Zoning Ordinance

City of Springfield, Massachusetts

TEXT ENACTED: MAY 28, 2013 – EFFECTIVE DATE: AUGUST 26, 2013

TEXT AS AMENDED TO DECEMBER 16, 2025

AN ORDINANCE

AMENDING AN ORDINANCE FOR CONSOLIDATING AND ARRANGING, ENLARGING, MODIFYING AND AMENDING THE ORDINANCES OF THE CITY RESTRICTING BUILDINGS, STRUCTURES AND PREMISES ACCORDING TO THEIR USE OR CONSTRUCTION TO SPECIFIC PARTS OF THE CITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPRINGFIELD AS FOLLOWS:

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ARTICLE 1 INTRODUCTION

SECTION 1.0 PURPOSE

The purposes of this Ordinance are to promote the general welfare of the City of Springfield, to protect the health and safety of its inhabitants, to promote economic development, to encourage the most appropriate use of land throughout the City, to preserve the cultural, historical, architectural, and OPEN SPACE heritage of the community, to increase the amenities of the City, and to reduce the hazard from fire by regulating the location, use, and arrangement of BUILDINGS and the urban and OPEN SPACEs around them.

SECTION 1.1 TITLE

This Ordinance shall be known and may be cited as the "Springfield Zoning Ordinance."

SECTION 1.2 AUTHORITY

This zoning ordinance is enacted in accordance with the provisions of the Massachusetts General Laws (M.G.L.) Chapter 40A, and any and all amendments thereto, and is authorized by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts (the "Home Rule Amendment"). By the authority of the Home Rule Amendment, the City of Springfield has all legislative powers which the Massachusetts Legislature is empowered to grant to the City, regardless of whether or not such powers have been explicitly granted, except to the extent such powers are explicitly limited by any general or special law of the Commonwealth or by any federal law.

SECTION 1.3 INTRODUCTION AND USER GUIDE

This zoning ordinance enables Springfield to enhance economic development opportunities, protect neighborhood character, and preserve and enhance the urban fabric of the City. It is designed to strike a balance between achieving the community's goals and protecting the property interests of landowners while providing a development approval process that is predictable, efficient and fair.

Section 1.3.10 Overview

This section provides a brief overview of the content of the zoning.

1.3.11 Definitions

Article 2 contains definitions of key terms, which are identified throughout the text using SMALL CAPS. Whenever there is a word in SMALL CAPS, it is a "defined term" that can be found in Article 2. For specialized definitions, such as those related to Signs, Article 2 references another location which contains those particular definitions.

1.3.12 Land Use Districts

This Ordinance divides the City into land use districts and overlay districts and establishes rules for the use of land in each district. The text is accompanied by a ZONING MAP which shows where the various districts are located. Article 3 establishes the districts and identifies their purposes.

1.3.13 Allowed Uses, Procedures, and Special Situations

Article 4 contains a comprehensive Use Table (Table 4-4) which lists the "uses" or activities that are allowed in each district. For example, certain districts are primarily for residential use, but allow some other activities, such as HOME BASED BUSINESSES, but only if they meet certain standards. These special situations are described in the second half of Article 4. The Definitions in Article 2 explain what the different USE categories in the Use Table mean. Article 4 also includes Supplemental Regulations which address a variety of Use rules such as MOBILE HOME PARKS. The TIERED REVIEW process that is applied to certain uses in the Use Table is summarized below.

A. Tier 1: Administrative Site Plan Review.

1. Administrative Site Plan Review is a process where the USE is allowed by right and is reviewed using the criteria found in Section 12.2.20.

2. Administrative Site Plan Review is conducted by the Office of Planning and Economic Development, without a public meeting.

B. Tier 2: Planning Board Site Plan Review.

1. Planning Board Site Plan Review is similar to Administrative Site Plan Review, where the Use is allowed by right, but where conditions may be placed on the approval to better meet the intent or purpose of the district and using the criteria found in Section 12.3.50.

2. Planning Board Site Plan Review involves a public hearing. The PLANNING BOARD RULES AND REGULATIONS shall specify the process for conducting this hearing.

C. Tier 3 City Council Special Permit Review

1. The City Council Special Permit Review applies to projects that are likely to have a substantial impact and that therefore require review of the city's legislative body. The City Council must hold a

public hearing and may consider the reasonableness of the USE for the site, as well as the design and impacts associated with the proposed USE under the criteria in Section 12.4.60.

D. Table 4-4, the Use Table includes a cross reference to "Supplementary Regulations" so that the reader sees whether a particular USE category has additional rules, such as a BED AND BREAKFAST.

1.3.14 Dimensional Standards

Article 5 contains dimensional tables for Residential, Commercial and Industrial Districts that describe the requirements for LOT size, required YARDS (also known as setbacks), and other requirements about the permissible amount, size, type, and location of DEVELOPMENT on a LOT.

1.3.15 Special Situations

Article 6 contains options for flexibility in DEVELOPMENT patterns, such as Campus Master Plans, which is an optional process for large institutions such as HOSPITALS and COLLEGES. ADULT ENTERTAINMENT and WIRELESS COMMUNICATIONS are covered in this article as well.

1.3.16 Site Standards: Parking, Landscaping, etc.

Article 7 provides site design standards covering LANDSCAPING, PARKING and LOADING, lighting, vehicle access, and related matters. These apply to USES in all districts, with the exception of SINGLE-FAMILY residences.

1.3.17 Overlays and Special Districts

Article 8 covers "overlay" districts, which are designed to deal with unique characteristics of particular parts of the City, including floodplains, mixed-use neighborhood shopping areas, casino's and Urban Renewal Districts that have special zoning requirements. The provisions of the overlay districts apply in addition to those of the "underlying" land use district.

1.3.18 Sign Regulations

Article 9 contains SIGN regulations and the related special defined terms.

1.3.19 Nonconforming Uses, Structures, and Lots

Article 10 contains rules for allowing the continuation of certain features that were legal under previous regulations but do not conform to this zoning ordinance. This is sometimes referred to as "grandfathering" and in this Ordinance is called "Nonconforming."

1.3.100 Permit Procedures and Administration

Article 11 and Article 12 explain the procedures for obtaining various types of permits from the City including BUILDING PERMITS from the BUILDING COMMISSIONER, Special Permits and Site Plan approval from the Planning Board, and variances from the Board of Appeals. Article 12

tells applicants what materials they need to submit, what the approval criteria are, and who will approve the permit (staff, Planning Board or City Council). Article 13 contains the procedures for amending this zoning ordinance to change the map or the text.

Section 1.3.20 How to Use the Zoning Ordinance

Landowners and others who use this Ordinance are encouraged to meet with the BUILDING DEPARTMENT to discuss how this zoning ordinance applies to their property.

1.3.21 Single-family and Two-family Homeowners

Homeowner concerned with a SINGLE-FAMILY or TWO-FAMILY DWELLING, should speak with the BUILDING DEPARTMENT. Most of the concerns regarding these developments are addressed in Article 4 and Article 5. If a DWELLING does not meet current standards for YARDS, LOT COVERAGE, or LOT size, the grandfathering (also known as "nonconforming") provisions in Article 10 may apply.

1.3.22 Multi-Family or Business Uses

For matters regarding MULTI-FAMILY housing or businesses, the BUILDING COMMISSIONER and the Office of Planning and Economic Development should be consulted to determine which sections of this Ordinance will apply.

1.3.23 The Steps to follow in the Zoning Ordinance

A typical sequence of steps in using this Ordinance is as follows:

A. Check the ZONING MAP to determine what ZONING DISTRICT (and overlay districts, if any) the subject property is in.

B. If the property is located in an Overlay District, review the provisions of applicable Overlay District(s) in Article 8.

C. Consult the Article 4 Use Table (Table 4-4), along with any relevant definitions in Article 2 (defined terms are shown in Small Caps), to determine whether the proposed USE is allowed in that district and what permits and approvals may be required. Table 4-4 may also reference other applicable regulations that may apply to the proposed use. Also check the Index of this Ordinance for specific sections that deal with related Defined Terms.

D. Consult the dimensional tables in Article 5 to see what YARD, BUILDING HEIGHT and other dimensional standards apply. Consult Article 7, Site Regulations, which specify what and if landscaping or parking spaces are required.

E. Consult Article 10, Nonconforming uses, if the existing legal USE of a property is no longer permitted in the ZONING DISTRICT, or if the existing BUILDING or LOT does not comply with dimensional standards for the ZONING DISTRICT.

F. If the Use Table indicates that the proposed USE or STRUCTURE is permitted, refer to Article 11 regarding BUILDING PERMITS. If the USE requires a Site Plan Review or a Special Permit, refer to Article 12.

SECTION 1.4 ORGANIZATION

Section1.4.10 Organization of Articles

1.4.11 General Layout

The Articles (or chapters) are organized as a reference document. It is not intended to be read from cover to cover. Instead, it is organized so you may look up only the parts you need. The list of Articles in the table of contents is, therefore, very important, as are the section listings at the beginning of each Article. Be aware of references to other parts of the City Ordinance, such as Title 10, Streets and Roads, and to State Building and Electric Codes that may also apply to certain DEVELOPMENT.

Section 1.4.20 Ordinance Format

1.4.21 Outline

Major divisions within this Ordinance are called Articles. Divisions within articles are called sections. The format of the hierarchy within each Article is shown below.

ARTICLE 9 NAME OF ARTICLE

SECTION 9.1

Section 9.1.10

9.1.11 Title

A.

1.

a.

(1)

SECTION 1.5 LAND USE REGULATIONS IN OTHER ORDINANCES

There are other regulations that affect the activities, appearance and conduct of activities on land in the City. The Office of Planning and Development and the Building Department can help interested parties identify the other regulations that also apply. These other regulations include, but are not limited to the following list of documents or laws:

A. Historic District Standards and Procedures, Preservation Restrictions (Chapter 49 of the City Ordinance)

B. Springfield Subdivision Regulations

C. Nuisance laws (Chapter 259, City Ordinance)

D. Building Code (Chapter 140, City Ordinance)

E. Streets and Sidewalks (Chapter 338, City Ordinance)

F. Liquor License or other business related Licenses (Chapter 229, City Ordinance)

G. Urban Renewal Plans

H. Conservation Commission Regulations (Chapter 417, City Ordinance)

I. Americans with Disabilities Act (ADA) standards, both federal and state rules for handicapped parking and other accessibility elements

SECTION 1.6 APPLICABILITY AND IMPLEMENTATION OF THIS ORDINANCE

1.6.10 Transition Provision

In order to enable City departments to be better prepared to implement this Zoning Ordinance and to afford greater certainty to applicants for building permits and special permits as to the law governing their applications, the zoning ordinance in existence prior to the adoption of this Ordinance shall continue to govern, and is hereby incorporated by reference, for a period of ninety (90) days after the final City Council vote adopting this Ordinance. The provisions of this zoning Ordinance shall repeal the prior zoning ordinance and shall govern beginning ninety one (91) days after the final City Council vote adopting this Ordinance.

1.6.20 Approved MEPA Projects

Any development proposal which has received MEPA approval from the Commonwealth of Massachusetts prior to the adoption of this Ordinance but which has not commenced construction, shall be reviewed under the provisions of Tier 1, Administrative Site Plan Review,

described in Section 12.2 of this Ordinance. Individual uses within such a development which are listed on Table 4-4 as requiring a Tier 3 special permit shall be treated as a new USE within an existing building, subject to special permit review at the time they seek to occupy such development pursuant to Section 4.2.24(B).

SECTION 1.7 USE OF GRAPHICS AND ILLUSTRATIONS

Figures, diagrams and other graphics are included for illustrative purposes only and shall not be construed as altering any written text. Where a conflict exists, the text in the zoning ordinance shall control.

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Article 2 Definitions

Section 2.0 *Purpose*

Section 2.1 *General*

Section 2.2 *General Terms Defined*

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ARTICLE 2 DEFINITIONS

SECTION 2.0 PURPOSE OF DEFINITIONS

The purpose of this article is to clarify and define terms and USE categories found throughout this ordinance. The Ordinance has been written in "plain English" style and the meaning is intended to be clear as read. However, because it is also a legal document and because of the need for terms with specific meanings, the Ordinance also provides guidance on how specific terms are used. Defined terms are highlighted throughout the Ordinance by the SMALL CAPS format.

SECTION 2.1 GENERAL

Section 2.1.10 Scope of Definitions

Unless otherwise expressly stated, words and phrases in this Ordinance shall have the meanings indicated herein.

Section 2.1.20 Rules of Construction

Terms used or defined in this Ordinance shall be construed in accordance with the following rules:

2.1.21 The singular shall include the plural, and the plural shall include the singular.

2.1.22 The word "used", shall include the words "arranged," "designed," or "intended to be used." The words "used" or "occupied" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

2.1.23 The word "building" shall include the word "structure."

2.1.24 The present tense shall include the future tense.

2.1.25 The word "shall" is mandatory and the term "may" is permissive or discretionary.

2.1.26 The word "or" includes "and" unless the contrary is evident from the text.

2.1.27 The words "includes", "including" and "such as", when followed by a list of examples, shall not limit a term to such examples, but are intended to mean "including but not limited to".

2.1.28 The word "lot" includes "parcel." The words "building," "structure," "lot," or "parcel" shall be construed as being followed by the words "or any portion thereof."

2.1.29 The word "person" includes a firm, association, organization, partnership, company, or corporation, as well as an individual.

Section 2.1.30 Building Code Definitions

Where terms are not defined in this Ordinance and are defined in the Massachusetts State Building Code (780 CMR), Chapter 2, such terms shall have the meanings ascribed to them in said Code unless a contrary intention is clearly evident in this Ordinance.

Section 2.1.40 Terms Not Defined

Where terms are not defined through the methods described herein, such terms shall have the ordinarily accepted meanings such as the context implies as defined by *Webster's Third New International Dictionary, Unabridged.*

SECTION 2.2 GENERAL TERMS DEFINED

A

ABANDONED. Any USE, BUILDING or STRUCTURE not used for a period of two (2) years shall be considered ABANDONED.

ACCESS DRIVE, ACCESS DRIVEWAY. A paved surface, other than a STREET, which provides vehicular access from a STREET or PRIVATE ROAD to a LOT.

ACCESSORY BUILDING. A BUILDING subordinate to, incidental to, and located on the same LOT with a PRINCIPAL BUILDING. See Figure 2-8.

ACCESSORY USE. A USE subordinate and related to the PRINCIPAL USE of land or of a BUILDING on a LOT and incidental thereto.

ACCESSORY DRIVE-THROUGH. A STRUCTURE or portion of a STRUCTURE that permits customers to receive services or goods on the same premise as the PRINCIPAL USE while remaining in their vehicles.

ADJACENT. Next to or abutting.

ADULT DAY CARE. See CHILD CARE, ADULT.

ADULT BOOKSTORE. See Section 6.3.30 Adult Entertainment Definitions

ADULT BOOTH. See Section 6.3.30 Adult Entertainment Definitions

ADULT DANCING. See Section 6.3.30 Adult Entertainment Definitions

ADULT ENTERTAINMENT. See Section 6.3.30 Adult Entertainment Definitions

ADULT MOTEL. See Section 6.3.30 Adult Entertainment Definitions

ADULT MOTION PICTURE THEATER. See Section 6.3.30 Adult Entertainment Definitions

ADULT PARAPHERNALIA STORE. See Section 6.3.30 Adult Entertainment Definitions

ADULT VIDEO STORE. See Section 6.3.30 Adult Entertainment Definitions

AGRICULTURE. All forms of farming and forestry on five (5) or more acres of land including the cultivation and tillage of the soil, dairying, pasturage, the production, cultivation, growing and harvesting of any agricultural, aqua cultural, floricultural, viticulture, silvicultural, apicultural, or horticultural commodities, tree farming, greenhouses, nurseries, the growing and harvesting of forest products, the raising and keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle, and other domesticated animals used for food purposes, bees, and fur-bearing animals, and related uses of packing, storing, and transporting the products of agriculture. The retail sale of agricultural products may be included with any of the above uses provided the majority of the products for sale has been raised or grown on the premises. See also COMMUNITY GARDEN.

ANIMAL HOSPITAL. See VETERINARY CLINIC.

ANIMAL SERVICES. See KENNEL, VETERINARY CLINIC.

APARTMENT BUILDING. See DWELLING, APARTMENT BUILDING.

AS OF RIGHT. A term used to describe a USE or STRUCTURE that is allowed without an approval by the Planning Board, Board of Appeals, Office of Planning & Economic Development or City Council, although it may be subject to a BUILDING PERMIT. In Table 4-4, Use Table, AS OF RIGHT USES are listed as Y.

ASSISTED LIVING CENTER. A for-profit or non-profit entity which provides room and board and where the operator provides a minimum of two (2) meals per day and assistance with activities of daily living for three or more elderly or disabled residents.

AUTOMATED TELLER MACHINES (ATMs). A machine used by bank and financial service patrons for conducting transactions including deposits, withdrawals, and fund transfers, without contact with financial institution personnel. The ATM may be located at or within banks, or in other locations.

AUTOMOBILE SALES OR SERVICE. See MOTOR VEHICLE SALES.

AWNING SIGN. See Section 9.1 Sign Definitions.

B

BANK. A financial institution that is open to the public or its members and engaged in deposit banking and closely related functions such as loans, investments and other fiduciary activities, which may have a drive-through window if permitted as an accessory use in the district.

BAR. See TAVERN.

BED AND BREAKFAST. A private, owner-occupied house which rents guest rooms as an overnight or temporary accommodation and includes breakfast in the room rate.

BOARD OF APPEALS. The Zoning Board of Appeals for Springfield, Massachusetts.

BUFFER PLANTING STRIP. A strip of land within a parcel that is planted to protect an abutting land use from the land use on the subject parcel consisting of dense evergreens, not less than three (3) feet in height at the time of planting, and an appropriate wall or solid fence, not less than six (6) feet in height. This strip of land shall be permanently maintained.

BUILDING. A STRUCTURE enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, for the shelter of persons, animals or property. See also ACCESSORY BUILDING and PRINCIPAL BUILDING.

BUILDING COMMISSIONER. The designated BUILDING COMMISSIONER of the City as well as any other person to whom the responsibility for administering or enforcing this Ordinance has been delegated by the City Council or the designated BUILDING COMMISSIONER, including but not limited to the Zoning Administrator and the Director of Community Development (a.k.a. Chief Development Officer).

BUILDING COVERAGE. That portion of a LOT that is covered by STRUCTURES, expressed as an area measure or as a fraction or percentage, as determined by the context. BUILDING COVERAGE does not include cornices, eaves, PORCHES less than six (6) square feet, steps, stoops, DECKS and gutters. See Figure 2-1.

Figure 2-1 Building Coverage

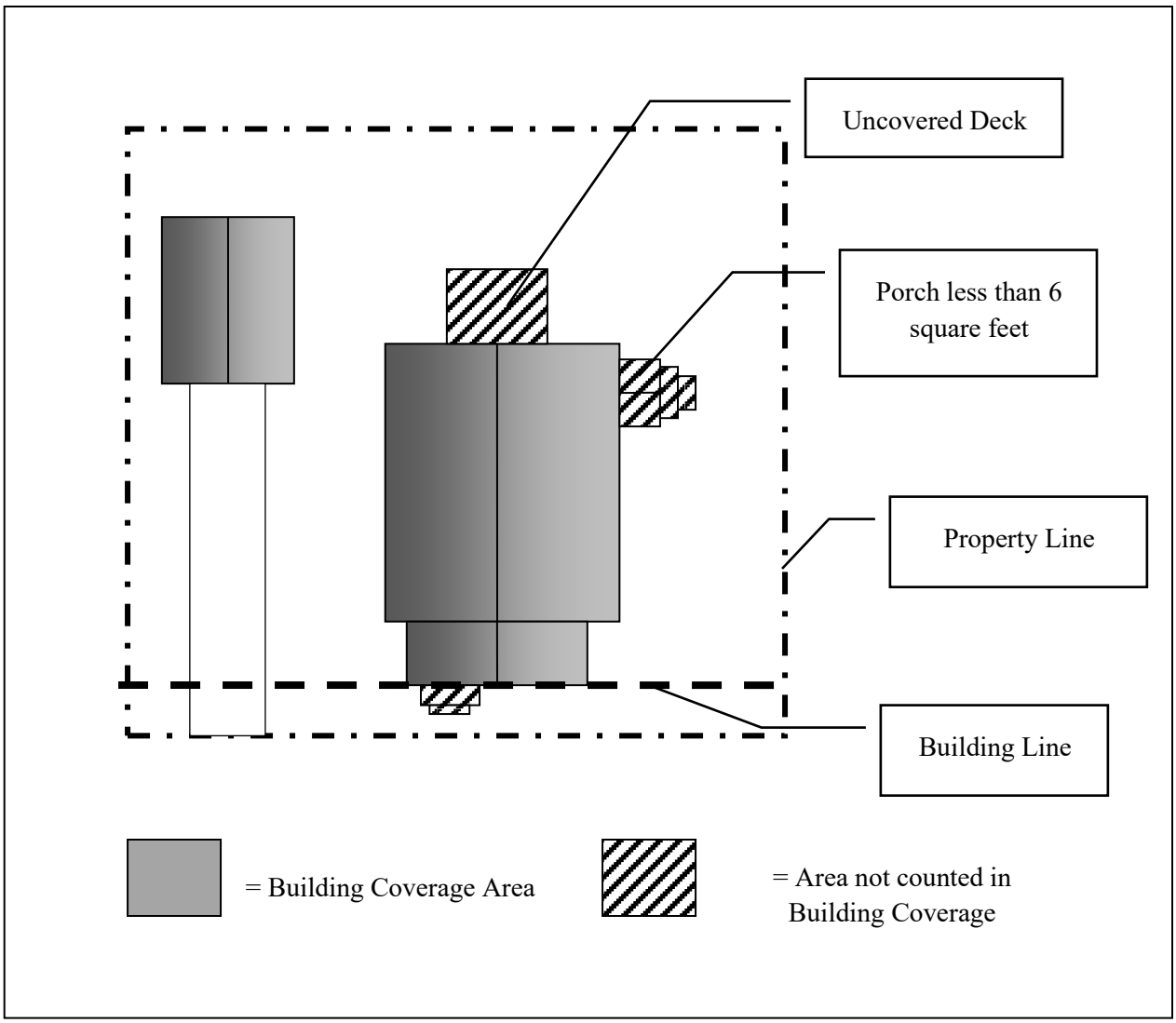
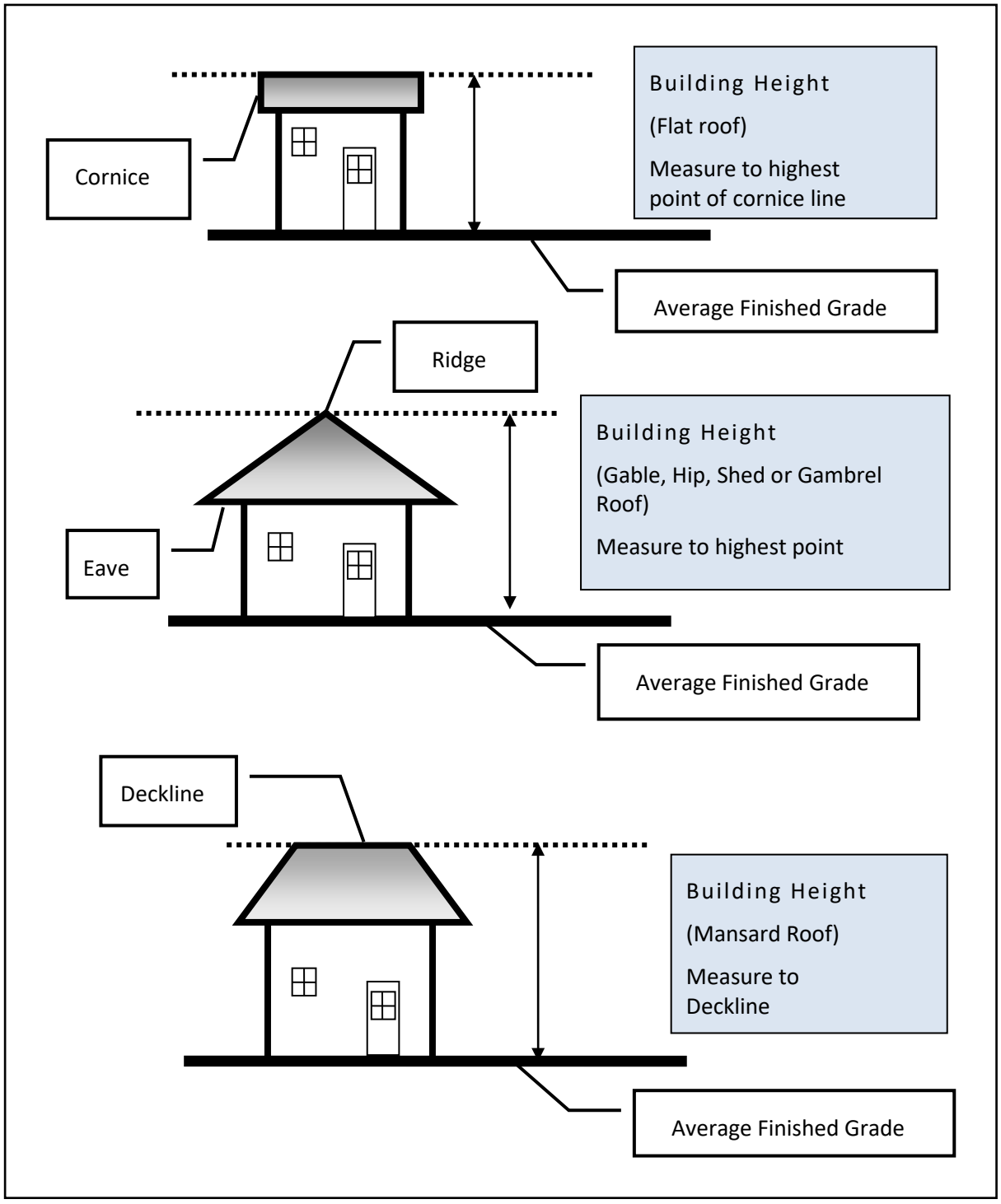


Figure 2-2 Building Height



BUILDING DEPARTMENT. The Building Department of the City.

BUILDING FOOTPRINT. The horizontal measurement of land area covered by a BUILDING measured from the faces of exterior walls.

BUILDING HEIGHT. The vertical distance from the FINISHED GRADE abutting a BUILDING or STRUCTURE to the highest point of the roof. BUILDING HEIGHT shall be measured to the top of the highest cornice line in the case of a flat roof; to the deck line of mansard roof; and to the highest point-of a gable, hip, shed or gambrel roof. Chimneys, spires, cupolas, and similar minor projections not intended for human occupancy shall not be included in calculating BUILDING HEIGHT. Figure 2-2 illustrates how to measure BUILDING HEIGHT.

BUILDING LINE. The line parallel to the FRONT LOT LINE equal to the depth of the REQUIRED FRONT YARD See Figure 2-1.

BUILDING PERMIT. Written Permission issued by the BUILDING COMMISSIONER for the construction, repair, alteration, or addition to a STRUCTURE pursuant to the Massachusetts State Building Code (780 CMR).

C

CANOPY SIGN. See Section 9.1 Sign Definitions.

CAR WASH. See MOTOR VEHICLE SERVICES.

CASINO. An entertainment facility or structure which legally operates as a government licensed enterprise open to the public in which gaming devices are offered to players. The site shall also include all accessory uses and structures including but not limited to retail, restaurants, hotels, accessory parking, housing, indoor place of amusement(s), outdoor place of amusement(s), daycare facilities and support services.

CEMETERY. Land used for the burial of the dead or cremated remains, and including accessory mausoleums, crematoriums, columbarium and maintenance facilities.

CHANGING IMAGE SIGN. See Section 9.1 Sign Definitions.

CHARITABLE USE. Use of land or STRUCTUREs by a nonprofit corporation or association organized for charitable purposes including but not limited to education, social welfare, environmental conservation, scientific research, cultural enrichment, and the arts. Uses that meet the definitions of educational or religious USE are covered by those definitions rather than "charitable use" for purposes of USE regulation.

CHILD CARE. The terms "Child Care center," "family Child Care home," "large family Child Care home" and "school age child care program" shall have the meanings as defined in M.G.L. c. 15D s.1A.

DAY CARE CENTER, ADULT. Those services, including nursing services, occupational therapy, physical therapy, social, recreational and educational events which are regulated by the Massachusetts Department of Public Health in accordance with 130 CMR 404.

DAY CARE, HOME BASED, ADULT. A residential DWELLING where care for adults is provided by the occupant. See 4.4.73.

CHILD CARE CENTER. Any facility operated on a regular basis whether known as a child nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. CHILD CARE CENTER shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a FAMILY CHILD CARE HOME; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefore.

FAMILY CHILD CARE HOME. Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven (7) years of age or children under sixteen (16) years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen (16) in a FAMILY CHILD CARE HOME shall not exceed six (6), including participating children living in the residence. FAMILY CHILD CARE HOME shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

LARGE FAMILY CHILD CARE HOME; A private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven (7) years of age or children under sixteen (16) years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the Massachusetts Department of Early Education and Care or any successor agency; provided, however, that the number of children under the age of sixteen (16) in a LARGE FAMILY CHILD CARE HOME shall not exceed ten (10), including participating children living in the residence. LARGE FAMILY CHILD CARE HOME shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

SCHOOL AGE CHILD CARE PROGRAM. Any program or facility operated on a regular basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or an older child who is not more than fourteen (14) years of age, or sixteen (16) years of age if such child has special needs. Such a program may operate before and after school and may also operate during school vacation and holidays. It provides a planned daily program of activities that is attended by children for specifically identified blocks of time during the week, usually over a period of weeks or months. A SCHOOL AGE CHILD CARE PROGRAM shall not include: any program operated by a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to a SCHOOL AGE CHILD CARE PROGRAM; a Sunday school or classes for religious instruction conducted by a religious organization where the children are cared for during short periods of time while persons responsible for such children are attending religious

services; a FAMILY CHILD CARE HOME except as provided under LARGE FAMILY CHILD CARE HOME; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefore.

CITY. The City of Springfield, Massachusetts. The term City is not put in SMALL CAPS format due to its common appearance in this Ordinance.

CITY ORDINANCE. The Revised Ordinances of the City of Springfield, 1984, as amended.

CLUB OR LODGE. An establishment where an organization conducts regular meetings where food and alcohol may be served and indoor and outdoor amusement may be provided for members and their guests. There are no sleeping facilities.

COLLEGE. An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

COMMUNITY GARDEN. A garden of less than five (5) acres that is used for the cultivation of fruits, flowers, vegetables or ornamental plants by more than one person or family. COMMUNITY GARDENS do not include raising or production of any animals. COMMUNITY GARDENS may include sale of products produced on-site. See also AGRICULTURE, FARMER'S MARKET.

CONDOMINIUM. A form of property ownership in which individual units are owned separately and the balance of the real estate is owned in common under the provisions of M.G.L. Chapter 183A. . "Condominium" does not signify a USE or a type of BUILDING, but rather a form of ownership that may apply to any type of BUILDING or use, including SINGLE-FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, MULTI-FAMILY DWELLINGS, commercial uses, industrial uses, or MIXED-USE BUILDINGS.

CREMATORIUM. A location containing facilities used to cremate the dead.

D

DECK. A platform, attached and with direct access to a BUILDING, that may have railings but does not have walls or a roof or any roof-like STRUCTURE.

DEPARTMENT OF PUBLIC WORKS. The Department of Public Works of the City, also known as DPW.

DEVELOP. To construct or alter a STRUCTURE or to make a physical change to the land including excavations and fills.

DEVELOPMENT. All improvements on a site, including BUILDINGS, other STRUCTURES, PARKING and LOADING AREAS, LANDSCAPING, paved or graveled areas, and areas devoted to exterior display, STORAGE, or activities. DEVELOPMENT includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land.

DISPLAY AREA. See Section 9.1 Sign Definitions.

DISTRICT. See ZONING DISTRICT

DOMESTIC ANIMAL. Any animal that is kept for personal use or enjoyment within the home provided that such creatures are not kept to supplement food supplies and are not used for any commercial purposes whatsoever other than offering for sale one litter, brood or offspring of a household pet domiciled on the premises. A DOMESTIC ANIMAL shall include but is not limited to dogs, cats, birds, and reptiles. A DOMESTIC ANIMAL does not include farm animals such as horses, ponies, cows, pigs, chickens, roosters, goats, pigeons or sheep.

DOVER AMENDMENT. Those sections of M.G.L 40A, Section 3, which limit the authority of local governments to regulate certain uses, including but not limited to religious, educational, agricultural, and child care uses. See Sections 6.2 and 12.7.

DRIVE-UP OR DRIVE-THROUGH FACILITY. Any portion of a commercial establishment that, by design, is either an automatic teller machine that can be accessed by customers while in their vehicles or which allows customers to interact with an employee of the establishment through a window or similar structural feature while remaining in their vehicles.

DRIVEWAY. A private roadway providing access to a LOT from a STREET or PRIVATE ROAD.

DRY CLEANING OR LAUNDRY.

SELF - SERVICE LAUNDRY. A business that provides washing, drying, and/or ironing machines for hire too be used by customers on the premises.

DRY CLEANING, DROP OFF. An establishment where articles are dropped off, sorted, and picked up but where no more than twenty five percent (25%) of the gross floor area is used for laundering or dry cleaning processing.

DRY CLEANING OR LAUNDRY, PROCESSING. A BUILDING, or premises used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation (laundry) or immersion only in volatile solvents (dry cleaning).

DUPLEX. See DWELLING, TWO-FAMILY.

DWELLING. A BUILDING or portion thereof containing one or more DWELLING UNITS.

DWELLING, SINGLE-FAMILY. A BUILDING consisting of a single DWELLING UNIT. SINGLE-FAMILY DWELLINGS are detached from other DWELLING UNITS.

DWELLING, MULTI-FAMILY. A BUILDING consisting of three (3) or more DWELLING UNITS, such as an APARTMENT BUILDING or a townhouse.

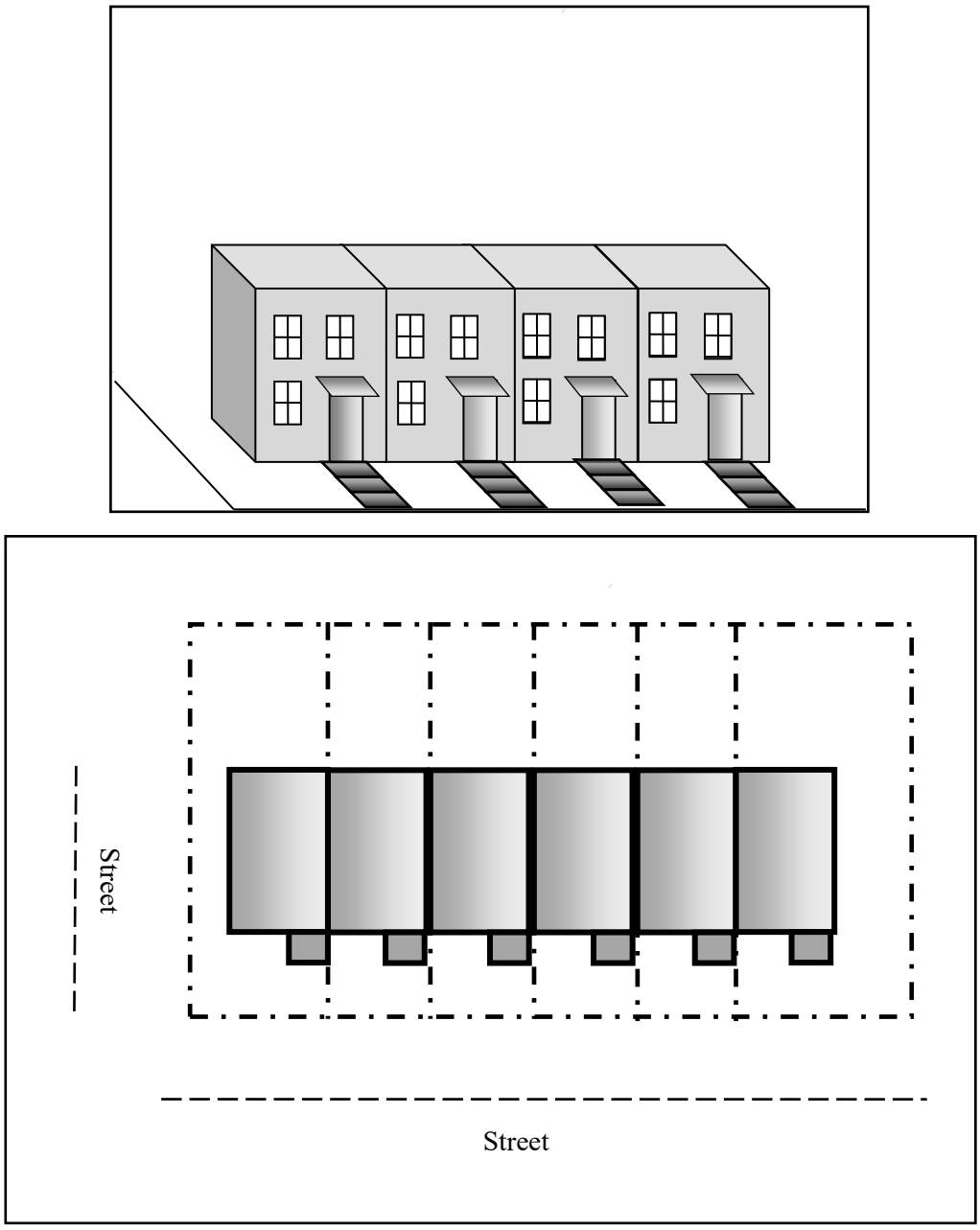
APARTMENT BUILDING. A MULTI-FAMILY DWELLING that is not a TOWNHOUSE.

TOWNHOUSE. A type of MULTI-FAMILY DWELLING in which at least three (3) DWELLING UNITS ARE IN A ROW. The DWELLING UNIT extends from the foundation to the roof and are separated by fire rated walls from other DWELLING UNITS, no unit is located over another unit, and each unit has its own front and rear access to the outside.

TOWNHOUSES may be held in different forms of ownership, including fee simple ownership on separate LOTS, condominium ownership (where each unit is owned separately but the BUILDING and land are owned in common), or single ownership (where the entire BUILDING is in one ownership and individual townhouses are leased out as rental units). Figure 2-3 is an illustration of TOWNHOUSES on separate LOTS.

A TOWNHOUSE unit extending from the foundation to the roof may not be divided into separate DWELLING UNITS. Any MULTI-FAMILY DWELLING that does not meet the definition of a TOWNHOUSE shall be deemed to be an APARTMENT BUILDING.

Figure 2-3 Multi-Family Townhouse Elevation and Plan View



DWELLING, SINGLE-ROOM OCCUPANCY (SRO). A lodging house in which all residents have separate bedrooms with private bathrooms but share common areas for cooking, dining, and other purposes normally associated with residential use.

DWELLING, SINGLE ROOM OCCUPANCY, ENHANCED (ENHANCED SRO). A MULTI-FAMILY DWELLING with one-room studio apartments that include a bathroom and kitchen.

DWELLING, TWO-FAMILY. A TWO-FAMILY DWELLING is a BUILDING consisting of two DWELLING UNITs.

DWELLING UNIT. A BUILDING or portion thereof providing complete independent living facilities for one family; including sleeping, cooking and sanitary facilities, not including, transient occupancy units such as hotels, motels, rooming or boarding houses.

E

EDUCATIONAL USE, EXEMPT. The use of land or BUILDINGs primarily for the training and teaching of children, youths, or adults, including preschools, elementary and secondary schools, colleges, vocational schools, and technical schools. Exempt educational uses also include dormitory and residential facilities for students, faculty, and staff of an educational institution, and residential facilities that provide educational services for their residents, including group homes, homeless shelters, half-way houses, or any other program in which counseling, education, or residential facilities are provided to residents or clients. In order to qualify as an EXEMPT EDUCATIONAL USE such use must occur on land owned or leased by (a) the Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic; or (b) a religious sect or denomination; or (c) a nonprofit educational corporation.

EDUCATIONAL USE, NON-EXEMPT. The USE of land or BUILDINGs primarily for the training and teaching of children, youths, or adults, including private for-profit schools and any other school or institution providing instruction or educational services, where such USE does not occur on land owned or leased by (a) the Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic; or (b) a religious sect or denomination; or (c) a nonprofit educational corporation.

ERECTING A SIGN. See Section 9.1 Sign Definitions.

F

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

FAMILY. An individual or two (2) or more persons related by genetics, adoption or marriage, living and cooking together as a single housekeeping unit or a group of three (3) or fewer persons who are not related by genetics, adoption or marriage, living and cooking together as a single housekeeping unit.

FARMER'S MARKET. The selling or offering for sale at retail of vegetables or produce, flowers, crafts, orchard products and similar agricultural products, including eggs, poultry, meat and dairy. A FARMER'S MARKET may be regulated by other Municipal Ordinances that specify hours, parking, health license requirements (if any) and types of goods to be sold.

FENCE. A barrier constructed of materials including living vegetation erected for the purpose of protection, confinement, enclosure, or privacy.

FINISHED GRADE. The average grade existing at the time of application for a BUILDING PERMIT the final grade necessary to implement an approved subdivision plan as shown on the plans. The FINISHED GRADE is the average of the highest and lowest elevation of the ground abutting the perimeter of the PRINCIPAL BUILDING.

FLOOR AREA. Unless otherwise modified or specified, the term "Floor Area" in this Ordinance shall mean GROSS FLOOR AREA.

FLOOR AREA, GROSS. The sum of the horizontal areas of a BUILDING, measured from exterior face of exterior walls, or in the case of a common wall separating two BUILDINGS, from the centerline of the common wall. GROSS FLOOR AREA shall not include: stairwells, underground parking areas, uncovered steps, exterior balconies, interior space less than seven (7) feet in height, elevator shafts and space devoted to mechanical equipment.

FLOOR AREA, NET. The gross FLOOR AREA, excluding interior walls, hallways, stairwells, closets, storage areas, and restrooms.

FRATERNITY/SORORITY. See GROUP RESIDENTIAL FACILITY.

FRONTAGE. The horizontal distance measured along a LOT LINE dividing a LOT from:

A. A public STREET or a way which the City Clerk certifies is maintained and used as a public way, or

B. A way shown on a plan approved and endorsed in accordance with the Subdivision Control Law (M.G.L Ch. 41, ss. 81K to 81GG), or

C. A way in existence when the Subdivision Control Law became effective in the City having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed USE of land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the BUILDINGS erected thereon or to be erected thereon.

FUNERAL HOME OR PARLOR. See UNDERTAKING ESTABLISHMENT.

G

GARAGE, RESIDENTIAL. A BUILDING used for the storage of one or more automobiles owned and used by the owner or tenant of the LOT on which it is erected for a purpose accessory to the USE of the LOT.

GARAGE, PARKING. See PARKING GARAGE.

GENERAL SERVICE AND CONTRACTOR'S SHOP. An establishment used for the indoor repair, maintenances or storage of materials related to construction, remodeling, machine repair (including small engine repair), furniture making or artist studio. These uses also include but are not limited to metal, machine and welding shops, furniture upholstery shops and similar business

engagements in custom fabrication and repair which are wholly contained within a BUILDING with no outdoor storage. The shop activity does not create a noticeable amount of noise, dust, odor or vibration outside of the BUILDING in which it takes place

GROUND SIGN. See Section 9.1 Sign Definitions.

GROUP HOME. A non-profit or for-profit facility for the sheltered care of persons with special needs, including developmentally disabled, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services conducive to the residents' welfare.

GROUP RESIDENTIAL FACILITY. A residential facility for a group of individuals who are not related. Examples include fraternity or sorority houses, dormitories, residence halls, convents and monasteries.

GROSS VEHICLE WEIGHT RATING (GVWR). A standard rating used by the auto industry to state the maximum a vehicle can safely weigh when loaded, including the vehicle itself, occupants, cargo and optional equipment. For example, a light duty truck is defined by federal law as a motor vehicle with a GROSS VEHICLE WEIGHT RATING of up to 8,500 pounds. A light truck has a GVWR of up to 10,000 pounds. Vehicles with GVWR over 10,000 are typically subject to additional emissions testing standards. See HOME BASED BUSINESS standards in Section 4.5.

H

HAZARDOUS MATERIALS. Items classified by the Massachusetts State Building Code as "Use Groups H, H-1, H-2, H-3, and H-4. See also Industrial Uses with High Hazard Uses.

HEALTH CLUB. An indoor or outdoor facility including game courts, exercise equipment, locker rooms, SWIMMING POOL(s), used primarily for athletic practice or competition, fitness classes or lessons, or related activities.

HEIGHT OF BUILDING. See BUILDING HEIGHT.

HELIPORT. An area designed to be used for the landing and takeoff of helicopters including all necessary passenger, cargo and emergency service, hangering and support service facilities, but not including a helicopter landing and takeoff area that is accessory to, and on the same LOT as, a HOSPITAL.

HISTORIC RESOURCE PROPERTIES. Properties listed on the National Register of Historic Places as an individual resource or within a National Register District.

HOME BASED BUSINESS. A business, trade, profession, or other business activity resulting in a product or service for compensation, conducted wholly or partly in a DWELLING, by owners and/or renters who permanently reside at the residence, as regulated by Section 4.5.

HOME BASED BUSINESS SITE. The LOT on which the HOME BASED BUSINESS is conducted.

HORSE STABLE. A stable or group of stables or barns for the purpose of keeping and boarding equine animals.

HORTICULTURE. Includes greenhouses and the growing and keeping of nursery stock and the sale thereof.

HOSPITAL. A facility in excess of 10,000 square feet and licensed by the state that provides health services and overnight patient care.

HOTEL. A BUILDING, or portion of a BUILDING with access provided through a common entrance, lobby or hallway to one or more guest rooms, designed to be rented out as temporary or overnight accommodations for guests. This definition shall not include a BED AND BREAKFAST HOME, LODGING HOUSE or MOTEL, as defined separately in this section.

I

INDIVIDUAL LETTER SIGN. See Section 9.1 Sign Definitions.

INDUSTRIAL

INDUSTRIAL USE, not including HIGH HAZARD USES. An establishment that is engaged in basic processing, reduction, or destruction of materials or products predominantly from extracted or raw materials, and a USE engaged in the storage, warehousing, and distribution of resulting products or materials. See also, PACKAGING, WAREHOUSING AND DISTRIBUTION.

INDUSTRIAL USES with HIGH HAZARD USES. An industrial USE containing a HIGH HAZARD USE.

HIGH HAZARD USE. A USE classified by the Massachusetts State Building Code as "Use Group H," including Use Groups H-1, H-2, H-3 or H-4.

HIGH HAZARD USE A. A USE which contains materials that present a detonation hazard (Use Group H-1), or that present a deflagration hazard or a hazard from accelerated burning (Use Group H-2).

HIGH HAZARD USE B. A USE which contains materials that readily support combustion or present a physical hazard (Use Group H-3), or which contain materials that are a health hazard (Use Group H-4).

INDUSTRIAL, LIGHT. Research and development activities, the manufacturing, compounding, processing, packaging storage, assembly and or treatment of finished or semi-finished products which activities are conducted wholly within an enclosed BUILDING. LIGHT INDUSTRIAL activity does not create a noticeable amount of noise, dust, odor or vibration outside of the BUILDING in which it takes place.

J

JUNKYARD. Any land used for the deposit, collection or storage of waste, used or discarded things or materials, whether or not in connection with the dismantling, processing, salvage, sale or other USE or disposition thereof; and the deposit or storage on any LOT of two (2) or more wrecked, inoperative or unregistered vehicles, or parts thereof, for one (1) month or more, excluding the storage of garaged vehicles.

K

KENNEL. An establishment where four (4) or more DOMESTIC ANIMALS over six (6) months of age are kept for any reason; or an establishment where any number of such animals are kept for the purpose of selling, boarding, breeding, training, treating or grooming, except for VETERINARY CLINICS.

L

LANDSCAPING. That portion of a LOT that is free of structural improvements and/or impervious surface but improved with pervious and planted materials such as grass, trees, shrubs and other live plant materials.

LAUNDRY. See DRY CLEANING or LAUNDRY.

LIBRARY or MUSEUM. A public or private facility containing printed, electronic, sculptural and pictorial material for public use and purpose of study, reference and recreation.

LOADING SPACE, OFF-STREET. An area for the temporary parking of a commercial vehicle while loading or unloading merchandise or material.

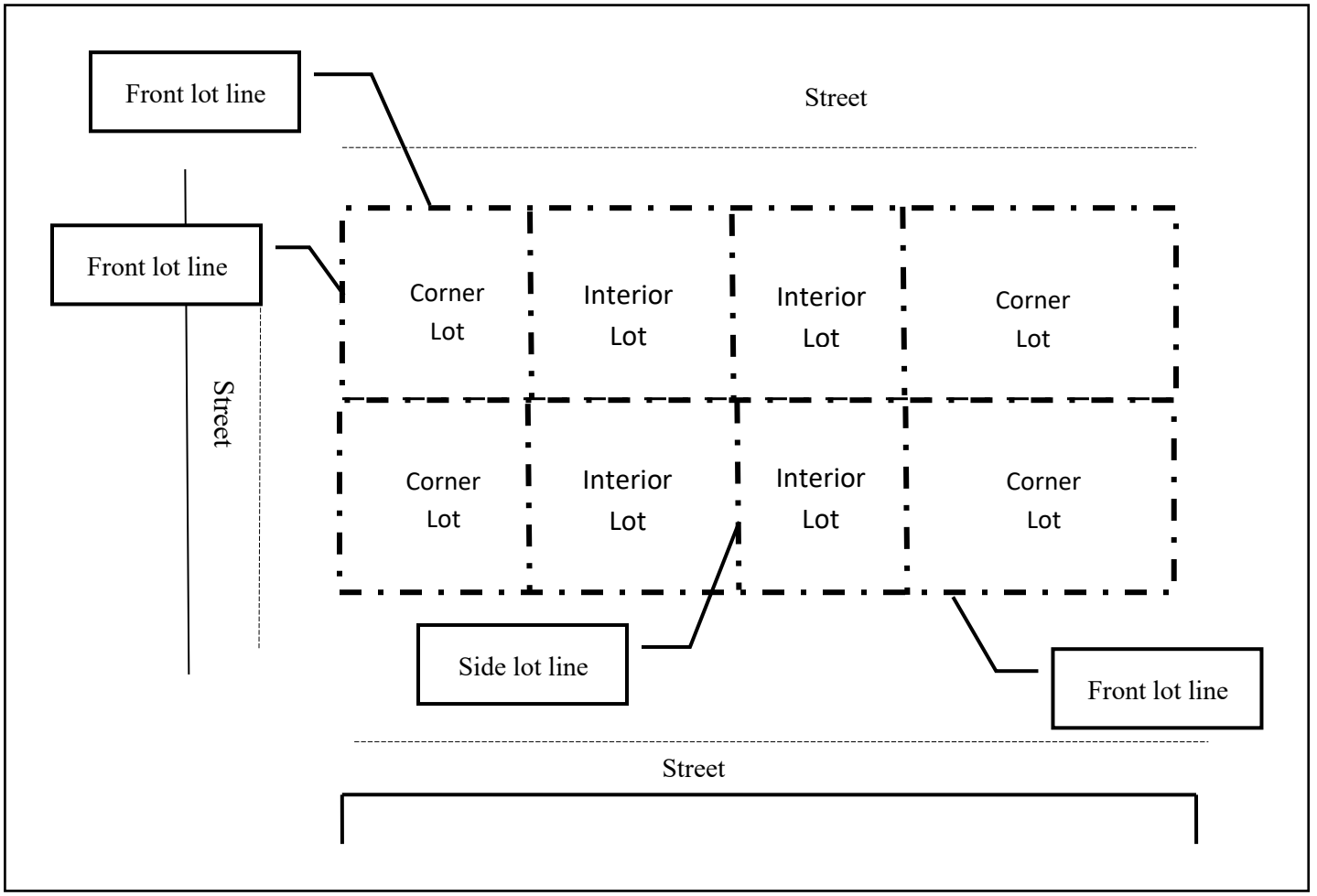
LODGING HOUSE. A BUILDING in which lodgings are rented to four (4) or more persons who do not constitute a FAMILY and who occupy the premises as a principal place of residence, including a single-room occupancy (SRO) DWELLING with shared kitchen and dining facilities. See also DWELLING, SRO.

LOT. An area of land in single ownership with definite boundaries as shown in the record title of the property or by a plan recorded with the Registry of Deeds. See Figure 2-4.

LOT, CORNER. A LOT abutting two (2) or more STREETS at their intersection, or upon two parts of the same STREET forming an interior angle of less than one hundred thirty-five degrees.

LOT, INTERIOR A LOT that abuts only one (1) STREET. An INTERIOR LOT has one (1) FRONT LOT LINE and FRONT YARD, and at least two (2) SIDE LOT LINES and SIDE YARDS. See Figure 2-4.

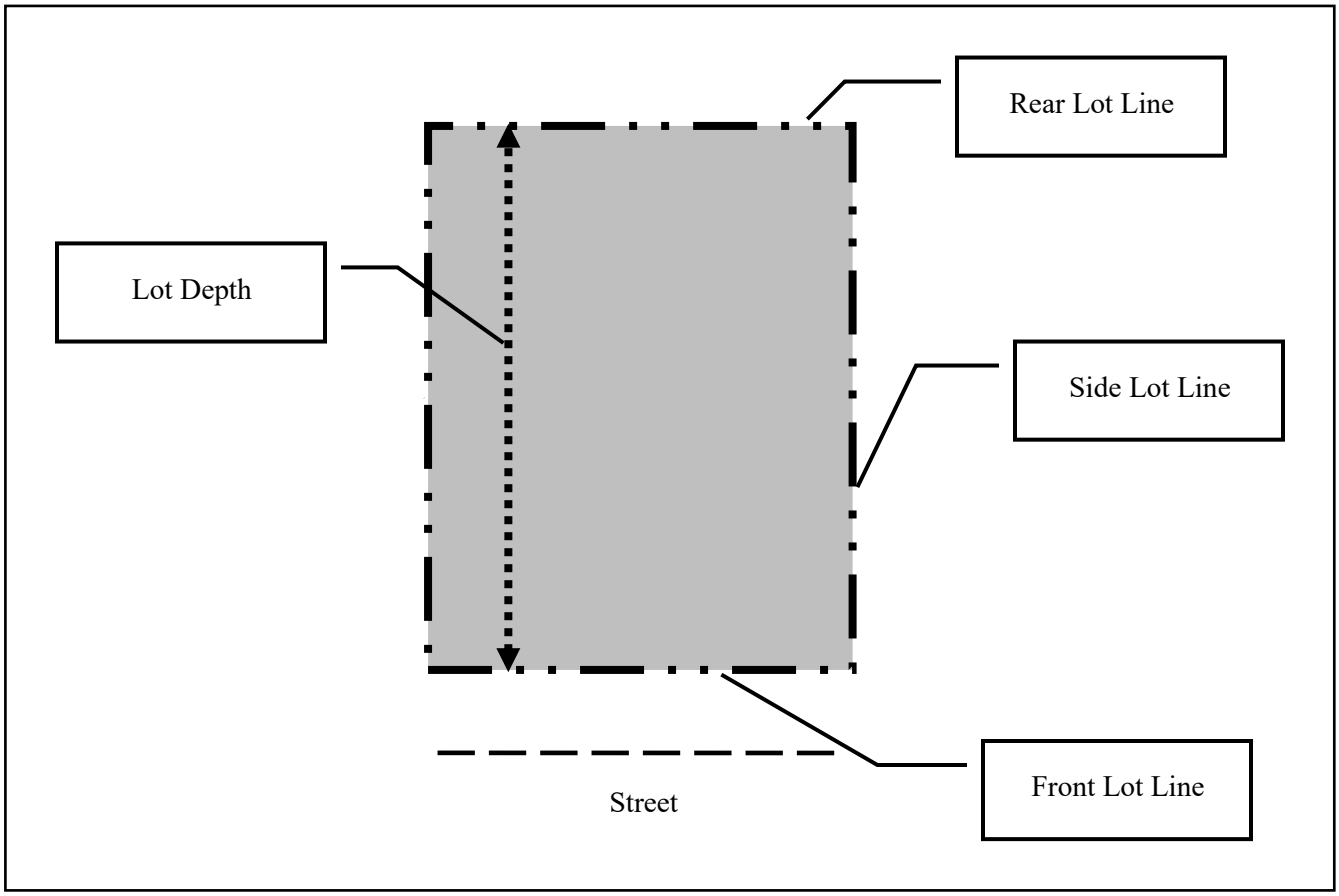
Figure 2-4 Lots



LOT AREA. The total horizontal area of the LOT lying within the LOT LINES, and not including any portion of a STREET.

LOT DEPTH. The length of a straight line drawn from the midpoint of the FRONT LOT LINE to the midpoint of the REAR LOT LINE, as shown in Figure 2-5.

Figure 2-5 Interior Lot with Lot Lines



LOT LINE. A line separating one LOT from another LOT or from a STREET. See Figure 2-5.

LOT LINE, FRONT . A line separating a LOT from a STREET. A CORNER LOT has two FRONT LOT LINES. Also known as STREET LOT LINE. See Figure 2-5

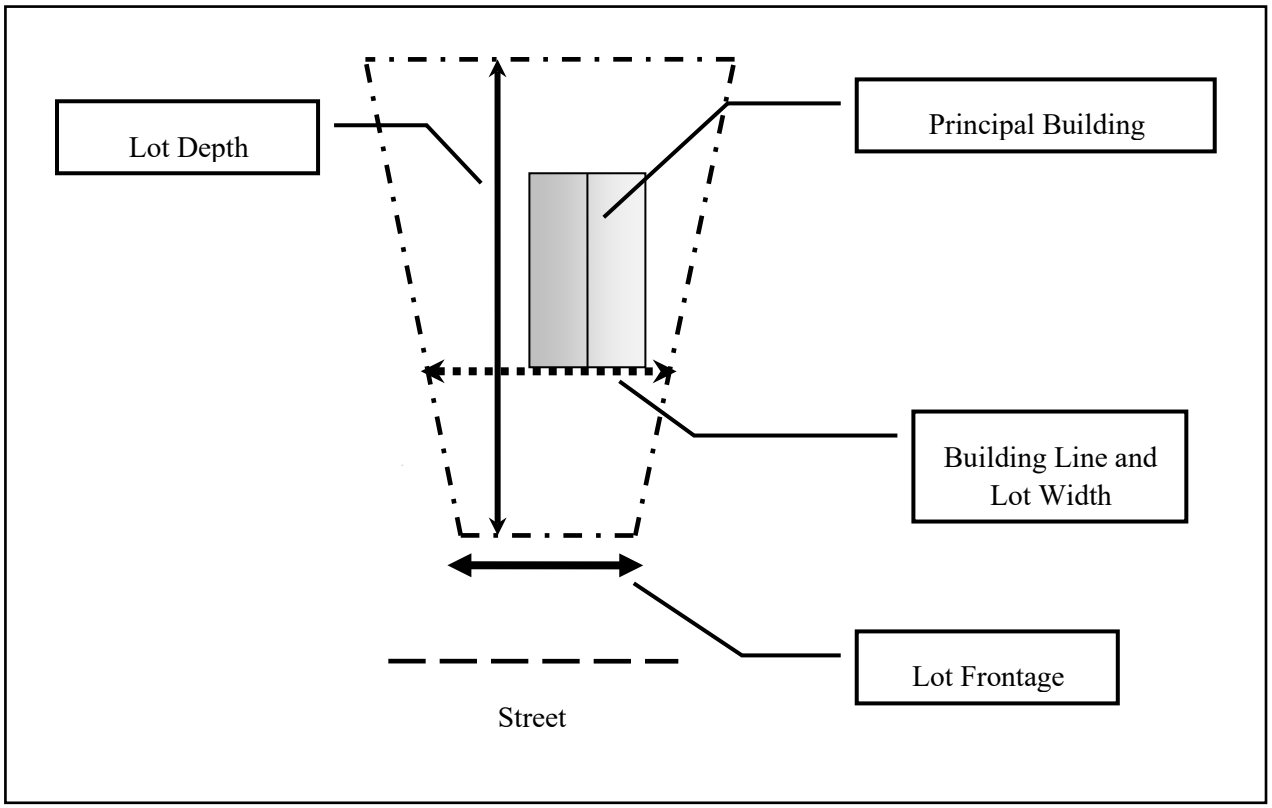
LOT LINE, INTERIOR . A LOT LINE not abutting a STREET. See Figure 2-4.

LOT LINE, REAR . The LOT LINE which is opposite and most distant from the FRONT LOT LINE, on an INTERIOR LOT. In the case of an irregular or triangular-shaped LOT, the REAR LOT LINE shall be a line ten (10) feet in length within the LOT parallel to and at the maximum distance from the FRONT LOT LINE. In the case of a corner lot, the REAR LOT LINE must be an interior lot line. See Figure 2-5.

LOT LINE, SIDE. Any LOT LINE not a FRONT LOT LINE or REAR LOT LINE. See Figure 2-5

LOT WIDTH. The horizontal distance between the SIDE LOT LINES at the BUILDING LINE of the PRINCIPAL BUILDING on an INTERIOR LOT, measured at right angles to the line comprising the depth of the LOT, as shown in Figure 2-6.

Figure 2-6 Lot Width Measurement



M

M.G.L. The General Laws of the Commonwealth of Massachusetts

MARKET GARDEN A home based occupation where food or ornamental crops are grown by hand in a garden setting to be sold and/or donated to the general public.

MASSAGE PARLOR See Section 6.3.30 Adult Entertainment Definitions.

MARINA, COMMERCIAL FERRY SERVICE. Waterfront establishments such as a dock or basin where slips, moorings and often supplies, repairs and other accessory services are available related to water craft.

MEDICAL MARIJUANA.

REGISTERED MARIJUANA DISPENSARY (RMD). A use operated by a not-for-profit entity registered and approved by the Massachusetts Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

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.

OFF-SITE MEDICAL MARIJUANA DISPENSARY (OMMD). A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 105CMR 725.00.

MEDICAL OFFICE or CLINIC. A BUILDING used for professional offices for medical, surgical, dental, physical, rehabilitation, mental health, and other health care providers, related support services, pharmacies, and laboratories, and usual and customary accessory facilities thereto. A MEDICAL OFFICE or CLINIC shall not include provisions for overnight patient care.

MEMBRANE-COVERED FRAME STRUCTURE. A STRUCTURE consisting of a rigid framework that supports a fabric covering such as cloth, canvas, plastic, etc.

MIXED-USE BUILDING. A BUILDING which includes more than one USE category. A MIXED-USE BUILDING can include a mix of residential and non-residential USES or a mixture of non-residential USES such as RETAIL SALES and OFFICE USES.

MOBILE HOME. A STRUCTURE transportable in one or more sections, which is eight (8) body feet or more in width and is thirty two (2) body feet or more in length, and which is built on a permanent chassis, and designed to be used as a DWELLING with permanent foundation, when connected to the required facilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

MOBILE HOME PARK. Any LOT or PARCEL upon which three (3) or more MOBILE HOMES occupied for DWELLING purposes are located, including any BUILDING, STRUCTURES, fixtures and equipment used in connection with MOBILE HOMES (G.L.C. 140, s. 32F).

MONUMENT SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

MOTEL. A BUILDING, or portion of a BUILDING with access to one or more guest rooms provided by exterior or partially-enclosed walkways, designed to be rented out as temporary or overnight accommodations for guests.

MOTOR VEHICLE, DISPATCH. A facility that coordinates MOTOR VEHICLES to pick up passengers, or traveling on fixed routes, such as Refuse Collection Trucks.

MOTOR VEHICLE SALES.

SALES OF VEHICLES, DEALERSHIP. Any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, motorcycles or other similar motorized vehicle. A VEHICLE DEALERSHIP may maintain an inventory of the vehicles for sale or lease on-site and may also provide on-site facilities for the repair and service of the vehicles sold or leased by the dealership.

SALES OF USED OR NEW VEHICLES. The USE of land for the display or sale of used automobiles, panel trucks, vans trailers or recreational vehicles.

SALES OF MOTOR VEHICLE PARTS, RETAIL. See RETAIL SALES.

MOTOR VEHICLE RENTALS. A BUILDING or portion thereof used for the rental of automobiles including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies.

MOTOR VEHICLE SERVICES.

GAS STATION, NO MOTOR VEHICLE REPAIR. Any Building or premises used to supply motor fuels (including but not limited to alternative fuels such as natural gas or hydrogen). RETAIL SALES, SALES and CAR WASH uses are allowed as ACCESSORY USES. MOTOR VEHICLE REPAIR AND MAINTENANCE facilities are considered a separate use.

CAR WASH. Mechanical facilities for washing or waxing private automobiles, light trucks and vans including auto detailing services. CAR WASH is also allowed as an ACCESSORY USE to Gas Stations.

MOTOR VEHICLE REPAIR AND MAINTENANCE, LIGHT. Services to include lubrication service, washing-buffing, engine tune ups, installation and service of electronic equipment including but not limited to radios, burglar alarms, remote starters, mobile phones, but may not include transmission overhaul, major engine repairs, tire recapping or retreading, auto body repair or brake or muffler shops.

MOTOR VEHICLE REPAIR AND MAINTENANCE, HEAVY. Services to include transmission overhaul, major engine repairs, tire recapping or retreading, brake or muffler shops.

MOTOR VEHICLE PAINTING OR BODY WORK. The repair or straightening of a Motor Vehicle body or frame and painting of Motor Vehicles or Motor Vehicle parts. Maintenance, service and engine repair may be performed as an ancillary function of the body work.

MOTOR VEHICLE, TEMPORARY STORAGE. The unenclosed storage of operable vehicles on a LOT for a continuous period of time more than seventy two (72) hours but less than thirty (30) days, excluding MOTOR VEHICLE dealerships and residential parking lots. MOTOR VEHICLES may not be moved for a brief time so that they are in effect remaining on the LOT for longer than thirty (30) days.

MOTOR VEHICLE, TEMPORARY CAR STORAGE LOT. TEMPORARY MOTOR VEHICLE STORAGE limited to passenger vehicles or light trucks less than 10,000 GVWR.

MOTOR VEHICLE, TEMPORARY TRUCK STORAGE LOT. TEMPORARY MOTOR VEHICLE STORAGE (not limited to passenger vehicles and light trucks), including storage of trucks, truck bodies, or other vehicles.

MOVABLE SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

MUNICIPAL USE. A BUILDING or facility owned and used by the City.

N

NEON SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

NON-ACCESSORY SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

NONCONFORMING BUILDING OR NONCONFORMING USE. A BUILDING or a USE of land or of BUILDINGS existing at the effective date of this Ordinance, or any amendments thereto which does not conform with the requirements of this Ordinance, or any amendments thereto.

NURSING HOME. A facility, licensed by the State, for the aged or infirm in which three or more persons not of the immediate family are kept or provided with food, shelter and care for compensation.

O

OFFICE OF PLANNING AND ECONOMIC DEVELOPMENT. The Office of Planning & Economic Development Department for the City. The term Office of Planning and Economic Development is not put in SMALL CAPS format due to its common appearance in this Ordinance.

OFFICE USES, NON-MEDICAL. A BUILDING or portion thereof that is administrative, executive or research based.

OPEN SPACE. The space on a LOT not occupied by BUILDINGS, STRUCTURES, driveways, OFF-STREET PARKING or LOADING SPACEs, or other areas for vehicular circulation or storage.

OVERLAY DISTRICT. A ZONING DISTRICT shown on the ZONING MAP that applies special rules to manage land use in specific areas that overlap different ZONING DISTRICTs. OVERLAY DISTRICTs are designed to deal with special characteristics of each area. The rules for OVERLAY DISTRICTS apply in addition to the regulations contained in other articles of this Ordinance. Where there is a conflict between the regulations of an OVERLAY DISTRICT and those of the underlying district, the overlay district regulations control.

P

PACKAGING, WAREHOUSING AND DISTRIBUTION. Facilities used commercially for indoor storage, which may include automated delivery systems, loading docks and heavy trucking activity.

PARK. A municipally owned area that is used principally for active or passive recreation, which may include equipment and facilities for active recreation and play such as playfields, play STRUCTUREs, swings, slides, public assembly and ACCESSORY USES such as restrooms. A PARK may also accommodate related municipal uses such as educational facilities and facilities for storage and maintenance of equipment used in the PARK. See also PLACE OF OUTDOOR AMUSEMENT for non-municipal facilities.

PARKING GARAGE. A BUILDING or STRUCTURE for the storage of more than three (3) MOTOR VEHICLES or more than one RECREATIONAL VEHICLE.

PARKING, OFF-STREET

PARKING, SHARED. The provision that two (2) or more uses which are within close proximity may share parking facilities to fulfill their individual parking requirements because their prime operational hours do not overlap, or other such evidence that the shared USE can be accommodated.

PARKING STRUCTURE. A roofed structure or portion thereof composed of one or more levels or floors used exclusively for the parking or short term storage of MOTOR VEHICLES.

SURFACE PARKING LOT. An off-street paved parking area for MOTOR VEHICLES with no BUILDING or STRUCTURE other than small ACCESSORY BUILDINGS such as parking attendant booths.

PERSONAL SERVICES. A facility providing personal services such as hair salon, barber shop, or nail salon.

PLACE OF AMUSEMENT

PLACE OF AMUSEMENT, INDOOR. Establishments that provide recreation fully enclosed within a Building. Examples include, bowling alley, indoor play space, arcade, establishment with more than two (2) pool tables, and establishments with more than five (5) video machines.

PLACE OF AMUSEMENT, OUTDOOR. Any outdoor space, other than a PARK, that is maintained or operated for the amusement, patronage, or recreation of the public for a fee or free of charge including, but not limited to, miniature golf course, golf driving range, batting cage, archery range.

PLACE OF WORSHIP. See RELIGIOUS USE.

PLANNING BOARD. The Planning Board of the City. The term Planning Board is not put in SMALL CAPS format due to its common appearance in this Ordinance.

PLANNING BOARD RULES AND REGULATIONS. The procedural regulations adopted by the Planning Board in accordance with M.G.L Chapter 40.

PLAYGROUND. A recreation area with play apparatus for use primarily by children. See also, PARK

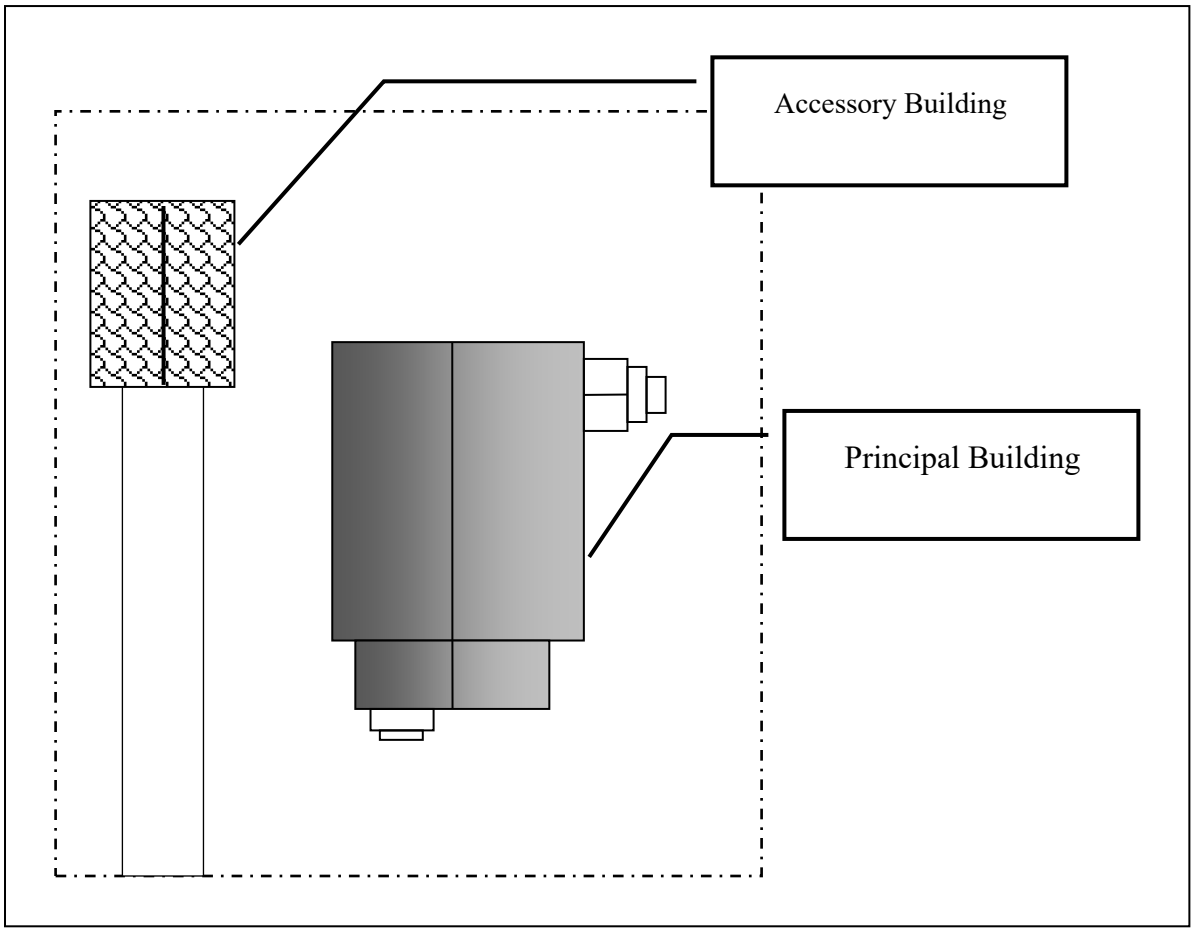
POLE SIGN. See Section 9.1 Sign Definitions.

PORCH. A platform, attached and with direct access to a BUILDING, that has a roof or roof-like STRUCTURE but does not have walls except where it is attached to the BUILDING. A PORCH may be screened or glazed, but is not heated or cooled.

PORTABLE SIGN. See Section 9.1 Sign Definitions.

PRINCIPAL BUILDING. The BUILDING or BUILDINGs containing the primary USE on a LOT. The connection of a PRINCIPAL BUILDING to an ACCESSORY BUILDING by means of an unenclosed and unheated STRUCTURE such as a breezeway, walkway or DECK, shall not make the ACCESSORY BUILDING into part of the PRINCIPAL BUILDING. Figure 2-7 illustrates an example of the relationship of a PRINCIPAL BUILDING to an ACCESSORY BUILDING.

Figure 2-7 Principal Building



PRINCIPAL USE. The primary or predominant USE of a BUILDING or LOT.

PRIVATE ROAD A STREET that has not been accepted for public maintenance.

PROJECTING SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

Q, R

RECYCLING CENTER. A BUILDING or LOT used for the collection and/or processing of used materials whereby the resultant product is to be re-used in the same or different form or manner. This term shall include bottle redemption facilities, except when such facility is an ACCESSORY USE to the retail sales of beverages. This shall not include the storage or salvage of MOTOR VEHICLES.

RECREATIONAL VEHICLE. A vehicular-type portable STRUCTURE without permanent foundation that can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational and camping purposes. RECREATIONAL VEHICLE includes boats that can be towed by passenger vehicles.

REFUSE. Unwanted or discarded material including waste material generated by commercial, industrial or residential USES.

RELIGIOUS USE. The USE of land or BUILDINGS primarily for spiritual worship, whether or not of a recognized religious denomination, together with reasonably related ACCESSORY USES, including but not limited to recreation, art and music, religious education, drug rehabilitation, and similar uses where such ACCESSORY USES are in fulfillment of the religious mission of the institution. Religious uses include, without limitation, churches, synagogues, mosques, temples, monasteries, and religious retreat centers, and the parsonages and residential facilities that are used to house clergy and practitioners of the religious institution. The use of portions of a religious BUILDING or site for other incidental charitable purposes, such as community meetings, educational programs, social gatherings, occasional book or rummage sales, or the provision of social services does not affect the status of the USE as "religious."

RESEARCH AND DEVELOPMENT LABORATORY.

RESEARCH AND DEVELOPMENT, BIOTECHNOLOGY. An establishment that employs applied molecular biology to develop and test new products such as medicines and drugs. This includes the use of microorganisms, such as bacteria or yeasts, or biological substances, such as enzymes, to perform specific industrial or manufacturing processes. Applications include the production of certain drugs, synthetic hormones, and bulk foodstuffs as

well as the bioconversion of organic waste and the use of genetically altered bacteria in the cleanup of oil spills.

RESEARCH AND DEVELOPMENT, OTHER. An establishment that conducts research, testing, development, repair or controlled production of high-technology, medical supplies or instruments, electronic, industrial or scientific products or commodities.

RESIDENTIAL RENEWABLE ENERGY FACILITY. A structure, which may be free-standing or mounted on another structure, which is used for generating electricity, heating water, or otherwise converting sunlight or wind into energy for heating, cooling, or other forms of usable energy for consumption primarily on the premises, including facilities that generate electricity for on-site use and feed excess electricity into the utility grid under a net metering arrangement with an electric utility company.

RESTAURANT. An establishment where food and drink are prepared, served, and consumed, mostly within the PRINCIPAL BUILDING.

RETAIL SALES AND SERVICES. An establishment which sells new or used merchandise directly to consumers, and which may also provide after-sale services such as repair and installation. RETAIL SALES includes pharmacy sales and dispensing of prescriptions through a drive-through window, if a drive-through window is permitted in the district. RETAIL SALES does not include sales of new or used automobiles, trucks, recreational vehicles, boats or trailers nor ADULT RETAILER sales, which are regulated in Section 6.5.

REUSE. Initiation of a USE in a building that has been ABANDONED (i.e. not used for a period of two (2) or more years).

ROOF SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

S

SEXUAL ENCOUNTER CENTER. See Section 6.3.30 Adult Entertainment Definitions

SHOPPING CENTER. Any group of four (4) or more commercial establishments, developed and owned as a unit and/or sharing common pedestrian and parking areas, or any group of three (3) or more commercial establishments, developed and owned as a unit with a FLOOR AREA of twenty-five thousand (25,000) square feet or more and sharing common pedestrian and parking areas.

SIGHT TRIANGLE. That part of a LOT enclosed by a straight line connecting points on the edge of the traveled way of two STREETS, such points being twenty-five (25) feet distant from the point of intersection of the edge of the traveled ways of said STREETS or extensions thereof. See also Section 5.2 and Figure 5-2.

SIGN. See Section 9.1 Sign Definitions.

SINGLE AND SEPARATE OWNERSHIP. The ownership of a LOT by one (1) or more persons such that the owner of a specific LOT does not have a sufficient ownership interest in an adjacent LOT to control the USE and disposition of that LOT. Where one (1) or more owners can control the USE and disposition of adjacent LOTs, such LOTs shall be deemed to be in "common ownership".

SOLID WASTE. See REFUSE.

SPECIFIED ANATOMICAL AREAS. See Section 6.3.30 Adult Entertainment Definitions

SPECIFIED SEXUAL ACTIVITIES. See Section 6.3.30 Adult Entertainment Definitions

SPECIAL PERMIT GRANTING AUTHORITY. The City Council, Planning Board, or Board of Appeals designated for the issuance of Special Permits.

STATE. The term State in this Ordinance shall mean the commonwealth of Massachusetts.

STORAGE.

SELF SERVICE STORAGE. A BUILDING or group of BUILDINGs divided into separate storage compartments to meet temporary storage requirements of business or personal property.

OUTDOOR STORAGE. The keeping of personal or business property outside a BUILDING for a period of time exceeding seventy two (72) hours.

OUTDOOR SALES AND STORAGE. The display, distribution, sale and storage of products or services primarily outside a STRUCTURE, including but not limited to garden supplies, bicycles, lawn accessories, BUILDING and landscape materials, and burial monuments. For sales of MOTOR VEHICLEs, see MOTOR VEHICLE SALES . HAZARDOUS MATERIALs are not allowed in an OUTDOOR SALES AND STORAGE area.

OUTDOOR STORAGE, BULK. Goods for sale, storage, distribution or display that have a large size, mass, or volume and are not easily moved or carried, including railroad ties, fertilizer, or soil.

STORY. The part of a BUILDING or STRUCTURE between any floor and the floor or roof next above.

STREET. (a) A public way or a way which the City Clerk certifies is maintained and used as a public way; or (b) a way shown on a plan approved and endorsed in accordance with the subdivision control law; or (c) a way in existence when the subdivision control law became effective in the city, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed USE of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the BUILDINGs erected or to be erected thereon.

STREET LEVEL. Any story of a BUILDING in which the floor is less than six feet above or below the finished grade at any STREET entrance of the BUILDING. Under this definition a BUILDING may have more than one STREET LEVEL.

STREET LOT LINE. See LOT LINE, FRONT.

STRUCTURE. A combination of materials assembled at a fixed location to give support or shelter, including a BUILDING, framework, retaining wall, platform, FENCE, SIGN, flagpole, TOWER, ANTENNA, satellite dishes, DECKS and PORCHES.

SWIMMING POOL. Either (a) a below-ground pool; artificial pool of water located below surrounding grade, and having a depth of a least thirty-six (36) inches, as measured from the lowest point in the pool a vertical distance to the ground level; or (b) an above-ground pool; artificial pool of water located above surface grade with a diameter of fifteen (15) feet or greater at the outside dimensions, and a capacity to hold water to a depth of thirty-six (36) inches or more.

T

TAVERN. An establishment selling alcoholic beverages, with or without food, to be served to and drunk by patrons in plain view of other patrons.

TELECOMMUNICATIONS, ALTERNATIVE TOWER STRUCTURE. See Section 6.2.20.

TELECOMMUNICATIONS, ANCILLARY FACILITIES. See Section 6.2.20.

TELECOMMUNICATIONS ANTENNA. See Section 6.2.20.

TELECOMMUNICATIONS BUFFER AREA. See Section 6.2.20.

TELECOMMUNICATIONS CARRIER. See Section 6.2.20.

TELECOMMUNICATIONS CO-LOCATION. See Section 6.2.20.

TELECOMMUNICATION FACILITY. See Section 6.2.20.

TELECOMMUNICATIONS , FUNCTIONALLY EQUIVALENT SERVICES. See Section 6.2.20.

TELECOMMUNICATIONS, GUYED TOWER. See Section 6.2.20.

TELECOMMUNICATIONS, LATTICE TOWER. See Section 6.2.20.

TELECOMMUNICATIONS, MONOPOLE. See Section 6.2.20.

TELECOMMUNICATIONS, MOUNT. See Section 6.2.20.

BUILDING MOUNT. See Section 6.2.20.

GROUND MOUNT. See Section 6.2.20.

STRUCTURE -MOUNT. See Section 6.2.20.

TELECOMMUNICATIONS, PERSONAL WIRELESS SERVICE FACILITY. See Section 6.2.20.

TELECOMMUNICATIONS, PRE-EXISTING TOWERS AND PRE-EXISTING ANTENNAS. See Section 6.2.20.

TELECOMMUNICATIONS, RADIO FREQUENCY (RF) ENGINEER. See Section 6.2.20.

TELECOMMUNICATIONS, RADIO FREQUENCY RADIATION (RFR). See Section 6.2.20.

TELECOMMUNICATIONS, STEALTH DESIGN. See Section 6.2.20.

TELECOMMUNICATIONS OR TRANSMISSION TOWER or TOWER. See Section 6.2.20.

TELECOMMUNICATIONS, TOWER HEIGHT. See Section 6.2.20.

TEMPORARY DWELLING. A replacement DWELLING that is occupied for up to one (1) year following destruction of an existing DWELLING due to destruction of an existing DWELLING, for example from fire or flooding. See Section 4.4.90.

TEMPORARY SIGNS OR BANNERS. See Section 9.1 Sign Definitions.

TIERED REVIEW. The system of reviews in which USES are grouped into categories of review based on their size, intensity or impact.

TRASH. See REFUSE.

TRAVEL TRAILER. A portable vehicle on a chassis, not exceeding thirty six (36) feet in length or nine (9) feet in width, which is designed to be used as a temporary DWELLING during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

TRASH HAULING SERVICES FACILITY. Storage of trash hauling vehicles and associated equipment for an establishment which coordinates the pickup of refuse or trash from residential and commercial facilities, but not the storage or transfer of refuse or trash at the facility.

TRUCK, LIGHT. A truck of 10,000 pounds gross vehicle weight rating or less, including a pickup, van, truck-based station wagon or sport utility vehicle.

TRUCK STOP. A fuel dispensing and repair service facility designed to accommodate primarily the trucking industry. ACCESSORY USES common to a TRUCK STOP may include a RESTAURANT, shower facilities, lodging facilities, and short-term parking areas.

U

UNDERTAKING ESTABLISHMENT. A facility in which dead bodies are prepared for burial or cremation and where funeral services may be conducted.

UNIVERSITY. See COLLEGE.

USABLE OPEN SPACE. OPEN SPACE that is located and configured to provide active or passive recreational or relaxation opportunities. USABLE OPEN SPACE does not include the area of required YARDS, and may include, but are not limited to, parks, play areas, improved playing fields, publicly accessible natural or wildlife viewing areas, gardens, maintained and landscaped

lawn with trees and seating areas, natural or landscaped walking paths and running trails; public and private pedestrian spaces, and other similar environments.

USE. The purpose for which the BUILDING or LOT may be designed, arranged, intended, maintained operated, or occupied; or any activity, business or operation carried on or intended to be carried on in a BUILDING, STRUCTURE or on a LOT.

UTILITIES. Facilities related to the provision, distribution, collection and transmission or disposal of water, storm and sanitary sewage, oil, gas, electric power, telecommunication, and cable.

UTILITIES, PUBLIC. UTILITIES that are subject to City acceptance for operation and maintenance. For purposes of this Ordinance PUBLIC UTILITIES include: water lines, sanitary and storm sewer lines and pump stations, their appurtenances and any component parts thereof.

UTILITIES, PRIVATE. UTILITIES that are not subject to acceptance by the City. For purposes of this Ordinance, private utilities include: natural gas lines, electric power lines and substations, telephone, cable and fiber-optic lines and the PRIVATE UTILITY'S operation, maintenance, repair and replacement thereof.

V

VACANT. Unoccupied land, STRUCTURE, BUILDING or part thereof.

VETERINARY CLINIC. A facility concerned with the medical diagnosis, treatment and care of DOMESTIC ANIMALS, primarily on an outpatient basis, and where the boarding of animals under treatment is incidental to the principal clinic use. A VETERINARY CLINIC shall have no outdoor dog runs or play areas, and no boarding of animals except for indoor boarding directly related to medical treatment.

W

WALL SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

WAREHOUSE. An establishment with storage, wholesale and distribution of manufactured products, supplies and equipment.

WHOLESALE SALES. A place of business primarily engaged in selling or distributing merchandise to retailers; to industrial, commercial or professional business users or to other wholesalers. Such facility may include WAREHOUSING, STORAGE, and DISTRIBUTION services.

WINDOW SIGN. SEE SECTION 9.1 SIGN DEFINITIONS.

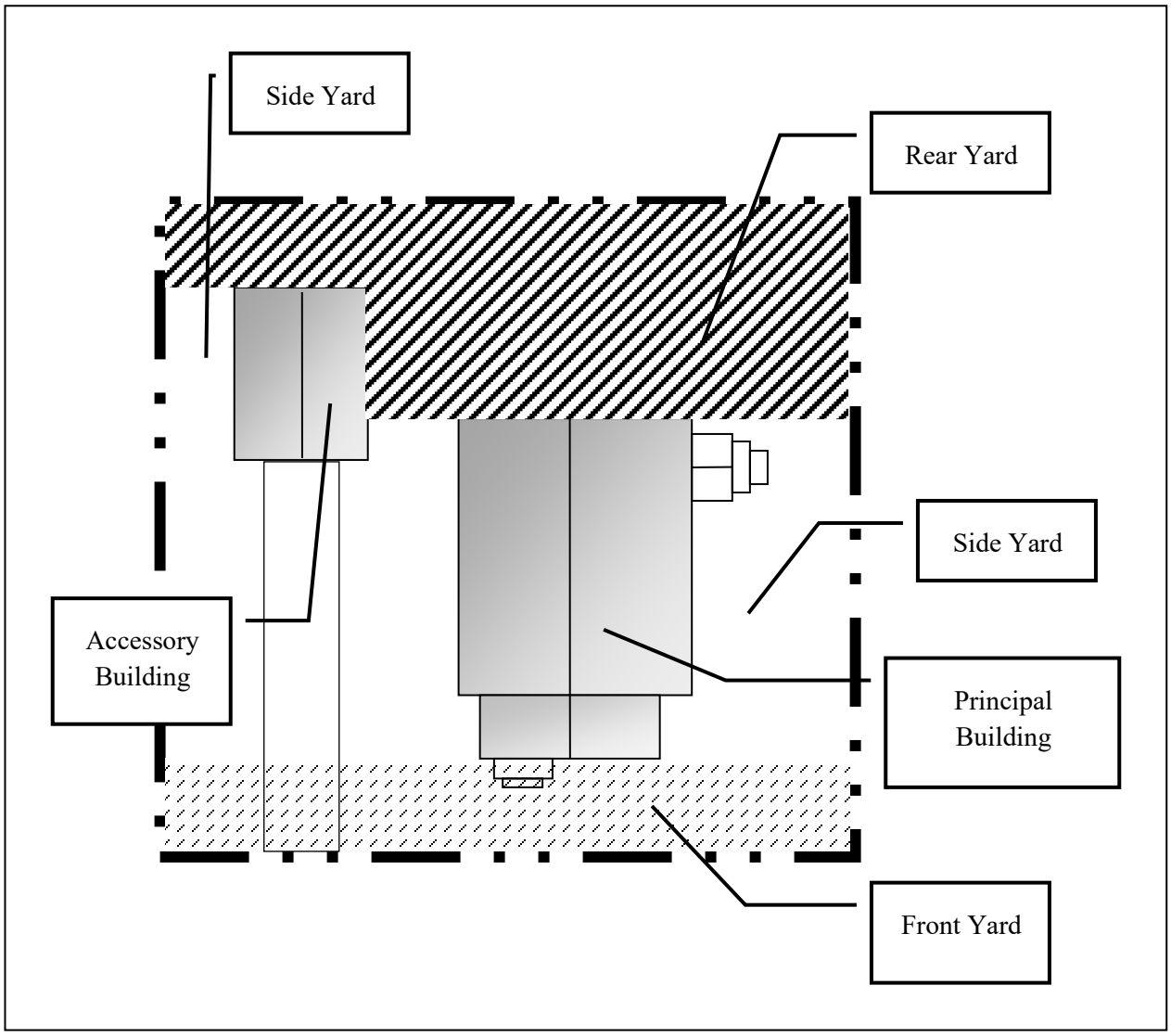
WIRELESS COMMUNICATION. See Section 6.2.20.

WIRELESS COMMUNICATIONS FACILITY. See Section 6.2.20.

X, Y

YARD. The OPEN SPACE between a BUILDING and the nearest LOT LINE, unoccupied and unobstructed by any portion of a STRUCTURE from the ground upward, except as otherwise provided herein as shown in See Figure 2-8. In measuring a YARD, the shortest horizontal distance between the BUILDING and the LOT LINE shall be used. All YARDs shall be exclusive of stairs, overhanging eaves, gutters, cornices of less than three (3) feet deep on PRINCIPAL BUILDINGs and eaves, gutters, and cornices less than twelve (12) inches deep on ACCESSORY BUILDINGS, and steps.

Figure 2-8 Yards



FRONT YARD. A YARD extending across the full width of a LOT between the FRONT LOT LINE and nearest point of any BUILDING. (See Figure 2-8.) In the case of a corner lot, the front yard shall be determined by the side of the building which contains the main door.

REAR YARD. A YARD extending across the full width of the LOT between the REAR LOT LINE and nearest point of any BUILDING. (See Figure 2-8.) In the case of a triangular lot, the rear yard shall be the open space between the rear wall of the building and a line half-way between it and the point of intersection of the side lines of the lots. In no case shall the rear yard be located between the house and the street.

REQUIRED YARD. The minimum YARD depth as required in this Ordinance as contrasted to the actual YARD resulting from a specific location of a BUILDING. For example, a BUILDING may be required to be located a minimum of ten (10) feet from the FRONT LOT LINE but the BUILDING may actually be placed fifteen (15) feet from the FRONT LOT LINE. In this case the REQUIRED FRONT YARD is ten (10) feet; while the actual FRONT YARD is fifteen (15) feet. Certain restrictions may apply to REQUIRED YARDS that do not apply to the actual YARD.

SIDE YARD. A YARD extending from the FRONT YARD to the REAR YARD along each side of a LOT. (See Figure 2-8.)

Z

ZONING DISTRICT. Specifically delineated area within the City as shown on the ZONING MAP where certain regulations and requirements govern the use, placement, spacing, and size of land and BUILDINGS.

ZONING MAP. A map of the City delineating each ZONING DISTRICTs that is a part of this Ordinance incorporated by reference in Article 3, Section 3.3, which may be amended in accordance with Article 13. Due to its size the ZONING MAP is incapable of being included within this volume. The ZONING MAP may be obtained from the Office of Planning and Economic Development.

Article 3 Districts

Section 3.0 *Purpose*

Section 3.1 *Establishment of Districts*

Section 3.2 *Purpose of Zoning Districts*

Section 3.3 *Zoning Map*

Section 3.4 *Interpretation of District Boundaries*

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ARTICLE 3 DISTRICTS

SECTION 3.0 PURPOSE

The purpose of this Article is to describe the array of ZONING DISTRICTs throughout the city and the desired form and character for each one. This section also includes standards for interpreting boundaries between districts. The purpose of this Article is to:

- Identify and establish districts in groupings: residential, business and mixed use, industrial, special districts, and overlay districts such as Floodplain and Neighborhood Commercial.
- Describe purposes and character of each district or overlay.
- Link the zoning Ordinance text to the ZONING MAP and provide map interpretation criteria.

SECTION 3.1 ESTABLISHMENT OF DISTRICTS

Table 3-1 lists the ZONING DISTRICTs for the City:

Table 3-1 List of Zoning Districts

District Abbreviation	Brief Description
Residential	
Residential A-1 (Res A-1)	Suburban Residential
Residential A (Res A)	Low Density Residential
Residential B (Res B)	Urban Residential
Residential B-1 (Res B-1)	Medium Density Residential
Residential C (Res C)	High Density Residential
Residential C-1 (Res C-1)	Residential project areas, Garden Apartments and Residential clusters
Residential C-2 (Res C-2)	High-Rise Apartment
Business and Mixed Use	
Office A (Office A)	Non owner occupied Residential Office
Commercial P (Com P)	Commercial Parking
Commercial A (Com A)	Neighborhood Commercial
Business A (Bus A)	General Business
Business B (Bus B)	Service Business

Table 3-1 List of Zoning Districts	
District Abbreviation	**Brief Description**
Business B-1 (Bus B-1)	Corporate Campus
Business C (Bus C)	Central Business
Business D (Bus D)	Regional Shopping
Industrial Districts	
Mixed Use Industrial (MUI)	Mixed Use Industrial
Industrial Park (IP)	Industrial Park
Industrial A (IA)	General Industrial
Special Districts	
Open Space (OS)	Park and Open Space
Riverfront (RF)	Connecticut Riverfront
Overlay Districts	
WCUROD	West Columbus Urban Renewal Overlay District
NCOD	Neighborhood Commercial Overlay District
FPOD	Flood Plain District
SGOD	Smart Growth Overlay District [Reserved]
RSCOD	Regional Shopping Center Overlay District
COD	Casino Overlay District

SECTION 3.2 PURPOSE OF ZONING DISTRICTS

The ZONING DISTRICTS are established to accommodate specific uses and densities as listed in Table 3-2. This table is for descriptive purposes and is not regulatory in nature.

Table 3-2 Purpose of Zoning Districts		
District	**General Purpose**	**Summary of Permitted Uses and Special Character**
Residential Districts		
Residential A-1 (Res A-1)	Lowest density residential, primarily single-family detached dwellings	Single-family dwellings and appropriate supporting public facilities.
Residential A (Res A)	Low density residential, primarily single-family detached	Single-family dwellings and appropriate supporting public facilities.
Residential B (Res B)	Medium density residential, primarily single-family and two-family	Single-family and two-family dwellings and appropriate supporting public facilities.
Residential B-1 (Res B-1)	High density residential, primarily single-family and two-family	Single-family and two-family houses at high densities
Residential C (Res C)	Multi-family residential	Single-family dwellings, two-family dwellings and multi-family dwellings; and public facilities.
Residential C-1 (Res C-1)	Multi-family residential	Multi-family dwellings within a clustered development with open space and common facilities.
Residential C-2 (Res C-2)	High-rise residential	Multi-story apartment structures on collector and arterial streets, with limited business activities allowed on the ground floor.
Commercial Districts		
Office A (Office A)	Offices in former residential buildings	Conversion of a Dwelling into a limited office use where the office owner does not have to reside in the building.
Commercial Parking (Com P)	Commercial surface parking lots	Limited to parking use only for Lots adjacent to commercial uses that need additional off-street parking.
Commercial A (Com A)	Small scale neighborhood serving	Small scale retail and service convenience

Table 3-2 Purpose of Zoning Districts		
District	**General Purpose**	**Summary of Permitted Uses and Special Character**
	commercial clusters and residential uses.	type commercial establishments which serve primarily the day-to-day needs of the immediately surrounding neighborhood, and encourage attractive compact commercial developments in locations close to the residences served, residential use is also allowed.
Business A (Bus A)	Main Street and pedestrian oriented shopping districts with residential allowed.	Provides for the appropriate development and special requirements of a variety of settings, including neighborhood and inter-neighborhood shopping along major roads that connect different parts of the city.
Business B (Bus B)	General business services that are more intense in nature than those in Business A. It is also applied to properties that provide services to heavier industrial land uses, but are not themselves industrial in nature.	Provides for a wide range of highway oriented automotive and service business activities which ordinarily require either arterial or highway or light industrial locations.
Business B-1 (Bus B-1)	Office Commercial/Campus Office (Distinct from Industrial Park, which allows a wider range of uses).	A professional campus office setting appropriate for Corporate Headquarters and other office parks that are distinct from the building types in Industrial Park District.
Business C (Bus C)	Downtown with pedestrian amenities and high rise buildings with no setbacks. Mixed uses.	Accommodates a wide range of high intensity business, cultural and governmental uses appropriate for a downtown location and for this special area of the City.
Business D (Bus D)	Shopping area with anchor tenants drawing customers from the region	Regional retail shopping centers serving customers beyond the neighborhood and even beyond the City.
Industrial Districts		
Mixed Use Industrial (MUI)	Mixed uses allowed in former industrial sites that have a variety	A wide variety of compatible uses are allowed such as residential, services, retail, light

Table 3-2 Purpose of Zoning Districts		
District	**General Purpose**	**Summary of Permitted Uses and Special Character**
	of potential redevelopment opportunities.	industrial, and office.
Industrial Park (IP)	Light Industrial, research and development and smaller flexible buildings that include office and light industrial uses (sometimes known as "flex space").	To provide an attractive business park setting in which a variety of light industrial uses and "flex-space" uses may operate. Industrial Parks have a higher quality of landscaping and site design than Industrial A districts and a narrower set of allowed uses.
Industrial A (IA)	Range of Industrial and Business uses.	This district provides for the full range of industrial and business uses compatible with a major urban center. However, special review and approval is required in the case of certain potentially hazardous or obnoxious uses. Because of the densely developed character of the city, certain other such uses are prohibited.
Miscellaneous Districts		
Riverfront (RF)	The Riverfront District is intended to accommodate and control the development of the riverfront land so as to promote and protect the natural and aesthetic qualities of the river for the general welfare of the public.	Provides for Mixed-use Buildings, medium density residential, lodging, medical and financial services, open space areas and recreation and entertainment.
Open Space (OS)	To provide for the active and passive recreational needs of the City and the protection of its bountiful natural resources.	Passive and active recreation and natural resources. Development occurs as needed to support the primary use, such as restrooms in a park or a crematorium in a cemetery.
Overlay Districts		
Neighborhood Commercial Overlay	Areas with commercial and mixed use "Main Street" character.	Uses are the same as permitted by the underlying district. Design standards add requirements to create a human scale place with characteristics such as pedestrian

Table 3-2 Purpose of Zoning Districts		
District	**General Purpose**	**Summary of Permitted Uses and Special Character**
		amenities, special sign rules, and windows along the ground floor.
West Columbus Urban Renewal Overlay	Riverfront District land located with the West Columbus Urban Renewal Area Amendment #3, to provide for redevelopment of land along the Connecticut River and promote quality redevelopment of the land.	Retail, commercial, recreational, cultural and entertainment activities, as permitted by the underlying district. Special parking lot and sign design standards to enhance the character of this important cultural and entertainment district.
Flood Plain Overlay District	Protection for areas prone to flooding.	Uses are more limited than in the underlying district.
Regional Shopping Center Overlay District	To maintain the stability and viability of large shopping centers and malls.	Requires special permit approval for the change of use or division of space of larger anchor stores.
Casino Overlay District	To facilitate the location of licensed casinos and casino complexes within the City of Springfield.	Casino and casino complexes, inclusive of accessory uses, including but not limited to retail, restaurants, hotels, accessory parking, housing, etc.
Smart Growth Overlay District	[Reserved for future use]	

SECTION 3.3 ZONING MAP

The location and boundaries of each of these districts are hereby established as shown on a map entitled "ZONING MAP" which accompanies and is hereby declared to be a part of this Ordinance. The official ZONING MAP is on file in the office of the Office of Planning and Economic Development where it may be viewed during normal working hours. The ZONING MAP, with all subsequent amendments thereto, supersedes all prior ZONING MAPs of the City. See Article 13 for procedures and criteria for amending the ZONING MAP.

SECTION 3.4 INTERPRETATION OF DISTRICT BOUNDARIES

Where any uncertainty exists as to the boundary of any district, as shown on the ZONING MAP the following rules shall apply:

3.4.10 Where boundary lines are indicated as following STREET, alleys, waterways or railroads, they shall be construed as following the center lines thereof.

3.4.20 Where boundary lines are indicated as approximately following LOT LINEs and the extension of LOT LINEs, such LOT LINEs and extensions of LOT LINEs shall be construed to be such boundaries.

3.4.30 Where a boundary line divides a LOT or crosses un-subdivided property, the location of such boundary shall be measured on said map.

3.4.40 Where further uncertainty exists, the Planning Board, upon written application, shall by resolution determine the field location of a disputed boundary, giving due consideration, among other things, to the apparent indicated location thereof, the scale of said map, official records, and the expressed purposes of the zoning Ordinance.

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Article 4 Use Regulations

Section 4.0	*Purpose*
Section 4.1	*General Provisions*
Section 4.2	*Tiered Review Levels*
Section 4.3	*Use Table*
Section 4.4	*Accessory Uses*
Section 4.5	*Home Based Businesses*
Section 4.6	*Special Standards for Religious, Educational and Child Care Uses*
Section 4.7	*Special Regulations for Certain Uses*

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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), no additional review under this ordinance will be required.

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 and 4.4.13
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 and 4.4.13
2 Apartment Building	N	N	N	T	T	N	N	T	T	T	N	T	T	3	N	N	N	4.4.120 and 4.4.13
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 and 5.3.20
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
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	
2.8	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
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	
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
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	
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	1	1	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	

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	
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	

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	
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 6.2 for these regulations																	6.2

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	
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	
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	

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	
19.4 Wholesale in conjunction with and accessory to a permitted retail use (not more than 60% of gross floor area)	N	N	N	N	N	N	N	N	1	1	1	1	1	1	1	1	N	
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
20.8	Marijuana Transporter	N	N	N	N	N	N	N	N	N	N	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	
20.9	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

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 Section 5.3.20 and table 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 in height, and of a 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 then 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, 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 also 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 submit a copy of the completed Host Community Agreement application.

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.

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Article 5 Dimensional and Intensity Regulations

Section 5.0 *Purpose*

Section 5.1 *General Provisions*

Section 5.2 *Residential Districts*

Section 5.3 *Business Districts*

Section 5.4 *Industrial Districts*

Section 5.5 *Usable Open Space for Apartment Buildings*

Section 5.6 *Exceptions to Maximum Building Height*

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ARTICLE 5 DIMENSIONAL AND INTENSITY REGULATIONS

SECTION 5.0 PURPOSE

The purpose of this Article is to establish dimensional standards for all districts. As Article 4 deals with USES, this Article deals with the location and size of STRUCTURES. In addition to structural dimensions, this Article also contains the minimum LOT standards, which are related to the residential density (number of units per acre) and the intensity at which DEVELOPMENT occurs.

SECTION 5.1 GENERAL PROVISIONS

Section 5.1.10 Lots and Structures, Generally

5.1.11 No division of land shall be made which results in the creation of any LOT having dimensions less than the minimum required by this Article for the BUILDING or USE located thereon within the district in which the LOT is located.

5.1.12 No BUILDING, STRUCTURE, DEVELOPMENT or other improvement shall be constructed which results in any dimension or ratio that is greater than the maximum or less than the minimum required by this Article for the district in which the LOT is located.

Section 5.1.20 Specific Dimensional and Intensity Requirements

5.1.21 Lot Area

When this Article specifies a minimum LOT AREA, no PRINCIPAL BUILDING or USE shall be located on any LOT of lesser area, except as may be permitted by Section 10.2, NONCONFORMING LOTS.

5.1.22 Lot Frontage

When this Article specifies a minimum LOT FRONTAGE, no PRINCIPAL BUILDING or USE shall be located on a LOT which fronts a lesser distance on a STREET, except as may be permitted by Article 10.

5.1.23 Lot Width

When this Article specifies a minimum LOT WIDTH, no PRINCIPAL BUILDING shall be located where the LOT WIDTH is less than the specified width at the point of the BUILDING closest to the FRONT LOT LINE.

5.1.24 Open Space

When this Article specifies a minimum percentage of OPEN SPACE, no BUILDING or USE shall be located on any LOT in a manner that does not provide such OPEN SPACE.

5.1.25 Yards

When this Article specifies a minimum YARD dimension, no BUILDING or STRUCTURE shall be erected within the specified distance from the applicable LOT LINE, except as permitted hereinafter.

5.1.26 Building Height

When this Article specifies a maximum BUILDING HEIGHT no part of a BUILDING shall exceed the specified number of stories, and no part of a BUILDING shall exceed the maximum height in feet, except as permitted hereinafter.

5.1.27 Building Coverage

When this Article specifies a maximum BUILDING COVERAGE, the percentage of a LOT covered by all BUILDINGs and STRUCTUREs, including ACCESSORY STRUCTUREs, shall not exceed said maximum BUILDING COVERAGE, except as permitted hereinafter.

Section 5.1.30 Application of Multiple Requirements

When this Article specifies two (2) requirements for the same dimension (e.g., maximum BUILDING HEIGHT stated both in feet and in stories, or minimum SIDE YARD stated both in feet and as a percentage of BUILDING HEIGHT), the more restrictive shall apply unless explicitly stated otherwise.

SECTION 5.2 RESIDENTIAL DISTRICTS

Section 5.2.10 Dimensional and Intensity Regulations in Residential Districts

For the dimensions of Dwelling Units located in non-residential ZONING DISTRICTS, see Section 5.3.20.

Table 5-1 Dimensional and Intensity Regulations – Residential Districts

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

Principal Use	Res A1	Res A	Res B	Res B1	Res C	Res C-1	C2
MINIMUM LOT AREA PER DWELLING UNIT (SQUARE FEET)							
Single-family dwelling	10,000	7,500	6,000	4,500[1]	4,500	5,000	N
Two-family dwelling	N	N	4,000	3,000[1]	3,000	4,000	N
Townhouse	N	N	N	2,500	2,000	2,500	2,000
Apartment building							
Units with 2 or more bedrooms	N	N	N	N	2,000	5,000	580
Units with less than 2 bedrooms	N	N	N	N	1,400	4,000	580
MINIMUM FRONTAGE (FEET) FRONT LOT LINE							
Single-family dwelling	50	50	50	45	45	30	N
Two-family dwelling	N	N	50	50	50	50	N
Townhouse	N	N	N	25	25	25	25
Apartment building	N	N	N	N	50	30	25
MINIMUM LOT WIDTH (FEET)(at Building Line)							
Single-family dwelling	100[2]	75	60	45	45	n.r.	N
Two-family dwelling	N	N	80	50	60	n.r.	N
Townhouse	N	N	N	25	25	n.r.	25
Apartment building	N	N	N	N	75	n.r.	25
MINIMUM FRONT YARDS (FEET)							
Minimum	25	25	15	10[3]	10[3]	25	25

Table 5-1 Dimensional and Intensity Regulations – Residential Districts

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

Principal Use	Res A1	Res A	Res B	Res B1	Res C	Res C-1	C2
MINIMUM SIDE AND REAR YARDS - PRINCIPAL BUILDINGS							
Side Yard							
Feet	10[7]	10[7]	10[7]	7[4]	7[7]	25	25
% of height of principal building	n.r.	n.r.	n.r.	n.r.	n.r.	50%	50%
Rear Yard							
Feet	35	30	25	20	20	25	25
% of height of principal building	n.r.	n.r.	n.r.	n.r.	n.r.	50%	50%
MINIMUM SIDE AND REAR YARDS - RESIDENTIAL GARAGES AND OTHER ACCESSORY BUILDINGS	(Also refer to Article 4, Section 4.4.14)						
Side Yard							
Feet	3[5]	3[5]	3[5]	0[5]	3[5]	10	10
% of height of principal building	n.r.	n.r.	n.r.	n.r.	n.r.	50%	50%
Rear Yard							
Feet	3	3	3	3	3	10	10
% of height of principal building	n.r.	n.r.	n.r.	n.r.	n.r.	50%	50%
OPEN SPACE AND LANDSCAPING	n.r.	n.r.	n.r.	5%	5%	20,000 sf for each 50 units	10%
Minimum open space	n.r.	n.r.	n.r.	5%	5%	30%	10%
Minimum landscaped portion of area between the front wall of the principal building and the street	75%	75%	75%	50%	50%	n.r.	n.r.

Table 5-1 Dimensional and Intensity Regulations – Residential Districts

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

Principal Use	Res A1	Res A	Res B	Res B1	Res C	Res C-1	C2
MAXIMUM BUILDING HEIGHT OR STRUCTURE HEIGHT							
Principal buildings							
Stories	2.5	2.5	2.5	3	3	2.5	
Feet	35	35	35	35	35	35	150[6]
School, college, university, library, or municipal building, or church belfry or flagpole							
Stories	3	3	3	3	3	4	4
Feet	60	60	60	35	60	60	60
Residential Garage (feet)	20	20	20	20	20	25	25
Other Accessory Structure (feet)	15	15	15	15	15	25	25

N = Use not permitted n.r. = no regulation

[1] In the Residential B-1 district, if a Special Permit is granted to authorize more than one SINGLE-FAMILY or TWO-FAMILY DWELLING on a LOT, the required LOT AREA shall be the sum of the minimum required LOT AREAS for all DWELLINGS on the LOT.

[2] In the Residential A-1 district, if the LOT DEPTH is greater than 100 feet, the LOT WIDTH may be reduced below the 100-foot minimum by 1 foot for each 2 feet by which the 100-foot depth is exceeded, but the width may not be reduced to less than ninety (90) feet.

[3] In the Residential B-1 district, the required SIDE YARD shall be zero (0) feet for Townhouses.

[4] In the Residential B-1 district, the minimum FRONT YARD shall be five (5) feet for Townhouses.

[5] The required SIDE YARD shall be ten (10) feet for any portion of a detached RESIDENTIAL GARAGE that is less than sixty-five (65) feet from any FRONT LOT LINE. The distance between such detached RESIDENTIAL GARAGE and the PRINCIPAL BUILDING shall be not less than six (6) feet.

[6] In the Residential C-2 district, a nonresidential PRINCIPAL BUILDING shall not exceed four (4) stories or sixty (60) feet.

[7] In the case of a corner lot, there shall be equal to or greater than fifteen (15) feet between the building and the side property line fronting on a street.

Section 5.2.20 Maximum Building Coverage in Residential Districts

5.2.21 The maximum BUILDING COVERAGE in residential districts shall be as follows:

Table 5-2 Maximum Building Coverage – Residential Districts

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

Zoning Districts	Lot Area (sq. ft.)	Maximum BUILDING COVERAGE
Res A-1 **Res A** **Res B**	Up to 7,500	35%
	7,501 – 20,000	30%
	20,001 – 30,000	25%
	30,001 – 45,000	20%
	45,001 – 60,000	15%
	More than 60,000	10%
Res B1	Any	50%
Res C	Any	50%
Res C-1	Any	30%
Res C2	Any	30%
Res O	Any	50%

Section 5.2.30 Dimensional Regulations for Large Buildings in Residential A-1, A and B Districts

In the Residential A-1, A and B ZONING DISTRICTS, the following requirements shall supersede the corresponding requirements specified elsewhere in this Article for any LOT where the BUILDING FOOTPRINT of the PRINCIPAL BUILDING is greater than 2,000 square feet. HOSPITALS and their Accessory Uses and Buildings are exempt from this sub section. See table 5-3.

Table 5-3 Lot Frontage, Width and Yards for Large Buildings in Residential A-1, A and B Districts

STANDARDS	REQUIREMENTS
Minimum Frontage	100 feet

Table 5-3 Lot Frontage, Width and Yards for Large Buildings in Residential A-1, A and B Districts	
STANDARDS	**REQUIREMENTS**
Minimum width at front line of principal building	100 feet
Minimum Yards	
Front Yard	25 feet
Side Yard	Height of principal building (feet)
Rear Yard	Greater of (a) 35 feet or (b) height of principal building
Minimum landscaped portion of area between the front wall of the principal building and the street	75%

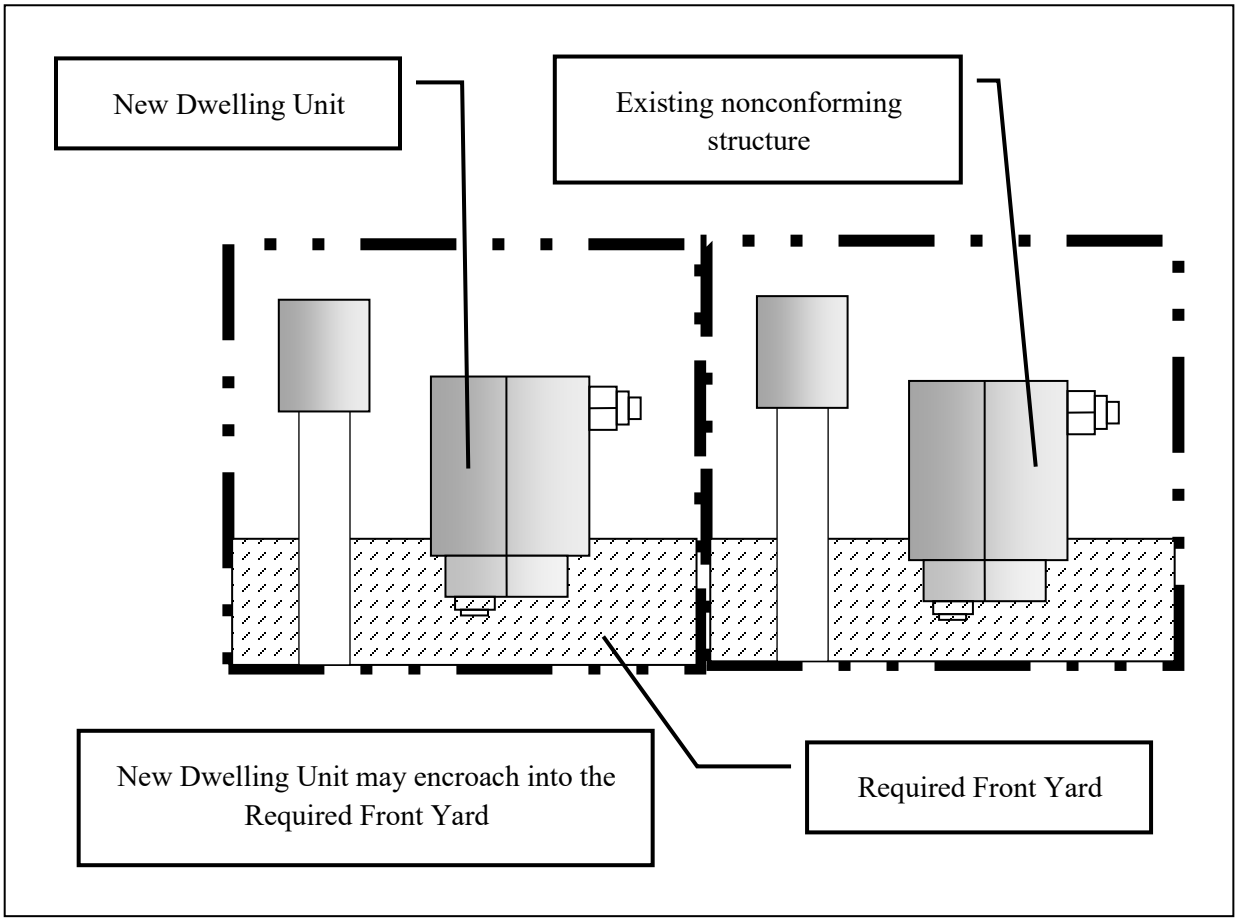
Section 5.2.40 Exceptions to Yard Requirements in Residential Districts

5.2.41 Front Yard Exceptions for Existing Alignments

A. Notwithstanding any minimum REQUIRED FRONT YARD specified in this Article, the front wall of a BUILDING in a residential district may be as close to the STREET as the front wall of the nearest BUILDING facing the same side of the same STREET in the same block. See figure 5-1.

B. Notwithstanding any FRONT YARD requirement specified in this Article, the front wall of a BUILDING in a residential district may be as far from the STREET as the actual setback of the nearest existing DWELLING facing the same side of the same STREET. If there are no DWELLINGS on the same block, the nearest DWELLING on the same side of the STREET shall be used. Further, the front wall of any building shall be set back no farther than the rear wall of the nearest building on either side thereof facing the same street.

Figure 5-1 Front Yard Exception



5.2.42 Projections into Yards

A. Uncovered steps and ramps may extend into a required YARD.

B. In the Residential districts, a roofless, ground story projection from a BUILDING, such as DECK, may extend into any required REAR YARD provided that it is no less than fifteen (15) feet from a REAR LOT LINE.

Section 5.2.50 Structures Prohibited Between Principal Building and Street

No BUILDING, pool or other STRUCTURE, except for necessary retaining walls and FENCES permitted by Section 7.4.20, shall be located between the front wall of the PRINCIPAL BUILDING and the STREET.

Section 5.2.60 Required Landscaping Between Principal Building and Street

When this Article specifies a minimum landscaped area between the front wall of the PRINCIPAL BUILDING and the STREET, such area shall comply with the following requirements:

5.2.61 The required landscaped area shall be improved with planted materials such as grass, trees, shrubs, and other live plant materials.

5.2.62 The required landscaped area shall be free of structural improvements and impervious surfaces except for the following:

A. Necessary retaining walls;

B. Projections into FRONT YARDs as allowed by Section 5.2.42.

C. Two access sidewalks not exceeding four (4) feet in width each; or

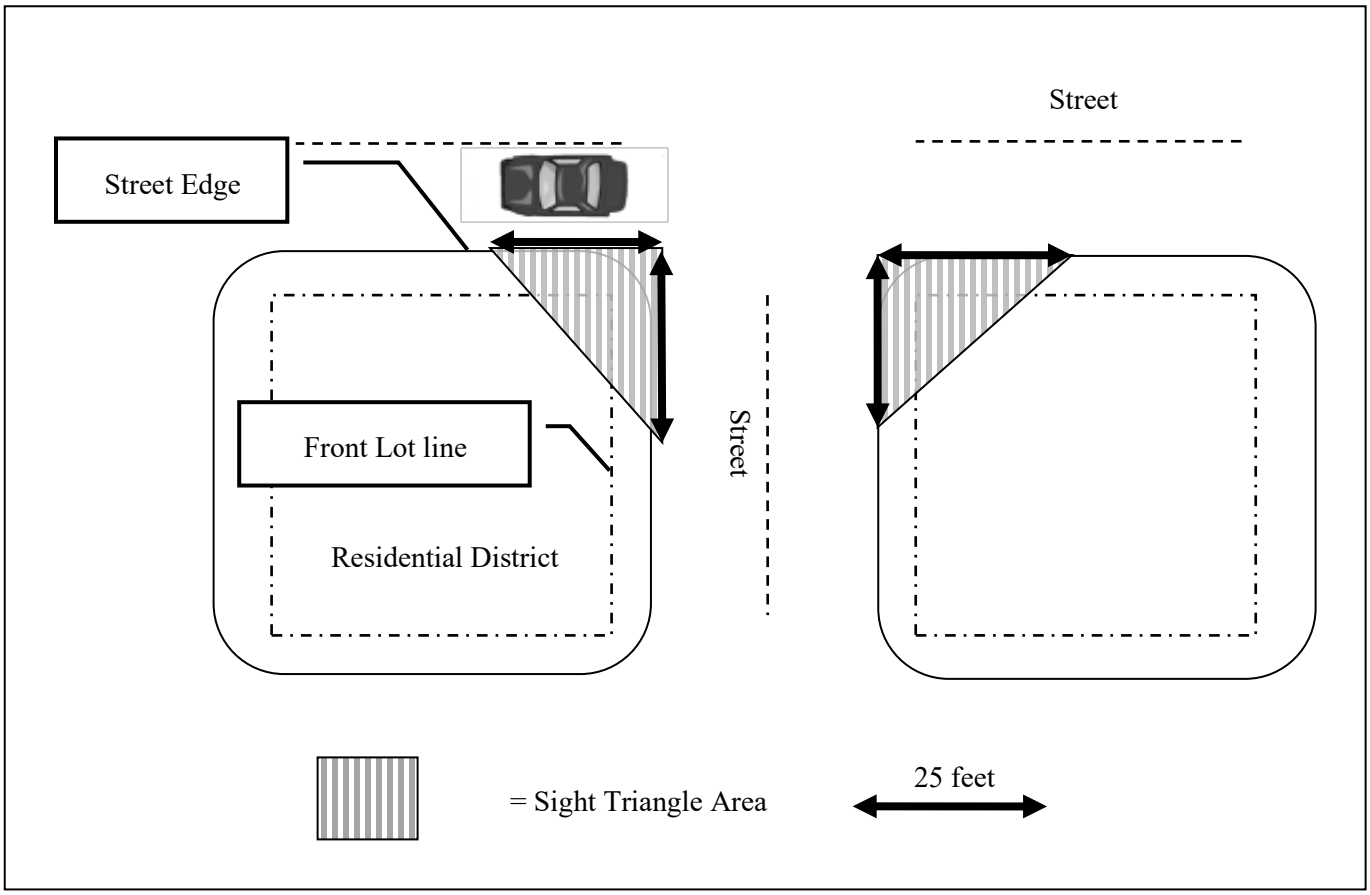
D. Fences, if permitted by Section 7.4.20.

5.2.63 No parking shall be allowed in the required landscaped area or the required front yard.

Section 5.2.70 Sight Triangle on Corner Lots in Residential Districts

5.2.71 On CORNER LOTS in Residential districts, no BUILDING, FENCE or other STRUCTURE (other than necessary retaining walls) shall be constructed in the SIGHT TRIANGLE. No vegetation shall be placed or maintained, between a height of two and one-half (2 ½) feet and a height of ten (10) feet above the STREET surface within the Sight Triangle as illustrated in Figure 5-2. The same vision obstruction restrictions apply for that portion of the corner lots rear line from the street line for a distance equal to the abutter's setback but in no case need this distance exceed twenty five (25) feet. Poles, post and/or guys for streetlights and for other utility services, and tree trunks exclusive of leaves and branched, shall not be considered obstructions to vision within the meaning of this provision.

Figure 5-2 Sight Triangle



5.2.72 Poles, posts, and guys for STREET lights and for other utility services, and tree trunks exclusive of leaves and branches, shall not be considered obstructions to vision within the SIGHT TRIANGLE within the meaning of this provision.

Section 5.2.80 Orientation of Dwellings in Interior Lots

The front of a SINGLE-FAMILY DWELLING or TWO-FAMILY DWELLING on an INTERIOR LOT shall face the STREET and contain the main door.

SECTION 5.3 BUSINESS DISTRICTS

Section 5.3.10 Dimensional and Intensity Regulations in Business Districts

Table 5-4 Dimensional and Intensity Regulations – Business Districts

Legend: OA = Office A Com P = Commercial Parking Com A = Commercial A Bus A = Business A Bus B = Business B Bus C = Central Business District Bus D = Regional Shopping

	OA	Com P	Com A	Bus A	Bus B	Bus B-1	Bus C	Bus D
Lot Area, minimum square feet	6,000	n.r.	n.r	n.r	n.r	n.r	n.r	n.r
Lot Frontage , minimum (feet)	50	n.r.	n.r.	n.r.	n.r.	n.r.	n.r.	n.r.
Lot Width , minimum (feet)	75	n.r.	n.r.	n.r.	n.r.	n.r.	n.r.	n.r.
Front Yard (feet)								
Minimum	25	n.r.	20	10[1]	10[1]	10[1]	0	0
Side Yard, minimum (feet)								
Abutting a residential district	3	10	10	10	10	10	10	10
Abutting a nonresidential district	3	0	10	0	0	0	n.r.[1]	0
Rear Yard, minimum (feet)								
Abutting a residential district	25		10	10	10	10	10	10
Abutting a nonresidential district	0		0	0	0	0	n.r. [2]	0
Building Height , maximum								
Stories	2	2	2	4	n.r.	n.r.	n.r.	n.r.
Feet	35	30	30	60	60	60	400	60
Building Coverage, maximum	55%	35%	55%	75%	80%	80%	95%	100%

n.r. = no regulation

[1] In a case where an adjacent building on either side, along the same street and within the same district, is located closer to the street line then the new building may conform to the lesser setback.

[2] The minimum SIDE YARD and REAR YARD shall be 20 feet for a BUILDING used in whole or part for residential use.

Section 5.3.20 Maximum Residential Density in Business Districts

5.3.21 Residential uses located within Office A shall follow the dimensional regulations outlined for Residence B, as found in Section 5.2.

5.3.22 Residential uses located within Commercial A, Business A, Business B, Business C and Business D shall follow the dimensional regulations outlined for Residence C, as per Section 5.2[1].

5.3.23 Residential development is not allowed within Commercial P or Business B-1 districts.

5.3.24 Within the Industrial A district, no building or other structure(s) shall be erected, altered or use and no land shall be used or occupied for residential purposes, EXCEPT, where subdivision plans or individual building lots existed, and were duly recorded or registered, prior to the enactment of this ordinance.

[1] For ground floor residential, refer to Article 4, Section 4.4.13.

SECTION 5.4INDUSTRIAL DISTRICTS

Table 5-6 Dimensional Requirements – Industrial Districts

Legend
MUI = Mixed Use Industrial IA = Industrial A IP = Industrial Park

	Industrial MU	Industrial A	Industrial Park
Minimum Lot Area	n.r.	n.r.	1.5 ac
Minimum Lot Frontage (ft.)	n.r	n.r.	200
Minimum Lot Width (ft.)	n.r	n.r.	200
Yards (feet):			
Front Yard, Minimum	n.r	n.r.	25 feet
Front Yard, Maximum	n.r	n.r	n.r.
Side Yard, Minimum	n.r	n.r.	15
Rear Yard, Minimum	n.r	n.r	25
Maximum Building Height	100 feet	100 feet	100 feet
Maximum Building Coverage	Nonresidential use: 90%; Residential or mixed use: 60%	95%	50%
Residential Density	75 dwelling units per acre	N	N

n.r. = no regulation N = prohibited use

SECTION 5.5 USABLE OPEN SPACE FOR APARTMENT BUILDINGS

Except in the Business C District and the Casino Overlay District, one (1) or more LOTs in common ownership containing a total of fifty (50) or more DWELLING UNITs in one (1) or more APARTMENT BUILDINGs shall provide twenty thousand (20,000) square feet of USABLE OPEN SPACE for the first fifty (50) DWELLING UNITs plus four hundred (400) square feet for each DWELLING UNIT in excess of fifty (50). This requirement may be modified or waived in the course of site plan review or special permit review.

SECTION 5.6 EXCEPTIONS TO MAXIMUM BUILDING HEIGHT

The City Council may grant a Special Permit to allow a steeple, monument, TOWER or other STRUCTURE not intended for occupancy to be erected to a greater height than specified in this Article, except that TOWERs for WIRELESS COMMUNICATIONS FACILITIES shall be subject to Section 6.1. This requirement of a special permit shall not apply to religious or educational Uses protected by the provisions of Section 4.6.

Article 6 Special Use Regulations

Section 6.0 Purpose

Section 6.1 Wireless Communications Facilities

Section 6.2 Adult Entertainment

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ARTICLE 6 SPECIAL USE REGULATIONS

SECTION 6.1 WIRELESS COMMUNICATIONS FACILITIES

Section 6.1.10 Intent

The purpose of this section is to establish standards for the siting of WIRELESS COMMUNICATIONS TOWERS and ANTENNAS and ancillary facilities. The goals of this section are to:

6.1.11 Protect residential ZONING DISTRICTS, residential USES, historic assets, and educational USES from potential adverse impacts of TOWERS and ANTENNAS;

6.1.12 Encourage the location of TOWERS on City owned property where appropriate or in other non-residential areas;

6.1.13 Minimize the total number of TOWERS throughout the community;

6.1.14 Strongly encourage the joint use of new and existing TOWER sites as a primary option and discourage construction of additional single-use TOWERS;

6.1.15 Encourage the USE of existing BUILDINGS, TELECOMMUNICATION TOWERS, light or utility poles and/or TOWERS, as opposed to construction of new TELECOMMUNICATION TOWERS;

6.1.16 Encourage users of TOWERS and ANTENNAS to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

6.1.17 Ensure that all TELECOMMUNICATION FACILITIES, including TOWERS, ANTENNAS and ANCILLARY FACILITIES are located and designed to minimize the visual impact on the immediate surroundings and throughout the community by encouraging users of TOWERS and ANTENNAS to configure them in a way that minimizes the adverse visual impact of the TOWERS and ANTENNAS through careful design, siting, landscape screening, and innovative camouflaging techniques;

6.1.18 Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

6.1.19 Consider the public health and safety of TELECOMMUNICATION TOWERS; and

6.1.100 Avoid potential damage to adjacent properties from TOWER failure through engineering and careful siting of TOWER STRUCTURES.

6.1.110 In furtherance of these purposes, the City shall give due consideration to its master plan, neighborhood plans, ZONING MAP existing land USES, and environmentally and historically sensitive areas in approving sites for the location of TOWERS and ANTENNAS.

Section 6.1.20 Definitions

As used in this section the following items shall have the meanings indicated:

ALTERNATIVE TOWER STRUCTURE. Man-made trees, clock towers, bell steeples, flag poles, and similar alternative-design mounting structures that camouflage or conceal the presence of ANTENNAS or TOWERS.

ANCILLARY FACILITIES. The BUILDINGS, cabinets, vaults, enclosures and equipment required for operation of telecommunication systems including but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.

ANTENNA. Any exterior or interior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), WIRELESS COMMUNICATIONS signals or other communication signals. Parabolic dish ANTENNAS used for satellite communications shall not be included within this definition.

CARRIER. A company that provides WIRELESS COMMUNICATION services.

CO-LOCATION. When two (2) or more WIRELESS COMMUNICATION CARRIERS locate an ANTENNA on the same WIRELESS COMMUNICATION TOWER.

FAA. Federal Aviation Administration.

FCC. Federal Communications Commission.

FUNCTIONALLY EQUIVALENT SERVICES. Cellular Radio, Personal Communication Service (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging, Commercial Land Mobile Radio and additional emerging technologies.

GUYED TOWER. A TOWER, which is supported or braced through the use of cables (guy wires) which are permanently anchored.

LATTICE TOWER. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

MONOPOLE. The type of WIRELESS COMMUNICATION TOWER that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel ANTENNAS.

MOUNT. The STRUCTURE or surface upon which ANTENNAS are mounted, including the following three types of mounts:

BUILDING MOUNT. Mounted on or in a BUILDING.

GROUND MOUNT. ANTENNA support (TOWER) mounted on the ground.

STRUCTURE MOUNT. Mounted on or in an existing STRUCTURE other than a BUILDING.

PERSONAL WIRELESS SERVICE FACILITY. A facility for the provision of personal WIRELESS COMMUNICATION services, as defined by the Telecommunications Act of 1996, as amended.

PRE-EXISTING TOWERS AND PRE-EXISTING ANTENNAS. Any TOWER or ANTENNA and ancillary facilities which has been lawfully erected prior to the effective date of this section (November 29, 2001), including permitted TOWERS or ANTENNAS and ANCILLARY FACILITIES that have been approved but have not yet been constructed so long as such approval is current and not expired.

RADIO FREQUENCY (RF) ENGINEER. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR). For the purposes of this section shall mean the emissions from personal WIRELESS COMMUNICATION FACILITIES or any electromagnetic energy within the frequency range from 0.003 MHZ to 300,000 MHZ.

STEALTH DESIGN. A WIRELESS COMMUNICATION facility that is designed or located in such a way that the facility is not readily recognizable as a WIRELESS COMMUNICATIONS FACILITY (see ALTERNATIVE TOWER STRUCTURE).

TELECOMMUNICATIONS BUFFER AREA. The area surrounding a telecommunications TOWER and ANCILLARY FACILITIES which lies between the TOWER and adjacent LOT LINEs and/or land uses.

TELECOMMUNICATIONS FACILITY. A facility designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various WIRELESS COMMUNICATION devices including transmission TOWERS, ANTENNAS and ANCILLARY FACILITIES. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio broadcasts are not TELECOMMUNICATION FACILITIES.

TELECOMMUNICATIONS OR TRANSMISSION TOWER or TOWER. The monopole or lattice framework designed to support transmitting and receiving ANTENNAS. For purposes of this section, amateur radio transmission facilities and facilities used exclusively for the transmission of television and radio signals are not TRANSMISSION TOWERS.

TOWER HEIGHT. When referring to a TOWER, the vertical distance measured from the lowest finished grade at the base of the TOWER to the highest point on the TOWER, even if said highest point is an ANTENNA.

WIRELESS COMMUNICATIONS. Any personal WIRELESS COMMUNICATION services as defined in the Federal Telecommunications Act of 1996, as amended, which includes FCC licensed commercial WIRELESS COMMUNICATIONS services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. It does not include any amateur radio facility that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only ANTENNAS, nor does it include non-cellular telephone service.

WIRELESS COMMUNICATIONS FACILITY or WIRELESS FACILITY. Shall mean the same thing as a TELECOMMUNICATIONS FACILITY.

Section 6.1.30 Applicability

6.1.31 New Towers and Antennas

All new WIRELESS COMMUNICATIONS TOWERS or ANTENNAS shall be subject to these regulations.

6.1.32 Pre-Existing Towers or Antennas

PRE-EXISTING WIRELESS COMMUNICATIONS TOWERS, PRE-EXISTING ANTENNAS AND ANCILLARY FACILITIES shall not be required to meet the requirements of this section absent of any enlargement and/or structural modification or the addition of any ANTENNAS.

6.1.33 Public Property

ANTENNAS or TOWERS located on property owned, leased or otherwise controlled by the City shall be encouraged, provided that a license or lease authorizing such ANTENNA or TOWER has been approved by the City Council. Said approved publicly owned sites utilized for the purpose of constructing TOWERS and/or ANTENNAS shall be treated as a USE by right, subject to Tier 2 Site Plan Review by the Planning Board. All information required for submission in a Special Permit application shall be required in such cases.

6.1.34 Amateur Radio Station Operators/Receive Only Antennas

This section shall not govern any TOWER, or the installation of any ANTENNA, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only ANTENNAS.

6.1.35 Satellite Dish Antennas

This section shall not govern any parabolic dish ANTENNAS used for transmission or reception of radio signals associated with satellites.

Section 6.2.40 General Requirements

6.1.41 Principal or Accessory Use

A different existing STRUCTURE or USE on the same LOT shall not preclude the installation of a WIRELESS COMMUNICATION facility on such LOT. If a TOWER and its ancillary facilities constitute the sole USE of the LOT, the TOWER shall be deemed to be the PRINCIPAL USE otherwise, the USE shall be considered accessory.

6.1.42 Leased Area

For purposes of determining whether the installation of a TOWER or ANTENNA complies with zoning regulations, including but not limited to setback requirements, LOT COVERAGE requirements, and other such requirements, the dimensions of the entire LOT shall control, even though the ANTENNAS or TOWERS may be located on leased parcels within such LOT.

6.1.43 State or Federal Requirements

All TOWERs must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate TOWERs and ANTENNAs. If such standards and regulations are changed, the owners of the TOWERs and ANTENNAs governed by this Section shall bring such TOWERs and ANTENNAs into compliance with such revised standards and regulations within ninety (90) days of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring TOWERs and ANTENNAs into compliance with such revised standards and regulations shall constitute grounds for the removal of the TOWER or ANTENNA at the owner's expense.

6.1.44 Building Codes: Safety Standards

To ensure the structural integrity of TOWERS, the owner of a TOWER shall ensure that it is maintained in compliance with standards contained in Massachusetts State Building Code 780 C.M.R., et. seq., as amended. If, upon inspection, the BUILDING COMMISSIONER concludes that a TOWER fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the TOWER, the owner shall have thirty (30) days to bring such TOWER into compliance with such standards. Failure to bring such TOWER into compliance within said thirty (30) days shall constitute grounds for the removal of the TOWER or ANTENNA at the owner's expense.

6.1.45 Non-Regulated Services

WIRELESS COMMUNICATIONS TOWERS and ANTENNAS shall be regulated and permitted pursuant to this Section and shall not be regulated or permitted as public utilities or private utilities.

6.1.46 Co-Location Required

This section mandates that carriers CO-LOCATE ANTENNAS on TOWERS and other STRUCTUREs whenever possible. See Section 6.1.90 for CO-LOCATION requirements.

6.1.47 Site Plan Required

Approval of the Site Plan shall be required for all new WIRELESS COMMUNICATIONS FACILITIES including modifications to or the addition of new WIRELESS COMMUNICATIONS FACILITIES to pre-existing TOWERs, BUILDINGs or other STRUCTUREs. Site plans for WIRELESS COMMUNICATION facilities allowed by right shall be reviewed by the Office of Planning and Economic Development through a Tier 1 Administrative Site Plan Review (Section 12.2). Site plans for WIRELESS COMMUNICATION facilities requiring a Special Permit shall be reviewed by the City Council as SPECIAL PERMIT GRANTING AUTHORITY through the Tier 3 City Council Special Permit Review (Section 12.4).

Section 6.1.50 Wireless Communication Facilities Allowed by Right Subject to Tier 1 Administrative Site Plan Review

6.1.51 Ground mounted WIRELESS COMMUNICATIONS facilities are allowed by right subject to Tier 1 Site Plan Review in Business A, Business B, Business B-1, Industrial A, and Industrial Park ZONING DISTRICTs provided the following conditions are met:

6.1.52 The facility does not exceed a height of sixty (60) feet in Business A, Business B, Business B-1, and Industrial Park; one hundred (100) feet in Industrial A.

6.1.53 The facility does not obstruct a public view of scenic interest, such as the Connecticut River, properties located within historic districts and/or listed on the National Register of Historic Places as determined by the Office of Planning & Economic Development.

6.1.54 The facility is not within three hundred (300) feet of, and visible from, the property boundaries of a school, place of worship, COLLEGE, public library, public conservation area, museum, CEMETERY, or property or district listed on the State Register of Historic Places, or from an American Heritage River.

6.1.55 The facility is not within three hundred (300) feet of, and visible from, a residential ZONING DISTRICT or a BUILDING containing one (1) or more DWELLING UNITS within a nonresidential ZONING DISTRICT.

6.1.56 WIRELESS COMMUNICATIONS FACILITIES mounted to an existing BUILDING or STRUCTURE are allowed by right in Business A, Business B, Business B-1, Business C, Industrial A, and Industrial Park ZONING DISTRICTS provided the facility and the BUILDING or STRUCTURE to which the facility is mounted does not exceed sixty (60) feet in Business A, Business B, Business B-1, and Industrial Park; one hundred (100) feet in Industrial A; four hundred (400) feet in Business C and provided the facility does not exceed the height of the BUILDING to which it is attached by more than twelve (12) feet.

Section 6.1.60 Wireless Communication Facilities Allowed By Special Permit

6.1.61 WIRELESS COMMUNICATIONS FACILITIES not allowed by right may be allowed by a Special Permit from the City Council pursuant to Section 12.4, except that:

A. WIRELESS COMMUNICATION TOWERS are not allowed in Business C.

B. Such facilities shall not obstruct a view of scenic interest as determined by the SPECIAL PERMIT GRANTING AUTHORITY.

C. Such facilities shall not be located within three hundred (300) feet of any STRUCTURE containing one (1) or more residences.

6.1.62 All ground mounted WIRELESS COMMUNICATION facilities shall be designed to accommodate at least three (3) carriers and shall not exceed the height of one hundred forty (140) feet in a residential zone and in Commercial A, one hundred fifty (150) feet in Business A and Business B, and two hundred (200) feet in Industrial A and Industrial Park.

6.1.63 All Special Permits are subject to the Review Criteria, Section 6.1.70, and Site Design Standards Applicable to all WIRELESS COMMUNICATION Facilities, Section 6.1.80, as well as to generally applicable standards for Special Permits and Site Plan Review, if relevant to an application.

Section 6.1.70 Special Permit Review Criteria

6.1.71 In addition to the above standards, the SPECIAL PERMIT GRANTING AUTHORITY upon the granting or denial of an application for a Special Permit shall cause those members voting with the prevailing side to set forth clearly the reason(s) for its decision, taking into consideration all of but not limited to the following factors:

A. Proximity of the telecommunications facility to residential STRUCTUREs, residential district boundaries, the property boundaries of a school, place of worship, college, public library, public conservation area, museum, cemetery, property or district listed on the State Register of Historic Places, or an American Heritage River.

B. Nature of uses on adjacent and nearby properties;

C. Surrounding topography;

D. Surrounding tree coverage and foliage;

E. Design of the TOWER, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness including STEALTH DESIGNS which are encouraged;

F. Availability of suitable existing TOWERS, alternative TOWER STRUCTUREs, other STRUCTUREs or alternative technologies not requiring the use of TOWERS or STRUCTUREs;

G. Availability of proposed TOWER to other potential carriers.

H. Adequacy of the setback or design of the facility to ensure the safety of persons or property in the event of collapse.

I. Availability of sites in other municipalities to meet the coverage requirements of those municipalities, if more than fifty percent (50%) of the coverage area is outside the City.

J. The visual impact of the proposed facilities, as documented by a visual impact analysis. See Section 6.1.111.B(8).

Section 6.1.80 Site Design Standards Applicable to all Wireless Communication Facilities

The following site design standards shall apply to WIRELESS COMMUNICATIONS FACILITIES:

6.1.81 New Towers

A. LATTICE TOWERS and guyed TOWERS are prohibited.

B. Setbacks:

1. GROUND MOUNTED WIRELESS COMMUNICATIONS FACILITIES shall be set back two hundred (200%) percent of the TOWER HEIGHT from the property boundaries of a school, place of worship, COLLEGE, public library, public conservation area, museum, CEMETERY, property or district listed on the State Register of Historic Places, an American Heritage River, a residential ZONING DISTRICT or a BUILDING containing one or more DWELLING UNITS within a nonresidential ZONING DISTRICT.

2. If the TOWER is of STEALTH DESIGN, the SPECIAL PERMIT GRANTING AUTHORITY may reduce the required setback but not less than one hundred (100%) percent of TOWER HEIGHT.

3. In no case shall a ground-mounted facility built as an ACCESSORY USE be allowed on any portion of the LOT between the PRINCIPAL BUILDING and the STREET.

C. Security fencing. TOWERS shall be enclosed by security fencing not less than eight (8) feet in height. Towers shall also be equipped with appropriate anti-climbing measures.

D. Landscaping. The following requirements shall govern the landscaping surrounding the TOWERS:

1. The BUFFER PLANTING STRIP shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound and be planted with evergreens at least six (6) feet high at planting and planted in staggered double rows five (5) feet on center.

2. In locations where the visual impact of the TOWER would be minimal, the landscaping requirement may be substituted elsewhere on the property or eliminated at the sole discretion of the SPECIAL PERMIT GRANTING AUTHORITY.

3. All landscape plantings must be continually maintained.

6.1.82 Ancillary Facilities

Any proposed ANCILLARY FACILITY shall not be more than twelve feet (12) in height. The ANCILLARY FACILITY shall be no more than three hundred sixty (360) square feet in area, and there shall be no more than three (3) such facilities located on the site. In the case of CO-LOCATION, a shared ANCILLARY FACILITY may be built to a height not to exceed twenty (20) feet and may contain a maximum of three hundred and sixty (360) square feet for each provider. Such ANCILLARY FACILITIES must satisfy the minimum ZONING DISTRICT setback requirements for ACCESSORY STRUCTUREs.

6.1.83 TOWERS shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

6.1.84 At a TOWER site, the design of the ANCILLARY FACILITIES shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding BUILDINGS.

6.1.85 Lighting

No exterior lighting is permitted except as follows:

A. The ANCILLARY FACILITIES enclosing electronic equipment may have one (1) light at the entrance to the BUILDING, provided that the light is attached to the BUILDING, is focused downward and is switched so that the light is turned on only when workers are at the BUILDING; and

B. No lighting is permitted on a TOWER except lighting that specifically is required by the FAA.

6.1.86 No SIGNS are permitted except those required by the FCC or by law, such as warning and equipment information SIGNS. Signs shall not exceed four (4) square feet.

6.1.87 Antennas Mounted on Existing Structures or Roof Tops

A. ANTENNAS on existing STRUCTURES. Any ANTENNA which is not attached to a TOWER may be attached to any existing BUILDING or STRUCTURE.

B. Side- and roof-mounted WIRELESS COMMUNICATION FACILITIES shall not project more than twelve (12) feet above the height of an existing BUILDING or STRUCTURE. WIRELESS COMMUNICATION facilities may be located on a BUILDING or STRUCTURE that is legally NONCONFORMING with respect to height, provided that the facilities do not project above the existing BUILDING or STRUCTURE HEIGHT.

C. The ANTENNA shall comply with all applicable FCC and FAA regulations.

D. The ANTENNA and ANCILLARY FACILITIES shall comply with the Massachusetts State Building Code 780 C.M.R., as amended.

E. The ANCILLARY FACILITY shall not contain more than three hundred sixty (360) square feet of gross FLOOR AREA or be more than twelve (12) feet in height.

F. The ANTENNA and ancillary facilities must be of a neutral color that is identical to, or closely compatible with the color of the supporting STRUCTURE so as to make the ANTENNA and related equipment as visually unobtrusive as possible.

G. ANTENNAS on existing TOWERS. An ANTENNA may be attached to an existing TOWER to minimize adverse visual impacts associated with the proliferation and clustering of TOWERS. CO-LOCATION of ANTENNAS by more than one (1) CARRIER on existing TOWERS shall take precedence over the construction of new TOWERS, provided such CO-LOCATION is accomplished in a manner consistent with the following:

1. A TOWER which is modified or reconstructed to accommodate the co-location of an additional ANTENNA shall be of the same TOWER

type as the existing TOWER, unless reconstruction as a MONOPOLE is proposed.

2. An existing TOWER may be modified or rebuilt to a taller height, not to exceed the maximum TOWER HEIGHT established by this Section, with approval from the SPECIAL PERMIT GRANTING AUTHORITY.

3. All ANTENNA mounts installed on existing TOWERS shall, to the extent technically feasible, match both style and type of the existing ANTENNA mounts.

SECTION 6.1.90 CO-LOCATION

6.1.91 The CITY requires that LICENSED CARRIERS share WIRELESS COMMUNICATION facilities and sites where feasible and appropriate, thereby reducing the number of WIRELESS COMMUNICATION facilities that are stand-alone facilities. All applicants for a special permit for a new WIRELESS COMMUNICATION facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

A. A survey of all existing STRUCTURES that may be feasible sites for CO-LOCATING WIRELESS COMMUNICATION facilities;

B. Notification by certified mail of intent to seek a Special Permit to all the other licensed carriers for commercial mobile radio services operating within five (5) miles of the site;

C Sharing information necessary to determine if CO-LOCATION is feasible under the design configuration most accommodating to co-location; and

D. A copy of a notice of Lease and affidavit of compliance with this section.

6.1.92 In the event that CO-LOCATION is claimed to be not technically feasible, a written statement of the reasons for the infeasibility shall be submitted to the Office of Planning and Economic Development. The Office of Planning and Economic Development may retain a technical expert in the field of RF ENGINEERING to verify if CO-LOCATION is not feasible or is feasible. The cost for such a technical expert will be paid by the applicant. The SPECIAL PERMIT GRANTING AUTHORITY may deny approval to an applicant that has not demonstrated a good faith effort to provide for co-location or CO-LOCATE on an existing WIRELESS COMMUNICATION TOWER.

6.1.93 If the applicant does intend to CO-LOCATE or to permit co-location, plans and elevations, which show the ultimate appearance and operation of the WIRELESS COMMUNICATION facility at full build-out shall be submitted.

6.1.94 All documentation shall be submitted with the application.

Section 6.1.100 Location Priorities

6.1.101 WIRELESS COMMUNICATION facilities shall be located and approved in accordance with the following prioritized locations listed below. Applicants shall demonstrate a good faith effort to locate a WIRELESS COMMUNICATION facility in a higher priority location in order to justify applying for a lower priority location.

A. The first priority shall be an existing BUILDING.

B. The second priority shall be an existing TOWER.

C. The third priority shall be a new TOWER on lands owned by the City of Springfield.

D. The forth priority shall be a new TOWER on land in an Industrial DISTRICT.

E. The fifth priority shall be a new TOWER on land zoned for business uses, excluding land in the Business C district

Section 6.1.110 Site Plan Submission Requirements

6.1.111 In addition to the submission requirements of Article 12, the following information shall be submitted:

A. Comprehensive Service Plan: In order to provide proper evidence that any proposed location of WIRELESS COMMUNICATIONS ANTENNAS (and any supporting TOWER and/or ANCILLARY FACILITIES enclosing related electronic equipment) has been planned to result in the fewest number of TOWERS within the City at the time full service is provided by the applicant throughout the City, the applicant shall submit a "Comprehensive Service Plan." Said Comprehensive Service Plan shall indicate how the applicant proposes to provide full service throughout the city. The Comprehensive Service Plan shall indicate the following:

1. Whether the applicant's subscribers can receive adequate service from existing ANTENNAS located inside or adjacent to the City;

2. How the proposed location of the ANTENNAS relates to the location of any existing network TOWERS within and/or near the City;

3. How the proposed location of the ANTENNAS relates to the anticipated need for additional ANTENNAS and supporting TOWERS within and/or near the City by the applicant;

4. How the proposed location of the ANTENNAS relates to the objective of CO-LOCATING the ANTENNAS of different service carriers on the same TOWER; and

5. How the proposed location of the ANTENNAS relates to the applicants overall objective of providing full WIRELESS COMMUNICATION services within the City while, at the same, limiting the number of TOWERS to the fewest possible.

B. A scaled site plan and other siting documents. The submittal documents shall clearly indicate the location, type and height of the proposed TOWER, on-site land USES and ZONING DISTRICT, adjacent land USES and ZONING DISTRICTS, adjacent STREETS, proposed means of access, setbacks from property lines, elevation drawings of the proposed WIRELESS COMMUNICATIONS facility and any other STRUCTURE, topography, parking and other information deemed by the SPECIAL PERMIT GRANTING AUTHORITY to be necessary to assess compliance with this section. In addition, the application shall contain the following:

1. Legal description of the entire tract and leased parcel (if applicable).

2. The setback distance between the proposed TOWER and the nearest DWELLING UNIT, residentially zoned properties, the property boundaries of a school, place of worship, COLLEGE, public library, public conservation area, museum, CEMETERY, or property or district listed on the State Register of Historic Places, or American Heritage River.

3. The separation distance, within one (1) mile, from other TOWERS and ANTENNAS.

4. A landscape plan showing specific landscape materials including, but not limited to, species type, size, spacing and existing vegetation to be removed or retained.

5. Method of fencing and finished color and, if applicable, the method of camouflage.

6. A notarized statement by the applicant as to whether construction of the TOWER will accommodate co-location of additional ANTENNAS for future users.

7. A letter of commitment to lease excess space to potential CARRIERS at prevailing market rates and conditions. The letter of commitment shall be filed with the Office of Planning and Economic Development prior to the issuance of any permit and shall commit the TOWER owner(s), property owner(s) and their successors in interest.

8. A visual impact study containing, at a minimum, a photographic simulation showing the appearance of the proposed TOWER, ANTENNAS, and ANCILLARY FACILITIES and sight lines from at least five points within a one (1) mile radius. Such points shall be chosen by the CARRIER with review and approval by the Office of Planning and Economic Development designee to ensure that various potential views are represented. Sight lines and photographs shall be shown as follows:

   a. Sight line representation. Sight line representations shall be drawn from the closest public roads and the closest residential BUILDINGS (viewpoint) to the highest point (visible point) of the WIRELESS COMMUNICATION facility. Each sight line shall be depicted in profile, drawn at one inch equals forty (40) feet. The profiles shall show all intervening trees and BUILDINGS.

   b. Existing (before condition) photographs. Each sight line shall be illustrated by one (1) four-inch by six-inch (4" x 6") color photograph of what can currently be seen.

   c. Proposed (after condition). Each of the existing condition photographs should have the proposed WIRELESS COMMUNICATION facility superimposed on it to show what will be seen from public roads if the proposed WIRELESS COMMUNICATION facility is built, including ANTENNA(s), mount(s), equipment shelters,

cables as well as cable runs, and security barriers, if any, for the total height, width and breadth.

C. An analysis of the RADIO FREQUENCY RADIATION (RFR) levels at the facility as a means of assessing compliance with the FCC Radio Frequency safety criteria. This analysis shall:

1. Take into consideration all co-located radio transmitting ANTENNAS and/or nearby ANTENNAS that could contribute to RFR levels at the facility.

2. Be performed and stamped by a RF ENGINEER.

3. Follow current methods recommended by the FCC for performing such analyses.

Section 6.1.120 Monitoring and Maintenance

6.1.121 After the WIRELESS COMMUNICATIONS TOWER is operational, the applicant shall submit, within ninety (90) days of beginning operations, and at annual intervals from the date of issuance of the BUILDING PERMIT, existing measurements of RFR from the WIRELESS COMMUNICATIONS facility. Such measurements shall be signed and certified by a RF ENGINEER, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Standards section of this section, as amended.

6.1.122 The applicant and co-applicant shall maintain the WIRELESS COMMUNICATIONS facilities in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

Section 6.1.130 Abandonment or Discontinuation of Use

6.1.131 At such time that a licensed CARRIER plans to ABANDON or discontinue operation of a WIRELESS COMMUNICATIONS facility, such CARRIER shall notify the BUILDING COMMISSIONER by certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a licensed CARRIER fails to give such notice, the WIRELESS COMMUNICATIONS facility shall be considered abandoned upon discontinuation of operations.

6.1.132 Upon ABANDONMENT or discontinuation of use, at the option of the BUILDING COMMISSIONER, the CARRIER shall physically remove the WIRELESS COMMUNICATIONS facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not limited to:

A. Removal of ANTENNAS, mount, ANCILLARY FACILITIES and security barriers for the subject property.

B. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

C. Restoring the location of the WIRELESS COMMUNICATIONS facility to its pre-development condition, except that any landscaping and grading shall remain in the after-condition.

D. If a CARRIER fails to remove a WIRELESS COMMUNICATIONS facility in accordance with this section, the BUILDING COMMISSIONER shall have the authority to enter the subject property and physically remove the facility. The BUILDING COMMISSIONER shall require the applicant to submit an Irrevocable Letter of Credit prior to issuing a BUILDING PERMIT to cover costs for the removal of the WIRELESS COMMUNICATIONS facility in the event the City must remove the facility.

SECTION 6.2 ADULT ENTERTAINMENT

Section 6.2.10 Purpose and Findings

6.2.11 Purpose

The purpose of this Section is to regulate adult entertainment and sexually oriented businesses in order to promote the health, safety and general welfare of the citizens of Springfield and surrounding communities. The provisions of this Section have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. It is neither the intent nor the effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment.

6.2.12 Findings

Based on evidence concerning the adverse secondary effects of ADULT ENTERTAINMENT uses on the community presented in hearings and reports made available to the City Council, and on findings incorporated in the cases of City Council of Erie v. Pap's A.M., 529 U.S. 277 (2000); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); City of Renton v. Paytime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, U.S. 50 (1976); and other studies in other communities including, but not limited to Phoenix, Arizona; Minneapolis, Minnesota; St. Paul,

Minnesota; Houston, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Dallas, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; and St. Croix County, Wisconsin, the City Council finds:

A. Adult entertainment and sexually oriented businesses lend themselves to ancillary, unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.

B. Employees of adult entertainment and sexually oriented businesses engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

C. Sexual acts occur at adult entertainment and sexually oriented businesses.

D. Adult entertainment and sexually oriented businesses encourage illicit sexual acts which create unhealthy conditions.

E. At least fifty (50) communicable diseases may be spread by activities occurring in adult entertainment and sexually orientated businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus (HIV-AIDS), genital herpes, hepatitis B, salmonella infections and shingella infections.

F. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (Acquired Immunodeficiency Syndrome) caused by the human immunodeficiency virus (HIV) in the United States.

G. The findings noted in subsections A. through F. raise substantial governmental concerns.

H. Adult entertainment and sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns and, where necessary, should be banned or eliminated where they are or have been causing effects which are harmful to the health, safety and welfare of the citizens of Springfield and the surrounding communities.

I. The general welfare, health and safety of the citizens of the City will be promoted by the enactment of this Ordinance.

Section 6.2.20 General

Uses listed in Section 6.2.30 are allowed by Special Permit in accordance with Tier 3 process described in Section 12.4. in Business A, Business B, and Business C and no other districts, subject to provisions of this Section and the Table of Uses in Table 4-4.

Section 6.2.30 Definitions

ADULT ENTERTAINMENT. A USE which is intended to provide sexual stimulation or gratification, including but not limited to, all of the following:

ADULT BOOKSTORE. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L., Chapter 272, Section 31. For the purpose of this Ordinance, the term "substantial or significant portion" means that more than ten (10) percent of the total FLOOR AREA or stock is devoted to the items listed above.

ADULT BOOTH. An enclosed or partitioned area inside an adult oriented establishment which is: (a) designed or used for the viewing or listening of adult material by one (1) or more persons and (b) is accessible to any person, regardless of whether a fee is charged for access. The term "Adult Booth" includes, but is not limited to, a "peep show" booth or other booth used to view or listen to adult material (including, but not limited to, videotapes, audiotapes, films, CD-ROMs, DVDs or internet access).

ADULT CABARET. See ADULT DANCING /ENTERTAINMENT ESTABLISHMENTS.

ADULT DANCING. Any dancing which exposes to view by patrons or spectators on the premises at any time the specified anatomical areas and/or specified sexual activities, as defined in this Ordinance.

ADULT DANCING /ENTERTAINMENT ESTABLISHMENTS. An establishment, including but not limited to, a restaurant (eating and drinking establishments), lounge, dance hall, nightclub or other such place whose business includes the offering to customers of live entertainment wherein employees, agents, servants, independent contractors or other customers perform dance routines and/or display or expose specified anatomical areas, offered as adult oriented entertainment for viewing by patrons or spectators on the premises and characterized by the emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT MOTEL. A motel or similar establishment with the word "adult" or otherwise that advertises the presentation of adult material, offering public accommodations for any form or consideration which provides patrons with closed circuit television transmission, internet access, films, motion pictures, video cassettes, slides, CD-ROMs, DVDs or other photographic

reproductions for the primary purpose of sexual gratification or as related to specified sexual activities.

ADULT MOTION PICTURE THEATER. An enclosed BUILDING used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L, Chapter 272, Section 31. This definition includes, but is not limited to, adult arcade, adult mini-motion picture theater, adult booth(s), and adult drive-in theaters.

ADULT PARAPHERNALIA STORE. An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

ADULT VIDEO STORE. An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

MASSAGE PARLOR. An establishment providing massages by persons other than a licensed health care professional, including activities that rub, stroke, knead or tap the body with the hand or an instrument or both for the purpose of or engaging in sexual gratification or as related to specified sexual activities. This definition also includes those activities listed within "Sexual Encounter Center". However, massages as used in this Ordinance shall not apply to the activity of any person who is registered or licensed by the United States Government or any agency thereof or by the Commonwealth of Massachusetts or any agency thereof, while such person so registered or licensed is performing the services for which the registration or license was issued and during the period of time said registration or license is in effect.

SEXUAL ENCOUNTER CENTER. An establishment whose primary or accessory business is the provision on premises where customers either congregate, associate or consort with employees, agents, servants, independent contractors or other customers who engage in specified sexual activities in the presence of such customers or who display specified anatomical areas in the presence of such customers with the intent of providing sexual stimulation or sexual gratification appealing to adult sexual interests.

SPECIFIED ANATOMICAL AREAS. Including, but not limited to, less than completely and opaquely covered: (a) human genitals or pubic region; (b) the cleavage of the human buttock; (c) any portion of the human female breasts below a horizontal line across the top of the areola at its highest point, the entire lower half of the human female breast, not including cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing

apparel provided that the areola is not exposed in whole or in part; and (d) human male genitals in a discernable turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Including, but not limited to, human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks or human breast(s); flagellation or torture on the context of a sexual relationship; masochism, erotic or sexually oriented torture, beating or the infliction of pain; erotic touching, fondling or other such contact with an animal by a human being; excretory functions as part of or in connection with any of the activities listed herein.

Section 6.2.40 Location

6.2.41 Required Separation from Districts and Uses

No LOT occupied, or to be occupied, by an ADULT ENTERTAINMENT use shall be located within a seven hundred (700) foot radius from any of the following:

A. Any Residential ZONING DISTRICT;

B. A BUILDING containing residences;

C. A school, place of worship, public library or public park; or

D. Any other ADULT ENTERTAINMENT use as defined herein.

6.2.42 Method of Measurement of Distances

The distances required by this section shall be measured from the closest property line occupied, or to be occupied, by an ADULT ENTERTAINMENT use to the closest property line occupied by a protected use, ZONING DISTRICT or another ADULT ENTERTAINMENT use. For the purpose of this Section, the term protected USE includes, but is not limited to, residential ZONING DISTRICTS, BUILDINGS containing residences, grounds of a school, place of worship, public library or public park.

SECTION 6.2.50 ADULT ENTERTAINMENT REGULATIONS

6.2.51 Prohibition of Physical Contact

While on the premises of an ADULT ENTERTAINMENT use, no employee, agent, servant, independent contractor or other customer shall be permitted to have physical contact with any other ADULT ENTERTAINMENT employee, other employee, patron or spectator while the employee, agent, servant, independent contractor or other customer is entertaining, dancing or otherwise involved in the display of or exhibition of SPECIFIED ANATOMICAL AREAS or SPECIFIED SEXUAL ACTIVITIES.

6.2.52 Exterior Display

No ADULT ENTERTAINMENT use shall be conducted in any manner that permits the observation of any material depicting or relating to SPECIFIED ANATOMICAL AREAS or SPECIFIED SEXUAL ACTIVITIES from any public or private way, parking area or adjacent properties. This provision shall apply to any display, signage, show window or opening.

6.2.53 Sign Requirements

SIGN content shall identify the name of the establishment only and shall contain no advertisement in addition to the identification of the use. Only one (1) identification SIGN, to be mounted on the BUILDING wall face, shall be allowed for an ADULT ENTERTAINMENT use. All other SIGNS whether on the exterior of the BUILDING or visible from the exterior of the BUILDING are prohibited. No ADULT ENTERTAINMENT use shall have any flashing lights visible from the exterior of the use. Furthermore, no SIGN shall rotate or contain reflective or florescent elements. See Article 9 for additional SIGN regulations.

6.2.54 Non-Conforming Uses:

Any ADULT ENTERTAINMENT use in existence as of the effective date of this ordinance, which is in violation hereof, shall be deemed a non-conforming use. Such non-conforming uses shall not in any manor be enlarged, altered or rebuilt.

Section 6.2.60 Limitation for Minors

Any now existing retailer who is engaged in the sale and/or rental of ADULT ENTERTAINMENT books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials shall cover the front page of said books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials or shall maintain a separate viewing and sales area for the rental and/or sale of said books, periodicals, magazines, films, video tapes, CD-ROMs, DVDs, audiotapes or other printed or pictorial materials as defined by this Ordinance so as to prevent minors from viewing or entering said ADULT ENTERTAINMENT area.

Section 6.2.70 Violation

Whoever disseminates to a minor any matter harmful to minors, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be in violation of this Ordinance. For the purposes of this Ordinance, "a minor" is a person under eighteen years of age. Matter is harmful to minors if it is obscene or if taken as a whole, it (a) describes or represents nudity, sexual conduct or sexual excitement, so as to appeal predominantly to the prurient interest of minors; (b) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors;

and (c) lacks serious literary, artistic, political or scientific values for minors. It shall be a defense under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense that the defendant was a bonafide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

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Article 7 Site Regulations

Section 7.0 *Purpose*

Section 7.1 *Off-street Parking*

Section 7.2 *Off-street Loading*

Section 7.3 *Access and Circulation*

Section 7.4 *Landscaping, Screening and Fencing*

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ARTICLE 7 SITE REGULATIONS

SECTION 7.0 PURPOSE

The purpose of this Article is to establish site planning standards. In combination with Article 5, these provisions will help an applicant layout a site based on requirements for OFF-STREET PARKING, LANDSCAPING and SCREENING that are needed.

SECTION 7.1 OFF-STREET PARKING

Section 7.1.10 Off-street Parking Approach

The purpose of this section is to establish flexible regulations designed to ensure that adequate parking is provided for a particular use, taking into consideration its location and the type of neighborhood in which it is located. The number and location of parking spaces associated with a USE has a significant effect on the urban design quality of a place. This section balances the need for adequate parking with the need to avoid the negative impacts of highly visible parking lot construction, fitting parking facilities into the urban fabric in a manner that strengthens the City's economy and improves its appearance.

Section 7.1.20 Applicability

Section 7.1 shall apply in all ZONING DISTRICTS, except that there shall be no OFF-STREET PARKING requirement imposed within the Business C District for non-residential USES.

Section 7.1.30 Number of Off-street Parking Spaces by Use Category

7.1.31 The presumptive parking requirements for land uses established below are intended to be adapted and modified to reflect the particular characteristics of a specific USE and the neighborhood in which it is located.

7.1.32 The requirements in Table 7-1 may be reduced in the course of Site Plan or Special Permit review based upon information presented by the applicant and city agencies. The applicant's own estimate of parking demand, based upon the type of USE involved and its location, shall be given substantial deference. Other relevant considerations include:

A. The availability of public transportation;

B. Whether the subject property lies within walking distance from shopping, employment, restaurants, housing, schools, and other trip destinations;

C. The availability of shared parking with binding agreements to secure its long-term availability;

D. The availability of safely usable on-street parking,

E. The provision of bicycle storage facilities, showers, lockers and related facilities to encourage bicycling; and

F. The establishment of transportation demand management measures to reduce automobile use.

7.1.33 In addition, "Parking Generation, 3d edition" (2004) published by the Institute of Transportation Engineers and "Shared Parking Planning Guidelines" (ITE 1995) or any subsequent editions of both documents, may be consulted for non-binding guidance in establishing appropriate parking requirements for a particular use.

7.1.34 For uses that are not listed in Table 7-1 below, there shall be no presumptive parking requirement and parking requirements shall be established at the time of Site Plan or Special Permit Review, based upon the criteria in Section 7.1.32 and 7.1.33.

7.1.35 If the USE category is allowed by right, and an applicant is applying for a BUILDING PERMIT under Section 11.1, then the applicant may request a Tier 1 Administrative Site Plan Review (Section 12.2) to change the presumptive parking requirements.

7.1.36 The term FLOOR AREA in Table 7-1 means NET FLOOR AREA and fractions should be rounded down to the closest whole number.

7.1.37 For developments with more than one (1) USE, parking shall be the cumulative parking requirements for all USES unless applicant provides evidence for a lower amount in accordance with 7.1.32.

7.1.38 Section 7.1.60 below includes additional parking alternatives.

Table 7-1 Presumptive Required Off-street Parking	
Use Categories	**Presumptive Parking Requirements by Use Category (square feet = Net Floor Area)**
Residential Uses	
Single-family Dwelling	2 per dwelling unit
Two-family Dwellings	3 spaces (1.5 per unit)
Bed and Breakfast	1 space per bedroom
Multifamily Dwellings	1 space per studio or 1-bedroom unit 1.5 spaces/unit per 2-bedroom unit or larger
Educational, Religious, Charitable and Cultural Uses	
Community or Social Service and Municipal Offices	1 space per 200 sq. ft. of NET FLOOR AREA
CHILD CARE Service • FAMILY CHILD CARE/LARGE FAMILY CHILD CARE • CHILD CARE CENTER • School Aged child care program	 None 2 per 700 square feet NET FLOOR AREA 1 per employee
Educational Services, not a school (e.g., tutoring or similar services)	2 space per 1,000 sq. ft. NET FLOOR AREA
Group Home	Less than 6 beds: 3 spaces 6 or more beds: 1 space per 3 residents, plus 1 per employee
Group Residential Facility	1 per 2 beds.
Hospitals	1 space for every 2 hospital beds.
Religious Institutions and Houses of Worship	1 space per every 5 seats or parishioners in main assembly hall
Schools	

Table 7-1 Presumptive Required Off-street Parking	
Use Categories	**Presumptive Parking Requirements by Use Category (square feet = Net Floor Area)**
• Elementary, middle, junior-high schools • High schools: • Colleges	1 space per classroom 7 per classroom 1 space per faculty/0.5 spaces per student
Commercial Categories	
Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys)	3 space per 1,000 sq. ft NET FLOOR AREA
Lodging (hotels, motels, inns)	0.75 per rentable room; for associated uses, such as restaurants, entertainment uses, and bars, see those uses
Medical Offices	3 spaces per 1,000 square feet NET FLOOR AREA
Motor Vehicle Repair.	2 spaces, plus one space per service bay or as determined by Site Plan/Special Permit Review
Office Uses (non-medical) Includes Banks and financial institutions	2 spaces per 1,000 sq. ft. NET FLOOR AREA
Personal Services	2 spaces per 1,000 sq. ft.
Retail Sales and Service	4 spaces per 1,000 sq. ft NET FLOOR AREA
Bulk Retail Sales and Service (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales)	1 per 1,000 sq. ft. NET FLOOR AREA
Restaurants	8 spaces per 1,000 sq. ft. NET FLOOR AREA
Theaters and Cinemas	1 per 6 seats
Funeral Parlor	5 spaces per viewing room
Industrial Categories	
Industrial Service	1 space per 1,000 sq. ft. of NET FLOOR AREA

Table 7-1 Presumptive Required Off-street Parking	
Use Categories	**Presumptive Parking Requirements by Use Category (square feet = Net Floor Area)**
Manufacturing and Production	1 space per 1,000 sq. ft. of NET FLOOR AREA
Warehouse and Freight Movement	0.5 space per 1,000 sq. ft. of NET FLOOR AREA
Waste/Refuse Related	Site Plan/Special Permit Review
Wholesale Sales	
Fully enclosed	1 space per 1,000 sq. ft. NET FLOOR AREA
Not enclosed	Site Plan/Special Permit Review
Other Categories	
Uses not listed here	Determination by the Building Commissioner or his/her designee.

Section 7.1.40 Dimensions of Off-street Parking Spaces

7.1.41 In a parking lot or parking BUILDING at least fifty (50) percent of the parking spaces must be eight and one-half (8 ½) feet wide by eighteen (18) feet deep. The remaining parking spaces may be eight (8) feet by sixteen (16) feet to accommodate smaller cars.

7.1.42 These parking space sizes are exclusive of driveways and aisles which must have direct access to a STREET or alley. Aisle widths are shown on Table 7-2.

7.1.43 Bumper or wheel guards shall be provided to keep cars from hanging over the public right-of-way or pedestrian facilities.

Table 7-2 Dimensional Requirements for Parking Drive Aisles	
Angle of Parking	**Minimum Aisle Width**
Parallel	12 feet
45°	13 feet
60°	17 feet

Table 7-2 Dimensional Requirements for Parking Drive Aisles	
Angle of Parking	**Minimum Aisle Width**
90°	23 feet

Section 7.1.50 Design of Off-street Parking Areas

7.1.51 Applicability

This Section applies to all USES other than SINGLE-FAMILY and TWO-FAMILY DWELLINGS.

7.1.52 Location of Required Parking

A. The location of OFF-STREET PARKING shall be determined by the character of the immediate neighborhood where a particular USE is proposed to be located (the "Use"). In order to maintain a pedestrian friendly neighborhood where OFF-STREET PARKING is primarily located behind or to the side of a principal BUILDING and to encourage the extension of these types of neighborhoods in connection with proposed new development, OFF-STREET PARKING shall be located behind or to the side of the principal BUILDING when the dominant character of the immediate neighborhood is such that OFF-STREET PARKING is located primarily behind or to the side of BUILDINGS. There are numerous locations in neighborhoods throughout the City where it is inappropriate to require that OFF-STREET PARKING to be located behind or to the side of the principal BUILDING because of the dominant character of the immediate neighborhood where OFF-STREET PARKING is primarily located in front of BUILDINGS. For purposes of determining the dominant character of the immediate neighborhood with respect to the location of OFF-STREET PARKING, the location of OFF-STREET PARKING servicing parcels of land with BUILDINGS and other improvements (“Parcels”) located along the public way where the USE is located on the same side of the street and within one thousand (1,000) feet of each property line of the LOT where the USE is located shall constitute the immediate neighborhood with respect to such USE (the "Immediate Neighborhood"). Vacant lots shall not be counted and the Immediate Neighborhood shall consist of one thousand (1,000) feet of Parcels measured from each property line. The determination of the dominant character of the Immediate Neighborhood with respect to OFF-STREET PARKING shall be based upon the following:

1. If the total number of linear feet of Parcels in the Immediate Neighborhood on either side of the LOT where OFF-STREET PARKING is located within the front of the BUILDING is greater than the number of linear feet of Parcels in the Immediate Neighborhood on either side of the LOT where OFF-STREET PARKING is located behind or to the side of the BUILDING, OFF-STREET PARKING in front of the BUILDING shall constitute the dominant character of the Immediate Neighborhood.

2. If Section 7.1.52.A.1 above is not satisfied, OFF-STREET PARKING behind or to the side of the BUILDING shall constitute the dominant character of the Immediate Neighborhood.

3. Where OFF-STREET PARKING is permitted in the front of the BUILDING, the applicant shall establish all required buffers as outlined in Section 7.1.53 below.

4. In the event of any dispute as to the character of the Immediate Neighborhood in relation to the location of OFF-STREET PARKING, the BUILDING COMMISSIONER shall be responsible for resolving any such dispute consistent with the provisions of Section 7.1.52.A.

C. Required OFF-STREET PARKING shall be provided either on the same LOT as the PRINCIPAL USE it is intended to serve, or on a LOT that is in the same ownership as the PRINCIPAL USE and located within three hundred (300) feet of it. OFF-STREET PARKING may be located on leased property within three hundred (300) feet if evidence of an executed lease is presented with an application.

D. OFF-STREET PARKING shall be clearly marked or striped which shall be maintained over time.

E. Parking required for two (2) or more BUILDINGS or USES may be provided in combined OFF-STREET PARKING facilities where such facilities will continue to be available for such BUILDINGS or uses.

7.1.53 Interior Parking Lot Landscaping and Design

A. Parking lots shall be designed and landscaped to avoid long, uninterrupted rows of vehicles by breaking them into separate parking lots divided by tree lines, alleys, pedestrian areas, or BUILDINGS. Parking lots containing more than seventy (70) spaces shall be divided into smaller areas by

landscaped islands at least ten (10) feet wide located no more than one hundred and twenty (120) feet apart.

B. All islands shall be planted with three inch (3") minimum caliper shade trees native to the region or otherwise proven to be able to withstand conditions in urban parking lots, with at least one (1) tree for every thirty (30) linear feet of island.

C. Parking lots containing less than sixty (60) spaces shall provide at least one (1) three (3) inch minimum caliper shade tree per fifteen (15) spaces. In addition, all parking lots and vehicle display areas shall have a minimum of a three (3) foot landscaped buffer between the parking lot and the abutting sidewalks or STREET.

D. These requirements may be reduced and/or altered through the course of Site Plan Review.

7.1.54 Perimeter Screening of Off-street Parking Areas

A. OFF-STREET PARKING that adjoins LOTS in Residential Districts shall be screened from such Residential LOTS, as follows:

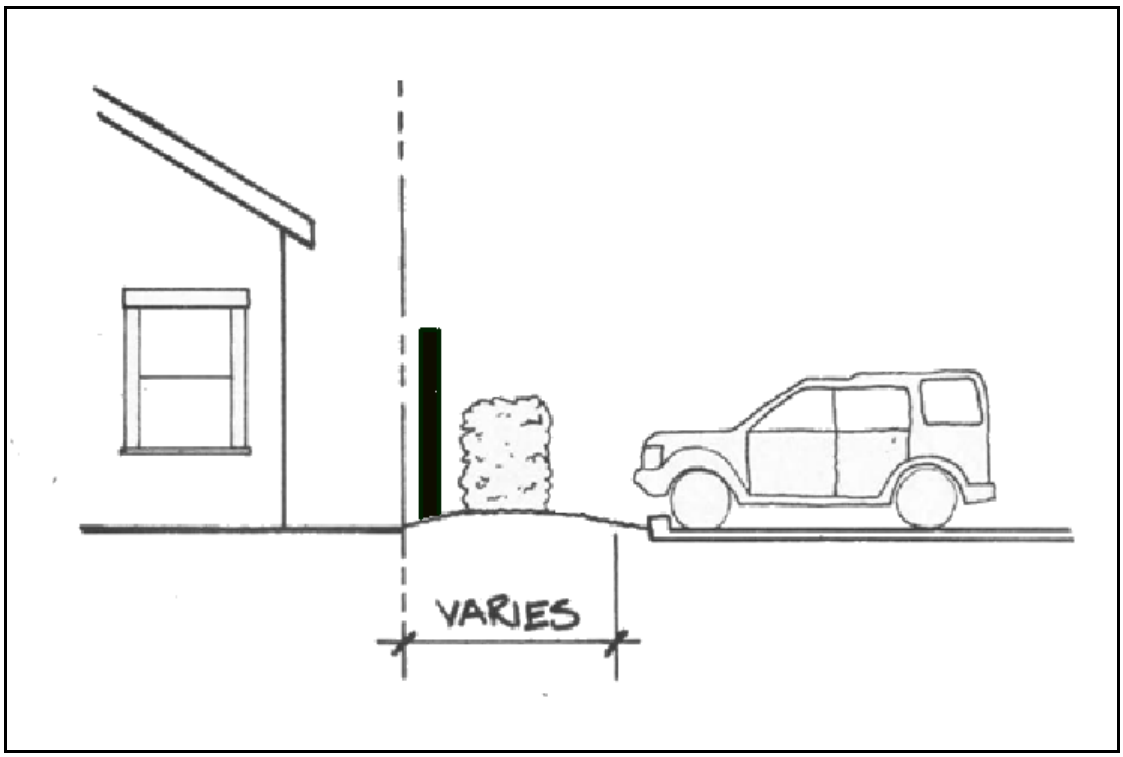
1. All illumination located in on OFF-STREET PARKING lots shall be shielded to avoid shining on abutting or other properties.

2. Such OFF-STREET PARKING shall use a BUFFER PLANTING STRIP consisting of a pervious landscaped surface, at least as wide as designated in Table 7-3 for buffers between adjoining ZONING DISTRICTS.

3. Such BUFFER PLANTING STRIP shall be landscaped for its full length and width and give maximum protection to an abutting property or district while also meeting the requirements for SIGHT TRIANGLE AREA described in Section 5.2.70.

4. The required screen shall be permanently maintained. It shall consist of dense evergreens, or an approved equal, not less than four (4) feet in height, and an appropriate wall or solid FENCE, not less than four (4) feet in height. (See Figure 7-1)

Figure 7-1 Buffer Planting Strip



B. Residential USES which abut or are across the STREET from an OFF-STREET PARKING lot shall be protected from headlight glare by either:

1. A BUFFER PLANTING STRIP of at least seven (7) feet wide, densely planted with shrubs or trees which are at least three (3) feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen.

2. Such screening shall be maintained in good condition at all times, and may be interrupted by normal entrances or exits.

7.1.55 Construction and Maintenance of Off-street Parking Lots

A. OFF-STREET PARKING lots shall be surfaced with bituminous concrete or its equal and properly maintained with adequate drainage. Parking spaces must be clearly marked and striped. Surfacing, grading, and drainage shall facilitate groundwater recharge in order to reduce stormwater runoff. All parking plans shall be reviewed and approved by the DEPARTMENT OF PUBLIC WORKS.

7.1.56 Lighting

A. Lighting within parking lots shall be on poles of twenty (20) feet maximum height, with color corrected lamps and cut-off luminaires designed to minimize glare and light pollution.

7.1.57 Nonconforming Parking Lots

A. NONCONFORMING parking lots shall be brought into conformity with this Section 7.1.30 to the extent practical whenever a Site Plan or Special Permit application is filed for either:

1. The expansion of a USE by more than twenty-five (25) percent gross FLOOR AREA, expansion of the parking area by more than twenty-five (25) percent of the number of parking spaces or

2. A new USE that will require an increase of more than twenty-five (25) percent in the number of parking spaces.

Section 7.1.60 Alternative Parking Solutions

7.1.61 Shared Parking

A. Where an application for a BUILDING PERMIT, Site Plan Approval, or Special Permit proposes shared parking with one (1) or more other separately owned properties and such shared parking has been approved, the owners of the properties shall enter into a legal agreement guaranteeing access to, use of, and management of designated shared parking spaces.

B. The agreement shall be in a form approved by the City Law Department and shall be included as an enforceable condition of any BUILDING PERMIT, Site Plan approval, or Special Permit.

7.1.62 Reduction of Parking Requirements for Providing Interconnections or Dedication of Land

A. Parking requirements may be reduced at the discretion of the reviewing authority where adjoining parking areas are connected directly to one another or to a service road or alley to reduce turning movements onto roads.

Section 7.1.70 Parking of Trucks, Buses, and Commercial Vehicles

7.1.71 Parking stalls for trucks, buses, or other commercial vehicles exceeding either seven and a half (7 ½) feet in width or eighteen (18) feet in length shall be located at least one hundred (100) feet from the nearest DWELLING UNIT in a residential district.

7.1.72 Stalls for such vehicles shall be specifically identified in the site plan, and shall be of such dimensions as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the stalls so identified and approved.

SECTION 7.2 OFF-STREET LOADING

The specific loading requirements for a particular proposed USE shall be established through the Special Permit and /or Site Plan Review process based upon the operational characteristics of the use. Within the Business C District, OFF-STREET LOADING shall only be required if it is a practical option due to the availability of adequate space in a rear parking lot or alley.

Section 7.2.10 Layout of Loading Facilities

7.2.11 Each loading space shall be not less than ten (10) feet in width, fourteen (14) feet in height, and of such length that a truck or trailer occupying such a space shall be located entirely on the LOT with the BUILDING it is to serve, and shall not extend into sidewalks or the STREET.

7.2.12 Loading spaces may not include any of the required parking area. However, access ways and aisles may be used in common approaches to both parking areas and loading areas where approaches to both parking areas and loading areas are adequate for both.

SECTION 7.3 ACCESS AND CIRCULATION

Section 7.3.10 Driveway and Access Location Standards

7.3.11 Access to Off-street Parking areas

A. No area used for OFF-STREET PARKING or vehicle storage shall directly abut a STREET unless separated from the STREET or highway by a raised curb, planting strip, wall, or other effective barrier.

B. No LOT shall have more than two (2) access ways to any one (1) public STREET for each five hundred (500) feet of FRONTAGE. ACCESS DRIVES

must have a minimum of twenty (20) feet width but shall not be more than thirty-five (35) feet in width.

C. Parking stalls in OFF-STREET PARKING lots shall be set back from the FRONT LOT LINE, a minimum of three (3) feet to avoid the probability of cars backing or otherwise maneuvering on the sidewalk upon entering or leaving the stalls.

D. Curbs shall be provided to prevent MOTOR VEHICLEs from being parked within required YARD areas, or beyond the boundaries of the LOT where no YARD is required.

E. In accordance with a Tier 2 Site Plan Review (Section 12.3) the Planning Board may authorize, but not require, the owners of adjoining properties to establish common driveways under reciprocal easements provided that any such Special Permit shall not become effective until the easement has been recorded, notwithstanding the provisions above.

7.3.12 Access to Multi-Family Dwellings

A. In conformance with Section III-C of the Subdivision Rules and Regulations, the Planning Board shall determine the requirements for adequate access to each BUILDING. This includes the construction characteristics of the access driveways. In no case shall an access driveway or DRIVE be less than twenty (20) feet in paved width.

B. Principal criteria to be considered in this Site Plan Review are:

1. The distance from each BUILDING to the nearest way providing access. Generally, no rear wall of any BUILDING shall be more than three hundred (350) feet from a STREET built to City standards and no BUILDING shall exceed three hundred (300) feet in length.

2. Number of DWELLING UNITs or PARKING SPACES to be served by the way.

3. Accessibility to fire and other emergency or service vehicles.

Section 7.3.20 Accessory Drive-through Facilities

7.3.21 Except in the Business D District, no ACCESSORY DRIVE-THROUGH FACILITIES shall be located in the REQUIRED FRONT YARD. Further, no ACCESSORY DRIVE-THROUGH FACILITIES shall be located in any REQUIRED SIDE OR REAR YARD if

abutting a residential district. These requirements may be waived if it is determined that these requirements would make the accessory drive-through infeasible. This determination shall be made taking into account the required configuration of the building and related drive-through structure in order to provide drive-through services in relation to the size, shape and topography of the lot where such USE is proposed to be carried out. This prohibition applies to Structures, stacking lanes, and other related facilities.

7.3.22 This Section shall not prevent ACCESS DRIVES to DRIVE-THROUGH facilities from crossing such REQUIRED YARDS to gain access to properly located STRUCTUREs, stacking lanes, and other facilities.

SECTION 7.4 FENCING, LANDSCAPING, AND SCREENING

Section 7.4.10 Purpose & Applicability

In order to buffer adjacent land USES of different intensities and promote public health and safety, this Section provides standards for fencing, landscaping, screening and buffering design. The screening of OFF-STREET PARKING areas is covered in Section 7.1.

Section 7.4.20 Fences and Vegetative Barriers

7.4.21 In any Residential District, a fence higher than six (6) feet shall require a Tier 3 Special Permit. The same requirement shall apply to such a fence in excess of eight (8) feet, located within a Business District, if said fence is located within ten (10) feet of the property line of a residential use.

7.4.22 Except in a Residential District, a wall or Fence less than six (6) feet in height above the finished grade may be permitted in a required Side or Rear Yard.

7.4.23 Residential District Fencing Standards

A. In a Residential A-1 or A district, no FENCE shall be constructed between the front foundation line and the STREET or in a required FRONT YARD.

B. In a Residential B, B-1 or C district, no FENCE greater than three (3) feet in height shall be constructed between the front foundation line and the STREET or in a required FRONT YARD.

C. In all Residential Districts, FENCES, walls and vegetative barriers located within the SIGHT TRIANGLE described in Section 5.2.70 shall comply with the standards in that Section.

7.4.24 In all ZONING DISTRICTS, razor or barbed wire shall not be located along the FRONT LOT LINE. FENCES that abut a Residential USE or that are within a Residential DISTRICT shall not contain razor or barbed wire.

7.4.25 Gates must swing inwards at the property line so as not to obstruct the sidewalk or right of way.

7.4.26 All FENCES, walls and vegetated barriers shall be properly maintained. Any FENCE, wall or vegetated barrier in disrepair shall be removed or repaired within thirty (30) days upon a notice from the BUILDING COMMISSIONER.

Section 7.4.30 Landscaping and Screening - Generally

7.4.31 Refuse Areas

A. All REFUSE containers for uses other than SINGLE-FAMILY and TWO-FAMILY homes shall meet the following conditions, which may only be waived with a Tier 3 Special Permit granted by the City Council:

1. REFUSE containers shall not be visible from the STREET.

2. REFUSE containers shall be set back from the front property line at least as far as the primary STRUCTURE on the property. No REFUSE container shall be located in the FRONT YARD unless completely screened and not visible from the street.

3. REFUSE containers shall be enclosed or screened by a STRUCTURE constructed out of the same or similar materials to the primary STRUCTURE on the property or an approved alternative. The enclosure shall screen the containers from view from the public way and protect the containers from raccoons, rodents, and other pests.

4. Outdoor REFUSE containers shall not be stored within ten (10) feet of exterior windows or doors that open directly onto habitable space within housing units on the basement, ground, or first floors of BUILDINGS containing housing.

7.4.32 Buffers between Districts

Where two (2) land uses abut each other, the more intense use must provide a BUFFER PLANTING STRIP when adjacent to residential districts and/or residential uses. This requirement shall apply

to pre-existing lots where a new use or a more intensive use is established. All DEVELOPMENT must follow the buffer and screening requirements in Table 7-3 and illustrated in Figure 7-1.

Table 7-3 Buffer Screening between districts	
Subject Lot in District where Side or Rear LOT LINE abuts Residential district (or a less intense Residential district).	**Buffer width**
Residential A, A-1, B, B-1	None
Residential C	5 feet
Residential C-2	7 feet
Office A	3 feet
Commercial P	10 feet
Commercial A	5 feet
Business A	7 feet
Business B	10 feet
Business C	None
Business B-1	10 feet
Business D	15 feet
Mixed Use Industrial	10 feet
Industrial A	15 feet
Industrial Park	15 feet
Riverfront	None
Open Space	None

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Article 8 Overlay Districts

Section 8.0	*Purpose and Applicability*
Section 8.1	*Neighborhood Commercial Design Overlay District*
Section 8.2	*West Columbus Urban Renewal Overlay District*
Section 8.3	*Floodplain Overlay District*
Section 8.4	*Regional Shopping Center Overlay District*
Section 8.5	*Casino Overlay District*
Section 8.6	*Smart Growth District [Reserved]*

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ARTICLE 8 OVERLAY DISTRICTS

SECTION 8.0 PURPOSE AND APPLICABILITY

Overlay districts apply special rules to manage land use in specific areas that overlap different ZONING DISTRICTS. These overlay districts are designed to deal with special characteristics of each area. The rules for overlay districts apply in addition to the regulations contained in other articles of this Ordinance. Where there is a conflict between the regulations of an overlay district and those of the underlying district, the overlay district regulations control.

SECTION 8.1 NEIGHBORHOOD COMMERCIAL DESIGN OVERLAY DISTRICT

Section 8.1.10 Purpose

The Neighborhood Commercial Design Overlay District is intended to preserve and enhance neighborhood character in those commercial and mixed-use areas of the City that exhibit traditional urban character and architecture.

Section 8.1.20 Location and Specific Design Districts

Neighborhood Commercial Design Overlay Districts are indicated on the official Springfield ZONING MAP. This Section contains general design standards that apply to all locations where a Neighborhood Commercial Design Overlay district has been mapped. In addition to the general standards contained herein, the City Council may designate specific design districts in which more detailed voluntary design guidelines and/or mandatory design standards apply.

Section 8.1.30 Use Regulations

8.1.31 In addition to applicable requirements of the underlying ZONING DISTRICT, the following USES require a Tier 3 Special Permit review.

A. Any USE involving the new construction, demolition, or exterior rehabilitation of a STRUCTURE or any combination of these activities totaling more than one thousand (1,000) square feet.

B. Conversion of residential STRUCTURES to commercial USES, unless such commercial activity qualifies as a HOME BASED BUSINESSES.

C. MOTOR VEHICLE SALES, MOTOR VEHICLE RENTALS, MOTOR VEHICLE SERVICES, MOTOR VEHICLE PAINTING, and PARKING STRUCTURES, if allowed by right in the underlying ZONING DISTRICT.

8.1.32 The following USES and activities, not covered in Section 8.1.31, shall require a Tier 1 Administrative Site Plan Review pursuant to Section 12.2:

A. SIGNS as defined in Article 9, and Section 8.1.50.

B. Changes, excluding maintenance and repair, to an exterior fronting a public or private right-of-way, including but not limited to changes in roof design, windows and canopy.

Section 8.1.40 Overlay District Regulations

All proposed uses or activities in a Neighborhood Commercial Design Overlay District are subject to the LOT AREA, BUILDING HEIGHT, PARKING and SIGN Regulations of the underlying zone, except as noted below.

8.1.41 Dimensional Requirements

A. At least sixty (60) percent of the FRONTAGE of a LOT, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS that are set back no more than ten (10) feet from the FRONT LOT LINE and that are at least twenty (20) feet in depth. This requirement may be waived for additions to existing BUILDINGS where the addition does not exceed the setback of the existing BUILDING or where the addition is not visible from any STREET. A deeper setback may be allowed for a forecourt when a garden and/or paved terrace is provided

B. At least thirty (30) percent of all front façades of BUILDINGS shall consist of clear glass windows. Such windows shall be vertically proportioned and symmetrically placed.

8.1.42 Parking

A. All OFF-STREET PARKING areas shall be located behind or to the side of the PRINCIPAL STRUCTURE on the LOT. No parking area shall be located closer to the FRONT LOT LINE than the front BUILDING LINE of the PRINCIPAL STRUCTURE.

B. The required setback from SIDE and REAR LOT LINES specified for OFF-STREET PARKING areas shall consist entirely of landscaped area, except for required access drives.

8.1.43 Hard-Surface Sidewalk Extension

A. The area between a BUILDING and the FRONT LOT LINE must be hard-surfaced for use by pedestrians as an extension of the sidewalk as shown in Figure 8-1, except that this area may contain tree wells, planting strips and gardens.

B. The BUILDING walls shall be set back no more than ten (10) feet from the FRONT LOT LINE, except that a deeper setback may be allowed for a forecourt when a garden and/or paved terrace is provided.

C. For each one hundred (100) square feet of hard-surface area between the BUILDING and the FRONT LOT LINE at least one of the following amenities must be provided. Figure 8.1 shows examples of these amenities. Structures built within two (2) feet of the FRONT LOT LINE are exempt from the requirements of this subparagraph:

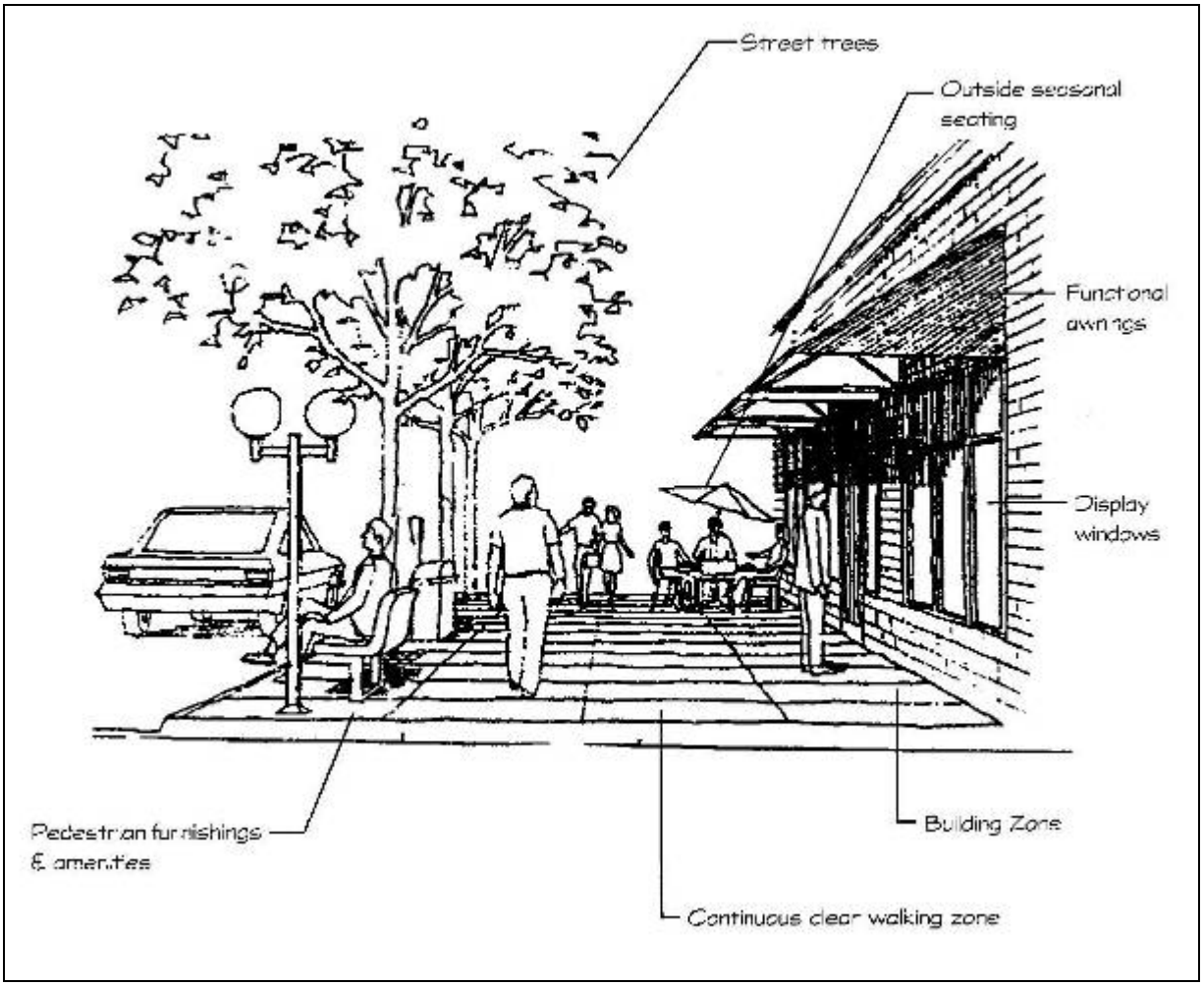
1. A bench or other seating;

2. A tree;

3. A landscape planter

4. A bicycle parking facility.

Figure 8-1 Pedestrian Amenities



8.1.44 Reinforcement of the Corner

On sites located at public STREET right-of-way intersections (corners) within a Neighborhood Commercial Design Overlay District.

A. The primary STRUCTURES shall be within ten (10) feet of both FRONT LOT LINES within the first thirty (30) feet from the corner.

B. At least one of the STREET-facing walls shall be at least forty (40) feet long;

C. The highest point of the BUILDING's STREET-facing elevation shall be within twenty-five (25) feet of the corner;

D. A main entrance into the BUILDING shall be on a STREET facing wall and either at the corner, or within twenty-five (25) feet of the corner; and

E. No OFF-STREET PARKING is permitted within forty (40) feet of the corner.

8.1.45 Main Entrance

A. At least one (1) entrance of the PRINCIPAL BUILDING shall face the FRONT LOT LINE. Where there is more than one (1) FRONT LOT LINE, the entrance may face either the FRONT LOT LINE or diagonally towards the corner.

B. For residential BUILDINGs that have more than one (1) main entrance only one (1) entrance must face the FRONT LOT LINE.

C. Residential Building entrances that face a shared landscaped courtyard, landscaped to at least the LANDSCAPING standards in Article 7, are exempt from this requirement.

8.1.46 Ground Floor Treatment

A. Where the underlying district is non-residential, the ground floor facing the STREET for new STRUCTURES shall be designed for non-residential USE by following the requirements for windows and entrance doors in this Section 8.1. This requirement shall not prohibit residential USE of such ground floor spaces, but it is intended to make them attractive and marketable for non-residential uses as market conditions permit.

B. The ground level of the primary STRUCTURE must be visually distinct from upper stories. This separation may be provided by:

1. A cornice above the ground level;

2. An arcade;

3. Changes in material or texture; or

4. A row of clerestory windows on the BUILDING'S STREET facing elevation.

C. Windows on STREET FRONTAGEs shall comply with the following:

1. Where the underlying district is non-residential, new facades that face a STREET shall maintain a minimum ratio of two-thirds (2/3) glass to (1/3) solid material on the ground floor.

2. No reflective sheeting or other window blocking techniques shall be permitted other than cloth drapery and window shades.

8.1.47 Awnings and Canopies

A. If there are no existing awnings on the BUILDING façade that have been approved by the City, the proposed new awnings shall meet the following standards:

1. Awnings must project at least three (3) feet from the BUILDING wall façade;

2. Awning covers must be made of durable material that look like natural fabric and have a no-gloss sheen;

3. Awnings may be flat or angled.

8.1.48 Roof-Mounted Equipment

All roof-mounted equipment, including satellite dishes and other communication equipment, excluding solar panels; shall be screened in one of the following ways:

A. A parapet as tall as the tallest part of the equipment;

B. A screen around the equipment that is as tall as the tallest part of the equipment; or

C. A set back from the STREET-facing perimeters of the BUILDING three (3) feet for each foot of height of the equipment.

8.1.49 Roofs

BUILDINGS must have either:

A. A sloped roof with a pitch no flatter than 6/12; or

B. A roof with a pitch of less than 6/12 and a cornice that meets the following requirements as shown on Figure 8-2.

1. There must be two (2) parts to the cornice. The top part of the cornice must project at least six (6) inches from the face of the BUILDING and be at least two (2) inches further from the face of the BUILDING than the bottom part of the cornice; and

2. The height of the cornice is based on the height of the BUILDING as follows:

a). Buildings ten (10) feet or less in height must have a cornice at least twelve (12) inches high.

b). Buildings greater than ten (10) feet and less than 30 feet in height must have a cornice at least eighteen (18) inches high.

c). Buildings thirty (30) feet or greater in height must have a cornice at least twenty four (24) inches high.

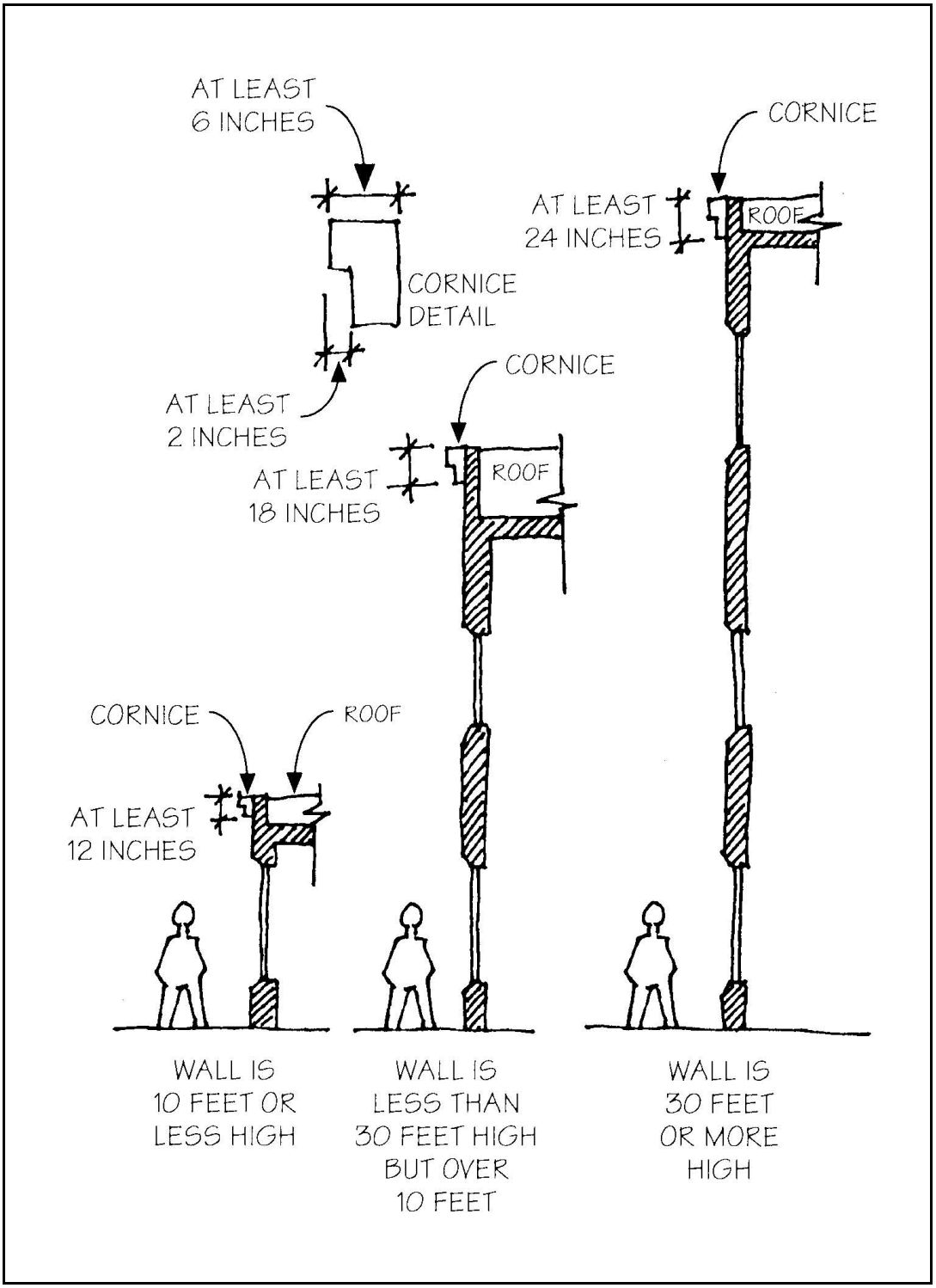
8.1.50 Sign Regulations in Neighborhood Commercial Overlay

8.1.51 POLE SIGNS shall not exceed a height of ten (10) feet and shall not exceed twenty (20) square feet per FACE AREA or forty (40) square feet in total DISPLAY AREA for a SIGN with two (2) faces. MONUMENT SIGNS mounted on a ground base shall not exceed seven (7) feet in height and shall not exceed thirty (30) square feet per FACE AREA including the ground base area and shall not exceed sixty (60) square feet in total DISPLAY AREA for a SIGN with two (2) FACES.

8.1.52 WALL SIGNS may not exceed two (2) square feet per lineal foot of primary BUILDING FRONTAGE associated with the USE and in no case shall the SIGN exceed one hundred (100) square feet. In the case of accessory WALL SIGNS on BUILDING FRONTAGE on a side STREET or parking area, the SIGN shall not exceed of the size of the SIGN facing the primary BUILDING FRONTAGE.

8.1.53 No SIGN shall be internally lit, except for those WINDOW SIGNS complying with Section 9.4.90.

Figure 8-2 Cornice Design



SECTION 8.2 WEST COLUMBUS URBAN RENEWAL DISTRICT OVERLAY

Section 8.2.10 Establishment and Purpose

The West Columbus Urban Renewal District is established as an overlay district encompassing portions of the Riverfront District. This District is intended to accommodate the DEVELOPMENT of riverfront land located within the West Columbus Urban Renewal Area Amendment Number 3, for retail, commercial, cultural and entertainment activities. These activities are to be conducted in a manner respectful of and in keeping with the natural and aesthetic qualities of the Connecticut River for the overall welfare of the general public, consistent with the protection of lands owned by the public as a natural resource for OPEN SPACE and park oriented activities.

Section 8.2.20 Landscaping

8.2.21 The amount of land devoted to LANDSCAPING within the West Columbus Avenue Urban Renewal District shall be no less than twenty (20) percent. This percentage includes all landscaped areas except for those located within an interior parking area. For LANDSCAPING requirements within the interior parking area, see Section 7.1.

8.2.22 Landscaped areas shall be enhanced with trees, hedge rows, grass and other suitable plantings. All trees required in this section shall meet the following standards:

A. Number: One (1) tree per 5,000 square feet of landscaped area;

B. Type: As approved by the City Forrester;

C. Minimum Caliper at planning: Three (3) inches.

8.2.23 All grassed areas shall be sod and equipped with an irrigation system. The Springfield Redevelopment Authority may waive the sod requirement in favor of seeding in areas of minimal public view or use.

Section 8.2.30 General Site Planning Standards

8.2.31 OFF-STREET LOADING and/or unloading space is subject to the requirements found in Section 7.2 of this Ordinance, OFF-STREET LOADING and unloading areas shall be suitably landscaped and screened.

8.2.32 No less than ten (10) percent of the aggregate surface area of walls facing a public way, facing a SIDE LOT LINE or facing the Connecticut River must be devoted to

windows, public balconies and/or entrances with the public provided with access thereto wherever practicable.

8.2.33 All exterior BUILDING materials, including roof materials, colors, wall treatments, windows, doors and entrances shall be appropriate for the West Columbus Avenue Urban Renewal District.

SECTION 8.2.40 OFF-STREET PARKING

This section is intended to allow for the temporary parking of MOTOR VEHICLEs and for the adequate ingress to and egress from the West Columbus Avenue Urban Renewal District by MOTOR VEHICLEs, bicycles and pedestrians in an environmentally-sensitive and attractive area. There is no minimum OFF-STREET PARKING requirement in the West Columbus Avenue Urban Renewal District.

Section 8.2.50 Off-street Parking Design Standards

8.2.51. Off-street Parking Landscaping

A. Interior parking areas. A minimum of five (5) percent of the area of interior parking areas, including pedestrian walkways, shall be suitably landscaped and curbed. One (1) tree shall be planted for every fifteen (15) OFF-STREET PARKING spaces. The specifications found in Section 8.2.22 shall apply to all tree plantings.

B. Landscaped islands. The beginning and end of not less than 80% of all parking aisles shall be landscaped and curbed. Tree plantings in a landscaped island shall count toward the tree planting requirement of Section 8.2.22. The specifications found in Section 8.2.22 shall apply to all tree plantings.

C. Pedestrian walkways. All pedestrian walkways longer than two hundred (200) linear feet shall be elevated from all abutting parking areas. A BUFFER PLANTING STRIP shall be provided along one side of each walkway. BUFFER PLANTING STRIPs shall not be continuous in order to allow for pedestrian access to parking areas.

1. Each BUFFER PLANTING STRIP shall be no less than four (4) feet in width and shall be enhanced with shade trees planted no less than thirty (30) feet on center.

2. Tree planting in BUFFER PLANTING STRIP shall count toward the tree planting requirement of Section 8.2.22. The specifications

found in Section 8.2.22 shall apply to all tree plantings. Pedestrian walkways shall be open air and accessible for pedestrians and the handicapped.

8.2.52. Pavement Markings

All parking spaces shall be consistently marked. All parking areas and access driveways shall be marked in white color. All crosswalks and similar areas designed for pedestrian activity in an OFF-STREET PARKING lot or access driveway shall be marked, at a minimum, by a block ladder style in white color.

8.2.53. Sign Markings

All parking lot and driveway SIGNS, both instructional and identification, shall be customized to the West Columbus Avenue Urban Renewal District.

8.2.54. Lighting

All interior parking areas shall be provided with adequate lighting, but with minimal glare or reflection on abutting properties. Pole mounted lighting fixtures shall not exceed a height of thirty (30) feet. All interior parking lighting areas shall be illuminated to 0.40 foot candles (minimum average on pavement).

8.2.55. Curbing

All parking areas and driveways shall be appropriately curbed with four (4) inch, Type VB or "Cape Cod" style granite curbing unless otherwise approved by the Director of Public Works.

Section 8.2.60 Sign Regulations in West Columbus Urban Renewal District

8.2.61 All SIGN elements shall be blended in a coordinated scheme that is both aesthetically sound and reflective of the comprehensive DEVELOPMENT of the West Columbus Avenue Urban Renewal District.

A. Accessory WALL SIGNS. One (1) accessory WALL SIGN is allowed for the PRINCIPAL USE of any STRUCTURE on each side of the STRUCTURE facing a public way or used as a designated BUILDING entrance. All accessory WALL SIGNS shall meet the following standards:

1. Accessory WALL SIGNS shall not exceed two (2) square feet per lineal foot of BUILDING footprint.

2. Accessory WALL SIGNS may be illuminated.

3. Accessory WALL SIGNS shall not be perpendicular to the STRUCTURE or the BUILDING.

B. A multiple BUILDING parcel may have an accessory GROUND SIGN for every four hundred and ninety-five (495) linear feet of FRONTAGE along West Columbus Avenue from the south side of West Union Street to the north side of West Broad Street. The distance between the accessory GROUND SIGNS permitted hereunder shall be incorporated in the master SIGN plan. An accessory GROUND SIGN shall meet the following standards:

1. Size. Accessory GROUND SIGNS shall not exceed one hundred fifty (150) square feet per face area.

2. Height. Accessory GROUND SIGNS shall not exceed a height of forty (40) feet.

3. Illumination. Accessory GROUND SIGNS may be illuminated.

C. Permanent or temporary accessory ROOF SIGNS, NON-ACCESSORY SIGNS, blinking and flashing light SIGNS and all other SIGNS not specifically prohibited shall be permitted with the approval of the Springfield Redevelopment Authority.

D. TEMPORARY SIGNS, banners and exterior promotional materials are permitted, subject to the applicable provisions of this Ordinance with respect to TEMPORARY SIGNS.

Section 8.2.70 Site Plan Review Process

All new construction and exterior rehabilitation proposed to be carried out within the West Columbus Avenue Urban Renewal District shall be subject to the Site Plan Review process set forth in Section 4.3 of the West Columbus Avenue Urban Renewal Plan, as amended. Copies of the Urban Renewal Plan are available in the offices of the Law Department.

SECTION 8.3 REGIONAL SHOPPING CENTER OVERLAY DISTRICT

Section 8.3.10 Purpose

The stability and vitality of Springfield's large SHOPPING CENTERS is vitally important to the economic welfare of Springfield and the neighborhoods in which these SHOPPING CENTERS are located. Since large anchor stores are a critical element in the success of a SHOPPING CENTER, it is necessary and appropriate to protect other users of the SHOPPING CENTER from potential harm that may be caused by changes to or the loss of an anchor store. Changes in USE or division of anchor stores in these locations into smaller shops can have a negative or positive impact on the

viability of these commercial areas if the result is a significant change in customer traffic to the area. If the impact is a reduction in customer traffic, the result can be ABANDONED storefronts and blighted BUILDINGS. In order to protect the stability and viability of these areas and to prevent urban blight, Special Permit review is required to ensure that any change of USE or division of space in these locations does not adversely affect neighboring uses, BUILDINGS or the public welfare.

Section 8.3.20 Location

The Regional Shopping Center Overlay District is indicated on the official Springfield ZONING MAP. This Section contains general design standards that apply to all locations where a Regional Shopping Center Overlay District has been mapped.

Section 8.3.30 Use Regulations

Within the Regional Shopping Center Overlay District, a Special Permit by the City Council (Tier 3 Review) for the following changes of uses or division of retail space occurring within a SHOPPING CENTER, where the change of use or division of space occurs in a building with a building footprint of 50,000 square feet or more:

8.3.31 Any change of use involving the conversion of retail sales and services or personal services businesses to a use in any other category (unless such category is exempted from Special permit review by state law), and any division of interior space into two (2) or more smaller spaces, whether by subdivision of land, creation of separate leaseholds or licenses, division by condominium, or any other kind of spatial division that grants the right of different operators to use one existing interior space.

A. No BUILDING PERMIT shall be granted for the erection or demolition of interior walls of a STRUCTURE regulated by subsection (1) until such Special Permit approval is granted.

B. In issuing its determination as to whether or not to grant Special Permit approval, the City Council shall consider the impact of such change of USE or division of space on the character, built environment, vehicular and pedestrian access, traffic patterns, physical appearance, and structural integrity of the SHOPPING CENTER as a whole. The City Council shall grant approval only if it finds that such division will not have a negative impact on the SHOPPING CENTER as a whole. The City Council shall take into consideration the mix of uses and the sizes of different uses.

C. The City Council's approval of a Special Permit under this section may include a requirement that existing pedestrian and vehicular access and

connections between uses be maintained, or that comparable substitute access is provided. Such pedestrian access may include the existing interior pedestrian connections between retail spaces within or between BUILDINGS.

D. A SHOPPING CENTER which is held in single ownership shall be exempt from the provisions of this section.

SECTION 8.4 FLOODPLAIN OVERLAY DISTRICT

Section 8.4.10 Purpose

The purpose of the Floodplain District is to:

A. Ensure public safety through reducing the threats to life and personal injury;

B. Eliminate new hazards to emergency response officials;

C. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;

D. Avoid the loss of utility services, which if damaged by flooding, would disrupt or shutdown the utility network and impact regions of the community beyond the site of flooding;

E. Eliminate costs associated with the response and cleanup of flooding conditions;

F. Reduce damage to public and private property resulting from flooding waters.

Section 8.4.20 Definitions (only applicable to the Floodplain Overlay District)

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59].

FLOODWAY. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202].

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14].

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59].

HISTORIC STRUCTURE. Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59].

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14].

RECREATIONAL VEHICLE. A vehicle which is: (a) Built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projection;
(c) Designed to be self-propelled or permanently towable by a light duty truck; and
(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59].

REGULATORY FLOODWAY. - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202].

STRUCTURE. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59].

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation result in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC].

VARIANCE. A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59].

VIOLATION. The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59].

Section 8.4.30 Flood Plain District

The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas within the City of Springfield designated as Zone A and AE on the Hampden County Flood Insurance Rate Map (FIRM) dated June 7, 2023 issued by the Federal

Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the district shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated June 7, 2023. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Office of Planning & Economic Development and the Building Department. Further, the Building Commissioner, or his/her designee, is designated as the official floodplain administrator.

Section 8.4.40 DEVELOPMENT Regulations

The following requirements apply in the Flood Plain District:

8.4.41 The City of Springfield requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

8.4.42 Application to the Board of Appeals for a Special Permit shall be accompanied by a plan which shall show the following:

A. Boundaries and dimensions of the area involved.

B. The location, dimensions and mean sea level of the lowest habitable floor, including basement of existing and proposed BUILDINGs and STRUCTURE thereon, and the elevation to which the STRUCTURE has been flood-proofed.

C. All plans shall show two (2) foot contour intervals and contours shall be delineated within two hundred (200) feet of the proposed construction.

D. In a riverine situation, the Natural Resource Manager shall notify the following of any alteration or relocation of a watercourse:

1. Adjacent Communities

2. NFIP State Coordinator, Massachusetts Department of Conservation and Recreation.

3. NFIP Program Specialists, Federal Emergency Management Agency, Region I.

E. The City of Springfield's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

F. Any other information as is deemed necessary by the SPECIAL PERMIT GRANTING AUTHORITY to indicate the complete physical characteristics of the area and the proposed construction and/or grading thereof.

8.4.43 Plans shall be prepared by a Professional Engineer or Land Surveyor registered in the Commonwealth of Massachusetts and shall show and make adequate provisions for the following:

A. The protection, preservation and maintenance of the water table and water recharge areas.

B. The preservation and maintenance of the natural stream channel plus sufficient width of overbank areas for the passage of one hundred (100) year flood flows so as not to increase the one hundred (100) year flood water surface elevation more than one (1) foot at any point within the community.

C. The retention of existing floodwater storage capacity.

D. Prevention of flotation, collapse and movement of STRUCTURES.

E. Prevention of flood damage to public utilities including sewer, water, gas, and electric.

F. In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

H. When proposing subdivisions or other developments greater than fifty (50) lots or five (5) acres (whichever is less), the proponent must provide

technical data to determine base flood elevations for each developable parcel shown on the design plans.

I. All subdivision proposals must be designed to assure that:

1. such proposals minimize flood damage;

2. all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and

3. adequate drainage is provided to reduce exposure to flood hazards.

J. Located within the Flood Plain District are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of Flood Waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

1. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

   In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. If Section 8.4.43(I)(1) above is satisfied, all new construction and any alteration or addition shall comply with all provisions of Section 8.4.40.

3. Within fourteen (14) days after receipt of the application by the Board of Appeals, the Board shall transmit copies thereof, together with copies of the accompanying plan to the Board of Health, Engineering Department and the Conservation Commission or any other agency. Such agencies shall investigate the application and

report in writing their recommendation to the Board of Appeals. The Board of Appeals shall not take final action on such application until it has received a written report from the above agencies or until forty-five (45) days have elapsed without receipt of said reports.

Section 8.4.50 Mobile Homes and Mobile Home Parks

MOBILE HOMES and MOBILE HOME PARKS are not permitted within the Flood Plain District.

SECTION 8.5 CASINO OVERLAY DISTRICT

Section 8.5.10 Purpose

The Casino Overlay District's purpose is to facilitate the location of licensed casinos and casino complexes within the boundaries established by the City of Springfield for casino gaming activities. The Casino Overlay District focuses on urban entertainment and recreational activities that will enhance the area as a desirable location for tourists, conventions, and urban life. The provisions of the district encourage pedestrian and transit-oriented linkages between casinos and casino complexes and other activities and venues within the City. Because of the special characteristics of casinos and casino complexes, the requirements applicable to development in this district include submittal requirements and criteria that are specified in this section. These regulations are designed to ensure that casinos and casino complexes contribute positively to the built environment, that the operation of casinos and casino complexes will help to enhance, expand, and stabilize employment and the local economy while simultaneously ensuring effective public services and a high quality of life for nearby businesses, institutions and residents.

The proposed development shall be subject to the provisions of a Host Community Agreement (HCA) approved by the City Council. The HCA shall establish a baseline site plan, design elevations, uses, program, signage concept, lighting concept, landscaping and streetscape plan and related information for the development.

After review and recommendation by the Office of Planning & Economic Development, the City Council shall review and approve site plans and design features for all casinos and casino complexes per the standards and criteria established herein. The Casino Overlay District and its provisions shall only apply to the specific properties so designated by the City Council as allowing a casino and related uses with a valid and current gaming license issued by the Commonwealth. Should a property so designated lose its gaming license at any point, the City Council may revoke the overlay designation and revert the property to its underlying zoning.

Section 8.5.20 Permitted Uses

CASINO and casino complexes, inclusive of accessory uses, including but not limited to retail, restaurants, hotels, accessory parking, housing, indoor place of amusement(s), outdoor place of

amusement(s), daycare centers, support services and other complementary uses which enhance the success of the overall project as a viable, high quality urban entertainment venue.

Section 8.5.30 Site Plan Review

8.5.31 The Site Plan Review provisions of this Section shall apply to all STRUCTURES and USES located within the Casino Overlay District.

8.5.32 The Site Plan Review process shall follow the procedures outlined in Article 12, Section 12.3 except that the reviewing body shall be the **City Council and not the Planning Board**.

8.5.33 Notwithstanding pending Site Plan Review required for final project approval, site plan and design aspects which are consistent with those contained in the Host Community Agreement are pre-approved unless variations or modifications to them are proposed which exceed the provisions of 8.5.80 below.

8.5.34 The intent of the signage regulations herein (Section 8.5.70) is to 1) guarantee minimum signage rights, 2) set parameters for specialty and unique signage inherent in urban casino and entertainment development that would exceed those minimums (such as parapet roof signs, reader boards, façade projections, etc.) so that it is understood that such additional signage is allowed, if done properly, and presented in an acceptable final signage submittal and 3) give the City final discretion on such specialty signage. Disapproval of a request in the Site Plan review for a particular specialty signage or lighting component shall not be cause to disapprove the Site Plan Review or the Use and the applicant would still have the right (if the other Site Plan Review criteria were met and approved as per Section 8.5.32) to proceed with the development without the requested specialty signage or with amended specialty signage approved by the City.

Section 8.5.40 Site Plan Review Submission Requirements

8.5.41 In petitioning for a rezoning to a Casino Overlay District, the petitioner shall submit to the Office of Planning & Economic Development all required materials as outlined in Article 12, Section 12.3.40.

Section 8.5.50 Criteria for Rezoning

The City Council shall review development proposals for compliance with the following criteria:

8.5.51 The proposed development shall be consistent with and promote the goals of M.G.L. Chapter 23K and plans and policies of the City of Springfield;

8.5.52 The proposed development shall promote pedestrian and transit linkages to other activities and venues within the City of Springfield;

8.5.53 The proposed development shall be appropriate to and compatible with surrounding development in terms of scale, form, massing, land use, general appearance and function recognizing the unique functional characteristics of a casino or casino complex;

8.5.54 The proposed development shall include adequate circulation, off-street parking and loading facilities to meet expected parking and vehicular and pedestrian demands;

8.5.55 The proposed development shall provide amenities and public facilities to promote safety, comfort and convenience for visitors, employees and the general public;

8.5.56 The proposed development shall contain quality urban design elements and design features that promote, improve and reinforce the existing urban streetscape.

8.5.57 The proposed development shall be sensitive to buildings within the immediate area which have an architectural or historic value and work with the Springfield Historical Commission in that regard, consistent with the disposition of historic aspects articulated in the Host Community Agreement (HCA).

8.5.58 The proposed development shall be subject to the provisions of a HCA approved by the City Council. The HCA shall establish a baseline site plan, design elevations, uses, program, signage concept, lighting concept, landscaping and streetscape plan and related information for the development.

8.5.59 The location of the Casino Overlay District shall be the project site identified in the HCA between the City of Springfield and the project developer and consistent with the property set forth in the application for a gaming license submitted to the Massachusetts Gaming Commission. The Casino Overlay District may be added to the City of Springfield Zoning Map at any time after the filing of an application for a gaming license by means of a duly enacted amendment to the City of Springfield Zoning Map. The provision of the Section 8.5 shall not be legally effective within the Casino Overlay District unless the gaming license is approved by the Massachusetts Gaming Commission. In the event that a gaming license is not approved by the Massachusetts Gaming Commission, the City Council shall amend the zoning map by repealing the amendment placing the Casino Overlay

District on the Zoning Map. Whether or not such repeal is enacted, only the underlying zoning of the land within the Casino Overlay District shall apply if the gaming license is not approved.

Section 8.5.60 Dimensional Regulations

All proposed uses and/or activities occurring within the Casino Overlay District are subject to the underlying zoning regulations, except as noted herein or in the Host Community Agreement. Where regulations conflict the specific provisions of the HCA shall govern.

8.5.61 Dimensional and Intensity Regulations

Table 8-1 Dimensional and Intensity Regulations (unless otherwise specified on the Host Community Agreement)

	Casino Overlay District
Lot Area, minimum square feet	No Regulation
Lot Frontage , minimum (feet)	No Regulation
Lot Width , minimum (feet)	No Regulation
Front Yard (feet)	
Minimum	0
Maximum	10
Side Yard, minimum (feet)	0
Rear Yard, minimum (feet)	0
Building Height , maximum	
Stories	No Regulation
Feet	400
Building Coverage, maximum	95%
Maximum Residential Density (Dwelling Units Per Acre)	150
Parking	The Casino Overlay District shall meet the off-street parking provisions stipulated in the HCA.

Section 8.5.70 Sign Regulations

Due to the unique signage associated with a CASINO and casino complexes, the Casino Overlay District specifically allows for a wide range of unique signage and building lighting not contemplated in the underlying zoning. Therefore, signage allowed by the underlying sign regulations, as outlined in Article 9, shall apply unless signage is permitted under Section 8.5.75. Since it is anticipated and encouraged that the casino employ unique and creative urban signage and lighting techniques consistent with an urban entertainment venue, a range of such signage types is explicitly allowed and listed below in 8.5.75. However, such additional signage requires submittal of a specific and detailed "signage and specialty lighting concept" as part of the Site Plan Review process as outlined above and shall adhere to the following standards:

8.5.71 As part of the sign approval process a detailed sign plan must be submitted which includes:

A. Dimensions and overall size(s) of all proposed signs;

B. Building elevations indicating location of all proposed signage, including any directional signage;

C. Materials of all proposed signage;

D. Type(s) of illumination.

E. Proposed special/seasonal signage and lighting programming, and hours of illumination for all lighted signs.

8.5.72 Signs to be located along the frontages of Main Street, State Street, Union Street, Howard Street and Emery Street shall:

A. Be in character and size to surrounding signage located within the Central Business District and surrounding properties;

B. Be complementary to the architectural elements found with the proposed developments as well as the surrounding buildings;

C. Allow any individual retail storefront uses at least the maximum signage allowed by Article 9 to showcase and advertise their individual business and operations, in addition to any specialty signage and lighting elements which are subject to discretionary approval.

8.5.73 Signs specifically located on HISTORIC RESOURCE PROPERTIES shall:

A. Be in keeping with the character, size and architectural elements of the building as determined by the Springfield Historical Commission.

B. Allow individual retail storefront uses at least the maximum signage allowed by Article 9 to showcase and advertise their individual business and operations (subject to 8.5.73.A. above), in addition to any specialty signage and lighting elements which are subject to discretionary approval.

8.5.74 Signs to be located on facades facing East Columbus Avenue and/or oriented toward Interstate 91 or Interstate 291 shall:

A. Be integrated into and enhance the architectural design and massing of the building so as to not distract from the quality and character of the development (e.g. blade banners, façade projections, architectural feature accent lighting, roof top structural signs, and first/second surface applied graphics would be allowed)

B. Be designed so as to not disrupt traffic flow and highway safety, and if potentially problematic be responsive to and minimize potential adverse impacts to traffic flow and safety.

C. Avoid reader boards and repeating text message animated signage, or be only employed only for special events and/or traffic/parking control situations on a temporary basis.

8.5.75 The following specialty signage is allowed subject to the review and approval of the project signage and specialty lighting concept. Approval of any specialty signage or lighting is not guaranteed and may be withheld at the sole discretion of the City through the Site Plan Review Process. Discretionary approval of the specialty signage shall be based on recommendations made to the City Council by the Office of Planning & Economic Development who shall in turn confer with the Department of Public Works (regarding any traffic safety hazard impacts), Department of Code Enforcement/Building Division (regarding any aspects related to applicable building codes and permits) and the Springfield Historical Commission (in any situation where landmark or historic resources are impacted by signage).

A. Blade signs and theater marquee signs; roof top parapet signs; façade projection signs (static or animated); animated electronic billboard signs; pinned-off letter signs; internally and externally illuminated signs; first and second surface signs applied to glazing or facades; banners; seasonal and special event building and site lighting; architectural building and site

lighting to accent design features; animated, lighted fountains and streetscape elements;

B. Notwithstanding the above menu of specialty signage, reader boards and repeating message animated signage may be allowed if employed only for special events and/or traffic/parking control situations on a temporary basis.

C. In allowing specialty signage, the City Council must consider adverse impacts to adjacent buildings and properties, as well as adverse impacts to highway traffic flow and safety with regard to distraction from animation, brightness, size or content.

D. All specialty signage must be properly and fully maintained in good working condition at all times so as to not detract from development's high quality appearance.

Section 8.5.80 Modification of Approved Plans

Approved site plans and elevations, and other aspects of the development proposal, including uses, may be amended from what is specified in the HCA, pursuant to the same procedure and subject to the same limitations and requirements by which said plans and proposals were initially approved. However, upon written request by the petitioner, minor changes from what is specified in the HCA plans and development parameters may be permitted by the Office of Planning & Economic Development subject to a finding that such changes will not cause any of the following:

8.5.81 A change in the character of the development, including the overall massing, primary land uses, quality of materials or significant deviation from the architectural character or building footprints of approved site plans and elevations; or

8.5.82 An increase in the ratio of gross floor area (as specified in the HCA) to LOT area by more than twenty five percent (25%); or

8.5.83 A decrease in open space, pedestrian areas, parks and amenities unless justified by changes in other factors; or

8.5.84 A reduction or increase in approved off-street parking unless justified by changes in other factors.

After review by the Office of Planning & Economic Development, the petitioner shall be notified, in writing, of the result(s) of the Office of Planning & Economic Development's findings. These findings shall be forwarded to the City Council.

Section 8.5.90 Reserved

SECTION 8.6 SMART GROWTH OVERLAY DISTRICT [RESERVED]

Article 9 Sign Regulations

Section 9.0	*Purpose*
Section 9.1	*Definitions*
Section 9.2	*Signs Prohibited in All Districts*
Section 9.3	*General Sign Regulations*
Section 9.4	*Signs Which Do Not Require a Sign Permit*
Section 9.5	*Sign Permits*
Section 9.6	*Sign Regulations for Residential Districts*
Section 9.7	*Regulations for Wall Signs in Business Districts*
Section 9.8	*Sign Designs and Dimensions*
Section 9.9	*Non-accessory Signs*
Section 9.10	*Special Event Signs*
Section 9.11	*Nonconforming Signs*
Section 9.12	*Signs Requiring a Special Permit from the City Council*
Section 9.13	*Substitution of Non-commercial Sign Copy*

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ARTICLE 9 SIGN REGULATIONS

SECTION 9.0 PURPOSE

SIGNS are a highly visible and necessary means of communicating information. SIGNS play an important role for businesses to advertise their goods and services. SIGNS may be one of the most visible and apparent aspects of a City's character. SIGNS may create an impression on residents and visitors and they provide an indication of the commercial health of business areas and the City as a whole. The purposes of this section are:

- To promote the safety and welfare of residents, businesses and visitors;
- To encourage the effective use of SIGNS as a means of communicating, information and advertising products and services;
- To promote economic health of the City and its businesses, organizations and institutions so they can successfully identify themselves;
- To enhance the safety of all traffic participants by preventing SIGN overload and clutter;
- To foster free and effective expression and advertising through creative design; and
- To maintain and enhance the built environment and the character of the City.

SECTION 9.1 DEFINITIONS

For the purposes of this Article, the following terms shall have the following meanings. The terms defined below are capitalized in the following parts of this Article in addition to the terms defined in Article 2.

AWNING SIGN. An AWNING SIGN is a SIGN which is located on or is part of an awning. As used in this Ordinance, an awning consists of cloth or non-translucent material affixed to the exterior of a BUILDING by a permanent STRUCTURE that may be retractable; extending at least three (3) feet from the exterior wall; and providing shade and rain cover for pedestrians and visitors to the BUILDING.

BILLBOARD SIGN. SEE NON-ACCESSORY SIGN.

BULLETIN BOARD SIGN. A GROUND or WALL SIGN of permanent character, but with movable letters, words or numerals, indicating the names of persons associated with, or events conducted upon, or products or services offered upon the premises upon which such SIGN is maintained.

CANOPY SIGN. A SIGN that is affixed to the exterior surface of a BUILDING with rigid, non-retractable STRUCTURE covered by a membrane that extends less than three (3) feet from the BUILDING.

CHANGING IMAGE SIGN. A SIGN using digital, electronic or other methods to create an image that changes. A digital display of time, temperature, or fuel prices shall not be considered a CHANGING IMAGE SIGN. See 9.3.70.

CONSTRUCTION SIGN. A SIGN denoting the architect, builder, owner, or other business concern connected with a duly authorized building construction project located on the same lot with such building.

DIRECTIONAL SIGN. A SIGN directing or guiding vehicles or people to entrances, exits or parking.

DIRECTORY SIGN. A SIGN that lists the tenants within a non-residential building. Such SIGN may be either a GROUND SIGN or a WALL SIGN.

DISPLAY AREA. The area of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limit of any writing, emblem, representation, or other display used to differentiate the SIGN from the backdrop or STRUCTURE against which it is placed. The DISPLAY AREA shall not include supporting bracing or framework which is not an integral part of the SIGN design.

Where there is more than a single SIGN face, the DISPLAY AREA shall be defined as the one face of the SIGN. Figures 9-1 and 9-2 illustrate how to measure DISPLAY AREA. In the case of a GROUND SIGN, the entire STRUCTURE shall be considered an integral part of the background except for the pole supports. See also Section 9.8 for MONUMENT SIGN measurement information.

Figure 9-1 Display Area of Wall Sign

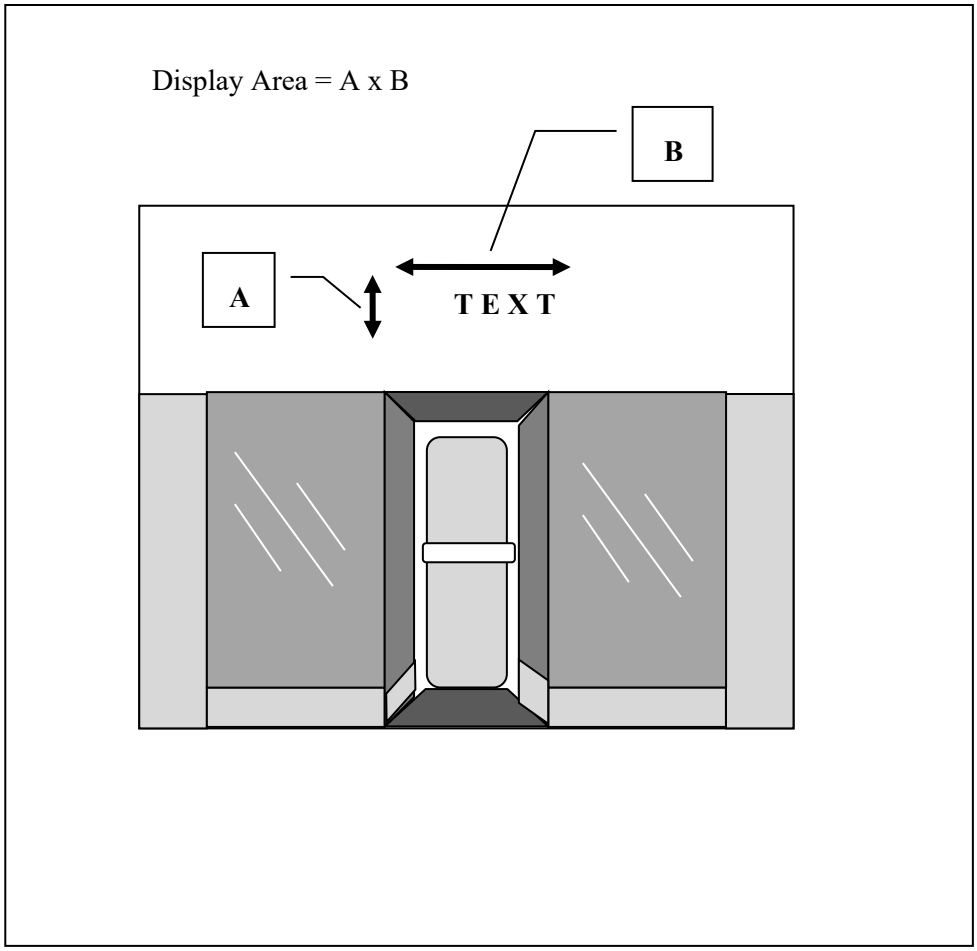


Figure 9-2 Display Area of Internally Lit Wall Sign

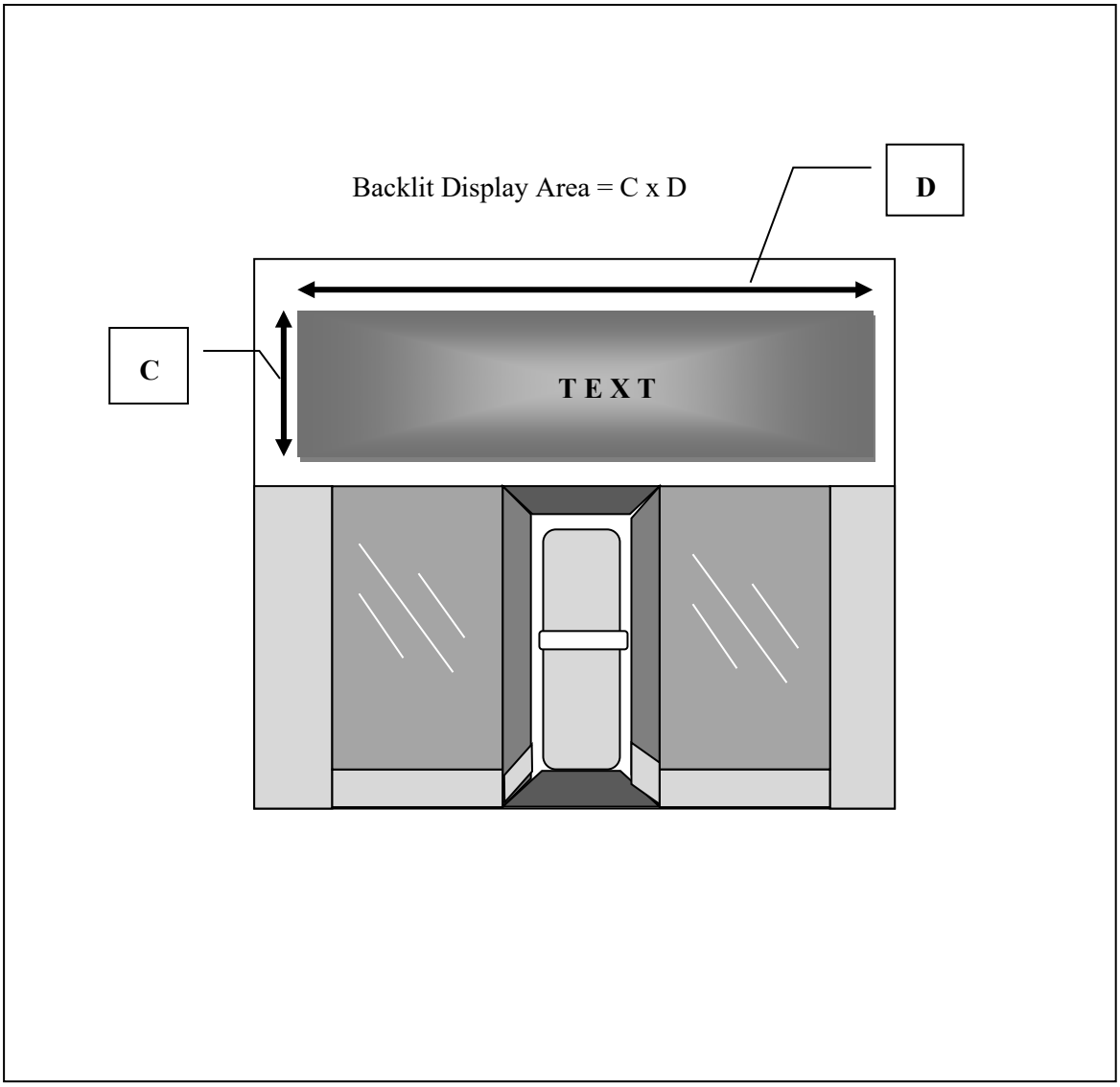
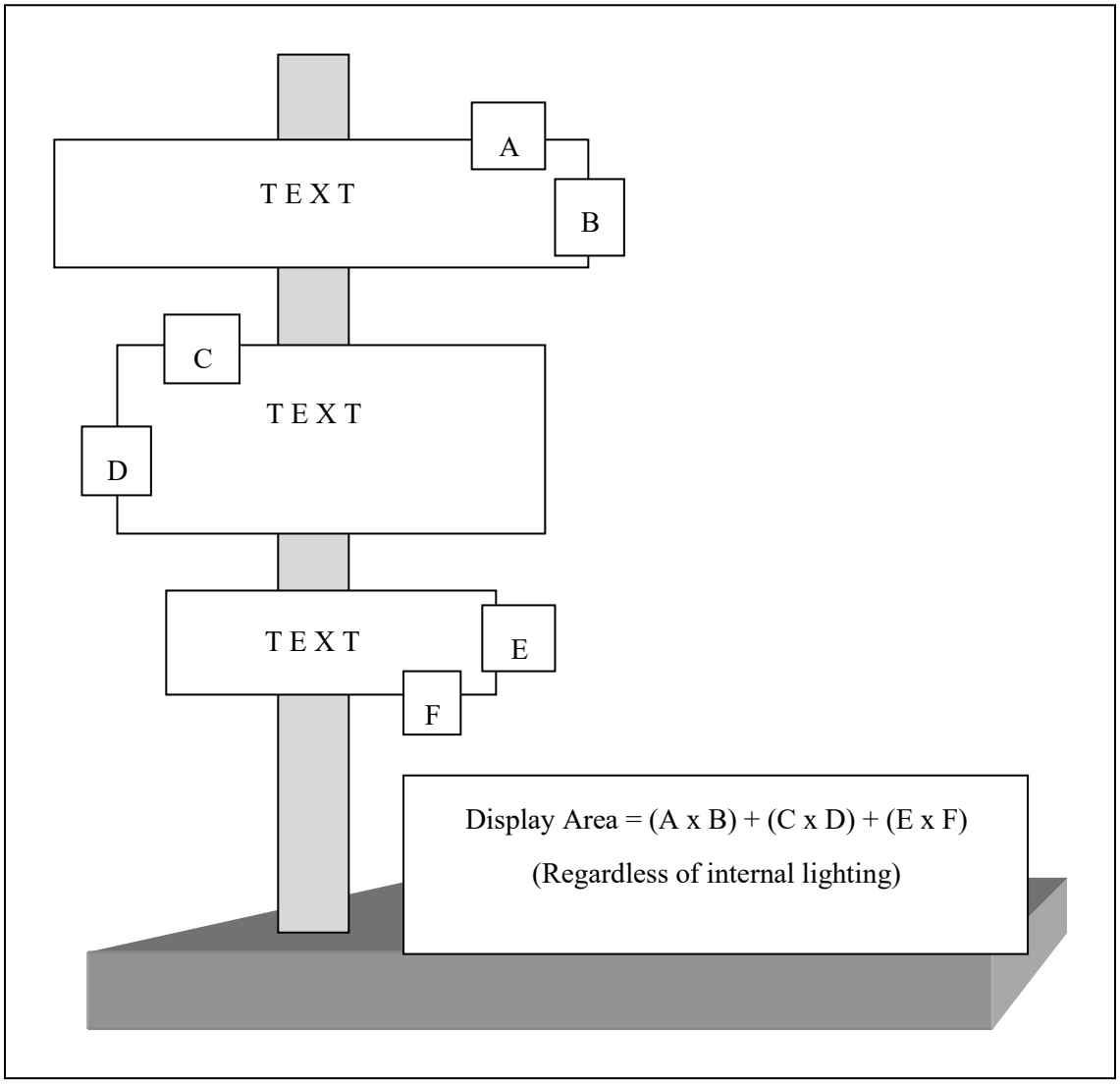


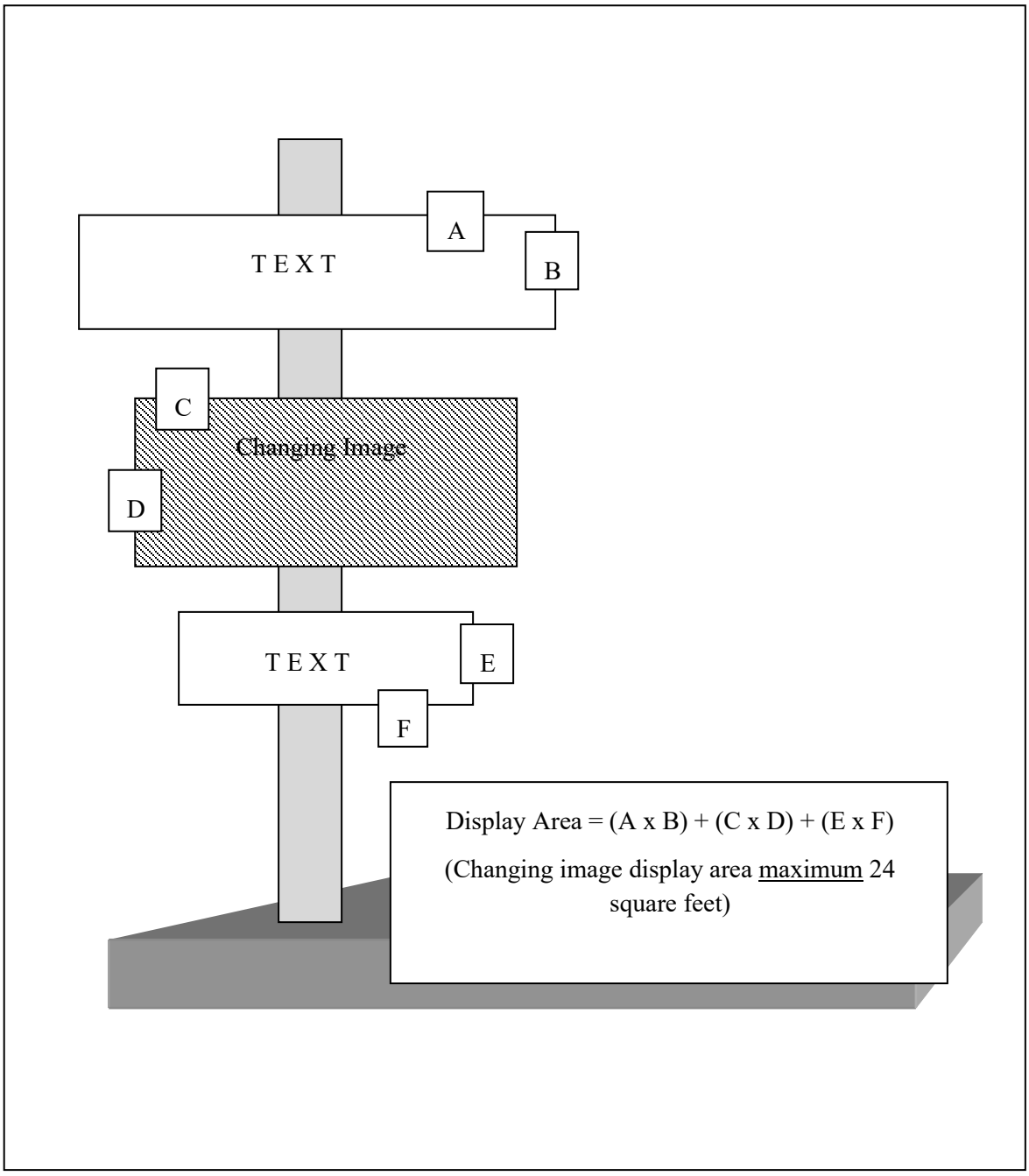
Figure 9-3 Display Area of Ground Sign



ERECTING. Any installing, constructing, reconstructing, replacing, relocating or extending of a SIGN, but ERECTING shall not include repairing, maintaining, re-lettering, or repainting of an existing SIGN.

GROUND SIGN. A non-portable SIGN not affixed to any BUILDING but constructed in a permanently fixed location on the ground with its own support STRUCTURE. GROUND SIGNS include POLE SIGNS and MONUMENT SIGNS. GROUND SIGNS can include menus for drive through establishments that are posted to indicate drive through services.

Figure 9-4 Display Area of Ground Sign with Changing Image Sign



IDENTIFICATION SIGN. A SIGN other than a BULLETIN BOARD SIGN indicating the name of a permitted use, the name or address of a BUILDING, or the name of the management thereof.

INDIVIDUAL LETTER SIGN. A WALL SIGN consisting of individual letters mounted to a BUILDING surface without any background or frame.

INFORMATIONAL SIGN. A SIGN erected to provide direction or guidance, including, but not limited to the following:

- Necessary for the safety and direction of vehicular and pedestrian traffic;
- To identify handicapped parking and access;
- To give direction to a public service facility or accommodation; an official inspection station
- To display a STREET name or number or a house, block, unit or BUILDING number;
- If required for occupational safety and health reasons;
- To prohibit trespassing, hunting, or specified activities on private property.

MENU SIGN for DRIVE THROUGH establishments. A GROUND SIGN that displays the items and prices for sale at a DRIVE THROUGH establishment. See Table 9-2.

MESSAGE BOARD. A SIGN or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the SIGN.

MONUMENT SIGN. A form of a GROUND SIGN which is attached to and in contact with the ground over the full width of its DISPLAY AREA.

NEON SIGN. A SIGN which features exposed glass tubing filled with fluorescent gas.

NON-ACCESSORY SIGN. A SIGN which advertises a business, service, product, commodity, entertainment or similar object or activity which is conducted sold or offered on a LOT other than the LOT on which the SIGN is ERECTED. These are also known as Billboard, off-site SIGNS or off-premise SIGNS.

POLE SIGN. A GROUND SIGN that is supported by one (1) or more columnar uprights. The term POLE SIGN is used in this Ordinance, but this SIGN type may be known as "pylon sign" or "freestanding sign".

PORTABLE SIGN. Any SIGN not permanently attached to the ground, mounted on wheels or to a BUILDING or permanent STRUCTURE, which is designed to be portable such as an A-frame, H-frame or T-frame SIGN placed on the surface of the ground or temporarily staked into the ground.

PROFESSIONAL SIGN. A SIGN indicating the name and occupation of a professional person or group of associated professional persons.

PROJECTING SIGN. A SIGN which is permanently affixed to the exterior surface of a BUILDING or STRUCTURE with the DISPLAY AREA positioned perpendicular to the wall to which the SIGN is mounted.

ROOF SIGN. A SIGN which is painted, mounted or in any way projected above the parapet or above the lowest point of the eaves of a BUILDING or STRUCTURE, not including any SIGN defined as a WALL SIGN and not including any WALL SIGN mounted on a vertical BUILDING located above the eaves or parapet of any lower portion or wing of a BUILDING.

SECONDARY WALL SIGN. A SIGN which is affixed to the Wall of a BUILDING other than the front wall that faces the public STREET. For CORNER LOTs, the STREET with the higher volume of traffic shall be the FRONTAGE.

SIGN. Any symbol, design or device used to identify or advertise any place, business, product, activity, service, person, idea or statement.

TEMPORARY SIGNS OR BANNERS. A SIGN which is not permanently affixed to a BUILDING or mounted in the ground. Such SIGNS may consist of banners, posters, pennants, streamers or stakes in the ground that contain a commercial or non-commercial advertising message. Signs that stay in place for more than sixty (60) days or replaced by similar SIGNS for periods exceeding sixty (60) days shall not be considered TEMPORARY SIGNS. Banners, flags, streamers or other decorations that do not convey commercial information shall not be considered to be TEMPORARY SIGNS.

TRAFFIC PARTICIPANT. A driver of a MOTOR VEHICLE, passenger, bicyclist, or pedestrian who travels on a public STREET.

WALL SIGN. A SIGN which permanently affixed to a vertical exterior surface of a BUILDING or STRUCTURE with the DISPLAY AREA positioned parallel with the wall to which the SIGN is mounted, and including such a SIGN affixed to a parapet or to the lower slope of a gambrel or mansard roof.

WINDOW SIGN. A SIGN, picture, symbol or message visible for longer than sixty (60) continuous days from the window's exterior side, either hung or otherwise attached directly to the inside of a window, not including any part of a customary window display of merchandise or other product. SIGNS hung on the exterior of a window are WALL SIGNS. WINDOW SIGNS that are painted onto the window may continue for longer than sixty (60) continuous days in accordance with the standards in Section 9.4.

SECTION 9.2 SIGNS PROHIBITED IN ALL DISTRICTS

Any SIGN ERECTED in violation of this Ordinance is prohibited, except that SIGNS erected by the City shall be exempt from these prohibitions. These prohibitions shall not apply to any SIGN that expresses religious, political, or other opinions or are otherwise considered to be "speech" under the First Amendment of the United States Constitution. The following types of SIGNS are prohibited in all Districts.

Section 9.2.10 Signs on Certain Structures and Vegetation

SIGNS ERECTED on utility poles, traffic SIGNS, WIRELESS COMMUNICATION TOWERS, FENCES, trees, shrubs or other natural features except for SIGNS erected by the governmental entity or utility company which owns such structures.

Section 9.2.20 Non-accessory Signs

Except as permitted in Section 9.9 below.

Section 9.2.30 Signs Erected within or above a Street or Affixed to Public Property

9.2.31 Signs erected within or above a STREET right-of-way or affixed to public property except for which written approval has been issued by the DEPARTMENT OF PUBLIC WORKS or its designee. In addition to DPW approval, all such signs shall comply with Article 9, including the issuance of a sign permit.

9.2.32 The Planning Board may adopt and from time to time amend policies and regulations regarding SIGNS within or above a STREET or affixed to public property.

Section 9.2.40 Portable Signs

SIGNS designed to be transported by means of wheels, and SIGNS attached to or painted on vehicles parked and visible from a STREET or a right of way customarily used by the general public, unless

said vehicle is registered and used, as a vehicle, in the normal day-to-day operations of the business, in accordance with Title 10 of the Municipal Ordinances.

Section 9.2.50 Signs which in any way Project above a Building or Structure

Signs shall not project more than twelve inches (12") above the top of the roof peak or roof line.

Section 9.2.60 Pennant Signs

Except as specifically provided in Article 9, any SIGN consisting of or containing pennants; ribbons; streamers; spinners; balloons; strings of lights not associated with a religious holiday or seasonal celebration; flags other than those located on City property that identify a nation, state, city or town.

Section 9.2.70 Signs that Resemble Official Traffic Controls

Any SIGN or advertising device which due to its shape or combination and arrangement of colors and/or words resemble traffic SIGNS and traffic control devices.

Section 9.2.80 Signs that Interfere with Traffic Safety

Any SIGN which in any way creates a hazard to traffic obscures or confuses traffic controls or blocks safe sight distance. Any SIGN which in any way obstructs free entrance or egress from a door, window or fire escape.

Section 9.2.90 Signs for Abandoned Use

Any SIGN advertising or identifying a business, service, product, commodity, entertainment or similar object or activity which has been ABANDONED. Such SIGN shall be removed within thirty (30) days after notice by the BUILDING COMMISSIONER.

Section 9.2.100 Sexually Explicit Signs

Any SIGN that depicts, describes or relates to nudity or sexual conduct as defined in M.G.L. Ch. 272, Section 31, and that is visible from the outside of a BUILDING.

SECTION 9.3 GENERAL SIGN REGULATIONS

Except where stated otherwise, the following provisions shall apply to SIGNS in all ZONING DISTRICTS.

Section 9.3.10 Signs Painted on an Exterior Wall

No SIGN shall be painted or drawn directly upon any BUILDING. Any SIGNS to be painted or posted upon a BUILDING must be securely affixed to a substantial intermediate removable surface, and such surface shall be securely affixed to the wall of the BUILDING. This shall not prevent painting or drawing murals or other public art directly on an exterior wall of a building.

Section 9.3.20 Permits, Construction and Maintenance

9.3.21 No SIGN(s) shall be attached, erected or otherwise installed on any property without first obtaining a SIGN PERMIT from the BUILDING DEPARTMENT, as provided in Section 9.5, except as otherwise specifically permitted in this Ordinance. Signs within the Neighborhood Commercial Overlay, the West Columbus Urban Renewal Overlay and the Casino Overlay District are also regulated in Article 8.

9.3.22 SIGNS shall be constructed of durable and weatherproof materials. They shall be maintained in safe structural condition and good visual appearance at all times and no SIGN shall be left in a dangerous or defective state.

9.3.23 All electrical equipment associated with a SIGN shall be installed and maintained in accordance with the National Electrical Code. The BUILDING COMMISSIONER shall have the authority to inspect any SIGN and order the owner to paint, repair or remove a SIGN which constitutes a hazard, or a nuisance due to improper or illegal installation, dilapidation, obsolescence or inadequate maintenance. The BUILDING COMMISSIONER may require removal of SIGNS if the USE has been ABANDONED as provided in Section 9.3.100.

Section 9.3.30 Shopping Centers

9.3.31 A SHOPPING CENTER will be allowed the following SIGNS:

A. One (1) multi-faced GROUND SIGN at each major STREET providing access to the property identifying the SHOPPING CENTER. The DISPLAY AREA on such a sign shall not exceed two hundred (200) square feet if the BUILDING FOOTPRINT is one hundred thousand (100,000) square feet or less. If the BUILDING FOOTPRINT exceeds one hundred thousand (100,000) square feet, the DISPLAY AREA shall not exceed three hundred (300) square feet.

B. WALL SIGNS may be placed on top of covered walkways in front of BUILDINGS, provided they do not project more than two (2'-0") feet above the main roof line.

Section 9.3.40 Location of Permitted Signs

Permitted SIGNS that are attached to a BUILDING shall be located at the specific portion of the BUILDING or its facade directly associated with the USE for which SIGN is allowed.

Section 9.3.50 Illumination

9.3.51 No SIGN shall incorporate or be lit by flashing or blinking lights, or by lights changing in intensity except as permitted herein.

9.3.52 When a SIGN is lit by an external source the illumination of a SIGN shall not interfere with the safe vision of any TRAFFIC PARTICIPANT.

9.3.53 The DISPLAY AREA of an illuminated SIGN shall not exceed an average luminance of fifty (50) foot-candles measured directly on the surface of the SIGN.

9.3.54 Light Fixtures including bulb or tubes used for SIGN illumination shall be selected and positioned to achieve the desired brightness of the SIGN with the minimum possible wattage, while ensuring compliance with all applicable requirements of this Ordinance.

9.3.55 The following types of SIGNS with internal illumination shall be permitted, provided that they comply with all applicable standards

A. NEON SIGNS, subject to Section 9.4.130.

B. HALO INDIVIDUAL LETTER SIGNS or symbols, back-lit with a concealed light source, which create a halo effect in which the letters or symbols are silhouetted against a solid background, illuminated by the light source, as shown in Figure 9-5.

Figure 9-5 Halo Lettering

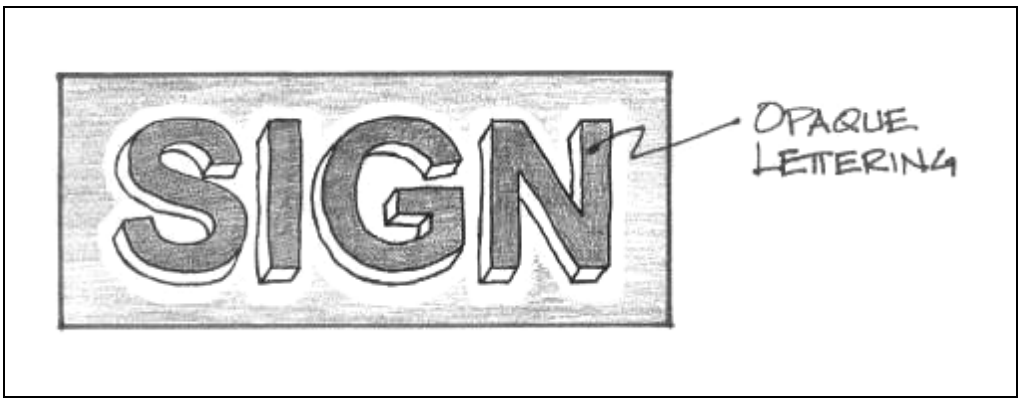
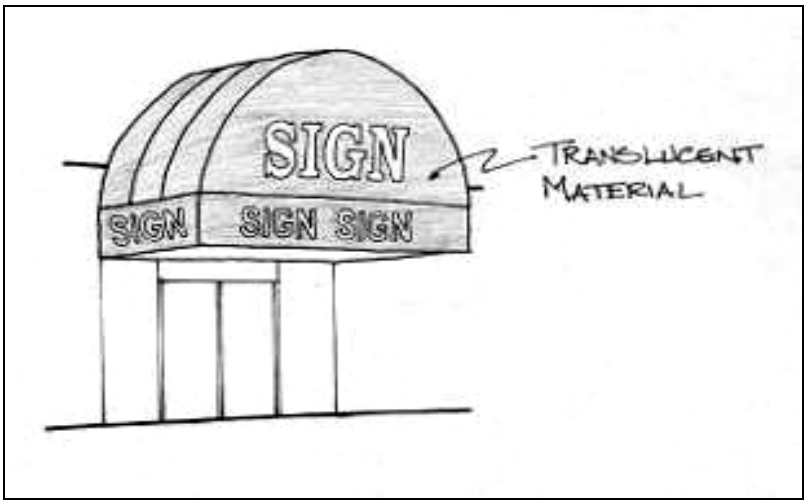


Figure 9-6 Back-lit Canopy



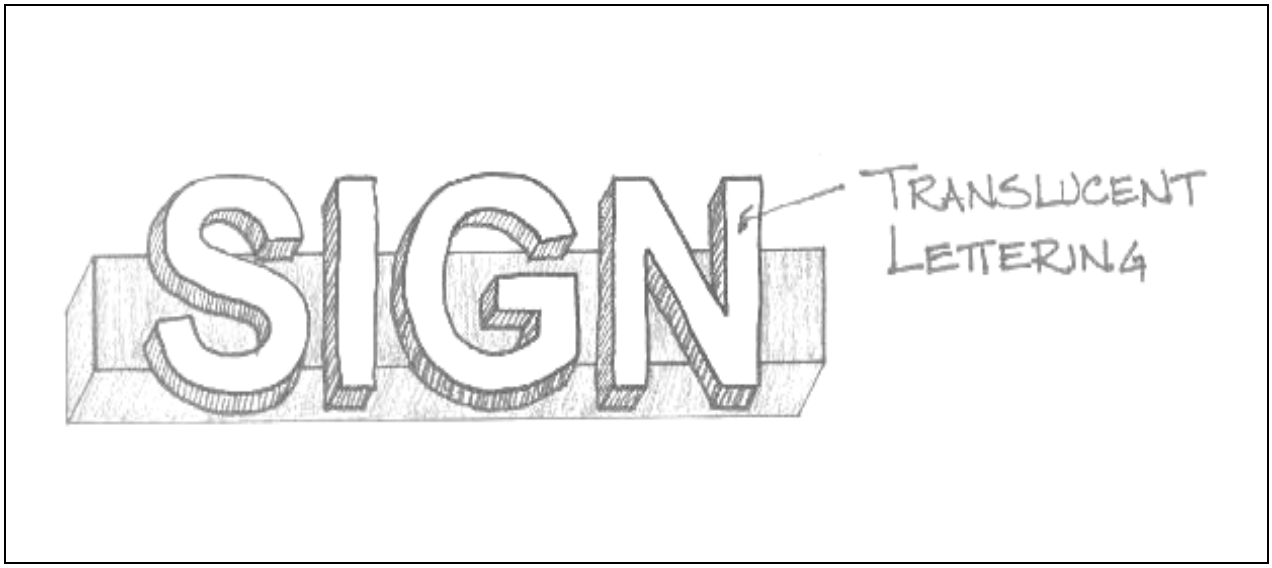
C. Internally illuminated CANOPY SIGNS with the light source internal or concealed from public view from the STREET as shown in Figure 9-6.

1. AWNINGS may be lit by a fixed exterior light.

2. CANOPY SIGNS may be made of a translucent material.

3. Internally illuminated CANOPY SIGNS shall not be permitted in the Neighborhood Commercial Overlay and the West Columbus Urban Renewal Overlay.

Figure 9-7 Internal Illumination with Channel Letters



D. Internally illuminated SIGNS with "Channel" letter faces

1. Internally illuminated or SIGNS with cutout translucent letter surfaces which are internally illuminated with a light source as shown in Figure 9-7.

2. Such SIGNS shall not be permitted in the following Districts (Res A-1, Res A, Res B, and Res C).

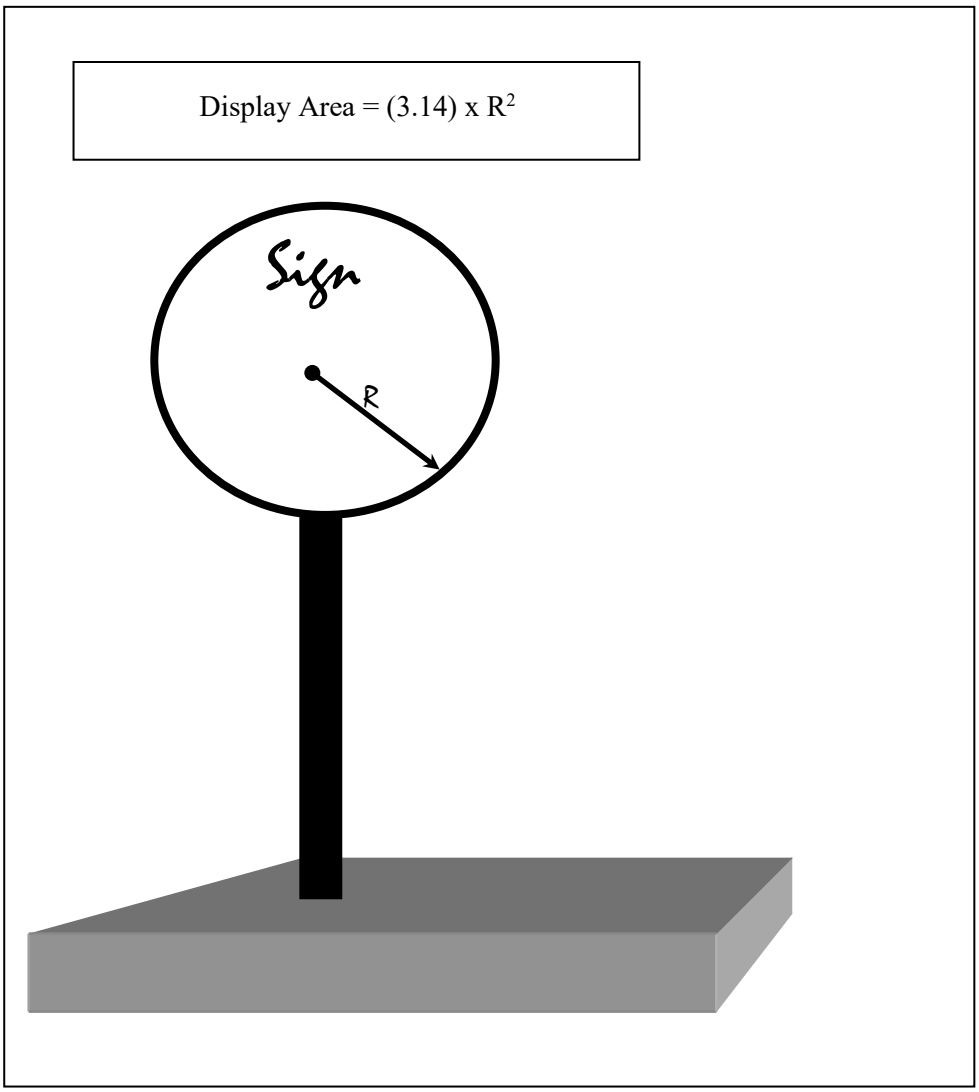
E. Internally illuminated SIGNS.

1. Such SIGNS shall not be permitted in the following Residential Districts (Res A-1, Res A, Res B and Res C).

2. Such Signs shall not be permitted in the Neighborhood Commercial Overlay District.

Section 9.3.60 Measurement of Signs

Figure 9-8 Certain Display Area Measurements



9.3.61 Irregularly Shaped Signs

The maximum surface area visible at one time of a spherical, three dimensional, irregular shaped or three (3) or more sided SIGN is counted to determine DISPLAY AREA. Figure 9-8 illustrates how a spherical or round sign DISPLAY AREA would be calculated.

9.3.62 Signs on a Base Material

When a SIGN is on a base material and attached without a frame, such as a wood board or Plexiglas panel, the dimensions of the base material are to be used in calculating the DISPLAY AREA.

9.3.64 Individual Elements

A. When SIGNS are constructed of individual elements attached to a BUILDING wall, the DISPLAY AREA is determined by calculating the area of an imaginary rectangle drawn around the SIGN elements. See Figures 9-1 and 9-2.

B. However, if the SIGN is internally illuminated or has a border, the DISPLAY AREA includes the SIGN elements, the internally illuminated area, and/or the bordered area.

Section 9.3.70 Changing Image Signs

CHANGING IMAGE SIGNs that change or rearrange characters or letters or illustrations must comply with the following regulations. DISPLAY AREA calculations of a GROUND SIGN that includes a CHANGING IMAGE SIGN are shown in Figure 9-4.

9.3.71 CHANGING IMAGE SIGNs shall not flash, rotate, make noise; sparkle, twinkle or purposely reflect sunlight; move, or give the illusion that the SIGN is moving.

9.3.72 CHANGING IMAGE SIGNs are limited to a DISPLAY AREA of twenty-four (24) square feet. CHANGING IMAGE SIGNS may be increased in size with a Special Permit from the City Council in accordance with Section 9.12.

9.3.73 The images and characters on CHANGING IMAGE SIGNs may not move or refresh at a rate faster than once every ten (10) seconds.

9.3.74 No CHANGING IMAGE SIGN shall be permitted less than five (5) feet from the inside of a window facing a STREET, PUBLIC WAY or public pedestrian way.

9.3.75 CHANGING IMAGE SIGNs shall be used to display information about on-premise uses or activities only and shall not contain information about off premise uses, activities or businesses.

9.3.76 CHANGING IMAGE SIGNs are not permitted in the Neighborhood Commercial Overlay.

9.3.77 CHANGING IMAGE SIGNs are prohibited in all residential zoning districts.

9.3.78 CHANGING IMAGE SIGNs shall only be accessory to a ground sign.

9.3.79 If the CHANGING IMAGE SIGN is double sided, the distance between the two (2) signs shall not exceed twelve (12) inches.

9.3.80 CHANGING IMAGE SIGN(S) shall be equipped with automatic dimming capability to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell. Further, the light produced by such signs shall not exceed 0.3 foot candles over ambient light levels. The ambient light reading shall be taken at least thirty (30) minutes past sunset with the sign turned off or displaying all black copy. The fully lit reading shall be taken with the sign displaying all white copy. Measurement of the light levels shall be taken perpendicular to the face of the sign and at a distance of fifty (50) feet from the source.

SECTION 9.4 SIGNS WHICH DO NOT REQUIRE A SIGN PERMIT

The following SIGNS do not require a SIGN PERMIT or Special Permit; nevertheless such SIGNS shall comply with Sections 9.2 and 9.3 above unless specifically provided otherwise in this section. If SIGNS listed in Section 9.4 are part of a project where Site Plan Review or Special Permit Review is required, they will be reviewed as part of those review procedures.

Section 9.4.10 Agricultural Signs

A SIGN associated with on-premise AGRICULTURAL USES as referenced in Section 3 of M.G.L. Chapter 40A, offering for sale produce and other farm products. Such SIGN may be a PORTABLE SIGN.

Section 9.4.20 Construction Signs

One SIGN on the LOT of a DEVELOPMENT project identifying the proposed BUILDING, the owner or intended occupant and the contractor, architect and engineers. Its DISPLAY AREA shall not to exceed sixteen (16) square feet in the Residential and Commercial A Districts, or forty (40) square feet in any other District. Such SIGNS shall not be illuminated, shall not be ERECTED prior to the issuance of a BUILDING PERMIT, and shall be removed upon completion of the construction or prior to issuance of the OCCUPANCY PERMIT, whichever occurs sooner.

Section 9.4.30 Directory Signs

9.4.31 One DIRECTORY SIGN listing the name and location of the occupants of a BUILDING may be ERECTED on the exterior wall of a BUILDING at each entrance or at one other appropriate location on the wall of a BUILDING, provided that:

A. In the Business and Industrial Districts the DISPLAY AREA shall not exceed two (2) square feet for each occupant identified on the directory SIGN, nor more than a total of twenty-four (24) square feet; and

B. In any other ZONING DISTRICT the DISPLAY AREA shall not exceed one (1) square foot for each occupant identified on the directory SIGN, nor more than a total of twelve (12) square feet. Such SIGNS shall not be illuminated.

Section 9.4.40 Fuel Pump Signs

Fuel pump SIGNS located on service station fuel pumps identifying the name or type of fuel and price thereof.

Section 9.4.50 Government Signs

SIGNS, including PORTABLE SIGNS, ERECTED and maintained by the City, the Commonwealth of Massachusetts, or the Federal Government on any land, BUILDING or STRUCTURE in use by such governmental entity do not require a SIGN PERMIT. Any other SIGNS erected by such governmental entity at any location required for public or environmental health, safety or notification purposes, or announcing the date, time and place of elections or other events.

Section 9.4.60 Informational and Directional Signs

9.4.61 Unless otherwise specified herein, a DIRECTIONAL SIGN may be ERECTED on a LOT consistent with applicable regulations in this Section. A Directional Sign shall conform to the following standards unless permitted as part of a Site Plan or Special Permit Review in accordance with Article 12:

A. The maximum height of a DIRECTIONAL SIGN is four (4) feet as measured from average grade;

B. The DISPLAY AREA of a DIRECTIONAL SIGN shall not exceed ten (10) square feet.

9.4.62 No more than three (3) DIRECTIONAL SIGNS are allowed for each USE on a LOT, unless approved by Special Permit in accordance with Section 9.12, or unless allowed as part of a Site Plan or Special Permit Review in accordance with Article 12.

9.4.63 INFORMATIONAL SIGNS shall not be internally illuminated, nor advertise, identify or promote any business, business service, product, commodity, entertainment or commercial activity.

9.4.64 The DISPLAY AREA of INFORMATIONAL SIGNS shall not exceed six (6) square feet.

Section 9.4.70 Display of Restaurant Menu

An eating or drinking establishment may display a copy of its menu affixed to an exterior wall or placed inside a window of the restaurant. The maximum DISPLAY AREA of the menu shall be two (2) square feet.

Section 9.4.80 Sale, Rent or Lease Signs

For Sale, Rent or Lease SIGNS shall not require a SIGN PERMIT provided that their DISPLAY AREA does not exceed twenty (20) square feet for property located in Commercial A, Business, A, Business B, Business B-1, Business C, Business D or Industrial Districts and four (4) square feet for property located in any other district. In a Residential District, one (1) For Sale, Rent or Lease SIGN shall be allowed per LOT, and one (1) such SIGN shall be permitted for each business or establishment in any other ZONING DISTRICT. Such a SIGN shall not be illuminated. Such SIGN may be a PORTABLE SIGN and it shall be removed immediately following the closing of a sale, lease or rental agreement.

Section 9.4.90 Window Signs

WINDOW SIGNS, other than a NEON WINDOW SIGN, in the Commercial A, Business A, Business B, Business C, Business D, and Industrial Districts, provided that their aggregate DISPLAY AREA covers no more than fifty (50) percent of the window in which they are ERECTED. Such SIGN shall not be illuminated. WINDOW SIGNS promoting a public service or charitable event shall not be calculated in the allowable 50 percent. WINDOW SIGNS in the above ZONING DISTRICTS that occupy more than fifty (50) percent of the window area are permitted with a SIGN PERMIT.

Section 9.4.100 Internal Neon Window Signs

Internally displayed NEON WINDOW SIGNS in the Business and Industrial Districts, are allowed without a SIGN PERMIT, provided that the DISPLAY AREA does not exceed ten (10) square feet or cover more than fifty (50) percent of the window in which they are ERECTED, whichever is less. There shall be not more than one (1) such SIGN allowed per PRINCIPAL USE. NEON SIGNS in the above ZONING DISTRICTS that do not meet this square footage, or occupy more than fifty (50) percent of the window area are permitted with a SIGN PERMIT.

SECTION 9.5 SIGN PERMITS

Unless specifically exempted from the Sign Permit requirement by Section 9.4, all SIGNS shall require a SIGN PERMIT from the BUILDING COMMISSIONER and no such SIGN shall be ERECTED except in conformity with such a SIGN PERMIT and in the exact location and manner described in the SIGN PERMIT. SIGNS which have been approved under a Site Plan and/or a Special Permit Review shall be entitled to a SIGN PERMIT from the BUILDING COMMISSIONER, provided that the proposed SIGN complies with the Site Plan or Special Permit approval.

Section 9.5.10 Permit Application

9.5.11 All applications for SIGNS requiring a SIGN PERMIT shall be made to the BUILDING COMMISSIONER in such form as he may require and such applications shall include at least:

A. The location, by STREET number, or PARCEL NUMBER, of the proposed SIGN;

B. The name and address of the SIGN owner and the owner of the LOT where the SIGN is to be ERECTED, if other than the SIGN owner;

C. Scale drawing showing the proposed construction, method of installation or support, colors, display, dimensions, location of the SIGN on the site, and method of illumination;

D. Other pertinent information as the BUILDING COMMISSIONER may require to ensure compliance with the Ordinance and any other applicable law; and

E. The application must be signed by the owner of the SIGN and the owner of the LOT where the SIGN is to be ERECTED. The BUILDING COMMISSIONER shall have the authority to reject any SIGN PERMIT application which is not complete when submitted.

Section 9.5.20 Permit Processing Time Frame

The BUILDING COMMISSIONER shall approve or disapprove any application for a SIGN PERMIT within thirty (30) days of receipt of the application unless such SIGNS require a Special Permit or Site Plan Review. If the BUILDING COMMISSIONER should fail to approve or disapprove an application for a SIGN PERMIT within such thirty (30) day period, the application shall be deemed to be approved.

Section 9.5.30 Fees

The BUILDING COMMISSIONER shall establish and from time to time review a SIGN PERMIT fee which shall be published as part of a SIGN PERMIT application form.

SECTION 9.6 SIGN REGULATIONS FOR RESIDENTIAL DISTRICTS

The SIGNS described in this Section 9.6 are allowed subject to the issuance of SIGN PERMIT by the Building Commissioner as provided in Section 9.5.

Section 9.6.10 Residential A, A-1, B, C, C-2 and OS Districts

The following SIGNS are permitted within Residential A, A-1, B, C and OS ZONING DISTRICTS:

9.6.11 PROFESSIONAL SIGNS: One (1) double-faced PROFESSIONAL SIGN is permitted for each separate ACCESSORY USE with a maximum area of one hundred forty-four (144) square inches. It may be an illuminated SIGN. The maximum height is six (6) feet. The SIGN shall conform to the YARD requirements of the district within which it is located.

9.6.12 BULLETIN BOARD SIGN: One (1) BULLETIN BOARD SIGN is allowed for each side of a LOT fronting on a STREET in conjunction with the following USES: Churches, other places of worship, school BUILDINGS, public libraries, municipal BUILDINGS, and similar public or charitable uses. The maximum DISPLAY AREA shall be twenty-four (24) square feet. The SIGN height shall not exceed six (6) feet if such a SIGN is a GROUND SIGN. Such a SIGN may be illuminated.

9.6.13 IDENTIFICATION SIGNS. For Single and TWO-FAMILY residential USES in any ZONING DISTRICT, one WALL SIGN on a LOT identifying the occupants of the DWELLING and/or any other USE which is conducted on the LOT and is permitted in a Residential District. In a Residential District, one WALL SIGN on a LOT identifying a NONCONFORMING USE is allowed. All such SIGNS shall not exceed one (1) square feet of DISPLAY AREA and shall not be illuminated, except when coincidental to the illumination of a BUILDING, driveway or similar feature.

9.6.14 Multi-family dwelling SIGNS . A SIGN identifying the name of an APARTMENT BUILDING with more than six (6) DWELLING UNITS, not exceeding twelve (12) square feet in Display Area . If a GROUND SIGN, its height shall not exceed four (4) feet above ground level and if mounted to the exterior wall of a BUILDING no portion thereof shall be higher than four (4) feet from the ground.

Section 9.6.20 Residential C-2 Districts

9.6.21 PROFESSIONAL SIGNS. One (1) illuminated identification SIGN is allowed for each BUILDING. The maximum DISPLAY AREA of such a SIGN is thirty-two (32) square feet. A GROUND SIGN shall be located at least ten (10) feet from the FRONT LOT LINE.

9.6.22 Commercial USES. Any SIGNS erected in conjunction with a commercial USE allowed in this district shall conform to the dimensional standards in Section 9.8.

9.6.23 Multi-family dwelling SIGNS . A SIGN identifying the name of an APARTMENT BUILDING with more than six (6) DWELLING UNITS, not exceeding twelve (12) square feet in Display Area . If a GROUND SIGN, its height shall not exceed four (4) feet above ground level and if mounted to the exterior wall of a BUILDING no portion thereof shall be higher than four (4) feet from the ground.

SECTION 9.7 RESERVED

SECTION 9.8 SIGN DESIGNS AND DIMENSIONS

Section 9.8.10 Wall Signs

Any PRINCIPAL USE permitted in Office A, Commercial A, Business A, Business B, Business B-1, Business C, Business D, and the Industrial Districts may ERECT a WALL SIGN identifying a business, subject to the following:

9.8.11 The maximum DISPLAY AREA of a WALL SIGN shall not exceed four (4) square feet for each lineal foot of BUILDING wall. This BUILDING wall is measured by the lineal frontage of the BUILDING which is occupied by a USE.

9.8.12 Except as specifically provided herein, a WALL SIGN may only be ERECTED on the exterior wall of the ground floor and up to one (1) foot below the level of the bottom sills of any windows of the story above the ground floor of a BUILDING.

9.8.13 One (1) WALL SIGN per USE, or multiple SIGNS, the total of which does not exceed the WALL SIGN dimensional standard, are allowed for each side of the BUILDING fronting on a STREET or public pedestrian way.

9.8.14 If a business has a secondary BUILDING WALL or walls other than the front wall, with or without a direct entrance to the business that faces upon a walkway, DRIVEWAY, or PARKING area under the same control or ownership as the BUILDING, there may be a WALL SIGN affixed to such wall. The DISPLAY AREA of such WALL SIGN is based on the lineal feet of the secondary BUILDING WALL. Such WALL SIGN shall not exceed the size of the WALL SIGN located on the primary BUILDING FRONTAGE.

9.8.15 Except for AWNING SIGNS and CANOPY SIGNS, a WALL SIGN shall not obscure or cover architectural features such as but not limited to arches, sills, eaves moldings, cornices, transoms, lintels and windows, and shall not be ERECTED within six (6) inches from any such architectural features.

9.8.16 A WALL SIGN may be ERECTED on a BUILDING, or on an arcade STRUCTURE attached to the ground floor of a BUILDING, or on a permanent canopy STRUCTURE associated with a MOTOR VEHICLE service station or a drive-up window.

9.8.17 A WALL SIGN to be located above the first floor of a BUILDING may be approved by a Tier 3 Special Permit in accordance with Section 12.4 and Section 9.12.

Section 9.8.20 Projecting Signs

Any PRINCIPAL USE permitted in Commercial A, Business A, Business B, BusinessB-1, Business C, Business D, Industrial Districts may ERECT a PROJECTING SIGN identifying a business, subject to the following:

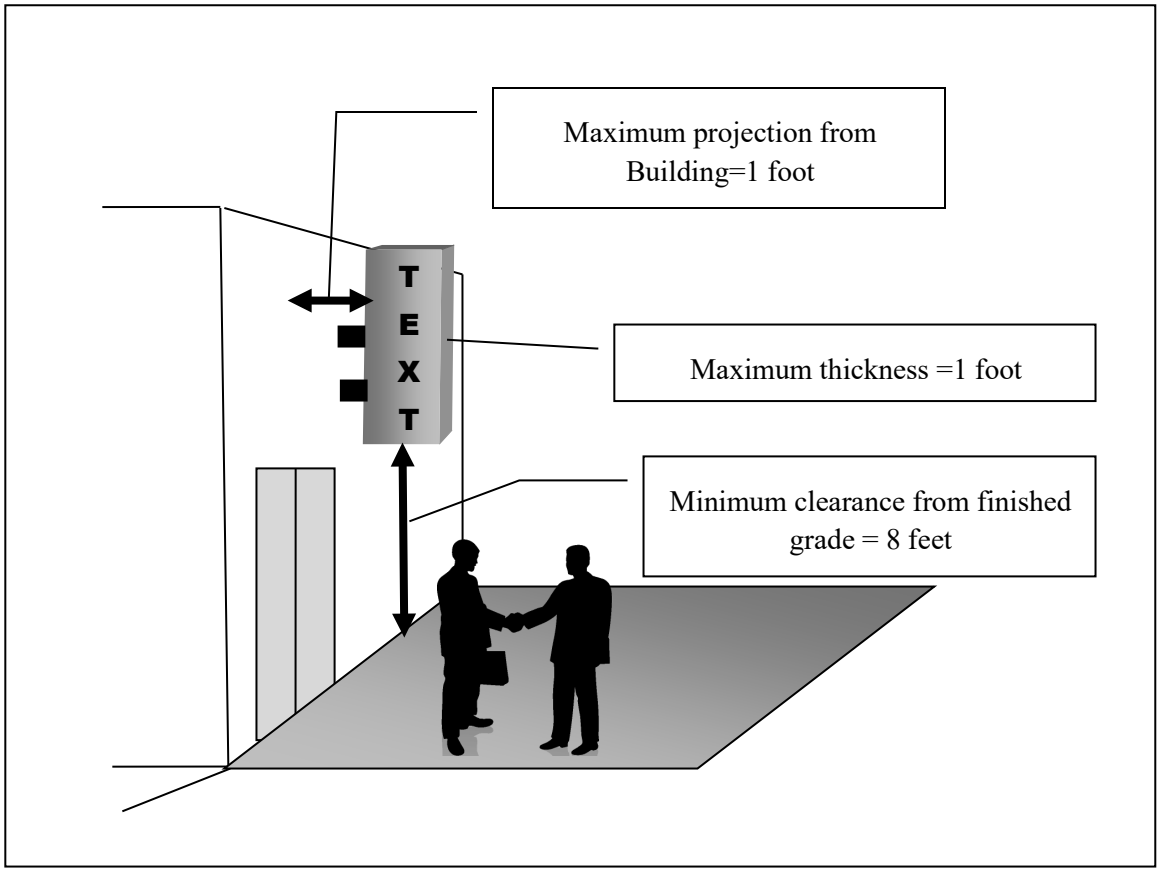
9.8.21 A PROJECTING SIGN may be ERECTED on a BUILDING provided that the DISPLAY AREA complies with Table 9-1. If a ZONING DISTRICT is not listed in Table 9-1, Projecting Signs are not allowed in that district.

Table 9-1 Projecting Signs

	Com A	**Bus A, Bus B, Bus B-1**	**Bus C**	**Bus D**	**IA, IP, MUI**
Maximum Area of Projecting Sign	12 square feet	48 square feet	48 square feet	96 square feet	96 square feet

9.8.22 The thickness between the SIGN faces shall not exceed one (1) foot. The closest point of a PROJECTING SIGN to a BUILDING wall shall not exceed one (1) foot. A PROJECTING SIGN shall maintain a minimum clearance of eight (8) feet above a walkway or sidewalk. A PROJECTING SIGN shall not extend more than three (3) feet beyond the street line. See Figure 9-9.

Figure 9-9 Projecting Sign



Section 9.8.30 Awning Signs

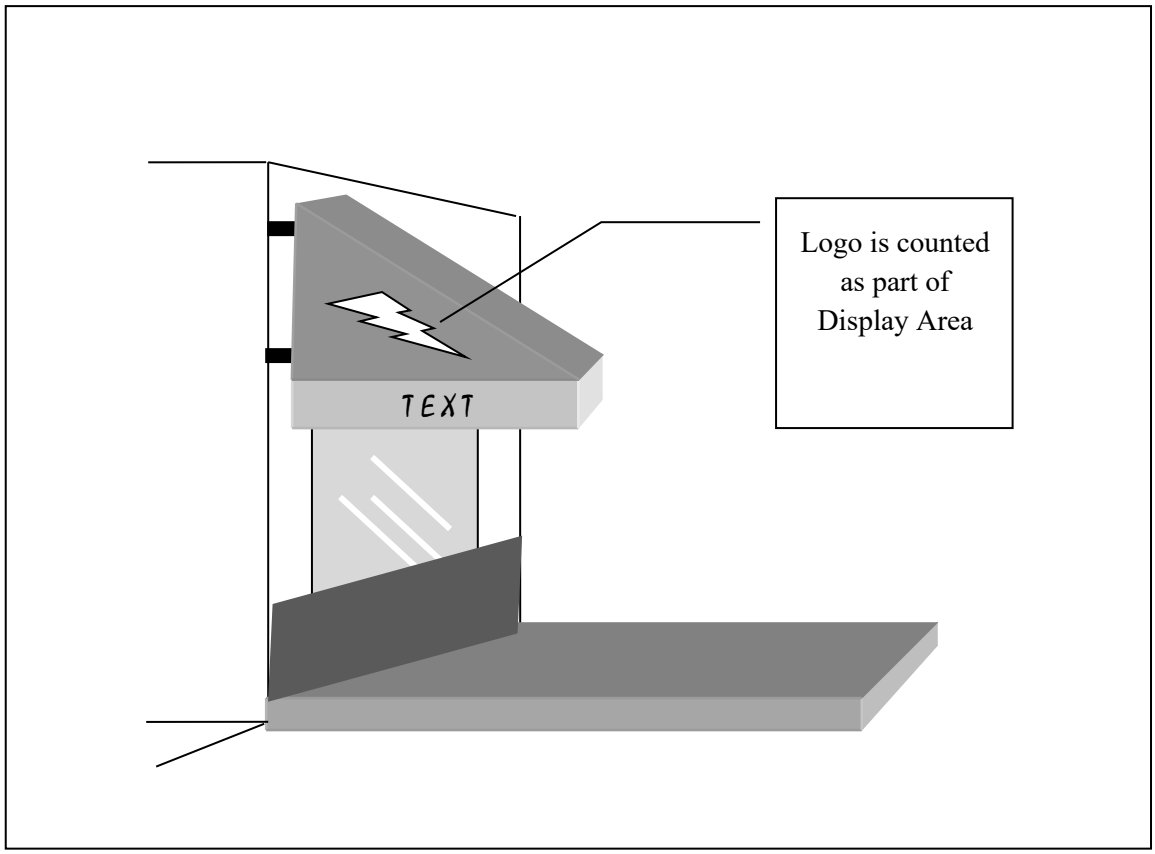
Any PRINCIPAL USE permitted in Commercial A, Business A, Business B, BusinessB-1, Business C, Business D, Industrial Districts may ERECT an AWNING SIGN identifying a business, subject to the following:

9.8.31 An AWNING SIGN may consist of letters or symbols affixed to an awning in a parallel, perpendicular and/or convex position to the wall onto which the awning is mounted, except that in the Commercial A, Business A, Business B, Business B-1 Districts the convex position of letters to the wall shall not be permitted. Letters and symbols on an AWNING SIGN shall be flush with the surface of the awning.

9.8.32 The maximum DISPLAY AREA of an AWNING SIGN shall be twelve (12) square feet for surfaces positioned parallel or convex to the BUILDING wall, and six (6) square feet for surfaces positioned perpendicular to the BUILDING wall. An AWNING SIGN shall project at least three (3) feet from the wall and shall maintain a minimum clearance of eight (8) feet above a walkway or sidewalk. Where an AWNING SIGN is ERECTED on the wall of a BUILDING, all other awnings without a SIGN located on the same

BUILDING shall be subject to the same dimensional requirements as the AWNING SIGN. See Figure 9-10 for an example.

Figure 9-10 Awning Sign



Section 9.8.40 Ground Signs

Any PRINCIPAL USE permitted in Commercial A, Business A, Business B, BusinessB-1, Business C, Business D, Industrial Districts may ERECT a GROUND SIGN identifying a business, subject to the following:

9.8.41 Number and Size of Ground Signs

Table 9-2 gives the allowed number and dimensional standards for GROUND SIGNS by district, followed by detailed requirements for such SIGNS.

9.8.42 Ground Signs Adjacent to Certain Portions of Interstate 91

A certain elevated section of Interstate 91 that runs through the Central Business District creates a unique challenge for businesses adjacent to the elevated highway. Table 9-2 includes special height limits for these areas which are shown the Official Zoning Map in the Office of Planning &

Economic Development. Properties within the West Columbus Urban Renewal Overlay District are not included in this area.

Table 9-2 Ground Signs				
	Com A, Bus A, Bus B, Bus B-1	**Bus C**	**Bus D**	**MUI, IA, IP,**
Pole Signs				
Maximum Display Area Size Limit (per face)	100 square feet	100 square feet	200 square feet of BUILDING size up to 100,000 square feet; 300 square feet for BUILDING size over 100,000 sq. feet.	100 square feet
Maximum Number	1 per lot or 1 per 300 lineal feet of lot frontage and 1 for each additional 300 feet	1 per lot if the front yard is 10 feet deep or greater	1 per lot or 1 per 300 lineal feet of lot frontage and 1 for each additional 300 feet	1 per lot or 1 per 300 lineal feet of lot frontage and 1 for each additional 300 feet
Menu Signs for drive thru	1 in addition to the Ground Signs allowed above with maximum 24 square feet Display Area per face	1 in addition to the Ground Signs allowed above with maximum 24 square feet Display Area per face	1 in addition to the Ground Signs allowed above with maximum 24 square feet Display Area per face	1 in addition to the Ground Signs allowed above with maximum 24 square feet Display Area per face
Maximum Height	30 feet	30 feet	30 feet	30 feet
Maximum Height for East and West Columbus Streets abutting Interstate 91 (refer to Section 9.8.42)	10 feet above adjacent Interstate 91 road surface or base height limit, whichever is higher.	10 feet above adjacent Interstate 91 road surface or base height limit, whichever is higher.	10 feet above adjacent Interstate 91 road surface or base height limit, whichever is higher.	10 feet above adjacent Interstate 91 road surface or base height limit, whichever is higher.

Table 9-2 Ground Signs				
	Com A, Bus A, Bus B, Bus B-1	**Bus C**	**Bus D**	**MUI, IA, IP,**
Monument Signs				
Maximum Display Area Size Limit (per face)	100 square feet	100 square feet	100 square feet	100 square feet
Maximum Number	1 per lot or 1 per 300 lineal feet of lot frontage and 1 for each additional 300 feet	1 per lot if the front yard is 10 feet deep or greater	1 per lot or 1 per 300 lineal feet of lot frontage and 1 for each additional 300 feet	1 per lot or 1 per 300 lineal feet of lot frontage and 1 for each additional 300 feet
Maximum Height	7 feet	7 feet	7 feet	7 feet

9.8.43 Monument Sign with Stone Base

Where the exterior surface of the support STRUCTURE of a MONUMENT SIGN consists of masonry material which remains in its natural color other than plain gray concrete, the area below the lowest portion of any letter, symbol or illustration consisting of such masonry surface shall not be counted as DISPLAY AREA.

9.8.44 Additional Ground Sign Regulations

The additional provisions shall apply to GROUND SIGNS in the Commercial A, Business A, Business B, Business B-1, Business C and Industrial Districts:

A. GROUND SIGNS are permitted only for those USES which occupy space on the first (ground) story level. These SIGNS shall only be ERECTED on property owned, leased or rented for and used in operation with the specific USE.

B. Where a POLE SIGN identifies a business, such POLE SIGN shall be permitted in addition to a WALL SIGN permitted on the same LOT. The DISPLAY AREA and Height of the GROUND SIGN shall be in accordance with Table 9-2.

C. MONUMENT SIGN. The maximum DISPLAY AREA may be increased to one hundred and seventy two (172) square feet provided, however, that the height of a MONUMENT SIGN shall not exceed six (6) feet.

D. When a GROUND SIGN is within the Business D District (Shopping Center):

1. One (1) multi-faced GROUND SIGN shall be permitted at each major STREET providing access in the property that identifies the SHOPPING CENTER.

2. This DISPLAY AREA shall not exceed two hundred (200) square feet if the BUILDING area exceeds 100,000 square feet. If the BUILDING area exceeds 100,000 square feet, the DISPLAY AREA shall not exceed three hundred (300) square feet.

E. One (1) GROUND SIGN identifying an Office Park or industrial park, which may be located on more than one (1) LOT, shall be permitted, subject to the following:

1. Only one (1) such SIGN shall be permitted for each OFFICE PARK OR INDUSTRIAL PARK.

2. Such GROUND SIGN shall only identify the OFFICE PARK OR INDUSTRIAL PARK and shall be subject to the provisions applicable to GROUND SIGNS as they apply to the particular location in which the SIGN is ERECTED. However, any DISPLAY AREA specifically provided to accommodate the listing of individual business shall be included in calculating the maximum DISPLAY AREA.

3. Such GROUND SIGN may be permitted in addition to any permitted WALL SIGNS on the same LOT but no other GROUND SIGN shall be permitted on the same LOT.

4. Such SIGN shall be ERECTED on the LOT where the OFFICE PARK OR INDUSTRIAL PARK is located.

SECTION 9.9 NON-ACCESSORY SIGNS (ALSO KNOWN AS BILLBOARDS)

Section 9.9.10 Purpose

To preserve and promote the public health, safety, and welfare of the residents of the City by maintaining and enhancing the visual environment, by protecting areas of scenic beauty or of historic interest, by minimizing the possible adverse effect of NON-ACCESSORY SIGNS on nearby residences, public resources, or private property.

Section 9.9.20 Limitation and Restrictions

9.9.21. There shall not be more than two hundred (200) NON -ACCESSORY SIGNS in the City. These SIGNS must be properly permitted by the City and by the Outdoor Advertising Division of the Commonwealth of Massachusetts. Existing SIGNS which are so properly permitted may be maintained and repaired but not enlarged.

9.9.22. The BUILDING COMMISSIONER may issue a permit for a new NON -ACCESSORY SIGN allowed under this cap or for the relocation of a pre-existing SIGN permitted by the City and Commonwealth provided the new SIGN or new location complies with the following provisions:

A. A NON-ACCESSORY SIGN shall require a Tier 3 Special Permit from the City Council.

B. One (1) NON-ACCESSORY SIGN with an area less than one hundred (100) square feet shall be allowed for each parcel only if such SIGN is a "WALL SIGN." Such a SIGN shall not project more than twelve (12) inches from the surface of the wall to which it is attached, or vertically past the roofline or parapet, or horizontally past the extent of the wall to which it is attached. Height from the top of the SIGN to finished grade shall not exceed thirty (30) feet.

C. A NON-ACCESSORY SIGN shall not be located within a five hundred (500) foot radius of an existing NON-ACCESSORY SIGN.

D. A NON-ACCESSORY SIGN shall not be erected:

1. In any location where it obstructs a view of scenic beauty and interest or places of historic interest. In making this determination, the BUILDING COMMISSIONER may consult the Springfield Park Commission and Springfield Historical Commission.

2. In any location within five hundred (500) feet of, and visible from, the grounds of a school, place of worship, college, public library, public park, public conservation area, museum, cemetery, or property or district listed on the State Register of Historic Places, or from an American Heritage River.

3. In any location within five hundred (500) feet of, and visible from, a residential ZONING DISTRICT or a BUILDING containing residences.

4. In any location within an authorized urban renewal area which prohibits NON-ACCESSORY SIGNs.

5. On a roof.

9.9.23 A NON-ACCESSORY SIGN of one hundred (100) square feet or larger may be either a POLE SIGN or WALL SIGN. As a POLE SIGN it may be a double-faced SIGN provided the distance between the two faces shall not exceed ten (10) feet at any point. Height from the top of the SIGN to finished grade of the roadway it faces shall not exceed thirty (30) feet.

9.9.24 A relocated NON-ACCESSORY SIGN shall not exceed its size at its current location. In no case shall a relocated NON-ACCESSORY SIGN exceed one hundred (100) square feet in Business A districts or seven hundred (700) square feet in Business B or Industrial A districts. Relocated NON-ACCESSORY SIGNS are not allowed in any other ZONING DISTRICT. Relocated NON-ACCESSORY SIGNS are not allowed on roofs.

9.9.25 When an existing NON-ACCESSORY SIGN is removed under this cap, a new NON-ACCESSORY SIGN may be permitted but shall not exceed the size of the removed NON-ACCESSORY SIGN. In no case shall a new NON-ACCESSORY SIGN exceed one hundred (100) square feet in Business A districts or seven hundred (700) square feet in Business B or Industrial A districts. New NON-ACCESSORY SIGNS are not allowed in any other ZONING DISTRICTs or allowed on roofs.

Section 9.9.30 Digital Non-Accessory Sign

9.9.31 Digital non-accessory signs shall require a Tier 3 Special Permit by the City Council and shall only be allowed in Business B or Industrial A zones.

9.9.32 A digital non-accessory sign shall not be located in:

A. In any location where it obstructs a view of scenic beauty and interest or places of historic interest. In making this determination, the BUILDING COMMISSIONER may consult the Springfield Park Commission and Springfield Historical Commission.

B. In any location within five hundred (500) feet of, and visible from, the grounds of a school, place of worship, college, public library, public park, public conservation area, museum, cemetery, or property or district listed on the State Register of Historic Places, or from an American Heritage River.

C. In any location within five hundred (500) feet of, and visible from, a residential ZONING DISTRICT or a BUILDING containing residences.

D. In any location within an authorized urban renewal area which prohibits NON-ACCESSORY SIGNS.

9.9.33 Digital non-accessory signs shall not flash, rotate, make noise, sparkle, twinkle or purposely reflect sunlight; move or give the illusion of moving.

9.9.34 Digital non-accessory signs shall not contain streaming video, full-motion video, animation or frame effects.

9.9.35 The transition time, or the time it takes to change each message, shall be one (1) second or less.

9.9.36 Digital non-accessory signs shall have a frame hold time of not less than ten (10) seconds.

9.9.37 A digital non-accessory sign shall not be visible from more than one (1) direction of travel.

9.9.38 Digital non-accessory signs shall be equipped with automatic dimming capability to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell. Further, the light produced by such signs shall not exceed 0.3 foot candles over ambient light levels. The ambient light reading shall be taken at least thirty (30) minutes past sunset with the sign turned off or displaying all black copy. The fully lit reading shall be taken with the sign displaying all white copy. Measurement of the light levels shall be taken perpendicular to the face of the sign and the following distances should be used as a guideline to determine measurement distances:

A. Signs one hundred (100) square foot or smaller to be measured at a distance of one hundred (100) feet from source;

B. Signs one hundred (100) to three hundred and fifty (350) square feet shall be measured at a distance of one hundred and fifty (150) feet from source;

C. Signs greater than three hundred and fifty (350) to six hundred and fifty (650) square feet shall be measured at a distance of two hundred (200) feet from source;

D. Signs greater than six hundred and fifty (650) to seven hundred (700) square feet shall be measured at a distance of two hundred and fifty (250) feet from the source.

9.9.39 Spillover light exceeding 0.2 foot candles as measured at a residential property line is prohibited.

9.9.40 The owner of each digital, non-accessory sign shall provide the City of Springfield's Building Department information for a 24-hour contact to be able to turn off the sign promptly should a malfunction occur.

9.9.41 If at any time, more than twenty five percent (25%) of the digital display lights malfunction or are no longer working, the owner of said digital non-accessory sign shall make repairs to the sign within thirty (30) days or the sign shall be turned off until repairs are completed.

9.9.42 If after the installation of a digital non-accessory sign, the US Department of Transportation, Federal Highway Administration or the Massachusetts Department of Transportation, Office of Outdoor Advertising, concludes that digital non-accessory signs are detrimental to traffic safety, then the hazard posed by the sign shall be resolved. If the hazard can be effectively resolved by adjusting the brightness, length of display or other such performance standard, then this shall be allowed as the course of action. However, if the hazard cannot be effectively resolved by adjusting the performance of the sign, the sign shall be removed and may be replaced with a non-digital, non-accessory sign.

9.9.43 A digital non-accessory sign cannot replace an existing non-accessory sign that is non-conforming unless the entire sign is brought into compliance with all the applicable provisions of this Article.

9.9.44 A digital non-accessory signs shall comply with all any and all regulations as outlined in Massachusetts Department of Transportation, 700 CMR 3.00: Control and Restriction of Billboards, Signs and Other Advertising Devices, as amended.

SECTON 9.10 SPECIAL EVENT SIGNS

Section 9.10.10 Number and type of Signs

One (1) SIGN may be ERECTED with a SIGN PERMIT to announce a church bazaar, fair, circus, festival, business or shop opening, special sale by a store or business, or similar event. Such SIGN shall identify the event and the date of the event, and it may display the event's sponsor, organizer or main feature.

Section 9.10.20 Measurement and Size

9.10.21 The DISPLAY AREA of a Special Event Sign shall be measured as shown in figure 9-1.

9.10.22 When such SIGN is hung on a building the DISPLAY AREA shall not exceed one hundred (100) square and shall be ERECTED on the same LOT where the event occurs. Such a SIGN shall not be ERECTED on a sidewalk, walkway or driveway, or within 5 feet from the sideline of a STREET or right of way customarily used by the general public. When such sign is a GROUND SIGN, the DISPLAY AREA shall not exceed twelve (12) square feet.

Section 9.10.30 Design

Such SIGN shall comply with all provisions of Sections 9.3 and 9.4, but it shall not be illuminated. Notwithstanding Sections 9.2.40 and 9.2.70 it may be a PORTABLE SIGN and may consist of a flag or balloon, or may be decorated with ribbons, flags, streamers or balloons which remain reasonably within the confines of the SIGN.

Section 9.10.40 Timeframe

Such a SIGN shall not be ERECTED sooner than thirty (30) days before the event and it shall be removed not later than seven (7) days after completion of the event. Only one such SIGN shall be ERECTED per PRINCIPAL USE at any given time. The number of times such a SIGN may be ERECTED shall not exceed four events per PRINCIPAL USE in one calendar year.

SECTION 9.11 NONCONFORMING SIGNS

Any Nonconforming Sign lawfully ERECTED may continue, subject to the following:

Section 9.11.10 Nonconforming Signs Accessory to a Nonconforming Use or Nonconforming Building

Such SIGNS shall be removed or replaced concurrently with any expansion or change of such NONCONFORMING USE or NONCONFORMING BUILDING. Such nonconforming Signs shall be replaced with a conforming SIGN or SIGNS prior to the issuance of an occupancy permit for any expansion of a NONCONFORMING BUILDING in which a NONCONFORMING USE is to be expanded.

Section 9.11.20 Maintenance

Nothing herein shall be deemed to prevent orderly, regular and timely maintenance, repair and repainting with the same original colors of a nonconforming SIGN.

Section 9.11.30 Exceptions

The continuance of the NONCONFORMING SIGN allowed herein shall terminate with respect to any SIGN which:

9.11.31 Has been ABANDONED; or

9.11.32 Advertises or calls attention to any products, businesses or activities which are no longer carried or sold, whether generally or at the particular premises; or

9.11.33 Has not been repaired or properly maintained within sixty (60) days after notice to that effect has been given by the BUILDING COMMISSIONER.

SECTION 9.12 SIGNS REQUIRING A SPECIAL PERMIT FROM THE PLANNING BOARD

Section 9.12.10 Authority to Modify Sign Regulations

9.12.11 The Planning Board, acting as the SPECIAL PERMIT GRANTING AUTHORITY under this Section, may approve, approve with conditions, or disapprove the following SIGNS and the following deviations from the requirements of Sections 9.6, 9.7 and 9.8:

A. A greater number of SIGNS than allowed under Sections 9.6, 9.7 and 9.8, but not more than one (1) SIGN in addition to the number of SIGNS otherwise permitted per LOT or per PRINCIPAL USE , as the Planning Board finds appropriate to further the purpose of this Section as stated in Section 9.1.

B. SIGNS with dimensions in excess of those permitted under Sections 9.6, 9.7 and 9.8, subject to the following limitations:

1. No GROUND SIGN higher or wider than one and one half (1.5) times the maximum height or width otherwise permitted, and

2. No SIGN larger than two (2) times the otherwise permitted maximum DISPLAY AREA, and

3. One (1) GROUND SIGN per BUILDING in Business C above the second floor and larger than the dimensional standards otherwise allowed.

C. A SIGN in a location or in a position not otherwise permitted, but not a ROOF SIGN, a NON-ACCESSORY SIGN, or a SIGN located within the minimum required distance from the sideline of a STREET or right of way customarily used by the general public.

D. A SIGN attached to a stone wall, retaining wall, FENCE or other landscaping feature on a LOT, provided that such SIGN and feature are, in the opinion of the Planning Board, an integral component of the landscape design and BUILDING architecture on the LOT.

E. A type or method of SIGN illumination not otherwise permitted provided that it meets the Purpose statement of this Article.

Section 9.12.20 Approval Criteria

9.12.21 A Special Permit under this section shall only be issued if the Planning Board finds that, in addition to meeting the criteria of Section 12.4, the resulting deviation from the otherwise applicable requirements of this Article meets the following criteria:

A. The SIGN will be consistent with the intent and purpose of Article 9.

B. The SIGN will be consistent with the character and USE of the area and with the ZONING DISTRICT in which it is ERECTED.

C. The SIGN will be appropriate in scale and proportion in its design and in its visual relationship to BUILDINGS in the area and its general surroundings and in particular:

1. The SIGN will be attractively designed and located, and will be a compatible architectural element of the BUILDING to which it principally relates and will be in harmony with other features in the general area; and

2. The SIGN will provide continuity with other SIGNS, not including any NONCONFORMING SIGNS, on the same or adjacent BUILDINGS or LOTS with respect to most but not necessarily all of the following criteria: dimension, proportion, mounting height, materials, colors, and other important features as determined by the Planning Board.; and

3. The colors, materials and illumination of the proposed SIGN are restrained and harmonious with the BUILDING and the site to which it principally relates; and

4. The material used for the SIGN is appropriate and does not detract from the aesthetic qualities of its surroundings.

D. In the case where a SPECIAL EVENT SIGN under Section 9.10.20, the proposed SIGN is necessary for adequate identification of a business which for site specific reasons would not reasonably be possible under the otherwise applicable standards and available options of this Ordinance.

Section 9.12.30 Imposition of Conditions

When granting a Special Permit hereunder, the Planning Board, in order to mitigate negative impacts of a SIGN may impose reasonable conditions taking into consideration all aspects of the SIGN and its impacts on the visual environment in the area, including but not limited to design, construction, color, illumination, landscaping, and coordination with BUILDINGS and other SIGNS in the area. The Planning Board may also require the removal of any NONCONFORMING SIGN or SIGNS on the LOT and it may impose such other conditions as it deems appropriate to further the purpose of this Article as stated in Section 9.0.

Section 9.12.40 Special Permit Rules and Regulations

The Planning Board shall promulgate Rules and Regulations governing the granting of Special Permits under this Section, including but not limited to the contents of an application and application fees.

SECTION 9.13 SUBSTITUTION OF NON-COMMERCIAL SIGN COPY

Notwithstanding anything herein to the contrary, non-commercial copy may be substituted for commercial copy on any lawful SIGN STRUCTURE.

Article 10 Nonconforming Uses, Structures and Lots

Section 10.0 Purpose

Section 10.1 Nonconforming Structures and Uses

Section 10.2 Nonconforming Lots

Section 10.3 Pre-Existing Special Permit Uses

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ARTICLE 10 NONCONFORMING USES, STRUCTURES, AND LOTS

SECTION 10.0 PURPOSE

The purpose of this Article is to address situations where a USE of land or a STRUCTURE legally existed prior to the adoption of this Ordinance but no longer conforms to one (1) or more requirements of this Ordinance. Such a USE of land or a STRUCTURE is known as "NONCONFORMING." This Article describes how such USES and STRUCTURES may continue and how changes to NONCONFORMING USES and STRUCTURES may occur. The article also addresses NONCONFORMING LOTS and previously approved Special Permit USES.

SECTION 10.1 NONCONFORMING STRUCTURES AND USES

Section 10.1.10 Applicability

10.1.11 This Ordinance, and amendments thereto, shall not apply to STRUCTURES or USES lawfully in existence or lawfully begun, or to a BUILDING PERMIT or Special Permit issued before the first publication of notice of the public hearing required by M.G.L Chapter 40A, Section 5, at which this Ordinance, or any part thereof, was adopted or amended.

10.1.12 This Ordinance, and amendments thereto, also shall not apply to a development project (including any future extensions, modifications, alterations or changes to structures or uses thereof), and the LOT(s) on which such development project is located as shown on an endorsed Approval-Not-Required (ANR) plan, if, as of the date of the final City Council vote adopting this Ordinance, the development project has received a Certificate from the Secretary of the Executive Office of Energy and Environmental Affairs with respect to a filed Environmental Notification Form (ENF) for the development project (which ENF included an analysis of traffic impacts and related mitigation).

10.1.13 Prior lawfully existing NONCONFORMING USES and STRUCTURES may continue until ABANDONED, provided that no extension, modification, alteration or change of such USE or STRUCTURE may be made except as provided in this Article 10.

Section 10.1.20 Nonconforming Uses

NONCONFORMING USES of BUILDINGS, STRUCTURES , and land may continue. Except as otherwise required by M.G.L. Chapter 40A, Section 6, no NONCONFORMING USE of BUILDING, STRUCTURE , or land shall be changed to another USE which is substantially different from the former NONCONFORMING USE, except one which is permitted by this Ordinance in the district in which the USE is located. Whenever a NONCONFORMING USE of land, STRUCTURE or BUILDING has been changed to a conforming USE, it shall not thereafter be changed to a NONCONFORMING USE.

Section 10.1.30 Alteration of Nonconforming Structures or Uses

Preexisting NONCONFORMING STRUCTURES or USES may be extended or altered provided that no extension or alteration shall be permitted unless there is a finding by the permit granting authority or by a Tier 3 Special Permit Review by City Council that such change, extension or alteration shall not be substantially more detrimental that the existing NONCONFORMING USE to the neighborhood. Such findings shall be made by the special permit granting authority provided, however, that when the requested change is solely for the reconstruction, extension, or structural change of a pre-existing NONCONFORMING STRUCTURE with no change to the NONCONFORMING USE, such finding shall be made by the permit granting authority. Such finding shall be in the form of a Tier 3 Special Permit Review by City Council and such special permit shall conform to any subsequent amendments of this ordinance or bylaw unless the use or construction is commenced within a period of not more than six (6) months after issuance of the permit and in the case of construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

Section 10.1.40 Abandonment and Non-Use

Any NONCONFORMING USE of land, BUILDINGS or STRUCTURES not used or VACANT for a period of two (2) years or more shall not thereafter be re-established, except as provided below.

10.1.41 Non-Use, Residential

A. A NONCONFORMING residential STRUCTURE consisting of one (1), two (2) or three (3) DWELLING UNITS, may be REUSEd for the same USE provided that it complies with all applicable BUILDING CODE requirements.

B. A NONCONFORMING residential STRUCTURE, consisting of four (4) or more DWELLING UNITS, may be re-established by Tier 3 Special Permit Review by City Council, which shall make its determination taking into consideration the need to productively REUSE older BUILDINGS in the City. In the course of such Special Permit Review the City Council may waive otherwise applicable YARD, BUILDING HEIGHT, and OFF-STREET PARKING requirements.

10.1.42 Non-use, Non-residential and Mixed-use

Any NONCONFORMING MIXED-USE BUILDING or non-residential STRUCTURE or USE, including but not limited to, MOTOR VEHICLE related USES such as auto repair, auto body, brake and muffler shops, JUNKYARD, STORAGE YARD, CONTRACTORS SHOP or yard, trucking and auto sales, not used or ABANDONED or VACANT for a period of two (2) years or more, shall not be re-established without a Special Permit from the City Council. The City Council shall make its determination based on standards found in Section 12.4 (Tier 3 Special Permits).

Section 10.1.50 Restoration of Damaged or Destroyed Buildings

A NONCONFORMING USE or BUILDING which has been partially damaged by fire, explosion, flood, riot, or other phenomenon, or legally condemned, may be restored and continued as-of-right PROVIDED, however, the estimated cost of such restoration does not exceed one-half (1/2) of the fair value of the BUILDING, based on replacement cost immediately prior to such damage.

Section 10.1.60 Agricultural Exemption

BUILDINGS or land used primarily for AGRICULTURE are exempt from subsections 10.2.20 and 10.2.30 of this section as provided in the Zoning Act, M.G.L. Chapter 40A, Section 3.

Section 10.1.70 Restoration of Wall or Roof

Nothing herein shall prevent the restoration of a wall or roof declared unsafe by the BUILDING COMMISSIONER.

SECTION 10.2 NONCONFORMING LOTS

Any LOT that at the effective date of this Ordinance, that does not meet the LOT AREA and/or FRONTAGE requirements of this Ordinance, but complies with any minimum area, FRONTAGE, width and depth requirements in force at the time the LOT was lawfully laid out by plan or deed, duly recorded, or any LOT shown on a plan endorsed with the words "Approval under the Subdivision Control Law not required", or words of similar import, may be built upon for residential use, provided that such LOT is in a district zoned residential under the provisions of this Ordinance and meets the following additional conditions:

Section 10.2.10 A Lot in Single and Separate Ownership

10.2.11 For purposes of this Section 10.2, "single and separate ownership" shall mean that the owner of a specific LOT does not have a sufficient ownership interest in an adjacent LOT to control the USE and disposition of that LOT. Where one (1) or more owners can control the USE and disposition of adjacent LOTs, such LOTs shall be deemed to be in "common ownership."

10.2.12 In the case of a LOT held in SINGLE AND SEPARATE OWNERSHIP as of January 1, 1971, a LOT with an area of four thousand (4,000) square feet or more and a FRONTAGE of forty (40) feet or more, may be built upon with the following forms of review:

A. AS OF RIGHT for SINGLE-FAMILY DWELLING on LOTS with an area of at least 5,000 square feet and at least fifty (50) feet of FRONTAGE.

B. Subject to Tier 1 Administrative Site Plan Approval for SINGLE-FAMILY USE only on LOTS of less than 5,000 square feet or fifty (50) feet of FRONTAGE.

Such LOTS may not be used for a TWO-FAMILY DWELLING or MULTI-FAMILY DWELLING.

C. In addition, the Planning Board may promulgate design standards to guide the design and approval of DWELLINGS built on such NONCONFORMING LOTS. Such standards shall be voluntary for single and TWO-FAMILY DWELLINGS built on LOTS with at least 5,000 square feet of LOT area and fifty (50) feet of FRONTAGE, and mandatory for NONCONFORMING LOTS with less than 5,000 square feet of single LOT area and forty (40) feet of FRONTAGE.

Section 10.2.20 Single Lot in Common Ownership with One Adjacent Occupied Lot

In the case of a single LOT held in ownership common with one (1) ADJACENT LOT that had a DWELLING on it at the time of enactment of this Ordinance or subsequent amendments thereto, a LOT with an area of five thousand (5,000) square feet or more with a FRONTAGE of fifty (50) feet or more, may be built upon for SINGLE-FAMILY or TWO-FAMILY use.

Section 10.2.30 Common Ownership of Four or Fewer Lots

In the case of four (4) or fewer such LOTS held in common ownership with those of ADJACENT land at the time of enactment of this Ordinance or subsequent amendments thereto, such LOTS with an area of five thousand (5,000) square feet or more and with a FRONTAGE of fifty (50) feet or more may be built upon for SINGLE-FAMILY or TWO-FAMILY USE regardless of the date of recording or endorsement.

Section 10.2.40 Common Ownership of More Than Four Lots

In the case of more than four (4) such LOTS held in common ownership with that of adjacent land at the time of the enactment of this Ordinance or subsequent amendments thereto, such LOTS may be built upon for SINGLE-FAMILY or TWO-FAMILY use only if the recording or endorsement occurred within five (5) years prior to the effective date of the amendments that made the LOTS NONCONFORMING, and the LOTS have an area of five thousand (5,000) square feet or more and a FRONTAGE of fifty (50) feet or more. In the case of more than four (4) NONCONFORMING LOTS in common ownership laid out more than five (5) years prior to the effective date of this Ordinance, the LOT LINES must be revised to conform with the minimum LOT size and FRONTAGE enacted as part of this Ordinance or subsequent amendments thereto.

Section 10.2.50 Side Yard Exemptions

In the case of any NONCONFORMING LOT upon which a SINGLE-FAMILY DWELLING or TWO-FAMILY DWELLING can be constructed in conformance with the above provisions, a SIDE YARD of not less than five (5) feet shall be permitted in Residential A-1, A, B, and C Districts, thereby exempting the STRUCTURE from the SIDE YARD requirements of this Ordinance.

Section 10.2.60 Merged Lots

For the purpose of this Ordinance, any NONCONFORMING LOT which is increased in size by eliminating abutting LOT LINES, shall not be considered a new LOT and, therefore, will not have to meet the required minimum LOT size for the district, as long as the total area of the combined LOTS is four thousand (4,000) square feet or more.

Section 10.2.70 Alteration of Single and Two-family Structures on Nonconforming Lots

In the following circumstances, the reconstruction, extension, alteration or change (collectively "alteration") to a SINGLE OR TWO-FAMILY STRUCTURE on a NONCONFORMING LOT shall not be considered an increase in the NONCONFORMITY and shall be permitted as of right:

10.2.71 Alteration on Lots with Insufficient Area

Alteration to a STRUCTURE which complies with all current SETBACK, FRONTAGE, and BUILDING HEIGHT requirements, but is located on a LOT with insufficient area, where the alteration will also comply with all of these current requirements;

10.2.72 Alteration on Lots with Insufficient Frontage

Alteration to a STRUCTURE which complies with all current YARD, LOT AREA, and BUILDING HEIGHT requirements but is located on a LOT with insufficient FRONTAGE, where the alteration will also comply with all of these current requirements.

SECTION 10.3 PRE-EXISTING SPECIAL PERMIT USES

In the case of USES requiring a Special Permit, but existing prior to the date of a Special Permit requirement, the existing BUILDING may be rebuilt and/or expanded up to twenty-five (25) percent of the ground FLOOR AREA and the USE may be expanded up to twenty-five (25) percent of the LOT area, by Administrative Site Plan Review pursuant to Section 12.2. An expansion greater than twenty-five (25) percent shall require Special Permit Review pursuant to Section 12.4.

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Article 11 Administration

Section 11.0 Purpose

Section 11.1 Administration of the Zoning Ordinance

Section 11.2 Board of Appeals

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ARTICLE 11 ADMINISTRATION

SECTION 11.0 PURPOSE

The purposes of this Article are:

- To inform applicants about the application process;
- To provide an efficient procedure for granting BUILDING PERMITS;
- To provide for enforcement of this Ordinance, and
- To set forth the powers and duties of the Board of Appeals.

SECTION 11.1 ADMINISTRATION

This Ordinance shall be administered and enforced by the BUILDING COMMISSIONER as defined in Article 2, including any official to whom responsibility for administering and enforcing this Ordinance has been delegated. The BUILDING COMMISSIONER shall require such plans and specifications as may be necessary to determine compliance with this Ordinance and with all pertinent laws of the Commonwealth. BUILDINGS, STRUCTURES and SIGNS may not be erected, substantially altered, moved, or changed in USE and land may not be substantially altered or changed in USE except in compliance with this Ordinance, after all necessary permits have been received under federal, state, and local law. The BUILDING COMMISSIONER shall not issue any permits under this Ordinance except in compliance with its provisions.

Section 11.1.10 Building Permits and Plot Plans

An applicant for construction of any STRUCTURE which requires a BUILDING PERMIT under the STATE BUILDING CODE shall comply with all requirements of this Ordinance in addition to the requirements of the State BUILDING CODE.

11.1.11 Initial Consultation with Building Commissioner

A. Any person proposing to construct a STRUCTURE or alter the USE of land shall first contact the BUILDING COMMISSIONER 'S office to determine what type of approval, if any, is required for the proposed construction or land use. The BUILDING COMMISSIONER shall make an initial determination as to whether or not the proposed application is permitted in the ZONING DISTRICT, and if permitted, what type of review it requires, as provided in Section 12.1. The BUILDING COMMISSIONER shall inform the applicant of all required approvals and the procedures and submission requirements for each.

B. If the application requires only a BUILDING PERMIT (i.e. it is a use "by-right"), the BUILDING COMMISSIONER shall instruct the applicant to file an application

with the BUILDING COMMISSIONER'S office. If the application requires Site Plan Review or a Special Permit, the BUILDING COMMISSIONER shall refer the applicant to the Office of Planning and Economic Development. If the application requires approval from the Historical Commission and/or the Conservation Commission, the BUILDING COMMISSIONER shall refer the applicant to the appropriate commission.

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

11.1.12 Filing Plot Plan

Unless otherwise ordered by the BUILDING COMMISSIONER , all applications for BUILDING PERMITS made in conformity with the provisions of the BUILDING ORDINANCE, Chapter 12.08 of the City Ordinance) shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions, radii and angles of the LOT to be built upon based upon a plot plan of the subject property, the exact size and location on the LOT of the BUILDING and ACCESSORY BUILDINGS to be erected and such other information as may be necessary to determine and provide for the enforcement of this Ordinance. One (1) copy of such plans, when approved by the BUILDING COMMISSIONER, shall be returned to the owner.

11.1.13 Pending Applications for Building Permits

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

11.1.14 Action on Building Permits

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

11.1.15 Certificate of Occupancy

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

Section 11.1.20 Penalties and Enforcement

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

11.1.21 Fines

A. A criminal fine of not more than $100 for a first offense and $300 for each subsequent offense. Each day such a violation continues shall constitute a separate offense.

B. A fine imposed through a non-criminal complaint pursuant to M.G.L. Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall be $100 for a first offense and $300 for each subsequent offense. Each day such a violation continues shall constitute a separate offense.

11.1.22 Injunctive Relief

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

11.1.23 Refusal to Grant Other Permits or Approvals

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

SECTION 11.2 BOARD OF APPEALS

Section 11.2.10 Powers of Zoning Board of Appeals, Permit Granting Authority

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

11.2.11 Appeals

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

11.2.12 Special Permits

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

11.2.13 Variances

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

A. That owing to circumstances relating to soil conditions, shape or topography of land or STRUCTURES and especially affecting such land or STRUCTURES, but not affecting generally the ZONING DISTRICT in which it is located, a literal enforcement of the provisions of this Ordinance would involve substantial hardship, financial or otherwise, to the petitioner;

B. That desirable relief may be granted without substantial detriment to the public good; and

C. That granting such relief would not nullify nor substantially derogate from the intent or purpose of this Ordinance.

11.2.14 Section 6 Findings

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

Section 11.2.20 Procedure for Application

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

Section 11.2.30 Public Hearings

11.2.31 Public hearings shall be required for all appeals, variances and Special Permits. The Board of Appeals shall require notice to be given by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks, the first

publication to be not less than fourteen (14) days before the hearing, and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen (14) days before the date of the hearing.

11.2.32 In all cases notice of public hearing shall be given by the City Clerk by publication in a newspaper of general circulation in the City once in each of two (2) successive weeks; the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in City Hall and Office of Planning and Economic Development for a period of not less than fourteen (14) days before the day of such hearing. Notice to "Parties of interest" shall be sent, postage prepaid. "Parties of interest" as used herein shall mean the applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Building Commissioner, the City Law Department, the Department of Public Works, the Department of Parks and Recreation, the Planning Board if the hearing is not a hearing of the Planning Board, and the Planning Board of every abutting city or town. The required publications and notices shall contain the name of the applicant, a description of the area or premises, street address, or other adequate identification of the location of the premises, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested.

Section 11.2.40 Decisions, Notice, and Appeal

11.2.41 Vote

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

11.2.42 Decision Timeframe

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

11.2.43 Record

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

11.2.44 Record of Decision

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

11.2.45 Notice of Decision

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

Article 12 Special Permit and Site Plan Reviews

Section 12.0 *Purpose*

Section 12.1 *Applicability and General Provisions*

Section 12.2 *Administrative Site Plan Review (Tier 1)*

Section 12.3 *Planning Board Site Plan Review (Tier 2)*

Section 12.4 *City Council Special Permit Review (Tier 3)*

Section 12.5 *Special Permit for Dimensional Variations*

Section 12.6 *Site Plan Review for Religious, Educational and Child Care Uses*

Section 12.7 *Historic Resource Properties*

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ARTICLE 12 SPECIAL PERMIT AND SITE PLAN REVIEWS

SECTION 12.0 PURPOSE

The purpose of Special Permits and Site Plan Review is to provide a predictable and expeditious development review process, tailored to the scale of a proposed DEVELOPMENT, to enable the City to promote economic development while ensuring compatibility of different uses and minimizing the impact of proposed uses on their surroundings. Such review is also intended to ensure that DEVELOPMENT is designed in a way that fulfills the purposes of this Ordinance.

SECTION 12.1 APPLICABILITY AND GENERAL PROVISIONS

Section 12.1.10 Applicability

This Ordinance includes three (3) tiers of review as set forth in Section 4.2 – TIERED REVIEW System.

Section 12.1.20 Sequence of Steps

12.1.21 The following list provides the sequence of steps for the applicant as summarized in Diagram 12.1:

A. An applicant for any type of DEVELOPMENT review is advised to first contact the BUILDING COMMISSIONER 'S Office for advice as to which type of review is required, as provided in Section 11.1.11. The BUILDING COMMISSIONER'S Office will make an initial screening review of the proposed project and indicate to the applicant whether one of the TIERED REVIEWS will apply to the application, and if so, which one.

B. Based upon that initial review, the applicant will be directed to make a specific type of application either to the BUILDING COMMISSIONER 'S Office for a USE AS OF RIGHT, or to the Office of Planning and Economic Development for all development review tiers.

C. If a proposed STRUCTURE or USE requires Site Plan Review and/or a Special Permit, after such approval has been issued, the applicant shall submit a BUILDING PERMIT application to the BUILDING COMMISSIONER 'S Office, consistent with all conditions and requirements of such approval. The BUILDING COMMISSIONER, in reviewing the application, shall ensure that all such conditions and requirements have been satisfied, including any required performance guarantees, and shall process the application as provided in Section 11.1.15.

Section 12.1.30 Payment of Review Costs

In connection with any application for a Special Permit or Site Plan Review involving review by the Planning Board, Zoning Board of Appeals or City Council (i.e. Tiers 2 and 3), the applicant may be required to pay fees in advance to the City Treasurer to cover the reasonable costs of outside consultant review of such application. Such costs may include consultant fees covering planning, engineering, environmental analysis, wetland delineation, legal review, and other professional and technical services required for a proper and thorough review of the application. No permit shall be issued until all costs have been paid. The City Treasurer shall deposit such fees into a segregated account and return unexpended funds to the applicant as provided in M.G.L. Chapter 44, Section 53G and any regulations adopted pursuant thereto by the respective boards. The Office of Planning and Economic Development shall engage in a competitive bidding process periodically to select a group of consultants it considers to be qualified to review development proposals. Applicants shall select review consultants, in fields deemed necessary by the City, from this list of qualified consultants, and such consultants shall be retained by the City at the applicant's expense as provided in M.G.L. Chapter 44, Section 53G. In the event that a proposed development requires specialized expertise for which none of the consultants on the City's list are qualified or that all consultants on the City's list have a conflict of interest in reviewing a particular development proposal, the City shall select a consultant that has the requisite expertise or that does not have such a conflict, and shall provide the applicant with the opportunity to comment on the City's proposed selection prior to retaining such consultant.

Section 12.1.40 Coordination of Reviews

12.1.41 The Office of Planning and Economic Development shall ensure that all agencies, boards, commissions, and departments with jurisdiction over a project are informed of any pending applications and invited to participate in the decision process under this Article. However, the reviews listed in this Article are to ensure compliance with the underlying zoning regulations. These reviews shall not, in anyway, supersede any additional reviews required by other City Departments (i.e. Department of Public Works, Building Department, Fire Department, etc.). The Office of Neighborhood Services shall keep a list of neighborhood councils that shall be notified by the Office of Planning & Economic Development of Tier 2 and 3 applications submitted to the Office of Planning and Economic Development. Such notification of neighborhood councils shall supplement the required notification of abutters, newspaper publication, and other forms of public notice contained in Sections 12.3.33, and12.4.33.

12.1.42 The Office of Planning and Economic Development shall coordinate all required reviews involving Site Plan Review, Special Permits, Subdivisions, and other

forms of division of land and real property, including establishment of CONDOMINIUMS and Land Divisions classified as "APPROVAL NOT REQUIRED" under the Land Subdivision Regulations (Springfield City Ordinance Title 10), and other permits and approvals of City, State, and Federal agencies.

Section 12.1.50 Judicial Review

Judicial review of all final actions of the Planning Board, Zoning Board of Appeals, or City Council undertaken pursuant to this Article, shall be undertaken pursuant to M.G.L. Chapter 40A, Section 17.

Section 12.1.60 Withdrawal without Prejudice

An applicant for any form of approval described in this Article, may withdraw, without prejudice, any application prior to a final decision by the reviewing board or official. Such withdrawal shall be accomplished by sending written notice to the Office of Planning and Economic Development by certified mail, return receipt requested, or by delivering such notice in person in duplicate to the Office of Planning and Economic Development and obtaining a receipt from the Department for such notice. A withdrawn application may be resubmitted at any time.

Section 12.2 Administrative Site Plan Review (Tier 1)

Administrative Site Plan Review shall be conducted by the Office of Planning and Economic Development in cooperation with the BUILDING COMMISSIONER'S Office, Department of Public Works, and other departments that have jurisdiction.

Section 12.2.10 Submission Requirements

12.2.11 An applicant for Administrative Site Plan Review shall submit a complete application for Administrative Site Plan Review, including a plan of the subject PARCEL on a location map (e.g. a tax map) showing boundaries and dimensions of the PARCEL and identifying contiguous properties and STREETS that are within fifty (50) feet of a proposed STRUCTURE as well as any easements or rights-of-way.

12.2.12 In addition, the Office of Planning and Economic Development may require, in its discretion, some or all of the following additional information:

A. Existing features of the site lying within one hundred (100) feet of any proposed land alteration or STRUCTURE , including land and water areas, water or sewer systems, and the approximate location of all STRUCTURES within one hundred (100) feet of the proposed STRUCTURES.

B. The proposed location and arrangements of STRUCTURES and uses on the site, including means of ingress and egress, parking, circulation of traffic, and outdoor REFUSE storage areas.

C. A sketch of any proposed STRUCTURES (including SIGNS), showing exterior dimensions and elevations of front, side, and rear views; copies of available plans or drawings of existing and proposed STRUCTURES.

D. A concise narrative description of the project describing the intended USE of land and proposed STRUCTURES, DEVELOPMENT (including SIGNS) and any changes in the existing topography and natural features.

E. The name, mailing address, telephone number, and email address for the applicant and any professional advisors, and the authorization of the property owner if the applicant is not the owner.

12.2.13 Application materials may be prepared by a licensed professional engineer, architect, land surveyor, or landscape architect, but the Office of Planning and Economic Development shall not require this unless the services of such professionals are necessary to provide accurate information or are otherwise required by law.

Section 12.2.20 Administrative Site Plan Review Criteria

12.2.21 In order to grant administrative approval of a site plan, the Office of Planning and Economic Development must find that the application complies with this Ordinance and other applicable laws, including applicable overlay districts, site and use standards.

12.2.22 In making its decision, the Office of Planning and Economic Development may refer for guidance to the review criteria in Section 12.3.50 Planning Board Site Plan Review Criteria.

12.2.23 The Office of Planning and Economic Development shall not deny approval of an application that meets all applicable requirements.

12.2.24 The Office of Planning and Economic Development may impose reasonable conditions that are reasonably necessary, to ensure compliance with applicable standards and any other applicable provisions of this Ordinance, consistent with the limitations set forth in Section 12.3.70. These conditions shall be incorporated into the BUILDING PERMIT conditions or other approval issued by the City related to the proposed DEVELOPMENT.

Section 12.2.30 Administrative Site Plan Review Procedures

12.2.31 No public hearing shall be held for an Administrative Site Plan Review.

12.2.32 The Office of Planning and Economic Development shall make an initial review of the application for completeness and shall inform the applicant within five (5) business days of submission of the application whether the application is complete or whether any additional information will be required. Once the Office of Planning and Economic Development has determined the application to be complete, the Office of Planning and Economic Development shall circulate it to all other agencies and departments that have jurisdiction over the application as determined by the Office of Planning and Economic Development.

12.2.33 If the Office of Planning and Economic Development fails to act within the five (5) business day period, the application shall be deemed complete. If the application is deemed incomplete and resubmitted, the Office of Planning and Economic Development shall review it using the same process to determine completeness described in this subsection.

12.2.34 The Office of Planning and Economic Development shall review the complete application and coordinate as necessary with other City Departments, which shall have a maximum of twenty (20) days to comment. The Office of Planning and Economic Development shall make its decision within thirty (30) days of finding that the application is complete.

12.2.35 The Office of Planning and Economic Development's decision shall include any reasonably conditions reasonably necessary to ensure compliance with this Ordinance, consistent with the limitations set forth in Section 12.3.70. If the Office of Planning and Economic Development fails to act within the thirty (30) day period, approval shall be deemed constructively granted and the applicant may file an application for a BUILDING PERMIT in the same manner as for an AS OF RIGHT use. Such BUILDING PERMIT application shall be accompanied by a signed statement setting forth dates of the filing of the application and the date of the completeness finding or deemed completeness finding as provided in Section 12.2.33 above. The thirty (30) day period may be extended with the written consent of the applicant.

12.2.36 The Office of Planning and Economic Development's decision shall be mailed to the applicant within two (2) business days after the decision has been made and

shall be simultaneously filed with the City Clerk and the BUILDING COMMISSIONER 'S Office.

12.2.37 The applicant shall file a BUILDING application within two (2) years of receiving administrative Site Plan approval. If no application is filed within this time period, the Office of Planning and Economic Development may require a new application for administrative Site Plan Review to be filed. The Office of Planning and Economic Development may grant a one (1) year extension if the applicant files a request for such extension within the original two (2) year period, stating the reason for requesting such extension. Such extension by the Office of Planning and Economic Development shall not be unreasonably denied.

Section 12.2.40 Conditions, Limitations, and Safeguards

The Office of Planning and Economic Development may impose any of the conditions, limitations, and safeguards contained in Section 12.3.70.

Section 12.2.50 Appeals

12.2.51 An applicant may appeal a decision of the Office of Planning and Economic Development to the Planning Board by filing a request for review within ten (10) business days of the filing of the Office of Planning and Economic Development's decision in the City Clerk's Office. In such a case the Planning Board shall follow the procedures and timelines in Section 12.3.

12.2.52 The applicant shall be given an opportunity to appear before the Planning Board, but no public hearing shall be required for an appeal of an administrative Site Plan Review. No additional information shall be required to be submitted unless the Planning Board determines that additional information is necessary to make an informed decision.

12.2.53 If the Planning Board determines that more information is needed, it shall so inform the applicant at the meeting at which the appeal is discussed, and all applicable timelines shall be suspended until the applicant provides the required information. Upon submission of the required information, the appeal shall be decided at the regular meeting of the Planning Board occurring at least seven (7) days after submission of the material. If the information is not provided within sixty (60) days of the Planning Board meeting during which the request for additional information was made, the appeal shall be denied.

12.2.54 The criteria for decision making applied by the Planning Board shall be those in Section 12.2.20.

SECTION 12.3 PLANNING BOARD SITE PLAN REVIEW (TIER 2)

Section 12.3.10 Applicability

12.3.11 The Site Plan Review provisions of this Section shall apply to all STRUCTURES and USES that are required by Table 4-4 (Use Table) to have Planning Board Site Plan Review (Tier 2).

12.3.12 The submission requirements, review criteria and findings requirements in Sections 12.3.40, 12.3.50, and 12.3.60 shall also apply to City Council Special Permit Review (Tier 3).

Section 12.3.20 General Provisions

12.3.21 No person shall undertake any USE or DEVELOPMENT subject to this section unless a Site Plan approval has been issued by the Planning Board for the proposed DEVELOPMENT in accordance with the requirements of this section.

12.3.22 The BUILDING COMMISSIONER shall have the authority to enforce compliance with this provision and with the Site Plan resulting from this process, including any conditions in the Site Plan approval.

Section 12.3.30 Planning Board Site Plan Review application and Review Procedure

12.3.31 Applications shall be submitted to the Office of Planning and Economic Development and shall contain the information specified in Section 12.3.40. Applicants are encouraged to meet with the Office of Planning and Economic Development prior to submitting an application in order to determine which of the information requirements in Section 12.3.42 must be satisfied.

12.2.32 The Office of Planning and Economic Development may waive specific submission requirements for a Site Plan Review application upon demonstration by the applicant that a requirement is not necessary or is inapplicable to the applicant's project.

12.3.33 The Office of Planning and Economic Development shall make an initial review of the application for completeness and shall inform the applicant within seven (7) business days of submission of the application whether the application is complete or whether any additional information will be required. If the Office of Planning and Economic Development fails to act within the seven (7) business

day period, the application shall be deemed complete. If the application is deemed incomplete and resubmitted, the Office of Planning and Economic Development shall review it using the same process to determine completeness described in this subsection. Once the Office of Planning and Economic Development has determined the application to be complete, the Office of Planning and Economic Development shall transmit copies of the application to the Planning Board and shall circulate it to all other agencies and departments that have jurisdiction over the application as determined by the Office of Planning and Economic Development. These agencies and departments shall report their written findings and recommendations to the Planning Board within thirty (30) days. Failure to respond within thirty (30) days shall be deemed to constitute no objection to the application.

12.3.34 The Planning Board shall conduct a public hearing within forty-five (45) days of receiving an application deemed complete by the Office of Planning and Economic Development, following the procedures and notification requirements for Special Permit public hearings contained in Section 12.4.30 Special Permit Procedures, including but not limited to notice to abutters and by newspaper publication.

12.3.35 If the Planning Board determines that more information is needed to make an informed decision, it may adjourn the hearing to allow the applicant to submit additional information. Upon submission of the required information, the hearing shall be continued at the next regular meeting of the Planning Board occurring at least seven (7) days after submission of the material, and all applicable timelines shall be suspended until the applicant provides the required information. If the information is not provided within sixty (60) days of the initial Planning Board hearing, the application shall be denied.

12.3.36 The concurring vote of a majority of the members in attendance at the Planning Board meeting, at which a quorum is present, shall be required for any decision on a USE or DEVELOPMENT requiring Site Plan Review only. The Board's written decision shall approve the application as submitted or subject to reasonable conditions or modifications necessary to ensure compliance with the requirement of this Ordinance, consistent with the limitations set forth in Section 12.3.70. The Planning Board may deny an application only where it determines that the application and site plan, with conditions attached, does not comply with zoning requirements. Such a denial may be based upon a finding by the Planning Board that more information is needed to determine compliance with zoning

requirements, the applicant has been asked to provide such information, and that the applicant has not done so.

12.3.37 The Planning Board shall render a decision within ten (10) days of the close of the public hearing, and shall notify the applicant in writing within two (2) days of its decision to approve, approve with modifications or conditions, consistent with the limitations set forth in Section 12.3.70, or deny the application. The Planning Board shall also notify the BUILDING COMMISSIONER of its decision within two (2) business days by mail or personal delivery.

12.3.38 If the approval is made subject to modifications that require the resubmission of the Site Plan, the approval shall not be final and the time period in Section 12.3.37 *shall* be extended as necessary to enable the applicant to resubmit the Site Plan for further review and to enable the Planning Board a reasonable period of time to review the modifications. An authorized member of the Planning Board shall SIGN any approved Site Plan and transmit it to the Office of Planning and Economic Development and BUILDING COMMISSIONER within two (2) days of the decision to approve. If the Planning Board fails to render a decision within ten (10) days of the close of the public hearing, site plan approval shall be deemed to be granted. An applicant shall confirm such grant of approval by notifying the City Clerk in writing within fourteen (14) days of the expiration of the ten (10) days after the public hearing when there has been no decision by the Planning Board. After the expiration of twenty (20) days following the applicant's notification of the City Clerk that no decision was made by the Planning Board within the required ten (10) day period, and if there has been no notice of appeal pursuant to M.G.L. Section 17, or, if appeal has been taken, after receipt of certified records of the court in which such appeal is adjudicated, indicating that such approval has become final, the City Clerk shall issue a certificate stating that the Planning Board failed to take action within the required ten (10) day period, the date the approval became final (10 days after the public hearing, unless an appeal was taken), and that the approval resulting from such failure to render a decision has become final. Such certificate shall be forwarded to the applicant, the Planning Board, the Building Commissioner, and the Office of Planning and Economic Development.

12.3.39 Any Site Plan approval granted under this Ordinance shall expire within two (2) years if no BUILDING PERMIT has been granted or, if no BUILDING PERMIT is required to implement the Site Plan approval, if construction has not begun. An exception may be granted for good cause by the Planning Board upon filling of a

request for an extension for a maximum of one (1) year with the Planning Board prior to lapse of such Site Plan Approval.

Section 12.3.40 Planning Board Site Plan Review Submission Requirements

12.3.41 An application for a Planning Board Site Plan Review under this section shall be prepared by qualified professionals, including a Registered Professional Engineer, a Registered Architect, a Registered Land Surveyor and/or a Registered Landscape Architect, and shall include the following items and information:

A. All information listed in Section 12.2.10 in connection with Administrative Site Plan Review.

B. Such additional information as reasonably deemed necessary by the Office of Planning and Economic Development to determine compliance with applicable provisions of this Ordinance and to enable the Planning Board to conduct an informed review pursuant to the criteria in Section 12.3.50 below, including maps, plans, and/or drawings showing the following Existing Conditions and proposed DEVELOPMENT:

1. ZONING DISTRICTs, overlay districts, topography, wetlands, watercourses, soils, existing vegetation, roads, STRUCTUREs, driveways, and other relevant site conditions.

2. Proposed driveways, parking areas, sidewalks, landscaping, utilities, lighting, drainage, vehicular circulation, REFUSE disposal storage areas, SIGNS, and BUILDING plans and elevations.

3. If the land will be developed in more than one (1) phase, the Planning Board may require the applicant to present a master plan for an entire property showing intended future DEVELOPMENT and a plan for phasing.

12.3.42 An application shall not be considered complete until all information required by Planning Board, as per Section 12.3.40, is submitted, as determined by the Office of Planning & Economic Development pursuant to Section 12.3.33 above.

Section 12.3.50 Planning Board Site Plan Review Criteria

12.3.51 The following criteria shall be used by the Planning Board in evaluating the Site Plan and related information submitted as part of the application. The Planning

Board may impose conditions designed to ensure that the proposed USE, DEVELOPMENT or STRUCTURE will:

A. Comply with all applicable provisions and requirements of this Ordinance, including all use, dimensional, site, utility, and overlay district standards.

B. Avoid significant detrimental environmental impacts, including stormwater runoff, erosion or sedimentation.

C. Ensure adequate light and air quality for adjacent properties and minimize detrimental visual impacts on adjacent uses and public STREETs, parks, BUILDINGs, and other public places.

D. Not impair pedestrian safety or overload existing roads, considering their current width, surfacing, and condition.

E. Provide adequate access for fire, police, and emergency vehicles.

F. Minimize noise, dust, odors, solid waste, glare, or any other nuisances in accordance with the City Ordinance.

G. Minimize impacts on historic resources as determined by Section 12.7.

Section 12.3.60 Planning Board Site Plan Review: Specific Findings Required

12.3.61 In order to grant approval of a site plan, the Planning Board shall find that the application complies with the review criteria in Section 12.3.51.

12.3.62 The Planning Board may not deny approval of an application that meets all zoning requirements, but it may impose reasonable conditions to ensure compliance with these requirements and other provisions of this Ordinance, consistent with the limitations set forth in Section 12.3.70. These conditions shall be incorporated into any BUILDING PERMIT or other approval issued by the City.

12.3.63 Prior to granting approval of the Site Plan Review application, the Planning Board shall make written findings that the proposed DEVELOPMENT is in conformance with this Ordinance, and if applicable, that with conditions imposed, the review criteria in Section 12.3.50 will be satisfied.

12.3.64 Such findings shall pertain to the entire proposed DEVELOPMENT, including any Site Plan modifications requested by the Planning Board as a condition of its approval, and any off-site improvements proposed by the applicant or required by the Planning Board as condition of its approval.

12.3.65 If any application for Planning Board Site Plan Review is denied, such denial shall be accompanied by written findings of the Planning Board setting forth the reason for denial.

Section 12.3.70 Planning Board Site Plan Review Conditions, Limitations and Safeguards

12.3.71 In granting approval of an application, the Planning Board may impose reasonable conditions, limitations and safeguards which shall be in writing and shall be part of such approval. Such conditions shall be limited to those necessary to ensure compliance with the review criteria in Section 12.3.51, to ensure access to the site and to minimize off-site impacts on traffic and water quality both during and after construction.

Section 12.3.80 Planning Board Site Plan Review Administration and Appeals

12.3.81 The Planning Board, with City Council approval, shall establish and may periodically amend Rules and Regulations relating to the administration of this section, including additional regulations relating to the scope and format of reports required hereunder.

12.3.82 The Planning Board, with City Council approval, may establish and periodically amend a schedule of fees for all applications under this section. If established, no application shall be accepted for review unless accompanied by the application fees.

12.3.83 The BUILDING COMMISSIONER shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.

12.3.84 Planning Board Site Plan Review conditions, limitations and safeguards imposed under Section 12.3.70 or pursuant to any other provision of this Ordinance shall be enforced by the BUILDING COMMISSIONER as provided in Section 11.1.20.

12.3.85 All Site Plan approvals shall be conditioned upon the applicant granting consent to the BUILDING COMMISSIONER to monitor and inspect the property for compliance with this Ordinance, the Site Plan Approval, and any conditions imposed under it, as well as any other applicable land use or environmental laws and regulations.

12.3.86 A final decision on a Site Plan approval or disapproval may only be appealed pursuant to M.G.L. Chapter 40A, Section 17, to the Superior Court, the Land

Court, or the Hampden County Housing Court, within twenty (20) days of the filing of the decision with the City Clerk.

SECTION 12.4 CITY COUNCIL SPECIAL PERMIT REVIEW (TIER 3)

Special Permits authorized by this Ordinance shall be granted only after application to and a hearing by the SPECIAL PERMIT GRANTING AUTHORITY (SPGA), pursuant to the provisions of M.G.L. Chapter 40A and this Ordinance. The SPGA shall be the City Council unless otherwise specified in this Ordinance. References to the City Council in this Section 12.4 shall apply to any other SPGA that may be designated in this Ordinance to conduct Special Permit reviews. The SPGA and Site Plan Review authority for Tier 3 applications shall be the City Council. The City Council shall adopt and from time to time amend rules relative to the issuance of Special Permits and shall file a copy of these rules in the office of the City Clerk.

Section 12.4.10 Relationship to Site Plan Review

Any applicant for a Special Permit under this Section 12.4 shall submit all materials required for Site Plan Review as provided in Section 12.3. The Site Plan Review by the City Council shall be incorporated into the same Special Permit proceeding.

Section 12.4.20 Submission Requirements for Special Permits

Submission requirements for Special Permits shall be as specified in the rules adopted by the City Council. A Special Permit application shall include a statement explaining how the application complies with the review standards for Special Permits contained in Section 12.4.60. In addition to submitting the materials required for Special Permit applications under the City Council's Special Permit rules, all applications for Special Permits shall also comply with applicable submission requirements for Site Plan approval in Section 12.3.40, unless the applicant is exempted from specific requirements by the City Council based upon a recommendation from the Office of Planning and Economic Development.

Section 12.4.30 Special Permit Procedures

12.4.31 Application for a Special Permit shall be made to the Office of Planning and Economic Development on forms provided for that purpose, accompanied by the required fee. Specific rules governing the application and fee shall be adopted by the City Council along with its rules of procedure. When the application has been received in a completed form as defined by the rules, a copy shall be forwarded to the City Clerk. The stamp of the City Clerk shall designate the date of filing.

12.4.32 The City Council shall hold a public hearing within sixty-five (65) days after the application has been stamped by the City Clerk as provided in M.G.L Chapter 40A, Section 11. The reports of all City departments who have submitted

comments shall be read into the record of the public hearing. The Office of Planning and Economic Development may revise its reports in response to comments made at the public hearing within fourteen (14) days of the close of the public hearing. The City Council may act in the absence of a report from the Office of Planning and Economic Development if no report is submitted within fourteen (14) days of the close of the public hearing.

12.4.33 In all cases notice of public hearing shall be given by the City Clerk by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks; the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in City Hall and Office of Planning and Economic Development for a period of not less than fourteen (14) days before the day of such hearing. Notice to "Parties of interest" shall be sent, postage prepaid. "Parties of interest" as used herein shall mean the applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred (300) feet of the property line of the applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Building Commissioner, the City Law Department, the Department of Public Works, the Department of Parks and Recreation, the Planning Board if the hearing is not a hearing of the Planning Board, and the Planning Board of every abutting city or town. The required publications and notices shall contain the name of the applicant, a description of the area or premises, street address, or other adequate identification of the location of the premises, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested.

12.4.34 The City Council shall act within ninety (90) days following the public hearing. Special Permits shall require a two-thirds (2/3) vote of the entire membership of the City Council.

12.4.35 Failure to take final action upon an application for a Special Permit within said ninety (90) days shall be deemed a grant of the permit as provided in M.G.L. Chapter 40A, Section 9.

12.4.36 Upon the granting of a Special Permit under this section, a copy of the decision shall be issued to the owner or applicant if other than the owner, certified by the City Council. The City Council shall make a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and

of its official actions, copies of all of which shall be filed within fourteen days in the office of the City Clerk and the Office of Planning and Economic Development.

12.4.37 The City Council's decision shall be deemed a public record, and notice of the decision shall be mailed forthwith to the applicant, to the parties in interest designated in M.G.L. Chapter 40A, Section 11, and to every person present at the hearing who requested that notice be sent and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within (20) days after the date of filing of such notice in the office of the city clerk. No Special Permit shall take effect until a copy of the decision is recorded in the Hampden County Registry of Deeds. In order for such recording to occur, the City Clerk must certify that twenty (20) days have elapsed and no appeal has been filed, or that if an appeal has been filed, that it has been dismissed or denied.

Section 12.4.40 Special Permit Duration

A Special Permit shall lapse if a substantial USE thereof has not commenced within two (2) years, or in the case of construction, if construction has not begun within two (2) years. Exception may be made for good cause by the City Council upon the filing of a request for an extension, for a maximum of one (1) year, with the City Council prior to the lapse of such Special Permit.

Section 12.4.50 Special Permit Administration

12.4.51 The City Council shall establish and may periodically amend rules and regulations relating to the administration of this section 12.4, including additional regulations relating to the scope and format of reports required hereunder.

12.4.52 The City Council shall establish and may periodically amend a schedule of fees for all applications under this section. No application shall be considered completed unless accompanied by the required fees.

12.4.53 The BUILDING COMMISSIONER shall be responsible for deciding the meaning or intent of any provision of this section which may be unclear or in dispute.

Section 12.4.60 Special Permit Review Standards

12.4.61 Special Permits shall be granted by the City Council only upon its written determination that the site is suitable for the proposed use, the application satisfies any specific requirements set forth in this Ordinance in relation to the particular use and the proposed use is in harmony with the general purpose and intent of the

Ordinance and will not have a material adverse impact on the City or the neighborhood. The determination of potential adverse impact shall include consideration on each of the following:

A. Traffic flow and safety, including parking and loading, both on-site and off-site;

B. Adequacy of utilities and other public services;

C. Character and intensity of surrounding land uses;

D. Impacts on the health, safety and welfare of the surrounding area;

E. Impacts on the natural environment;

F. Minimize impacts on historic resources as determined by Section 12.7.

G. Potential fiscal impact, including impact on city services, tax base, and employment.

Section 12.4.70 Conditions attached to Special Permit Approvals

12.4.71 In granting approval of a special permit the City Council may impose reasonable conditions, limitations and safeguards which shall be in writing and shall be part of such approval. Such conditions shall be limited to those necessary to ensure compliance with the review criteria in Section 12.4.61, to ensure access to the site, to minimize off-site impacts on traffic and environmental quality both during and after construction, to ensure the construction of necessary public infrastructure, secured by performance guarantees, as well as such other conditions and safeguards as are deemed reasonably necessary to protect the neighborhood including, but not limited to, the following:

A. Requiring larger FRONT, SIDE or REAR YARDS than the minimum required by this Ordinance.

B. Requiring additional SCREENING of OFF-STREET PARKING areas or other parts of the premises from adjoining premises or from the STREET, by WALLS, FENCES, plantings, or other devices.

C. Modify the exterior features or appearances of the STRUCTURE;

D. Limiting the size, number of occupants, method or time of operation, or extent of facilities.

E. Regulating the number, design, and location of ACCESS DRIVES or other traffic features.

Section 12.4.80 Effect of Denial of Special Permit

If the City Council denies the USE applied for, no further application for the same USE will be considered by the City Council for a period of two (2) years from the date of said denial except as provided in M.G.L. Chapter 40A, Section 16.

Section 12.4.90 Special Permit Appeals

A final decision on a Special Permit application may only be appealed pursuant to M.G.L. Chapter 40A, Section 17, to the Superior Court, Land Court, or the Hampden County Housing Court, within twenty (20) days of the filing of the decision with the City Clerk.

Section 12.4.100 Special Permit for Scientific Accessory Uses

A Special Permit may be issued for a USE accessory to a USE permitted by right, whether or not on the same parcel, if such ACCESSORY USE is necessary in connection with scientific research or development or related production, provided the board granting the Special Permit finds that the proposed ACCESSORY USE does not substantially derogate from the public good.

SECTION 12.5 SPECIAL PERMIT FOR DIMENSIONAL VARIATIONS

Section 12.5.10 Dimensional Variations Generally

12.5.11 A Special Permit may be granted to vary certain dimensional regulations set forth in this Ordinance, subject to the provisions of this section.

12.5.12 The SPECIAL PERMIT GRANTING AUTHORITY (SPGA) for dimensional variations under this section shall be the City Council for the requested use, if such USE requires a Special Permit. If the requested USE requires a Tier 2 Site Plan approval, the SPGA shall be the Planning Board. If the requested USE does not require a Special Permit or a Tier 2 Site Plan Approval, the SPGA shall be the Zoning Board of Appeals.

Section 12.5.20 Dimensional Regulations which may be varied by Special Permit

12.5.21 A Special Permit may be granted for a dimensional variation that complies with the following conditions in Table 12-1.

Table 12-1 Standards for Dimensional Variations by Special Permit		
Dimension	Maximum Variation Allowed By Special Permit	Required Condition To Support Dimensional Variation
Frontage	Frontage reduction up to 50 percent of the minimum Frontage required in Article 5	Lot Area greater than 115 percent of minimum Area required in Article 5
Lot Width	Lot Width reduction up to 50 percent of the minimum Lot Width required in Article 5.	Lot Area greater than 110 percent of minimum Area required in Article 5
Side Yard	Side Yard reduction up to 50 percent of the minimum Side Yard required in Article 5	Maximum structure height within the Side Yard is 75 percent of the maximum height permitted in Article 5
Rear Yard	Rear Yard reduction up to 50 percent of the minimum Rear Yard required in Article 5	Maximum structure height within the Rear Yard is 75 percent of the maximum height permitted in Article 5

12.5.22 A Special Permit shall not be granted for any dimensional variation that exceeds the maximum variation specified in 12.5.21, or does not comply with the corresponding required condition in 12.5.21.

Section 12.5.30 Required Findings for Dimensional Variations

12.5.31 The SPGA shall grant a Special Permit for a dimensional variation only if it makes the following findings:

A. The proposed USE will comply with the zoning ordinance with the exception of the proposed dimensional variation.

B. The proposed USE will provide neighborhood benefits, such as improvement of deteriorated or abandoned property.

C, The proposed USE with the dimensional variation will not have significant negative impacts on the neighborhood compared with the potential USE without the dimensional variation. In making this finding, the SPGA shall consider the following types of potential impacts of the proposed dimensional variation:

1. Impacts on traffic and parking;

2. Impacts on municipal services, including emergency access and public safety;

3. Impacts on neighborhood character, including environmental and visual features;

4. Impacts on neighborhood congestion;

5. Increase in scale of DEVELOPMENT relative to nearby lots and BUILDINGS;

6. Increase in shadowing on abutting LOTS and BUILDINGS.

SECTION 12.6 SITE PLAN REVIEW OF EXEMPT RELIGIOUS, EDUCATIONAL, AND CHILD CARE USES

Section 12.6.10 Applicability

Religious uses, exempt educational uses, CHILD CARE CENTERS and school age child care programs, as those uses are defined in this Ordinance; which are partially exempted from local zoning regulation by M.G.L. Chapter 40A, Section 3, shall be subject to the modified Site Plan Review provisions of this Section.

Section 12.6.20 Procedures

12.6.21 Demonstration of Qualification

In order to qualify for the modified Site Plan Review procedures of this Section, an applicant must satisfy the requirements of Section 4.6.40 to prove to the satisfaction of the Office of Planning and Economic Development that the USE is exempt under M.G.L. Ch. 40A, Section 3. In order to make this showing, the Office of Planning and Economic Development may require the applicant to furnish, if applicable, copies of the deed to the property, a proposed or existing lease, the articles of organization and bylaws of the applicant organization, the letter of determination granting the applicant tax-exempt status under the Internal Revenue Code, and program materials demonstrating, in the case of an exempt educational institution, that the organization has a bona fide educational purpose and program, including but not limited to the materials in Section 4.6.40. The application for Site Plan Review will not be accepted for review under this Section 12.6 unless the Office of Planning and Economic Development determines that the proposed USE qualifies under the applicable definitions.

12.6.22 Review Procedure

A. If the application falls within the thresholds for a Tier 1 review, it shall be reviewed by the Office of Planning and Economic Development under the provisions of Tier 1 administrative Site Plan Review in Section 12.2.

B. If the application exceeds any of the Tier 1 review thresholds, it shall be reviewed by the Planning Board pursuant to the Tier 2 Site Plan Review procedure in Section 12.3.

Section 12.6.30 Review Standards

12.6.31 In approving any Site Plan for of an exempt USE under this section, the Office of Planning and Economic Development or Planning Board shall be limited to imposing reasonable restrictions on:

A. The bulk and height of STRUCTURES,

B. YARD sizes and setbacks,

C. LOT AREA,

D. OPEN SPACE

E. PARKING, and

F. BUILDING COVERAGE

SECTION 12.7 HISTORIC RESOURCE PROPERTIES

Section 12.7.10 Applicability

Applications for Site Plan Review, Section 12.3 and Special Permits, Section 12.4 for HISTORIC RESOURCE PROPERTIES shall be subject to the provision of this Section.

Section 12.7.20 Procedures for Proposed Demolition or Destruction of Historic Resource Properties

Applications for Site Plan Review, Section 12.3 and Special Permits, Section 12.4 for new construction which will require the demolition or material destruction of a Historic Resource Property or the material removal or replacement of significant historic elements of a Historic Resource Property may not be approved unless the applicant has first demonstrated that the applicant has attempted to reconstruct and/or reuse the HISTORIC RESOURCE PROPERTY or the material historic elements of the Historic Resource Property as evidenced by one (1) or more of the following:

A. Applicant has consulted with a preservation consultant or similar professional experienced in the rehabilitation, renovation and restoration of HISTORIC RESOURCE PROPERTIES who has determined that no alternative to the demolition or material destruction of the Historic Resource Property is feasible.

B. The Springfield Building Department determines, in consultation with and based upon the certification of the Applicant's architect or engineer to the Springfield Building Department, that in his or her professional opinion the Historic Resource Property requires demolition due to the potential danger to the health, safety or welfare of the occupants, the owner or the general public if the Historic Resource Property remained standing.

C. Applicant has provided cost estimates to establish that the cost to rehabilitate or reconstruct the Historic Resource Property would exceed the cost of new construction.

D. Applicant has established that the Historic Resource Property is not suitable for its intended use.

Section 12.7.30 Incentives for Historic Resource Properties

To encourage the reuse and/or rehabilitation of HISTORIC RESOURCE PROPERTIES, the permit granting authority may, at the request of the applicant which shall be included in the permit application, waive compliance with the following provisions of the Zoning Ordinance:

A. Maximum lot coverage requirement or other density requirement relevant to the zoning district in which the Historic Resource Property is located.

B. Minimum setback requirements for front yards, side yards or rear yards relevant to the zoning district in which the Historic Resource Property is located.

C. Lot size requirements relevant to the zoning district in which the Historic Resource Property is located.

D. Off-street parking requirements for the intended use.

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Article 13 Procedures for Amendments

Section 13.0 *Purpose*

Section 13.1 *Initiation of Zoning Amendments*

Section 13.2 *City Council Transmittal to Planning Board*

Section 13.3 *Public Hearing*

Section 13.4 *Zoning Map Amendments*

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ARTICLE 13 PROCEDURE FOR AMENDMENTS

SECTION 13.0 PURPOSE

The purpose of this Article is to provide standards and procedures for legislative amendments to this Ordinance and the ZONING MAP. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

SECTION 13.1 INITIATION OF ZONING ORDINANCE AMENDMENTS

Section 13.1.10 Who can initiate

This Ordinance may be amended by the City Council on its own initiative or upon submission of a petition to the City Council by the Planning Board, the Board of Appeals, a landowner proposing a zoning amendment affecting his or her land, or a regional planning agency, or by petition signed by ten (10) registered voters of the City or by any other methods provided by the City Charter.

SECTION 13.2 CITY COUNCIL TRANSMITTAL TO PLANNING BOARD

The City Council shall transmit such submission to the Planning Board for review within fourteen (14) days after receipt of such submission.

SECTION 13.3 PUBLIC HEARING

Section 13.3.10 Process

13.3.11 The City Council or a committee designated by the City Council for that purpose and the Planning Board shall hold a public hearing at which persons interested shall be given an opportunity to be heard. Such hearing shall be held within sixty-five (65) days of submission of the proposed amendment to the Planning Board.

13.3.12 Notice of the time and place of such public hearing of the subject matter, and of the place where text and maps thereof may be inspected shall be published in a newspaper of general circulation in the City in each of two successive weeks, the first publication to be not less than fourteen (14) days before the date of the hearing, and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen (14) days before such hearing. Notice shall be prepared, published and posted by the City Clerk.

Section 13.3.20 Mailing of Notice

Notice of such hearing shall also be sent by mail, postage prepaid, fourteen (14) days at least before such hearing to the Massachusetts Department of Housing and Community Development,

the Pioneer Valley Planning Commission, the Planning Boards of all abutting cities and towns, and any non-resident who files a request with the City Clerk.

Section 13.3.30 Vote to Adopt, Amend or Repeal

13.3.31 No vote to adopt, amend or repeal a proposed Ordinance shall be taken by the City Council until a report has been submitted with recommendations by the Planning Board or twenty-one (21) such days have elapsed since the hearing without submission of such report or recommendations.

13.3.32 Such vote shall require a two-thirds (2/3) vote of the City Council; provided that if there is filed with the City Clerk, prior to final action, a written protest against such change stating the reasons, duly signed by owners of twenty (20) percent or more of the area included in such change, or of the area of the land immediately adjacent, extending three hundred (300) feet therefrom, shall require a three-fourths (3/4) vote of the City Council.

Section 13.3.40 Time Period for Vote to Adopt

The City Council may hold its own public hearing after the required hearing described in Section 13.3.30 has been held, however, a vote to adopt the proposed Ordinance or change thereof by the City Council must take place within ninety (90) days from the date the required hearing was held or a subsequent hearing must be held by the Planning Board and City Council or sub-committee with notice and report as above provided.

SECTION 13.4 ZONING MAP AMENDMENTS

The ZONING MAP, which is part of this Ordinance, may be amended, altered or changed only in accordance with the foregoing provisions. The ZONING MAP, due to its size, is incapable of being included within this volume but is incorporated by reference herein and may be obtained on request from the Office of Planning and Economic Development.

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