning Board Site Plan Review (Section 12.3).
3	Use allowed by City Council Special Permit Review (Section 12.4).
N	Prohibited use.

Section 4.3.20 Rehabilitation, Renovation, or Rebuilding of an Existing Use

Notwithstanding any provision to the contrary in Table 4-4 or Section 10.3, where a site and/or building is being rehabilitated, renovated, or rebuilt, and its use, site layout, and appearance will remain substantially similar to the previous use (including the appearance of the site and building), shall not require any approvals under this ordinance.

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
1	Agricultural Uses																		
1.1	Agriculture																		
1	Parcel five (5) acres or more	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Exempt under M.G.L. 40A
2	Parcel less than five (5) acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	y	4.4.11.A
3	Horse Stable	3	3	N	N	N	N	N	N	N	3	N	N	N	N	N	3	N	4.4.11.C.
1.2	Community Garden	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
1.3	Farmer's Market	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
2	Residential Uses																		
2.1	Single-Family Dwelling																		
1	One Dwelling per Lot	N	Y	Y	N	Y/N	Y	N	Y	Y	Y	N	N	N	N	N	N	N	4.4.120
2	More than one dwelling per lot	N	N	N	T	3	N	N	3	3	3	N	N	N	N	N	N	N	4.4.120

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
2.2 Two-family Dwelling	N	N	Y	N	Y/N	N	N	Y	Y	Y	N	N	N	N	N	N	N	4.4.80
2.3 Multi-family Dwelling																		
1 Townhouse Dwelling	N	N	N/2	T	T	N	N	T	T	T	N	N	3	T	N	N	N	4.4.120
2 Apartment Building	N	N	N	T	T	N	N	T	T	T	N	T	T	3	N	N	N	4.4.120
2.4 Mixed-use Building	N	N	N	T	T	T	N	T	T	T	T	T	T	T	T	N	N	4.4.13, 4.4.120
2.5 Mobile Home	N	3	3	N	3/N	N	N	N	3	3	N	N	N	N	N	N	N	4.4.130
2.6 Mobile Home Park	N	N	N	N	3/N	N	N	N	N	3	N	N	N	N	N	N	N	4.4.130
2.7 Temporary Dwelling	N	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	N	N	Y	N	N	4.4.90

Use Table Legend
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Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
2.8 Home based business																		
1 Home based business 1	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N	Y	N	N	4.5
2 Home based business 2	N	1	1	1	1	Y	N	1	1	1	1	1	1	N	Y	N	N	4.5
2.9 Accessory Dwelling Unit	N	1	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	4.7.120
3. Educational, Religious, and Charitable Uses																		
3.1 Educational Use																		
1 Educational Use, Group Home Exempt under M.G.L c.40A sec.3	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4.6, 12.6
2 Non-exempt Educational Use	N	N	N	N	N	N	N	T	T	T	T	T	T	T	T	T	N	
3.2 Religious Use	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4.6, 12.6

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
3.3	Charitable Use (other than exempt educational use or religious use)	T	N	N	N	N	N	N	T	T	T	T	T	T	T	T	N	N	
4.	Day Care Services																		
4.1	Child Care																		
1	Family Child Care Home	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4.4.70, 4.6, 12.7
2	Large Family Child Care Home	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4.4.70, 4.6, 12.7
3	Child Care Center	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4.4.70, 4.6, 12.7
4	School Aged Child Care Program	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4.4.70, 4.6, 12.7
4.2	Adult Day Care – Home Based	N	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	N	N	N	N	N	4.4.73

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
4.3 Adult Day Care Center	N	N	N	N	Y	N	N	T	T	Y	T	Y	T	T	T	N	N	
5. Public and Quasi-Public Uses																		
5.1 Municipal Uses	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	2	
5.2 Parks	Y	1	1	1	1	1	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
5.3 Cemetery	Y	2	2	2	2	2	2	1	1	1	1	N	N	N	N	Y	N	4.7.20
6. Lodging																		
6.1 Hotel	N	N	N	N	N	N	N	N	T	T	T	T	T	T	T	T	T	
6.2 Motel	N	N	N	N	N	N	N	N	T	T	N	T	T	N	N	T	N	
6.3 Rooms for rent																		
1 Bed and Breakfast	N	3	3	N	N	3	N	3	3	3	N	N	N	N	N	N	N	4.4.50
2 Lodging House	N	N	N	N	3	N	N	N	3	3	N	3	N	N	N	N	N	
3 Group Residential Facility	N	3	3	3	3	N	N	N	3	3	N	3	N	N	N	N	N	
4 Group Home	N	N	N	N	3	N	N	N	3	3	N	3	N	N	N	N	N	

Use Table Legend

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Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
7.	Sales and Rental of Goods and Merchandise																		
7.1	Retail Sales and Service	N	N	N	N	N/T	N	N	T	T	T	T	T	Y	3	2	2	N	
7.2	Wholesale Sales	N	N	N	N	N	N	N	N	N	T	N	T	T	N	T	T	T	
8.	Personal Services																		
8.1	Personal Services	N	N	N	N	N/T	N	N	1	1	1	1	1	Y	N	1	1	N	
8.2	Laundry or Dry Cleaning Service																		
1	Self Service Laundry	N	N	N	N	N	N	N	1	1	1	1	1	N	N	1	1	N	
2	Dry Cleaning Drop-off	N	N	N	N	N/T	N	N	1	1	1	1	1	1	N	1	1	N	
3	Dry Cleaning Processing	N	N	N	N	N	N	N	N	N	3	N	N	N	N	T	T	N	

Use Table Legend
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Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
8.3	General Service and Contractor's Shop	N	N	N	N	N	N	N	N	T	T	Y	T	T	N	T	T	T	4.7.80
8.4	Undertaking Establishment	N	N	N	N	N	N	N	3	3	3	N	N	N	N	N	1	N	
8.5	Crematorium	3	N	N	N	N	N	N	N	N	3	N	N	N	N	N	3	N	
8.6	Animal Services																		
1	Veterinary Clinic	N	N	N	N	N	N	N	T	T	T	N	N	T	N	N	T	N	
2	Kennel	N	N	N	N	N	N	N	N	3	3	N	N	N	N	N	Y	N	
9.	Institutional Residence or Care Facilities																		
9.1	Residence with special services, treatment, or supervision																		
1	Nursing Home	N	N	N	3	3	N	N	N	3	3	N	3	N	N	N	N	N	
2	Assisted Living Center	N	N	N	3	3	N	N	N	3	3	N	3	N	N	N	N	N	

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
9.2	Hospital, clinic, or other medical treatment facility with overnight stay	N	3	3/N	N	3/ N	3	N	3	3	3	3	3	3	3	3	3	N	4.4.60
10.	Office, Clerical, Research and Services Not Primarily Related to Goods and Merchandise																		
10.1	Mixed-use Building, Non Residential Uses	Non Residential uses are allowed if otherwise permitted in the zoning district. See Table 4-4, 2.4 for Mixed-use Buildings with Residential.																	4.4.13
10.2	Office building, non-medical	N	N	N	N	N/ Y	Y	N	T	T	T	1	T	T	T	2	2	2	
10.3	Medical office, clinic or treatment facility, no overnight	N	N	N	N	N/ 3	3	N	3	3	3	3	3	3	3	3	3	3	
10.4	Bank or financial institution	N	N	N	N	N	N	N	1	1	1	1	1	Y	3	1	1	1	See §19 below in Table 4-4 for Accessory Uses

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
11. Eating and Drinking Places																		
11.1 Restaurant	2	N	N	N	N /T	N	N	1	1	1	2	1	1	2	2	1	1	See §19 below in Table 4-4 for Accessory Uses
11.2 Club or Lodge	N	N	N	N	N	N	N	N	T	T	T	T	T	2	T	2	N	
11.3 Tavern	N	N	N	N	N	N	N	N	T	T	T	T	T	2	T	2	N	
12. Motor Vehicle-Related Sales and Service Operations																		
12.1 Motor Vehicle Sales/Leasing of new or used vehicles	N	N	N	N	N	N	N	N	N	3	N	N	3	N	3	3	N	4.7.30
12.2 Motor Vehicle Rentals	N	N	N	N	N	N	N	N	3	3	N	3	3	3	3	3	N	4.7.30
12.3 Motor Vehicle Service																		
1 Gas Station with no Repair Service	N	N	N	N	N	N	N	N	3	3	3	N	2	N	N	3	N	4.7.30
2 Car Wash	N	N	N	N	N	N	N	N	3	3	N	N	2	N	N	2	N	4.7.30

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
3 Motor Vehicle Repair & Maintenance, Light	N	N	N	N	N	N	N	N	3	3	N	N	2	N	N	1	N	4.7.30
4 Motor Vehicle Repair & Maintenance, Heavy	N	N	N	N	N	N	N	N	N	3	N	N	3	N	N	1	N	4.7.30
5 Motor Vehicle Painting or Body Work	N	N	N	N	N	N	N	N	N	3	N	N	3	N	N	3	N	4.7.30
12.4 Truck Stop	N	N	N	N	N	N	N	N	N	3	N	N	N	N	N	3	N	
12.5 Temporary Vehicle storage																		
1 Temporary car storage lot	N	N	N	N	N	N	N	N	N	3	N	N	N	N	N	Y	N	
2 Temporary truck or truck body storage lot	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	N	

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
12.6	Junkyard	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	N	4.7.40
13.	Industrial Uses																		
13.1	Light Industrial	N	N	N	N		N	N	N	N	2	N	3	N	N	1	1	T	
13.2	Industrial Use																		
1	High Hazard Use A	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	3	
2	High Hazard Use B	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	3	3	
3	Other Industrial Use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	T	T	T	
13.3	Research and Development Laboratory																		
1	Biotechnology Research and Development	N	N	N	N	N	N	N	N	N	N	2	T	N	N	2	2	2	
2	Other Research and Development	N	N	N	N	N	N	N	N	N	N	T	T	N	N	2	2	2	

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
13.4	Medical Marijuana																		
1	Registered Marijuana Dispensary (RMD)	N	N	N	N	N	N	N	N	3	3	N	3	3	3	3	3	3	4.7.100
2	Off-Site Registered Medical Marijuana Dispensary (OMMD)	N	N	N	N	N	N	N	N	3	3	N	3	3	3	3	3	3	4.7.100
13.5	Packing, Warehousing and/or Distribution of goods, merchandise, and equipment	N	N	N	N	N	N	N	N	N	T	T	N	N	N	2	2	2	

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
14. Transportation																		
14.1 Parking Facility																		
1 Surface Parking Lot	1	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	T	Y	Y	Y	
2 Parking Garage	N	N	N	N	N	N	T	N	T	T	T	T	T	T	T	T	T	
14.2 Commercial Marina/ Ferry Service	T	N	N	N	N	N	N	N	N	N	N	N	N	T	N	Y	N	
14.3 Intermodal Transportation Facility (Bus or Train Station)	N	N	N	N	N	N	N	3	3	3	3	3	3	3	3	3	N	
14.3 Heliport	N	N	N	N	N	N	N	N	N	3	3	3	3	N	3	3	3	4.7.100
15. Utilities																		
15.1 Public Utilities	N	2	2	2	2	2	2	2	2	2	2	2	2	2	1	1	1	
15.2 Wireless Communication Facility	SEE ARTICLE 6, SECTION 6.2 for these Regulations.																	

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
15.3	Trash Hauling Service Facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	N	
15.4	Recycling Center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	N	
16.	Storage																		
16.1	Indoor Storage	N	N	N	N	N	N	N	N	N	T	T	T	T	N	Y	Y	Y	
16.2	Outdoor Sales and Storage																		
1	Outdoor Sales and Storage	N	N	N	N	N	N	N	N	2	2	N	2	2	2	Y	Y	N	
2	Outdoor Sales including Recreational Vehicles, boats and trailers	N	N	N	N	N	N	N	N	N	3	3	N	3	3	3	3	N	
3	Outdoor Sales and Storage of building materials	N	N	N	N	N	N	N	N	N	3	N	N	3	N	2	Y	2	

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
17. Recreation and Entertainment																		
17.1 Health Club	N	N	N	N	N/T	N	N	T	T	T	T	T	T	T	1	1	N	
17.2 Place of Amusement																		
1 Indoor Place of Amusement	N	N	N	N	N	N	N	3	3	3	3	3	3	3	3	3	N	
2 Outdoor Place of Amusement	2	N	N	N	N	N	N	N	N	3	3	3	3	3	T	T	N	
3 Outdoor, Temporary Place of Amusement	1	1	1	1	1	N	1	1	1	1	1	1	1	1	1	1	N	
17.3 Adult Entertainment	SEE ARTICLE 6, SECTION 6.3 for these regulations																	6.2
18. Accessory Uses – Residential																		
18.1 Residential Garage and/or similar appurtenances	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	

Use Table Legend

OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
18.2	Residential Renewable Energy Facility	N	Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	N	N	
18.3	Accessory non-commercial uses customarily incidental to a residential use not listed elsewhere, including swimming pools, driveways, storage sheds, gardens and children's play equipment.		Y	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	Y	Y	N	N	

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
19.	Accessory Uses – Nonresidential																		
19.1	Drive-up Window for business with interior services																		
1	Bank, Pharmacy or other Retail Service Use	N	N	N	N	N	N	N	3	3	3	N	N	3	N	3	3	3	7.3.20
2	Restaurant	N	N	N	N	N	N	N	3	3	3	N	N	3	N	3	3	3	7.3.20
19.2	Outdoor Display of Goods for Retail Sales and Services	N	N	N	N	N	N	N	1	1	1	N	1	1	1	1	1	1	
19.3	Indoor storage in conjunction with retail use (not more than 40% of gross floor area)	N	N	N	N	N	N	N	N	1	1	1	1	1	1	1	1	N	
19.4	Wholesale in conjunction with	N	N	N	N	N	N	N	N	1	1	1	1	1	1	1	1	N	

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
	and accessory to a permitted retail use (not more than 60% of gross floor area)																		
19.5	Motor Vehicle Sales/Motor Vehicle Rentals with no more than 5 vehicles displayed at one time	N	N	N	N	N	N	N	N	3	3	N	3	3	3	3	3	N	
20.	Adult Use Marijuana Establishments																		
20.1	Marijuana Retailer																		
1.	Storefront Retailer	N	N	N	N	N	N	N	N	3	3	N	3	N	3	N	3	3	4.7.110
2.	Delivery Only	N	N	N	N	N	N	N	N	3	3	N	3	N	3	N	3	3	4.7.110
20.2	Marijuana Cultivator	N	N	N	N	N	N	N	N	3	3	N	N	N	N	N	3	3	4.7.110

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE	Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
	OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
20.3 Craft Marijuana Cultivator Cooperative	N	N	N	N	N	N	N	N	3	3	N	N	N	N	N	3	3	4.7.110
20.4 Marijuana Product Manufacturer	N	N	N	N	N	N	N	N	3	3	N	N	N	N	N	3	3	4.7.110
20.5 Marijuana Social Consumption Establishment	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	4.7.110
20.6 Marijuana Research Facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	3	4.7.110
20.7 Marijuana Independent Testing Laboratory	N	N	N	N	N	N	N	N	3	3	N	N	3	N	N	3	3	4.7.110

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

Table 4-4 Use Table

USE		Residential Districts					Commercial & Business Districts									Industrial Districts			Additional Regulations
		OS	Res A/A1	Res B/B1	Res C-1	Res C/C2	Office A	Com P	Com A	Bus A	Bus B	Bus B1	Bus C	Bus D	RF	MUI	IA	IP	
20.8	Marijuana Transporter	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	3	4.7.110
20.9	Marijuana Micro-Business	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	3	4.7.110
20.10	Any other type of licensed marijuana-related business except a medical marijuana treatment center	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	3	3	4.7.110

1

Use Table Legend
OS = Open Space Res A/A1= Residential A, A-1 Res B/B1 = Residential B, B-1 Res C = Residential C Res C-1 = Residential C-1 Res C-2 = Residential C-2 OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B Business B Bus B1 = Business B1 Bus C = Central Business District Bus D = Regional Shopping RF = Riverfront MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

SECTION 4.4 SUPPLEMENTAL REGULATIONS FOR RESIDENTIAL USES

Section 4.4.10 Accessory Residential Uses

4.4.11 Agriculture and Animals

A. Agriculture. Agriculture on parcels less than five (5) acres. Production of fruits, vegetables and/or ornamental flowers or the creation of a MARKET GARDEN is permitted by right on parcels less than five (5) acres in all ZONING DISTRICTs with the following standards:

1. Production does not include production or keeping of any animals and the raising of livestock is prohibited;

2. The sale of products grown on-site to others is allowed provided that such sales are accessory to the principal USE of the property and shall be located on the property where the practitioner permanently resides.

3. There shall be no outside employees who are not members of the household.

4. No goods shall be publically displayed for sale on the premises. All on-site sales shall be limited to products grown on site.

5. The use of commercial mechanized farming equipment for daily maintenance is prohibited.

6. Construction of a greenhouse or other agricultural structure larger than 250 square feet requires a Tier 1 review.

7. There shall be no gardening activity and/or compost bins located within the front yard.

B. DOMESTIC ANIMALS. The keeping of DOMESTIC ANIMALS as defined in Article 2 as household pets is permitted.

C. Horses. The keeping or raising of horses for personal use is permitted provided that the tract of land on which this occurs is three (3) acres or larger in size and that any BUILDING used for the keeping or raising of horses is located not less than fifty (50) feet from any street or property line. The raising of horses on parcels of five (5) acres or more is deemed to be an AGRICULTURAL USE.

4.4.12 Lodging and Boarding

The accommodation of a maximum of up to three (3) lodgers or boarders including the furnishing of board for such lodgers or boarders, is permitted in residential districts provided that (a) the USE is accessory to a SINGLE-FAMILY DWELLING in which the owner of the DWELLING is the primary occupant; and (b) the USE is located in the DWELLING and not in an ACCESSORY BUILDING.

4.4.13 Mixed-use Buildings Containing Dwelling Units or Residential Buildings in Commercial A, Business A, Business B, Business C, and Mixed-Use Industrial districts

In order to maintain an active pedestrian STREET environment, enhance the character of commercial districts, and maintain continuity of commercial activity without interruption by residential façades, the portion of all MIXED-USE BUILDINGS OR RESIDENTIAL BUILDINGS along STREET FRONTAGEs shall be used only for non-residential purposes, except for entrances to the residential units. The following additional requirements shall apply and may only be waived with written approval from the Office of Planning & Economic Development:

A. All DWELLING UNITs shall be located as follows:

1. DWELLING UNITS located above the STREET level may be placed anywhere in accordance with the density established in tables 5-5 and 5-6.

2. DWELLING UNITS that are located at STREET level must be located within the interior of the BUILDING at least thirty (30) feet behind the front BUILDING wall.

B. OFF-STREET PARKING for such DWELLING UNITS, if required, shall be located behind, within, or beneath the BUILDING. If such locations are impractical, such parking may be located on adjoining property, subject to shared parking agreements, or to the side of the BUILDING at least eighteen (18) feet behind the front BUILDING LINE.

C. Non-residential USES shall be limited to those otherwise permitted in the ZONING DISTRICT and may be located anywhere in the BUILDING.

4.4.14 Residential Parking Areas and Structures

The following parking uses are allowed as ACCESSORY USEs in a residential districts subject to the provisions herein:

A. Parking in a RESIDENTIAL GARAGE- of not more than two (2) MOTOR VEHICLEs owned by non-residents if stored in the same BUILDING as vehicles owned by residents.

B. The ground FLOOR AREA of a RESIDENTIAL GARAGE shall not exceed 10% of the size of the LOT on which the garage is situated or 1,000 square feet, whichever is less.

C. Said detached garage shall have a maximum height of twenty (20) feet but in no case shall said garage exceed the height of the PRINCIPAL BUILDING

D. Said garage shall in no case be used for the repair or service of vehicles for profit nor for the repair or service of vehicles other than those owned by or registered to the owner or tenant of the premises on which said garage is erected.

E. No private parking area or RESIDENTIAL GARAGE shall be used to store or park more than one (1) commercial vehicle.

F. No commercial vehicle exceeding a gross vehicle weight of 10,000 lbs. shall be parked or stored in a Residential DISTRICT.

Section 4.4.20 Swimming Pools

A SWIMMING POOL shall not be nearer than eight (8) feet to any LOT LINE or eight (8) feet to any DWELLING or located between the front of the BUILDING and the STREET LINE. All SWIMMING POOLS shall be enclosed by a fence at least four (4) feet and of type not readily climbed by children and containing gates which cannot be readily opened by children; in the case of above ground pools, the requirement for a fence shall be waived if the owner has a removable ladder which is removed at all times the swimming pool is not in use.

Section 4.4.30 Membrane Structures

4.4.31 Membrane Structures Generally

MEMBRANE-COVERED FRAME STRUCTURES are not permitted in any ZONING DISTRICT when the PRIMARY USE of the STRUCTURE is for residence, storage, workshop, or garage.

4.4.32 Temporary Use Permit for Special Events

A temporary use permit for up to sixty (60) days may be issued by the BUILDING COMMISSIONER for special events including, fairs, bazaars, weddings, promotions, and/or emergencies in any zone in the City.

Section 4.4.40 Storage of Travel Trailers, Recreational Vehicles, Boats and Mobile Homes

The storage of a MOBILE HOME, TRAVEL TRAILER, RECREATIONAL VEHICLE or boat exceeding twenty (20) feet in length shall not be permitted in any residential ZONING DISTRICT. No MOBILE HOME, TRAVEL TRAILER, RECREATIONAL VEHICLE or boat of any size shall be stored within the FRONT YARD in any residential ZONING DISTRICT.

Section 4.4.50 Bed and Breakfast

4.4.51 Intent

The intent of this section is to regulate the siting of BED AND BREAKFASTS, to provide for the proper design and operation of such facilities, and to protect the neighborhood from any adverse impacts from such facilities.

4.4.52 Health Standards

All facilities subject to this section are subject to applicable local and state health regulations.

4.4.53 Length of Stay

Guest rooms are offered for rent on a daily basis for a period not to exceed fourteen (14) days in duration. In no case shall a guest or patron use this location as a mailing address or other identifier.

4.4.54 Interior Area Requirements

A. A BED AND BREAKFAST must have a minimum interior area based on the number of guest rooms, as follows:

Number of Guest Rooms	Required Minimum Interior Area
1	1,500 square feet
2	2,000 square feet
3	2,500 square feet.
4	3,000 square feet

B. No basement or unfinished attic space shall be included in the computation of minimum interior area.

C. In no case shall any room but a bedroom be rented as a guest room.

4.4.55 Bed and Breakfast Signs

One (1) externally lit, one (1) square foot, double faced SIGN is permitted. If said SIGN is a GROUND SIGN, it shall not exceed a height of five (5) feet. There shall be no temporary banners, streamers or other SIGNS.

4.4.56 Special Permit Limitations for Bed and Breakfast facilities

A Special Permit may be granted so that it applies only to the permittee and may not be assumed by any other owner-operator.

Section 4.4.60 Hospital

4.4.61 Accessory Uses and Buildings

The terms ACCESSORY USE and ACCESSORY BUILDING as applied to HOSPITALS shall include but not be limited to attached MEDICAL OFFICE BUILDINGS, laboratories, biotechnology research facilities, and all BUILDINGS, STRUCTURES, facilities and USES associated with, related to or supportive of the services provided by such HOSPITALS, whether or not such ACCESSORY USES or BUILDINGS are themselves required to be licensed as HOSPITALS by the Commonwealth.

4.4.62 Hospitals in Residential Districts

The following provisions apply to HOSPITALS and their ACCESSORY USES and ACCESSORY BUILDINGS in Residential districts: See also 5.2.22.

A. RESTAURANTS, cafeterias and other accessory retail uses shall not be located in a free-standing BUILDING.

B. A helicopter landing and takeoff area for use by a hospital is allowed with a Special Permit Review by City Council (Tier 3 Review).

4.4.63 Flexibility for Hospitals

The Special Permit Granting Authority may establish different dimensional (frontage, height, front, side and rear yards), building coverage, landscaping, and parking requirements for Hospitals and their Accessory Uses and Buildings when such changes are supported by the findings required in Section 12.4.61.

Section 4.4.70 Day Care and Child Care

The following uses are subject to certain protections under State law. They are also regulated under Section 4.6.

4.4.71 Child Care Centers and School Age Child Care Programs

CHILD CARE CENTERS and SCHOOL AGE CHILD CARE PROGRAMS shall be allowed in all ZONING DISTRICTS provided that:

A. The USE shall be conducted in accordance with M.G.L. c. 28A and licensed by the Massachusetts Office for Children or successor agency.

B. In addition to the applicable standards in Section 4.6, the following regulations shall apply for CHILD CARE CENTERS and SCHOOL AGE CHILD PROGRAMS, which are located within residentially zoned properties:

1. Minimum Lot Area: 20,000 square feet, plus 1,000 square feet per child of licensed capacity in excess of 20 children.

2. If an outdoor play area is provided on site, the REAR YARD shall be completely enclosed with a six foot (6') high solid FENCE, notwithstanding the provisions of Article 5 (Sight Triangle).

4.4.72 Family Child Care Homes

FAMILY CHILD CARE HOMES --up to six (6) children --and LARGE FAMILY CHILD CARE HOMES – up to ten (10) children --shall be allowed as shown in Table 4-4 provided that:

A. The USE shall be an ACCESSORY USE to an existing private residence.

B. One (1) parking space shall be provided for every staff person who does not reside at the residence.

C. The USE shall be conducted in accordance with M.G.L. Chapter .28A and licensed by the Massachusetts Office for Children or successor agency.

D. A LARGE FAMILY CHILD CARE HOME shall have at least one (1) approved assistant when the total number of children participating in such child care exceeds six (6).

4.4.73 Home Based Adult Day Care

HOME BASED ADULT DAY CARE shall be allowed as shown in Table 4-4 provided that:

A. The USE shall be an ACCESSORY USE to an existing residential use.

B. The principal care giver shall be a resident of the property.

C. There shall be no more than one (1) non-resident employee.

D. There shall be no more than two (2) adults provided day care at any one time, including those who permanently reside on the property.

Section 4.4.80 Conversion of Dwelling Unit to Duplex/Multifamily

Where not otherwise permitted by this Ordinance, the Board of Appeals may authorize by Special Permit for the conversion of a SINGLE-FAMILY DWELLING to a TWO-FAMILY DWELLING or MULTI-FAMILY DWELLING, subject to the following conditions:

4.4.81 Each DWELLING UNIT shall be provided with a separate access not passing through the living area of any other DWELLING UNIT.

4.4.82 No structural alteration or extension of the BUILDING exterior shall be made except as may be necessary for reasons of safety.

4.4.83 The Planning Board may prescribe such further conditions with respect to the conversion and USE of BUILDINGs or property as it seems appropriate.

Section 4.4.90 Temporary Dwelling

A replacement DWELLING that may be occupied on the LOT of a pre-existing DWELLING that has been destroyed. A one (1) year time extension past the original timeframe may be given in cases of hardship through a Tier 1 process.

Section 4.4.100 Drives Crossing a Residential District to a Non-Residential District

A DRIVEWAY cannot be utilized to reach a permitted USE in one ZONING DISTRICT if to reach this USE the DRIVEWAY must cross a residential DISTRICT in which the USE is not permitted.

Section 4.4.110 Condominiums

A CONDOMINIUM created in accordance with and subject to the provisions of General Laws, Chapter 183A, as the same may be amended from time to time, is permitted under this Ordinance, and shall comply with USE, AREA, HEIGHT, OFF-STREET PARKING and other regulations of this Ordinance for the District in which said CONDOMINIUM is located unless exempted therefrom in accordance with the nonconformity provisions of Article 10. Where a condominium DEVELOPMENT creates separate BUILDING sites for SINGLE-FAMILY DWELLINGS or TWO-FAMILY DWELLINGS, such BUILDING sites shall comply with the City's Subdivision Regulations in the same manner as if the land were being subdivided.

Section 4.4.120. Standards for Apartment Buildings in Residence C-1 district.

4.4.121. Purpose

Residence C-1 districts are intended to encourage quality site planning and pleasant, open, safe, healthy and presentable residential projects of moderate height, and attractive landscaping, for a variety of housing types as shown on the Use Table, including but not limited to multi-family

garden apartments. The standards in this Section 4.4.120 apply to apartment buildings in Residence C-1 districts.

4.4.122 Buildings to Lot and Front property lines.

A. No portion of any BUILDING shall be closer than fifty (50) feet from any lot line or twenty (20) feet from any street or driveway shown on a plan approved by the Planning Board.

B. No portion of any BUILDING shall be closer than forty (40) feet from any exterior front LOT LINE or front property line of an interior through-street.

C. Generally no rear wall of any BUILDING shall be more than three hundred fifty (350) feet from any street or DRIVEWAY shown on a plan approved by the approving body or official.

4.4.123 Screening.

When a building is one hundred (100) feet or less from any lot line, natural screening consisting of coniferous trees of a height no less than seven (7) feet shall be used where no comparable screening exists originally.

4.4.124 Location of Off-Street Parking.

A. All OFF-STREET PARKING areas shall be no closer than forty (40) feet from any external STREET.

B. In the case of a DRIVE providing access to more than one hundred (100) parking spaces, all parking spaces shall be physically separated from the DRIVE by a curb, planting strip or other suitable barrier vehicle access or egress.

C. In no case shall perpendicular or bay parking be permitted on the main internal streets built to City standards.

4.4.125 Open Spaces

There shall be at least one (1) area of open space large enough and centrally located so as to constitute a usable recreational area for the inhabitants of the complex. This main recreation area shall have at least twenty thousand (20,000) square feet for each fifty (50) units in the development.

Section 4.4.130 Mobile Homes and Mobile Home Parks

4.4.131 Purpose

The purpose of this Section is to establish the City's land use policy in regard to individual MOBILE HOMEs, MOBILE HOME PARKS, and travel trailers. This includes the setting of design standards to accommodate the unique characteristics of MOBILE HOMEs and MOBILE HOME PARKS.

4.4.132 Travel Trailers

No TRAVEL TRAILER (as defined in Article 2) shall be used or occupied for DWELLING or sleeping purposes in the City.

4.4.133 Mobile Homes

No MOBILE HOME (as defined in Article 2) shall be used or occupied for DWELLING or sleeping purposes, except in accordance with the following provision:

A. Individual MOBILE HOME. A MOBILE HOME shall be permitted outside of a MOBILE HOME PARK **only** if it is a single MOBILE HOME DWELLING UNIT is located on a LOT in SINGLE AND SEPARATE OWNERSHIP, and when authorized by a City Council Special Permit but only in cases where personal hardship can be demonstrated, and subject also to the Tier 3 Special Permit criteria in Section 12.4.

4.4.134 Special Regulations for Mobile Home Parks

All MOBILE HOME parks shall conform to the following regulations:

A. MOBILE HOME PARKS – shall conform to all state regulations, and all other applicable rules and regulations pertaining to MOBILE HOME parks.

B. Subdivision Regulations – All MOBILE HOME parks shall be developed in conformance with the applicable rules and regulations of the Springfield Subdivision Regulations. This shall include the construction of all internal STREETs in accordance with City standards, even though the individual MOBILE HOME lots are to remain under single ownership.

C. Area and YARD Regulations.

1. LOT AREA – a minimum of five thousand (5,000) square feet of LOT AREA shall be provided for each MOBILE HOME space. Each lot shall have a width of at least forty-five (45) feet.

2. YARDS – a FRONT YARD of not less than ten (10) feet shall be provided. One (1) REAR YARD and two (2) SIDE YARDS shall be provided, each of which shall be not less than five (5) feet, but in no case shall there be less than twenty (20) feet between any two MOBILE HOMEs. This subsection shall apply to both PRINCIPAL and ACCESSORY STRUCTUREs.

SECTION 4.5 HOME BASED BUSINESS

Section 4.5.10 Purpose

The purpose of this Section is to encourage those who are engaged in small businesses that could not be sustained if they had to lease commercial quarters, or which by the nature of the venture, are appropriate in scale and impact to be operated within a residence. HOME BASED BUSINESSES that do not change the nature of a residential area are encouraged because they typically generate fewer vehicle trips than conventional businesses and help make neighborhoods safer by activating STREETs on weekdays. HOME BASED BUSINESSES are allowed to be undertaken by owners and/or renters, who permanently reside at the residence, and can occur in any type of residential STRUCTURE, although the review process differs by DWELLING type.

Subsections 4.4.50 and 4.4.70 above describe the standards for the specific HOME BASED BUSINESSes BED AND BREAKFAST lodging, FAMILY CHILD CARE and ADULT DAY CARE. Those Sections supersede the provisions in this Section 4.5.

Two (2) levels of HOME BASED BUSINESSes are allowed:

- **Type I Home Based Businesses** are those that meet the standards in Section 4.5.20 below, and are allowed by right.

- **Type 2 Home Based Businesses** are those that exceed one (1) or more of the thresholds in Section 4.5.31 and are operated in compliance with Sections 4.5.20 and 4.5.30. Type 2 HOME BASED BUSINESSes are allowed through a Tier 1 Administrative Site Plan Review for SINGLE-FAMILY DWELLINGS and Tier 2 Planning Board Site Plan Review for all other DWELLING types. The submission requirements are given in Section 4.5.30 and Section 12.2.

Section 4.5.20 Standards for All Home Based Businesses

4.5.21 Appearance of residence

A. The HOME BASED BUSINESS shall be restricted to lawfully-built enclosed STRUCTUREs and be conducted in such a manner as not to give an outward appearance of a business.

B. The HOME BASED BUSINESS shall not result in any structural alterations or additions to a STRUCTURE that will change its primary USE or BUILDING CODE occupancy classification.

C. The HOME BASED BUSINESS shall not violate any conditions of development approval (i.e., prior development permit approval).

D. No products and or equipment produced or used by the HOME BASED BUSINESS may be displayed to be visible from any public way or adjacent property.

4.5.22 Storage

A. Outside storage, visible from any public way or adjacent properties which exceed what is customary for a SINGLE-FAMILY DWELLING in the vicinity, is prohibited.

B. On-site storage of HAZARDOUS MATERIALS (including toxic, explosive, noxious, combustible or flammable) in a quantity beyond those normally incidental to residential USE is prohibited.

C. STORAGE of inventory or products and all other equipment, fixtures, and activities associated with the HOME BASED BUSINESS shall be allowed in any STRUCTURE.

4.5.23 Compliance with other legal requirements

A. The operation of the HOME BASED BUSINESS shall be restricted to enclosed STRUCTURES that are in compliance with applicable BUILDING CODES and that are not in violation of this Ordinance. This shall not prevent HOME BASED BUSINESSES from operating in NONCONFORMING STRUCTURES or on NONCONFORMING LOTS as defined in this Ordinance.

B. If a business license is required, the owner shall have a current business license.

C. The owner shall comply with all other requirements of federal, state, or local law.

4.5.24 Vehicles, Parking and Traffic

A. Commercially-licensed vehicles associated with the HOME BASED BUSINESS use are allowed at the HOME BASED BUSINESS SITE. All commercial vehicles parked at the site shall be of a size that would not

overhang into the public right-of-way when parked in the DRIVEWAY or other location on the HOME BASED BUSINESS SITE.

B. Deliveries to a HOME BASED BUSINESS SITE from a truck or trailer exceeding forty (40) feet in box length are limited to once per month.

4.5.25 Business Hours

Clients or customers are permitted to visit a HOME BASED BUSINESS only between the hours of 7:00 a.m. to 8:00 p.m.

Section 4.5.30 Thresholds and Standards for Type 1 and Type 2 Home Based Businesses

4.5.31 Thresholds for Type 1 Home Based Businesses

A. Type 1 HOME BASED BUSINESSES allowed by right shall not exceed any of the following thresholds:

1. Other than family members residing within the DWELLING located on the HOME BASED BUSINESS site, there shall be no employee at the HOME BASED BUSINESS SITE.

2. Signs shall be limited to one (1) square foot of display area on all sides within Residential DISTRICTS.

3. No commercial vehicle shall be parked for longer than seventy-two (72) hours at the DWELLING.

4. There shall be no more than three (3) commercial vehicle deliveries to or from the HOME BASED BUSINESS SITE daily.

5. There shall be no more than two (2) client or customer vehicles at any one time and no more than eight (8) throughout the day at the HOME BASED BUSINESS SITE.

4.5.32 Standards for Type 2 Home Based Businesses.

A. Any HOME BASED BUSINESS that exceeds one (1) or more of the thresholds in Subsection 4.5.31 shall be a Type 2 HOME BASED BUSINESS and shall require Tier 1 Administrative Site Plan Review as provided below. In addition to the standards in Section 4.5.20, the following standards shall apply to Type 2 HOME BASED BUSINESSES:

1. Other than family members residing within the DWELLING located on the HOME BASED BUSINESS site, there shall be not more than two (2) full time equivalent employees at the HOME BASED BUSINESS site at any given time.

    a) Additional individuals may be employed by or associated with the HOME BASED BUSINESS, so long as they do not report to work and/or pick up/deliver at the HOME BASED BUSINESS site.

    b) The HOME BASED BUSINESS SITE shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations, unless the assembly does not change the residential character of the STREET either due to limited vehicular traffic or to assembly in a screened area.

2. SIGNS shall comply with all applicable SIGN regulations found in Article 9.

3. One (1) commercial vehicle up to 10,000 pounds GROSS VEHICLE WEIGHT RATING is permitted to be parked longer than seventy-two (72) hours at the residence.

4. There shall be no more than five (5) commercial vehicle deliveries to or from the HOME BASED BUSINESS SITE daily.

5. There shall be no more than three (3) client or customer vehicles at any one time and no more than twelve (12) throughout the day at the HOME BASED BUSINESS SITE.

B. Type 2 HOME BASED BUSINESS Site Plan Review. Applications for Type 2 HOME BASED BUSINESSes shall be processed using a Tier 1 Administrative Site Plan Review procedure in accordance with Section 12.2. In addition to the application requirements contained in Section 12.2.10 the applicant shall provide:

C. A written narrative or letter that:

1. Describes the proposed HOME BASED BUSINESS;

2. Includes a photograph of the site; and

3. Demonstrates compliance with the applicable standards in Section 4.5.32.

D. A site plan, not necessarily to scale, of the LOT proposed for the HOME BASED BUSINESS, including:

1. The LOT LINES and their dimensions;

2. Outlines of the foundations of all BUILDINGS proposed for HOME BASED BUSINESS use with dimensions for each wall, and the distances from each wall to the nearest LOT LINE;

3. Boundaries and dimensions of DRIVEWAYS and parking areas, indicating areas for use by HOME BASED BUSINESS employees and customers;

4. Outlines of the foundations of abutting DWELLINGS, and the distances from the shared LOT LINE to the nearest wall of each neighboring DWELLING; and

5. Identification of the BUILDINGS and areas of those BUILDINGS in which HOME BASED BUSINESS activities will take place, and where activities will take place in each BUILDING or area.

Section 4.5.40 Prohibited Home Based Business Uses

4.5.41 Any activity that produces radio, TV, or other electronic interference; noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the LOT LINE; is prohibited.

4.5.42 The following uses and uses with similar objectionable impacts because of MOTOR VEHICLE traffic, noise, glare, odor, dust, smoke or vibration, are prohibited:

A. MOTOR VEHICLE DISPATCH such as ambulance service;

B. VETERINARY CLINIC or KENNELS;

C. MOTOR VEHICLE SALES, RENTALS, SERVICES, REPAIR, PAINTING OR BODY WORK, or TEMPORARY STORAGE; and

D. Repair, installation of auto stereos, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, lawnmowers or other

engine repair, or repair of large appliances or equipment at the HOME BASED BUSINESS SITE.

Section 4.5.50 Home Base Business Enforcement

The BUILDING COMMISSIONER or designee may visit periodically and inspect the HOME BASED BUSINESS SITE in accordance with this Section to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice.

SECTION 4.6 SPECIAL STANDARDS FOR RELIGIOUS, EDUCATIONAL, AND CHILD CARE USES

Section 4.6.10 Uses Exempted by State Law

RELIGIOUS USES, EXEMPT EDUCATIONAL USES, CHILD CARE CENTERS, and SCHOOL AGE CHILD CARE PROGRAMS, as those USES are defined in this Ordinance, are partially protected from local zoning regulation by M.G.L. Ch. 40A, Section 3, and shall be allowed in all districts.

Section 4.6.20 Site Plan Review

USES regulated under this section shall be subject to either Tier 1 Administrative Site Plan Review or Tier 2 Site Plan Review by the Planning Board with modified review standards in accordance with Section 12.6. Table 4-2 gives the size thresholds for Tier 1 or Tier 2 reviews.

Section 4.6.30 Dimensional Requirements

The uses protected by Section 4.6 shall comply with the dimensional regulations of Articles 4 and 5 unless the Site Plan Review approval authority determines that a particular dimensional regulation is unreasonable as applied to the USE or a Campus Master Plan has been approved under Section 6.1 of this Ordinance. If the Site Plan Review approval authority determines that a dimensional regulation is unreasonable, it shall modify such dimensional regulation in accordance with M.G.L Chapter 40A, Section 3.

Section 4.6.40 Qualification of uses that are Exempt

To qualify for the protections of this Section 4.6, applicants shall submit proof that they comply with the definitional requirements for the use. In the case of exempt educational uses only, applicants must provide sufficient proof, in the form of catalogs, program descriptions, annual reports, articles of incorporation, bylaws, annual reports, tax exempt status, state license or other means that the organization provides educational services to students, residents, customers, or clients, and that the land on which the USE occurs is owned or leased by a religious sect or denomination, or a nonprofit educational corporation, or the Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic, including the City or any agency of the City and when the subject facility is designed and intended for persons with disabilities, as defined by the Fair Housing Act, shall be required to file an Application for a Reasonable Accommodation with the Building Commissioner.

SECTION 4.7 SPECIAL REGULATIONS FOR CERTAIN USES

Section 4.7.10 Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any BUILDING or STRUCTURE declared unsafe by the BUILDING COMMISSIONER

Section 4.7.20 Cemeteries

4.7.21 The expansion of existing CEMETERIES shall be allowed.

4.7.22 New CEMETERIES shall be allowed as shown in the use table, provided that a new cemetery shall be no less than three (3) acres in size and shall require the prior written approval of the Springfield Public Health Department.

Section 4.7.30 Location of Automobile Services

4.7.31 Proximity of Automobile Services to Residential Districts.

No public garage, MOTOR VEHICLE REPAIR SHOP, greasing station, storage battery service station, nor gasoline filling station, or any of their appurtenances or ACCESSORY USES shall hereafter be erected or placed within twenty-five (25) feet of any residential DISTRICT, **unless** the space so used is entirely enclosed, on the sides facing the STREET and residence zone, within masonry or concrete walls and a roof without openings of any kind, **except** windows or sky-lights having metal frames and fixed metal sash glazed with wire glass. No DRIVEWAY or door to such premises shall be in any part within twenty-five (25) feet of any residential DISTRICT.

4.7.32 Proximity of Automobile Services to Educational or Religious Uses.

No such public GARAGE, automobile MOTOR VEHICLE REPAIR SHOP, greasing station, storage battery service station, nor gasoline filling station, nor any of their appurtenances or ACCESSORY USES, shall have at the STREET LINE any entrance or exit for MOTOR VEHICLES within a radius of one hundred (100) feet of any entrance or exit at the FRONT LOT LINE of any public or private school, public library, church, PLAYGROUND or for children under sixteen (16) years of age, if such entrances or exits are on the same STREET or on an intersecting STREET.

Section 4.7.40 Junkyards

4.7.41 Enclosure

All JUNKYARD materials and activities not within fully enclosed BUILDINGS shall be completely surrounded with a six (6) foot opaque FENCE with a suitable gate which shall be closed and locked **except** during the working hours of such JUNKYARDS. Any loading, unloading, dismantling, cutting or other processing of junk materials must be carried on within this enclosure.

4.7.42 Storage of Junk Material

All junk material shall be stored in such manner as to prevent it from being transported out of the JUNKYARD by wind, water or other natural forces, and all junk material shall be stored so as to prevent the breeding or harboring of rats, insects, or other vermin.

Section 4.7.50 Dumping and Inoperative Motor Vehicles

4.7.51. Dumping of Garbage, Rubbish or Other Refuse

No person shall dump garbage, rubbish, or other REFUSE in any place, or maintain as a dumping ground for garbage, rubbish, or other REFUSE any place, unless such place has been approved by the City Council and unless such place has been approved by the Commissioner of Public Health in accordance with the provisions of M.G.L. Section 150A of Chapter 111. This shall not apply to those persons who wish to scientifically maintain compost for their own use in a manner that does not attract vermin or otherwise pose a threat to public health.

4.7.52 Inoperative Motor Vehicles in Residential Areas

In any residential district, the deposit or storage on any LOT of wrecked or inoperable vehicles or parts thereof for one (1) month or more shall be prohibited. Garaged vehicles shall be exempt from this provision.

Section 4.7.60 Removal of Certain Materials Restricted

4.7.61 Removal Restricted

Unless otherwise provided in this section, there shall be no EXCAVATION or removal from any premises in any district of earth, sand, gravel, clay, quarry stone, peat or mineral ore, except as surplus material resulting from a bona fide construction, landscape, or agricultural operation being executed on the premises.

4.7.62 Removal of Top Soil or Loam

No excavation or removal of top soil or loam shall be made in any district until a permit has been obtained from the BUILDING COMMISSIONER. There shall be not less than four (4) inches of top soil or loam left which shall be seeded with a suitable cover crop or put to cultivation, **except** that this provision shall not apply to any area covered by a BUILDING or construction operation. At the completion of a construction operation, the area covered shall be topped as required by this section.

4.7.63 Excavation Permit Process

The BUILDING COMMISSIONER may approve the excavation or removal of earth, sand, gravel, clay, quarry stone, peat or mineral ore as provided below:

4.7.64 Submission Requirements

A. The applicant shall submit, as deemed necessary by the BUILDING COMMISSIONER , a plan prepared by a registered professional engineer or land surveyor showing the total area proposed for excavation or removal of the above material, the existing grade at two (2) foot contour intervals, and the proposed grade at two (2) foot intervals. The plan shall be approved by the BUILDING COMMISSIONER before a permit for excavation or removal is issued.

B. The plan shall provide for proper drainage of the area covered by the permit both during and after completion of the excavation or removal. No removal shall take place below the established level of the nearest existing approved right-of-way, within twenty (20) feet of a property line, or fifty (50) feet from a residence district, or thirty (30) feet from a STREET line. If the grade of the land where removal is to take place is higher than the abutting property, the material lying above the grade of the abutting property may be removed up to the property lines.

C. Before the issuance of any permit under this section, the applicant shall file with the City Treasurer a Performance Guarantee, such as a Letter of Credit, cashier's check or equivalent form of security, running to the City with sureties satisfactory to the BUILDING COMMISSIONER in such sum as the BUILDING COMMISSIONER shall determine, and be twice the estimated cost of conforming with the provisions of this Ordinance.

4.7.65 Requirements for Excavation and Material Removal

A. The method of EXCAVATION or removal shall not affect existing STRUCTURES, existing or proposed STREETS, existing sewer and drainage facilities, and existing water courses.

B. The emission of process dust, either from the area of operation or from the excavated materials themselves, shall be minimized by frequent watering or by such other means as the BUILDING COMMISSIONER shall direct.

C. All work done in accordance with this section shall be carried out with full regard to promoting the health, safety, convenience and welfare of all persons and property.

D. The applicant shall comply with all applicable provisions of Federal, State, and Municipal safety laws, health regulations and BUILDING CODES to

prevent accidents or injury to persons on, about, or adjacent to the area where the excavation or removal is being performed. The applicant shall erect and properly maintain at all times, as required by the condition of the premises, or at the direction of the BUILDING COMMISSIONER, all necessary safeguards for the protection of the public and shall post danger signs warning against the hazards created in the carrying out of the activity.

E. At the conclusion of the operation, or any substantial portion thereof, the whole area where removal takes place shall be covered with not less than four (4) inches of top soil and seeded with a suitable cover crop, except where ledge is exposed. The final grade shall not exceed the angle of repose of the material – or a slope designated by the BUILDING COMMISSIONER.

F. No material may be removed in such a way as to leave a permanent hold or depressions within the areas of EXCAVATION or removal below the average grade of adjoining land, STREET line, or approved right-of-way unless there is adequate fencing approved by the BUILDING COMMISSIONER.

G. Inspection of the site shall be made every sixty (60) days or as determined to be necessary by the BUILDING COMMISSIONER. The DEPARTMENT OF PUBLIC WORKS shall, at the request of the BUILDING COMMISSIONER, make any surveys necessary to assure compliance with this section.

H. Each application for a permit by the BUILDING COMMISSIONER, shall be accompanied by the required fee.

I. A permit shall bear the date of the day on which it is issued, and unless sooner revoked by the BUILDING COMMISSIONER, shall continue in force for two (2) years from such date.

J. No EXCAVATION or removal of earth, sand, gravel, clay, quarry stone, peat, or mineral ore for which a permit has been granted under this section shall be stopped for a period of more than one (1) year, unless the area excavated has been topped as required by paragraph E of this section, or the applicant shall forfeit his bond and the permit revoked. The BUILDING COMMISSIONER shall then proceed to top the area as required by paragraph E.

Section 4.7.70 Prohibited Uses and Performance Standards

No USE which is noxious or offensive by reason of odor, dust, smoke, gas, vibration, illumination or noise, or which constitutes a public hazard whether by fire, explosion, or otherwise, shall be permitted in any district. In determining whether a USE is noxious, hazardous, or offensive, the following standard shall apply:

4.7.71 Air Pollution

Air pollutants shall not exceed the limits prescribed by the regulations of the Massachusetts Department of Environmental Protection or any other applicable regulations.

4.7.72 Water Pollution

The USE of and discharge of substances into lakes, streams or similar water bodies shall not violate the rules, regulations, or water quality standards adopted by the Massachusetts Department of Environmental Protection or any other applicable regulations.

4.7.73 Noise

All noise shall comply with the Noise Control City Ordinance, Chapter 259.

4.7.74 Vibration

No vibration, other than that caused by MOTOR VEHICLEs, trains or aircraft being operated in a manner normally incidental to the PRINCIPAL USE on any LOT, shall be permitted which is discernible without instruments at any property line of the LOT of the USE concerned.

4.7.75 Nuisance Odors and Air Emissions

There shall be no emission of toxic or noxious matter or objectionable odors of any kind in such quantity as to be readily detectable at any property line of the LOT on which the USE emitting the toxic or noxious material or odor is located. For the purpose of this section, toxic or noxious matter is any solid, liquid, or gaseous matter including, but not limited to gases, vapors, dusts, fumes, and mists, containing properties which by chemical or other means are:

A. Inherently harmful and likely to destroy life or impair health, or

B. Capable of causing injury to the well-being of persons or damage to property.

4.7.76 Heat and Glare

A. Except for approved exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed BUILDING. Glare shall be shielded in such a way that it will not be visible from other LOTS or public ways.

B. Exterior lighting, including but not necessarily limited to lighting of exterior walls of BUILDINGS from an external light source, lighting of parking areas, and lighting of walks and drives shall be done in such a manner as to direct light away from adjacent LOTS and public ways.

4.7.77 Insects and Rodents

All materials, including wastes, and all grounds and BUILDINGs shall be kept in a manner which will not attract or aid the propagation of insects or rodents creating a health hazard.

4.7.78 Wastes and Refuse

No waste material or REFUSE shall be dumped upon, or permitted to remain upon, any part of the LOT outside of BUILDINGS constructed thereon. Waste material or REFUSE stored outside BUILDINGS shall be placed in completely enclosed and fenced containers. JUNKYARDS meeting the definition in Article 2 are exempt from this provision.

Section 4.7.80 General Service and Contractor's Shop in the Business B-1 District.

GENERAL SERVICE AND CONTRACTOR'S SHOPS are allowed in the Business B-1 District provided that the building is located more than one hundred (100) feet from a LOT LINE and is not visible from a public STREET or from an adjacent residential district.

Section 4.7.90 Heliport

4.7.91 Heliports must be reviewed and approved by the Massachusetts Executive Office of Transportation and the FAA. Applicant shall show evidence of coordination with state and federal agencies and regulations in the Special permit application.

4.7.92 Applicant shall include information about safety measures that will be taken with the proposed Heliport for physical design as well as management and safety training.

Section 4.7.100 Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)

4.7.101 Purpose

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of REGISTERED MARIJUANA DISPENSARIES (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and OFF-SITE MEDICAL MARIJUANA DISPENSARY

(hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the City of Springfield.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

4.7.102 Additional Requirements/Conditions

In addition to the standard requirements for uses permitted by a Tier 3 Special Permit, the following shall also apply to all REGISTERED MARIJUANA DISPENSARIES and OFF-SITE MEDICAL MARIJUANA DISPENSARIES:

A. Use:

1. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.

2. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.

3. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.

4. RMD facilities that can demonstrate that they comply with the agricultural exemption under M.G.L. Chapter 40A, Section 3 must still apply for Site Plan Approval.

B. Physical Requirements:

1. All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.

2. No outside storage is permitted.

3. No OMMD facility shall have a gross floor area in excess of five thousand (5,000) square feet.

4. Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:

    a. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and

    b. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.

5. Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two (2) inches in height.

C. Location:

1. No RMD and OMMD facility shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:

    a. a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or child care facility or any other use in which children commonly congregate in an organized ongoing formal basis, or

    b. another RMD or OMMD facility, except that this limitation shall not apply in Industrial zones.

2. No RMD or OMMD facility shall be located with five hundred (500) feet of a residence, a building containing residences, (including commercial residential uses such as hotels, motels, lodging houses, etc.) or a residential zoning district.

3. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as lodging houses, motels and dormitories.

D. Reporting Requirements:

1. All Special Permit holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Board of Heath, Building Commissioner, Zoning Administrator and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

2. The local Building Commissioner, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by an RMD or OMMD facility owner/operator/ manager:

    a. A minimum of thirty (30) days prior to any change in ownership or management of that facility.

    b. A minimum of twelve (12) hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.

3. Permitted RMD and OMMD facilities shall file an annual report to the Building Commissioner and Zoning Administrator no later than January 31st of each year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

4. The owner and/or manager is required to respond by phone or email within twenty four (24) hours of contact by a city official concerning their RMD or OMMD at the phone number or email address provided by the City.

E. Issuance/Transfer/Discontinuance of Use:

1. Special Permits shall be issued for an initial period of three (3) years. If there are no violations of Section 4.7.100 and/or breaches of the conditions of the Special Permit during that time frame, the Special Permit shall be automatically renewed.

2. Special Permits shall be issued to the RMD or OMMD Operator only.

3. Special Permits shall be issued for a specific parcel.

4. Special Permits shall be non-transferable to either another RMD or OMMD Operator or parcel.

5. Special Permits shall have a term limited to the duration of the applicant's ownership/control of the premises as a RMD or OMMD, and shall lapse:

    a. If the permit holder ceases operation of the RMD or OMMD; and/or

    b. The permit holder's registration by MDPH expires, is suspended or is terminated.

6. The permit holder shall notify the Building Commissioner/Zoning Administrator and Special Permit Granting Authority, in writing, within forty eight (48) hours of such lapse, suspension, cessation, discontinuance or expiration; and

7. An RMD or OMMD facility shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.

8. In addition to the issuance of a Special Permit, the applicant shall also be required to enter into an approved Host Community Agreement (HCA).

9. The Special Permit shall be subject to revocation for violations of Section 4.7.100 and/or breaches of the conditions of the Special Permit.

4.7.103 Application Requirements

In addition to the standard application requirements for Special Permits, such applications for an RMD or OMMD facility shall include the following:

A. The name and address of each owner of the RMD or OMMD facility/operation;

B. A copy of its registration as an RMD from the Massachusetts Department of Public Health or documentation that demonstrates that said RMD or OMMD facility, and it's owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.000 of the Massachusetts Department of Public Health.

C. Evidence that the applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

D. A notarized statement signed by the RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of all such responsible individual persons;

E. In addition to Site Plan Review Submission Requirements found in Section 12.3.40, plans must also detail all exterior proposed security measures for the RMD or OMMD including but not limited to lighting, fencing, gates and alarms, etc., thus ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.

F. A detailed floor plan identifying the areas available and functional uses (including square footage).

G. All signage being proposed for the facility.

H. A traffic study to establish the RMD or OMMD impacts at peak demand times.

I. A management plan to include a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

4.7.104 Findings

In addition to the standard Findings for a Special Permit the Special Permit Granting Authority must also find all the following:

A. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

B. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;

C. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Ordinance;

D. That the RMD or OMMD project meets a demonstrated need;

E. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured; and

F. That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility and it impact on neighboring uses.

4.7.105 Adult Use Marijuana Establishment Co-Location

Where an RMD/OMMD is co-located within an ADULT USE MARIJUANA ESTABLISHMENT with a marijuana operating permit issued pursuant to Section 245 of the General Ordinance of the City of Springfield, as amended, and with an approved Tier 3 Special Permit, the use requirements of Article 4, Section 4.7.110 of these Zoning Ordinance will govern and only a Tier 1 Administrative Site Plan Review shall be required for the RMD/OMMD use.

Section 4.7.110 Adult Use Marijuana Establishments

4.7.111 Purpose

It is recognized that the nature of the substance cultivated, processed, and/or sold by an ADULT USE MARIJUANA ESTABLISHMENT may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public and of the authorized adult customers seeking to legally purchase marijuana for their own use. The specific and separate regulation of an ADULT USE MARIJUANA ESTABLISHMENT is necessary to

advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one (1) area within the City of Springfield.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 935 CMR 500.00, ADULT USE MARIJUANA ESTABLISHMENTS will be permitted to provide the opportunity for the legal cultivation, product manufacturing, distribution, testing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

4.7.112 Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017, engaged in the cultivation, manufacture or sale of marijuana or marijuana products to an ADULT USE MARIJUANA ESTABLISHMENT, provided, however, any such medical marijuana treatment center obtains a special permit pursuant to this Section for any such conversion to an ADULT USE MARIJUANA ESTABLISHMENT.

This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

4.7.113 Definitions

CANNABIS CULTIVATION. The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

CANNABINOID. Any of several compounds produced by marijuana plants that have medical and psychotropic effects.

CANNABINOID PROFILE. Amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrehydrocannabinolic acid and cannabidiolic acid in a marijuana product. Amounts of other cannabinoids may be required by the commission.

CEASES TO OPERATE. Marijuana Establishment closes and does not transact business for a period greater than sixty (60) days with no substantial action taken to reopen. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

CLOSE ASSOCIATE. A person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a marijuana establishment.

CONSUMER. A person who is at least twenty one (21) years of age.

CONTROLLING PERSON. An officer, board member or other individual who has a financial or voting interest of ten (10) per cent or greater in a marijuana establishment.

COMMISSION. Means the Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St.2016, c. 334 as amended by St. 2017, c.55,, M.G.L. c. 94G, and 935 CMR 500.000.

CRAFT MARIJUANA CULTIVATOR COOPERATIVE. A marijuana cultivator comprised of residents of the commonwealth organized as a limited liability company or limited liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the commission, and that is licensed to cultivate, obtain, manufacture, process, package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to consumers.

CULTIVATION BATCH. A collection of marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical propagation and cultivation treatment, including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. The marijuana licensee shall assign and record a unique, sequential alphanumeric identifier to each cultivation batch for the purposes of production tracking, product labeling and product recalls.

EXPERIENCED MARIJUANA ESTABLISHMENT OPERATOR. A medical marijuana treatment center as defined in M.G.L. Chapter 369 of the Acts of 2012 with a registration in good standing, or (I) a reorganized marijuana business established by a vote of at least 2/3 of the board of directors of an entity that submitted an application for a registration to operate a medical marijuana treatment center to the department of public health before October 1, 2015 and was issued a provisional registration to operate a medical marijuana treatment center by the department of public health before the effective date of this chapter.

FINISHED MARIJUANA. Usable marijuana, cannabis resin or cannabis concentrate.

HEMP. The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 per cent on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of marijuana product, or the combined per cent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

HOST COMMUNITY. A municipality in which a marijuana establishment or a medical marijuana treatment center is located or in which an applicant has proposed locating a marijuana establishment or a medical marijuana treatment center.

HOST COMMUNITY AGREEMENT. An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

INDEPENDENT TESTING LABORATORY. A laboratory that is licensed by the Commission and is: (I) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Commission.

STANDARDS TESTING LABORATORY. An entity that would otherwise qualify to be an independent testing laboratory but instead performs blind tests to verify the results of an independent testing laboratory at the request of the Commission.

LABORATORY AGENT. An employee of an independent testing laboratory who transports, possesses or tests marijuana.

LICENSEE. A person or entity licensed by the commission to operate a marijuana establishment.

MANUFACTURE. To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

MARIJUANA or MARIHUANA. All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that "marijuana" shall not include: (I) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA ACCESSORIES. Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

MARIJUANA CULTIVATOR. An entity licensed to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

MARIJUANA ESTABLISHMENT. A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business.

MARIJUANA MICRO-BUSINESS. A microbusiness is a co-located Tier 1 or Tier 2 MARIJUANA CULTIVATOR, MARIJUANA PRODUCT MANUFACTURER, and marijuana delivery service. A

microbusiness licensee shall not have an ownership stake in any other marijuana establishment and a majority of its executives or members must have been residents of Massachusetts for no less than 12 months prior to application is eligible to apply for a micro-business license.

MARIJUANA PRODUCT MANUFACTURER. An entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

MARIJUANA/CANNABIS PRODUCTS. Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA RETAILER. An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

STOREFRONT RETAILER. A marijuana retailer that provides a retail location accessible to consumers 21 years of age or older or in possession of a registration card demonstrating that the individual is a registered qualifying patient with the Medical Use of Marijuana Program, if the retail store is co-located with a medical marijuana treatment center.

DELIVERY-ONLY RETAILER. A marijuana retailer that does not provide a retail location accessible to the public, but is authorized to deliver directly from a marijuana cultivator facility, Craft Marijuana Cultivator Cooperative facility, marijuana product manufacturer facility, or micro-business.

MARIJUANA SOCIAL CONSUMPTION ESTABLISHMENT. A marijuana social consumption establishment may purchase marijuana from licensed marijuana establishments and sell single servings of marijuana to consumers for consumption on the premises.

PRIMARY USE. A primary use marijuana social consumption license shall be required for any commercial enterprise for which 51% or more of average monthly revenue is derived from the sale of marijuana products to be consumed on the premises (e.g. cannabis café).

MIXED USE. A mixed use marijuana social consumption license shall be required for any commercial enterprise for which the consumption of marijuana is a secondary or shared purpose to a non-cannabis business purpose. (e.g. massage studio that uses cannabis-infused lotion).

MARIJUANA RESEARCH FACILITY. An academic institution, non-profit corporation or domestic corporation or entity authorized to do business in the Commonwealth of Massachusetts. A marijuana research facility may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. Any research involving humans must be authorized by an Institutional Review Board. A marijuana research facility may not sell marijuana cultivated under its research license, but may also hold a marijuana retailer license.

MARIJUANA TRANSPORTER. An entity may only transport marijuana or marijuana products when such transportation is not already authorized under a marijuana establishment license if it is licensed as a Marijuana Transporter:

THIRD PARTY TRANSPORTER. An entity registered to do business in Massachusetts that does not hold another marijuana establishment license pursuant to 935 CMR 500.050 and is not registered as a registered marijuana dispensary pursuant to 105 CMR 725.000.

EXISTING LICENSEE TRANSPORTER. A Marijuana Establishment that wishes to contract with other marijuana establishments to transport their marijuana and marijuana products to other marijuana establishments.

MYCOTOXIN. A secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For the purposes of this chapter, mycotoxin shall include alfatoxin B1, alfatoxin B2, alfatoxin G1, alfatoxin G2 and ochratoxin A.

PROCESS or PROCESSING. To harvest, dry, cure, trim and separate parts of the marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in this section.

PRODUCTION BATCH. A batch of finished plant material, cannabis resin, cannabis concentrate or marijuana-infused product made at the same time, using the same methods, equipment and ingredients. The licensee shall assign and record a unique, sequential alphanumeric identifier to

each production batch for the purposes of production tracking, product labeling and product recalls. All production batches shall be traceable to 1 or more marijuana cultivation batches.

PROPAGATION. The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

PROVISIONAL MARIJUANA ESTABLISHMENT LICENSE. A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

RESIDUAL SOLVENT. A volatile organic chemical used in the manufacture of a marijuana product and that is not completely removed by practical manufacturing techniques.

TERPENOID. An isoprene that are the aromatic compounds found in cannabis, including, but not limited to: limonene, myrcene, pinene, linalool, eucalyptol, δ-terpinene, %EF-caryophyllene, caryophyllene oxide, nerolidol and phytol.

UNREASONABLY IMPRACTICABLE. A measure or measures necessary to comply with the regulations, ordinances or by-laws adopted pursuant to this ordinance which subjects licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

4.7.114 Use Requirements

All ADULT USE MARIJUANA ESTABLISHMENTS shall be required to obtain a Tier 3 Special Permit from the City Council. All ADULT USE MARIJUANA ESTABLISHMENTS must also comply with the following:

A. Location:

1. ADULT USE MARIJUANA ESTABLISHMENTS are encouraged to utilize existing buildings, where possible.

2. No ADULT USE MARIJUANA ESTABLISHMENT shall be located within five hundred (500) feet of pre-existing public or private school providing education in kindergarten or any of grades one (1) through twelve (12), in operation at the time of application for a special permit. The distance shall be measured in accordance with 935 CMR 500.110(3), using a straight line from the geographic center of the ADULT USE MARIJUANA ESTABLISHMENT entrance to the geographic center of the nearest school entrance,

unless there is an impassable barrier within those five hundred (500) feet; in those cases, the distance shall be measured along the center of the shortest publicly accessible pedestrian travel path from the geographic center of the ADULT USE MARIJUANA ESTABLISHMENT entrance to the geographic center of the nearest school entrance. In any case where the measurement is determined to be in question, the City Council may require verification of distances by a Registered Land Surveyor.

3. No ADULT USE MARIJUANA ESTABLISHMENT shall be located inside a building containing residential units, including transient housing such as lodging houses, group homes, transient housing, motels, hotels and dormitories. Provided further, this provision shall not apply to ADULT USE MARIJUANA RETAILERS located in a Business C district.

4. No ADULT USE MARIJUANA ESTABLISHMENT, with the exception of an ADULT USE MARIJUANA RETAILER, shall be located within two hundred fifty (250) feet of a residence, a building containing residences, (including commercial residential uses such as hotels, motels, lodging houses, etc.) or a residential zoning district.

5. No ADULT USE MARIJUANA RETAILER shall be located within three hundred (300) feet of another MARIJUANA RETAILER.

6. No ADULT USE MARIJUANA ESTABLISHMENT is permitted to utilize or provide a drive-up service window.

7. ADULT USE MARIJUANA RETAILER shall only be allowed on streets as identified on the attached list, referenced as "Exhibit A" (located at the rear of the document following the Index) and further an ADULT USE MARIJUANA RETAILER shall only be allowed in Business A, Business B, Business C, Riverfront, Industrial Park and Industrial A districts.

8. No ADULT USE MARIJUANA RETAILER shall be located on a parcel which is fifty (50) feet from a residentially zone property, unless that parcel contains a minimum of 20,000 square feet. Provided further, that the ADULT USE MARIJUANA RETAILER shall be at least fifty (50) feet from the nearest residence.

B. Other Requirements:

1. The number of ADULT USE MARIJUANA RETAILERS permitted to be located within the City of Springfield shall not exceed fifteen (15).

2. Any type of ADULT USE MARIJUANA ESTABLISHMENT may only be involved in the uses permitted by its definition and may not include other businesses or services.

3. No marijuana shall be smoked, eaten or otherwise consumed or ingested within and/or on the premises.

4. No ADULT USE MARIJUANA ESTABLISHMENT may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited to, it's Provisional License from the Cannabis Control Commission.

5. The hours of operation shall be set by the City Council, but in no event shall a MARIJUANA RETAILER be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 11:00 p.m. and 8:00 a.m. This change in hours shall apply to all MARIJUANA RETAILER(S) now in operation within the City of Springfield.

6. No Marijuana Retailer shall have a gross floor area, open to the public, in excess of 2,500 square feet.

7. All aspects of the use relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, testing or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business. They may not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.

8. No ADULT USE MARIJUANA ESTABLISHMENT shall be allowed to operate from a movable, mobile or transitory location.

9. ADULT USE MARIJUANA ESTABLISHMENTS are not permitted as a HOME OCCUPATION.

10. Signage shall be displayed on the exterior of the ADULT USE MARIJUANA ESTABLISHMENT'S entrance in plain sight of the

public stating that "Access to this facility is limited to individuals 21 years or older." in text two (2) inches in height. Additionally, all other signage must comply with all other applicable signage regulations in Article 9 and 935 CMR 500.

11. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the ADULT USE MARIJUANA ESTABLISHMENT is located and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Council shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.

12. No outside storage is permitted.

13. Ventilation - all ADULT USE MARIJUANA ESTABLISHMENTS shall be ventilated in such a manner that no:

    a. Pesticides, insecticides or other chemicals and/or products used in the cultivation or processing are dispersed into the outside atmosphere; and

    b. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the ADULT USE MARIJUANA ESTABLISHMENT or at any adjoining use or property.

D. Reporting Requirements:

1. All Special Permit holders for an ADULT USE MARIJUANA ESTABLISHMENT shall provide the Police Department, Fire Department, Board of Heath, Building Commissioner, Zoning Administrator and the City Council with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.

2. The local Building Commissioner, Board of Health, Police Department, Fire Department and City Council shall be notified in writing by an ADULT USE MARIJUANA ESTABLISHMENT owner/operator/ manager:

    a. A minimum of thirty (30) days prior to any change in ownership and/or management of that facility.

    b. Immediately or as soon as practicable possible, but no later than twenty-four (24) hours, following the discovery of a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the ADULT USE MARIJUANA ESTABLISHMENT.

3. Permitted ADULT USE MARIJUANA ESTABLISHMENTS shall file an annual report to the Building Commissioner and Zoning Administrator no later than January 31st of each year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

4. The owner and/or manager is required to respond by phone or email within twenty four (24) hours of contact by a city official concerning their ADULT USE MARIJUANA ESTABLISHMENT at the phone number or email address provided by the City.

E. Issuance/Transfer/Discontinuance of Use:

1. Special Permits shall be issued for an initial period of twelve (12) months. If there are no violations and/or breaches of this Section or conditions of the Special Permit during that time frame, the Special Permit shall be automatically renewed.

2. Special Permits shall be issued for a specific parcel.

3. Special Permits shall be non-transferable to another ADULT USE MARIJUANA ESTABLISHMENT operator, owner or parcel.

4. Special Permits shall have a term limited to the duration of the applicant's ownership/control of the premises as an ADULT USE MARIJUANA ESTABLISHMENT, and shall lapse:

    a. If the permit holder ceases operation of the ADULT USE

MARIJUANA ESTABLISHMENT; and/or

b. The permit holder's license by the Commission expires, is suspended or is terminated.

5. The permit holder shall notify the Building Commissioner/Zoning Administrator and City Council, in writing, within forty eight (48) hours of such lapse, suspension, cessation, discontinuance or expiration; and

6. An ADULT USE MARIJUANA ESTABLISHMENT shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.

7. The Special Permit shall be subject to revocation for violations of Section 4.7.110 and/or breaches of the conditions of the Special Permit.

8. Any operating ADULT USE MARIJUANA ESTABLISHMENT within the City of Springfield shall be inspected annually by the Building Commissioner, or his/her designee(s), to ensure compliance with this Section and with any conditions imposed by the City Council as a condition of the Special Permit approval.

4.7.115 Special Permit Application Requirements

Applications for Special Permits for an ADULT USE MARIJUANA ESTABLISHMENT will be processed in the order that they are filed with the city. The approval of a Special Permit for any ADULT USE MARIJUANA ESTABLISHMENT is up to the discretion of the Springfield City Council and will not be based automatically on the order in which applications have been submitted but rather the Council will be making their determinations based on selecting the ADULT USE MARIJUANA ESTABLISHMENT that it Finds are in the best interests of the City and best comply with the standards and intent of this Ordinance. While the City Council is authorized to approve Special Permits for ADULT USE MARIJUANA ESTABLISHMENTS in an amount up to, but not exceeding fifteen (15) licenses for Marijuana Retailers, the City Council is not obligated to approve an application for an ADULT USE MARIJUANA ESTABLISHMENT that it doesn't Find is in the best interests of the City and/or complies with the standards and intent of this Ordinance just because the maximum number of allowed Special Permits for an ADULT USE MARIJUANA ESTABLISHMENT haven't been approved.

In addition to the standard application requirements for Special Permits, such applications for an ADULT USE MARIJUANA ESTABLISHMENT shall include the following:

A. The name and address of each owner of the ADULT USE MARIJUANA

ESTABLISHMENT facility/operation;

B. A Copy of the applicants Host Community Agreement or in the event that a Host Community Agreement has not been granted, Petitioner shall state the date and manner in which they contacted the City requesting a Host Community Agreement.

C. If it's in conjunction with an approved RMD, a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.

D. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.

E. Evidence that the applicant has site control and right to use the site for an ADULT USE MARIJUANA ESTABLISHMENT in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;

F. Evidenced that a Community Outreach Meeting, in accordance with 935 CMR 500, has occurred and that the meeting occur within the neighborhood that the project will be located, when possible.

G. A notarized statement signed by the ADULT USE MARIJUANA ESTABLISHMENT organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the applicant must disclose the identity of all such responsible individual persons;

H. In addition to Site Plan Review Submission Requirements found in Section 12.3.40, plans must also detail all proposed security measures for the ADULT USE MARIJUANA ESTABLISHMENT including but not limited to lighting, fencing, cameras, alarms, etc., thus ensuring the safety of employees and patrons and to protect the premises from theft

and/or other criminal activity. This plan should also include security measures for the transportation and/or delivery of marijuana and marijuana products.

I. A detailed floor plan identifying the areas available and functional uses (including square footage).

J. A detailed sign plan.

K. The Council may require a pedestrian/vehicular traffic impact study to establish the Adult Use Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic along the public right of ways will not be unreasonably obstructed.

L. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.

M. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to an ADULT USE MARIJUANA ESTABLISHMENT or off-site direct delivery.

N. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishments:

1. Operating procedures
2. Marketing and advertising
3. Waste disposal
4. Transportation and delivery of marijuana or marijuana products

5. Energy efficiency and conservation
6. Security and alarms
7. Decommissioning of the ADULT USE MARIJUANA ESTABLISHMENT

4.7.116 Findings

In addition to the standard Findings for a Special Permit the City Council must also find all the following:

A. That the ADULT USE MARIJUANA ESTABLISHMENT is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;

B. The ADULT USE MARIJUANA ESTABLISHMENT is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Ordinance.

C. That the ADULT USE MARIJUANA ESTABLISHMENT demonstrates that it will meet or exceed all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;

D. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Ordinance;

E. That the ADULT USE MARIJUANA ESTABLISHMENT project meets a demonstrated need;

F. That the ADULT USE MARIJUANA ESTABLISHMENT facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured; and

G. That the ADULT USE MARIJUANA ESTABLISHMENT facility adequately addresses issues of traffic demand, circulation flow, parking and queuing (including pedestrian queuing), particularly at peak periods at

the facility and it impact on neighboring uses.

4.7.117 Severability

If any provision of Section 4.7.110 is found to be invalid by a court of competent jurisdiction, the remainder of Section 4.7.110 shall not be affected but shall remain in full force. The invalidity of any provision(s) of Section 4.7.110 shall not affect the validity of the remainder of this zoning ordinance.

Section 4.7.120 Accessory Dwelling Units (ADU's)

4.7.121 Purpose

The purpose of this section is to advance the public good by enabling the creation and expansion of new, diverse housing opportunities intended to increase the supply of healthy, accessible, affordable, and sustainable living spaces that address varied housing needs. ACCESSORY DWELLING UNITS (ADU's) provide flexibility for diverse housing types and enable more opportunities for intergenerational living environments and provide rental income for homeowners while encouraging the efficient use of the existing housing stock and infrastructure and preserving the character of the neighborhoods.

4.7.122 Definitions

ACCESSORY DWELLING UNITS. A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or nine hundred (900) square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including but not limited to additional size restrictions, and restrictions or prohibitions on short-term rental, as defined in Section 1 of chapter 64G; provided, however, that no municipality shall unreasonably restrict the creation or rental of an ACCESSORY DWELLING UNIT that is not a short-term rental.

4.7.123 Use Requirements

All ACCESSORY DWELLING UNITS shall be required to obtain a Tier 1 Administrative Site Plan Review from the Office of Planning & Economic Development, prior to the issuance of a Building Permit. All ACCESSORY DWELLING UNITS must also comply with the following:

A. Location:

1. ACCESSORY DWELLING UNITS are limited to only Residence A and Residence A-1 zoning districts.

2. No ACCESSORY DWELLING UNIT shall be located in the front of the principal structure.

3. Building expansions or new detached buildings constructed for the purpose of creating an ACCESSORY DWELLING UNIT shall be located to the rear or side of the principal building. When added to the side of an existing principal building, the ACCESSORY DWELLING UNIT shall not be within five (5) feet of the principal building's front elevation.

B. Other Requirements:

1. No ACCESSORY DWELLING UNIT shall be used for short-term rentals, as defined in City Ordinance, Chapter 238.

2. The construction of an ACCESSORY DWELLING UNIT must be in conformity with all State Building Codes, Title V of the State Sanitary Code (if applicable) and any and all other City bylaws/regulations and/or ordinances, including any and all dimensional setbacks for a dwelling unit.

3. The principal building and the ACCESSORY DWELLING UNIT shall remain in common ownership. An ACCESSORY DWELLING UNIT may not be sold separately from the principal building to which it is an accessory use.

4. No ACCESSORY DWELLING UNIT shall be located on a parcel with less than 5,000 square feet, unless the parcel contains a structure that has been determined to be a legal, non-conforming use or one that has been authorized through a variance obtained from the City of Springfield’s Zoning Board of Appeals.

5. An ACCESSORY DWELLING UNIT must obtain a Certificate of Occupancy prior to commencement of the use.

6. There shall be no more than one (1) ACCESSORY DWELLING UNIT per lot allowed through a Tier 1 Administrative Site Plan Review. More than one (1) ACCESSORY DWELLING UNIT per lot shall require a Tier 3 Special Permit.

7. An ACCESSORY DWELLING UNIT must provide one (1) additional, on-site, accessible parking space.

C. Site Plan Submission Requirements:

1. All Site Plans submitted for an Administrative Site Plan Review shall follow the requirements outlined in Article 12, Section 12.2, in addition to the following:

    a. All site plans must be prepared by a qualified professional, including but not limited to a Registered Professional Engineer, Registered Architect, a Registered Land Surveyor and/or a Registered Landscape Architect.

    b. Site Plans shall be drawn to scale and must show the location and gross square footage of the existing dwelling, the location and square footage of the proposed ACCESSORY DWELLING UNIT and the location of the egress points from the existing dwelling and the proposed ACCESSORY DWELLING UNIT.

    c. All Site Plans must show the location of the required one (1) additional on-site parking space.

D. Dimensional Requirements:

1. No ACCESSORY DWELLING UNIT shall be larger in gross floor area than 1/2 the gross floor area of the principal dwelling or nine hundred (900) square feet, whichever is smaller.

2. ACCESSORY DWELLING UNITS in new or expanded accessory buildings shall be setback a minimum of ten (10) feet from other building(s) on the lot and a minimum of five (5) feet from each the rear- and side- lot lines and shall be located outside of the side yard setbacks otherwise specified for the existing use in the underlying zoning district.

3. New, detached, ACCESSORY DWELLING UNITS shall not exceed a height of twenty (20) feet.

4. ACCESSORY DWELLING UNITS, located within lawfully permitted existing dwelling, with no proposed expansion, shall be exempt from these dimensional regulations.