ZONING BY-LAW

TOWN OF
BROOKLINE, MASSACHUSETTS

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ARTICLE I
PURPOSE AND SCOPE

§1.00 – PURPOSE AND INTERPRETATION

1. The purpose of this By-law is declared to be the promotion of the public health, safety, convenience, and welfare, by:

   a. encouraging the most appropriate use of land,

   b. preventing overcrowding of land,

   c. conserving the value of land and buildings,

   d. lessening congestion of traffic,

   e. preventing undue concentration of population,

   f. providing for adequate light and air,

   g. reducing the hazards from fire and other danger,

   h. assisting in the economical provision of transportation, water, sewerage, schools, parks and other public facilities,

   i. preserving and increasing the amenities of the Town,

   j. encouraging the preservation of historically and architecturally significant structures, and

   k. encouraging housing opportunities for people of all income levels, and

   l. providing for adequate open space, including landscaped and usable open space, public shade trees and other landscape and natural features.

2. In their interpretation and application the provisions of this By-law shall be held to be the minimum requirements adopted for the promotion of these purposes.

ARTICLE II
DEFINITIONS

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§2.00 – PURPOSE AND INTENT

For purposes of this By-law, the following words and phrases shall have the meanings given in the following sections, unless a contrary intention clearly appears.

§2.01 – "A" DEFINITIONS

1. ACCESSORY

    a. Accessory building: a building devoted exclusively to a use accessory to the principal use of the lot.

    b. Accessory use: a use incident to, and on the same lot as, a principal use.

2. AMENITY—A condition or facility that provides comfort or pleasure, including but not limited to desirable exposure to sunlight, protection from adverse microclimate, contribution to favorable microclimate, pleasant views of sky, cityscape, landscape, or works of art, preservation of trees

or historic structures, provision of assets or conveniences such as specimen trees or benches.

3. ATTIC—The Space between the ceiling beams, or similar structural elements, of the top story of a building and the roof rafters. The top story shall be the story at the highest level of the building.

§2.02 – "B" DEFINITIONS

1. BASEMENT—That portion of a building which is partly or completely below grade (780 CMR 502). Basement shall also include cellar.

2. BUILDING—A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed where the context allows as though followed by the words "or part or parts thereof".

§2.03 – "C" DEFINITIONS

1. CAMPUS—The land owned and occupied by an educational institution for its academic and accessory purposes, consisting of a lot occupied by the main academic buildings, or of lots adjacent to each other or separated from the land occupied by the main academic buildings only by a street.

2. CAR SHARING ORGANIZATION—A Car Sharing Organization (CSO) is a membership-based entity with a distributed fleet of private motor vehicles that are made available to its members primarily for hourly or other short term use through a self-service fully automated reservation system. A CSO does not include any arrangement where a separate written agreement is entered into each time a vehicle is transferred from a rental company to its customer.

3. COMMERCIAL MOTOR VEHICLE—Any motor vehicle that is not otherwise defined as a Non-Commercial Motor Vehicle.

4. COURT—An open space other than a yard, on the same lot with a building and which is bounded on two or more sides by such building.

§2.04 – "D" DEFINITIONS

½. DECOMMISSION—To make previously habitable space in an existing building uninhabitable by, including but not limited to, removing or blocking required access, light or ventilation or removing ceilings and floors. Space that has been decommissioned shall be included in the gross floor area of a building. The complete and permanent physical demolition of a portion of a building shall not be considered decommissioning and shall reduce the gross floor area by the floor area of the demolished portion of a building previously included in gross floor area only to the extent that the exterior dimensions are reduced.

1. DORMITORY—A building designed or occupied as a residence for students or staff of charitable, educational, or philanthropic institutions owned or operated by or for such institutions.

2. DRIVE-IN USES—A retail or consumer service use of land or a building in which the business transacted is conducted by a customer or client from within his/her automobile.

3. DWELLING

   a. Dwelling, Attached: A building designed or occupied as a residence and separated from another attached dwelling on one or both sides either by a vertical party wall or walls or by a contiguous wall or walls without side yards.

   b. Dwelling, Detached: A building which is designed or occupied as a residence and is substantially separated by side yards from any other structure or structures except accessory buildings.

   c. Dwelling, Multiple: A building or structure designed or occupied as a residence by more than three families, but not including groups of attached dwellings; an apartment house.

   d. Dwelling, Live/Work Space: A building or any portion thereof containing common work space areas and/or dwelling units measuring no more than 900 square feet in gross floor area per unit that are used by at least one occupant as both their primary residence and primary work/artist studio space, including use 46 (Light Non-Nuisance Manufacturing) and 58A (Home Office) as certified annually by the property owner with the Building Commissioner.

   e. Dwelling, Age Restricted: A building where all residents are 62 years of age or older. Such units shall be subject to an age restriction described in a deed, deed rider, restrictive covenant, or other document in a form reasonably acceptable to Town Counsel that shall be recorded at the Registry of Deeds or the Land Court. Age and occupancy restrictions shall not preclude reasonable, time-limited guest visitation rights or accommodation for caretakers for the primary resident. The age and occupancy restrictions shall be enforceable solely against the violating unit and not the development as a whole, by the owner of one or more dwelling units or by the Town of Brookline. In the event of a violation, and at the request of the Town, the owner of the unit shall comply with the age and occupancy restrictions.

   f. Dwelling, Micro Unit: A building or any portion thereof containing residential units measuring no greater than 500 square feet in gross floor area per unit. Buildings containing Micro Units may have flexible common areas for living and/or working.

4. DWELLING UNIT—A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, and eating.

§2.05 – "E" DEFINITIONS

1. ERECT—To construct or reconstruct or excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot.

§2.06 – "F" DEFINITIONS

1. FAMILY—One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided, that a group of five or more persons who are not within the second degree of kinship, as defined by civil law, shall not be deemed to constitute a family.

2. FRATERNITY OR SORORITY HOUSE—A building occupied by a group of students of either sex of a school or college as their residence during the academic year.

§2.07 – "G" DEFINITIONS

1. GROSS FLOOR AREA—The sum of the areas of all floors of all principal and accessory buildings whether or not habitable except as excluded. Gross floor area shall include enclosed porches and the horizontal area at each floor level devoted to stairwells and elevator shafts. Gross floor area shall exclude (a) portions of cellars, basements, attics, penthouses and historically and architecturally significant accessory buildings that are not habitable, provided however that space that has been decommissioned shall not be excluded from gross floor area; (b) except as required in **§5.06, paragraph 4, subparagraph b(3)** relating to the parking in Coolidge Corner and as required in **§5.06, paragraph 4, subparagraph d(1)(c)(iv)** relating to the parking in the GMR-2.0 District, any floor space in accessory buildings or in the main building intended and designed for parking of motor vehicles in order to meet the parking requirements of this By-law, provided, however, that for single and two-family dwellings the floor space thereby exempted from the calculation of gross floor area shall not exceed 360 square feet per required parking space; (c) elevator penthouses and mechanical equipment enclosures located above the roof, if not habitable; (d) necessary mechanical equipment space in the basement; and (e) up to 150 square feet of area in an accessory structure such as a garden or equipment shed. Measurements shall be from the exterior faces of the walls or from the centerlines of the walls for adjoining buildings. For one-, two- and three-family buildings where the ceiling height measured from the finished floor to the ceiling exceeds 12 feet (including without limitation atriums, vaulted ceilings and cathedral ceilings), gross floor area shall be calculated by dividing by 12 the maximum ceiling height in such areas where the ceiling height exceeds 12 feet, and multiplying the result by the horizontal square footage in such areas where the ceiling height exceeds 12 feet. Space that has been decommissioned shall be included in the gross floor area of a building.

2. GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION, LARGE OR SMALL—A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, unless it is located on the roof of a water reservoir or similar structure that is not designed for human occupancy. Such an installation is considered large-scale if it has a minimum nameplate capacity of at least 250 kW DC; all installations with a minimum nameplate capacity less than 250 kW DC are considered small-scale.

§2.08 – "H" DEFINITIONS

1. HABITABLE SPACE—Space in a structure for living, sleeping, eating, or cooking; otherwise used for human occupancy; or finished or built out and meeting the State Building Code requirements for height, light, ventilation and egress for human habitation or occupancy. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas shall not be excluded

because excluded from the definition of habitable space under the State Building Code.

2. HEALTH AND FITNESS CLUB—A private club operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and health-related services.

3. HEIGHT OF BUILDING—The vertical distance of the highest point of the roof beams in the case of a flat roof, or of the top of the rafters at the ridge in the case of a sloping roof, above the level specified in Article V, §5.30.

4. HOME OCCUPATION

   a. An activity customarily carried on by the permanent residents of a dwelling unit, inside the dwelling unit, requiring only customary home equipment, and not involving:

      1) The sale of articles produced elsewhere than on the premises, and brought to the premises for the purpose of sale.

      2) The storage of materials or products outside of a principal building.

      3) The making of external structural alterations which are not customary in residential buildings.

      4) The production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.

   b. Home occupations include but are not limited to:

      1) Fine arts studios

      2) Dressmaking

      3) Teaching of not more than four pupils simultaneously or, in the case of musical instruction, of not more than a single pupil at a time.

   c. Home occupations do not include such uses as:

      1) Barber shops

      2) Beauty parlors

      3) Commercial stables or kennels

      4) Real estate or insurance offices

5. HOTEL—A structure in which sleeping accommodations are let for compensation primarily to transients and in which a public eating facility is provided and where all room or rooms fall within the definition of M.G.L. 64G, §1(g) as may be amended.

§2.09 – "I" DEFINITIONS

1. INTERIOR CONVERSION—Interior conversion is defined as the conversion of existing interior space not previously used for human occupancy in areas such as basements, attics, or penthouses. The addition of any other area for human occupancy shall be deemed an exterior addition.

§2.10 – "J" DEFINITIONS

RESERVED

§2.11 – "K" DEFINITIONS

RESERVED

§2.12 – "L" DEFINITIONS

1. LIMITED SERVICE HOTEL—A structure in which sleeping accommodations are let for compensation primarily to transients in which no more than 5,000 square feet of space is used for eating, drinking, dancing, meeting halls or similar purposes, and where all room or rooms fall within the definition of M.G.L. 64G, §1(g) as may be amended.

2. LANDSCAPED OPEN SPACE (see Open Space, Landscaped)

3. LODGER—A person who rents space for living or sleeping purposes and who is not within the second degree of kinship to the lessor.

4. LODGING HOUSE—A dwelling structure in which sleeping accommodations without individual cooking facilities are designed to be let for compensation to four or more persons not within the second degree of kinship to the owner or operator, but not including dormitories, fraternities, or sororities. Notwithstanding the foregoing, a Lodging House, as defined above, may have individual cooking facilities if 100 percent of the rooms are affordable, such that they are deed-restricted to serve, at affordable rents and under one year leases, lodgers with an income which is less than or equal to 80% of area median income for the Boston Metropolitan Statistical Area (as determined by the United States Department of Housing and Urban Development or any successor federal or state program) or any other definition of affordability consistent with the provisions of Chapter 40B of the General Laws and the regulations promulgated thereunder or any amendment thereto. Individual cooking facilities shall meet all requirements of any applicable codes, laws and local regulations with respect to Lodging Houses.

5. LOT—A parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other definite purpose, in one ownership and not divided by a street, nor including any land within the limits of a public or private way upon which such lot abuts, even if the fee to such way is in the owner of the lot. As used herein, ownership shall mean either:

   a. legal title in fee or

   b. a tenancy under a written lease, the term of which is for a period of not less than 99 years of which term there are not less than 50 years remaining unexpired, at the time of issuance of any permit, building, special or otherwise, under and as provided by this Zoning By-law, or

   c. any combination of paragraph a. and b. above.

   A lot for the purpose of this By-law may or may not coincide with a lot of record.

6. LOT AREA—The horizontal area of the lot exclusive of:

   a. any area in a public or private way open to public uses, and

   b. any water area more than 10 feet from the shoreline

7. LOT, CORNER—A lot situated at the junction of two streets, each not less than 20 feet in width.

8. LOT LINE, FRONT—A line dividing a lot from a street; also where the lot frontage on the street is less than the required lot width in the district in which it is located, any lot line or part of a lot line shall be considered to be a front lot line for purposes of calculating front yard requirements if a straight line drawn from a point on the lot line to and perpendicular to the street providing required access to the lot passes across any part of another lot to which it is contiguous.

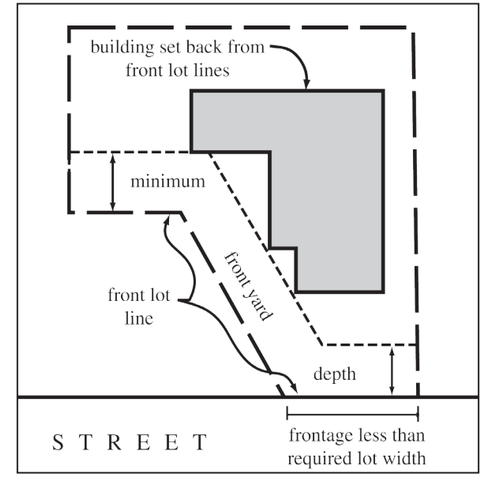


Figure 2.01 - Front Lot Line

9. LOT LINE, REAR—Except for a triangular, through or corner lot, the lot line opposite or farthest from the street which provides required access to the lot. In the case of a triangular lot where two of the three lot lines are street lot lines, the third lot line shall be considered the rear lot line if it is also the rear lot line of an adjoining lot. In the case of a through lot where the two

side lot lines are not street lot lines and the other two lot lines are both street lot lines, no lot line is considered a rear lot line. In the case of a more or less rectangular lot where three of the lot lines are street lot lines, the fourth lot line shall be considered a rear lot line if it is also the rear lot line of an adjoining lot.

For a corner lot with two street lot lines and two interior lot lines:

a. if one of the interior lot lines is the side lot line of an adjoining lot and the other is the rear lot line of another adjoining lot, the latter shall be considered the rear lot line for the purpose of determining the location of the required rear yard of the corner lot.

b. if both of the interior lot lines are side lot lines of adjoining lots, or if both are rear lot lines of adjoining lots, the owner of the corner lot shall have the privilege of calling either interior lot line the rear lot line for the purpose of determining the location of the required rear yard of the corner lot.

In the case of a lot which is bounded by curved, broken, or irregular lot lines, any line shall be considered a rear lot line if a line drawn from any point on it perpendicular to the front lot line passes through any part of an existing or proposed building on the lot.

10. LOT LINE, SIDE—Any lot line not a front or rear lot line.

11. LOT WIDTH—The horizontal distance between side lot lines measured perpendicular to the mean direction of the side lot lines.

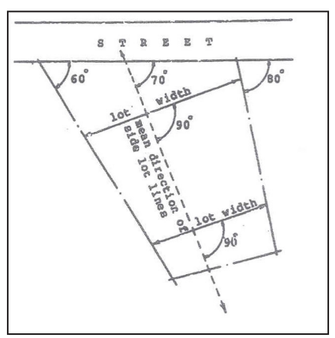


Figure 2.02 - Lot Width

§2.13 – "M" DEFINITIONS

1. MARIJUANA—As defined or amended by State regulations, 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 (1) 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; (2) hemp; or (3) the weight of any other ingredient combined with Marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes Marijuana Products except where the context clearly indicates otherwise.

a. Marijuana, Hemp—As defined or amended by State regulations, 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.

2. MARIJUANA ESTABLISHMENT— As defined or amended by State regulations, a Marijuana Retailer, Marijuana Product Manufacturer, Marijuana Cultivator, Independent Testing Laboratory, or any other type of Marijuana-related business that has been duly licensed by the Massachusetts Cannabis Control Commission or relevant State agency.

a. Marijuana Establishment, Craft Marijuana Cultivator Cooperative— As defined or amended by State regulations, a Marijuana Cultivator comprised of residents of Massachusetts organized as a limited liability company or limited liability partnership under Massachusetts law, or an appropriate business structure as determined by the Massachusetts Cannabis Control Commission, and that is licensed by the Cannabis Control Commission to cultivate, obtain, manufacture, process, package, and brand Marijuana and Marijuana Products to deliver Marijuana to Marijuana Establishments but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

b. Marijuana Establishment, Marijuana Cultivator— As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to cultivate, process, and package Marijuana, to deliver Marijuana to Marijuana Establishments and to transfer Marijuana to other Marijuana Establishments, but not to consumers. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

c. Marijuana Establishment, Delivery-Only Marijuana Retailer— As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission as 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.

d. Marijuana Establishment, Marijuana Independent Testing Laboratory— As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission that 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 Accrediting Cooperation Mutual Recognition

Arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any Medical Marijuana Treatment Center or any Cannabis Control Commission licensee or Marijuana Establishment of which it conducts a test; and (iii) qualified to test Marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

e. Marijuana Establishment, Marijuana Micro-Business — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to act as a co-located licensed Marijuana Cultivator in an area less than 5,000 square feet, a licensed Marijuana Product Manufacturer, and a licensed Marijuana Delivery Service, in compliance with operating procedures for each such license and siting requirements for each type of licensee.

f. Marijuana Establishment, Marijuana Product Manufacturer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission 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. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

g. Marijuana Establishment, Marijuana Research Facility — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission to engage in research projects, including cultivation, purchase or acquisition otherwise of Marijuana for the purpose of conducting research regarding Marijuana and Marijuana Products or any analogous uses. A Marijuana Research Facility may be academic institutions, non-profit corporations and domestic corporations or entities authorized to do business in Massachusetts. A Marijuana Research Facility may hold a Cannabis Control Commission Marijuana Retailer License to sell Marijuana and Marijuana Products other than Marijuana cultivated under its research license. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

h. Marijuana Establishment, Marijuana Retailer — As defined or amended by State regulations, an entity licensed by the Massachusetts Cannabis Control Commission 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. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

i. Marijuana Establishment, Social Consumption Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer licensed by the Massachusetts Cannabis Control Commission to purchase Marijuana and Marijuana Products from Marijuana Establishments and to sell Marijuana and Marijuana Products on its premises only to consumers or allow consumers to consume Marijuana and Marijuana Products on its premises only.

j. Marijuana Establishment, Marijuana Transporter — As defined or amended by State regulations, an entity, not otherwise licensed by the Massachusetts Cannabis Control Commission, that is licensed by the Cannabis Control Commission to purchase, obtain and possess Marijuana and Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, not for sale to consumers. This definition includes the foregoing uses described in this definition when conducted by Marijuana Establishments.

k. Marijuana Establishment, Medical Marijuana Treatment Center — As defined of amended by State regulations, an entity that acquires, cultivates, possesses, processes (including development of related products such as edible Marijuana-infused products, 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 for medical use, as otherwise defined by State law. This definition includes the foregoing uses described in this definition when conducted by other types of Marijuana Establishments.

l. Marijuana Establishment, Standards Laboratory — As defined or amended by State regulations, a laboratory meeting the requirements of the Independent Testing laboratory that is licensed by the Massachusetts Cannabis Control Commission as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories.

m. Marijuana Establishment, Storefront Marijuana Retailer — As defined or amended by State regulations, a Marijuana Retailer providing 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.

3. MARIJUANA ESTABLISHMENT AGENT — As defined or amended by State regulations, a board member, director, employee, executive, manager, or volunteer of a Marijuana Establishment, who is 21 years of age or older. Employee includes a consultant who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, dispensing, or any other analogous uses of Marijuana.

4. MARIJUANA PRODUCTS — As defined or amended by State regulations, 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.

5. MARIJUANA, MANUFACTURE — As defined or amended by State regulations, to compound, blend, extract, infuse or otherwise make or prepare a Marijuana product.

6. MARIJUANA, MARIJUANA MANUFACTURER RESIDENTIAL USE—Residential Marijuana Extraction by Non-licensed Establishments or Individuals utilizing extraction processes that pose an explosive or flammable danger, including solvent-based extraction and any method utilizing liquefied petroleum gas ("LPG", as may be defined by NFPA1, including propylene, propane, butane, butylenes, and mixtures thereof).

§2.14 – "N" DEFINITIONS

1. NON-COMMERCIAL MOTOR VEHICLE—Any motor vehicle, regardless of what kind of license plates it has, which is either an Antique Motor Car, Low Speed Vehicle, Limited Use Vehicle, Moped, or Motorcycle, all as defined by the Massachusetts Registry of Motor Vehicles (RMV), or a Private Passenger Motor Vehicle as defined by the RMV that is a sport utility vehicle or passenger van or a Private Passenger Motor Vehicle as defined by the RMV that is a pickup truck or cargo van and of the 1 TON class or less, registered or leased to an individual and is used exclusively for personal, recreational, or commuter purposes, or any other Private Passenger Motor Vehicle as defined by the RMV that has a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less, and which also:
    a. unless owned by a corporation whose personal property is exempt from taxation under M.G.L. c.59 §5, Clause Third or Tenth, has no more than three signs displayed on each vehicle, identifying the name and/or logo and contact information of the company, two of which may be no larger than two (2) square feet in area, one of which may be no larger than one (1) square foot in area, measured by multiplying the greatest dimension from top to bottom times the greatest dimension side to side; and none of which is mounted on the roof of such vehicle;
    b. has no more than four wheels on the ground;
    c. does not store tools, supplies, materials or equipment on the roof, sides, or bed of a vehicle for use at a job site where compensation is received;
    d. is not used for hire to plow; and
    e. if used for transporting or storing goods, wares or merchandise for business purposes, is used for such purposes not more than 40% of the total usage of the vehicle, is owned by an individual and has a maximum load carrying capacity of 1,000 pounds or less.

2. NONCONFORMING BUILDING OR LOT—A building or lot that does not conform to a dimensional regulation prescribed by this By-law for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings but which building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

3. NONCONFORMING USE—A use of a building or lot that does not conform to a use regulation prescribed by this By-law for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

§2.15 – "O" DEFINITIONS

1. OCCUPIED—"Occupied" shall include the words "designed, arranged, or intended to be occupied."

2. ON-SITE SOLAR PHOTOVOLTAIC INSTALLATION—A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

3. OPEN SPACE, LANDSCAPED—The part or parts of a lot at ground level designed and developed for pleasant appearance in trees, shrubs, ground covers and grass, including other landscaped elements such as natural features of the site, walks and terraces. Such space may not include lot area used for parking, access drives or other hard surfaced areas, except walks, and terraces as noted above, designed and intended for non-vehicular use. Such hard surfaced walks and terraces may not exceed 30 per cent of the total required landscaped open space.

4. OPEN SPACE, USABLE—The part or parts of a lot and certain roof or terrace areas designed and developed for outdoor use by the occupants of the lot for recreation including swimming pools, tennis courts, or similar facilities, for gardens, or for household service activities such as clothes drying, and not used for automotive circulation or parking. In addition to these requirements, open space shall be deemed usable only if it satisfies the requirements of **§5.91**.

§2.16 – "P" DEFINITIONS

1. PARKING GARAGE OR PARKING AREA, NON-RESIDENTIAL—A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or non-commercial motor vehicles used by the users of a lot or lots devoted to a use or uses not permitted in a residential district.

2. PARKING GARAGE OR PARKING AREA, RESIDENTIAL—A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of non-commercial motor vehicles, or any vehicle owned or leased by a Car Sharing Organization with a Gross Vehicle Weight Rating (GVWR) of 6,000 pounds or less and which satisfies paragraphs (a) to (e) of the definition of non-commercial motor vehicles, used by the users of a lot or lots devoted to a use or uses permitted in a residence district.

2½. PORCH, ENCLOSED AND UNENCLOSED—A porch, balcony or deck shall be deemed to be unenclosed, whether roofed or unroofed, if open to the elements or if enclosed only by screens. A roofed porch, balcony or deck, even if unheated, shall be deemed to be enclosed if enclosed by walls and/or permanently by glass, including without limitation fixed windows or movable casement, jalousie, double-hung, awning, hopper, slider or tilt-turn windows.

3. PRIVATE CLUB OR LODGE—A private club, lodge, or organization operated not for profit, and for members only.

4. PROFESSION, RECOGNIZED—Architecture, engineering, law, medicine, dentistry, or other activity in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and also possessing evidence of professional capability such as membership in a professional society requiring standards of qualification for admission.

§2.17 – "Q" DEFINITIONS

RESERVED

§2.18 – "R" DEFINITIONS

1. RATED NAMEPLATE CAPACITY—The maximum rated output of electric power production of the

Photovoltaic system in Direct Current (DC).

2. RECORD GRADE—The elevation of the street at the property line as recorded at either the Norfolk County Registry of Deeds, at the Land Court of the Commonwealth, or in the files of the Town of Brookline.

3. REPAIR GARAGE—A building or structure designed or used for servicing and repairing motor vehicles completely within an enclosed building.

§2.19 – "S" DEFINITIONS

1. SIGN—"Sign" shall mean and include any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag, or representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by intermittent or repeated motion or illumination.

2. SIGN, AREA OF

   a. For a sign, either free-standing or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed but not including any supporting framework and bracing which are incidental to the display itself.

   b. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols together with any backing of a different color than the finish material of the building face.

   c. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other convex shape which encompasses all of the letters and symbols.

3. SIGN, ON-PREMISES—A sign or other advertising device which advertises or indicates only the person occupying the premises on which it is located, the merchandise for sale, or the activity conducted thereon.

4. STREET—A public or private way, alley, lane, court, or sidewalk which is open or dedicated to public use and parts of public squares and places which form traveled parts of highways.

5. STRUCTURE—A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part thereof".

§2.20 – "T" DEFINITIONS

RESERVED

§2.21 – "U" DEFINITIONS

1. USABLE OPEN SPACE (See Open Space, Usable)

2. USE—The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

§2.22 – "V" DEFINITIONS

RESERVED

§2.23 – "W" DEFINITIONS

RESERVED

§2.24 – "X" DEFINITIONS

RESERVED

§2.25 – "Y" DEFINITIONS

1. YARD, FRONT—An open space extending across the full width of the lot and lying between the front lot line or lines and the nearest point of the building.

2. YARD, REAR—An open space extending across the full width of a lot and lying between the nearest point of the building and the rear lot line, or the corner of a triangular lot farthest from the front lot line in the case of a triangular lot with only one street lot line.

3. YARD, SIDE—An open space between a side lot line of a lot and the nearest point of the building and extending from the front yard to the rear yard.

§2.26 – "Z" DEFINITIONS

RESERVED

ARTICLE III
ESTABLISHMENT OF ZONING DISTRICTS

§3.00 - DIVISION OF THE TOWN INTO DISTRICTS
§3.01 - CLASSIFICATION OF DISTRICTS
§3.02 - BOUNDARIES OF THE DISTRICT
§3.03 - INTERIM PLANNING OVERLAY DISTRICT

§3.00 – DIVISION OF THE TOWN INTO DISTRICTS

1. The Town is hereby divided into zoning districts, as specified hereinafter.

2. Within each district there shall be uniform regulation of use of buildings, structures and land, of height, and size of buildings and structures, of size and width lots, of dimensions of yard and other open spaces, and of other requirements, as provided in this By-law.

3. Every parcel of land and every building or other structure in the Town, except as otherwise provided by law or this By-law, shall be subject to the regulations, restrictions, and requirements specified for the district, in which it is located.

4. In any Overlay Districts created in **Section 3.01**, below, both the requirements of the base zoning district and those of the overlay district shall apply.

§3.01 – CLASSIFICATION OF DISTRICTS

There shall be four classes of residence districts, three classes of business districts, and one class of industrial districts, designated by initial letters, each of which is further subdivided into districts designated by numbers which for S, SC, and T Districts indicate minimum lot area in thousands of square feet (except S-0.75P and S-0.5P) and for all other districts indicate maximum floor area ratio, as follows:

1. Residence Districts

a. Single-Family (S)

1) S-40
2) S-25
3) S-15
4) S-10
5) S-7
6) S-0.5P (Refer to §5.06, Special District Regulations)
7) S-0.75P (Refer to §5.06, Special District Regulations)
8) S-4

b. Single-Family and Converted for Two-Family (SC)

1) SC-10
2) SC-7

c. Two-Family and Attached Single-Family (T)

1) T-6
2) T-5

d. Three Family (F)

1) F-1.0

e. Apartment House (M)

1) M-0.5
2) M-1.0
3) M-1.0 (CAM)
4) M-1.5
5) M-2.0
6) M-2.5

2. Business Districts

a. Local Business (L)

1) L-0.5
2) L-0.5 (CL) Cleveland Circle (Refer to §5.06, Special District Regulations)
3) L-1.0

b. Business and Professional Offices (O)

1) O-1.0
2) O-2.0 (CH)

c. General Business (G) and General Business and Medical Research (GMR)

1) G-1.0
2) G-1.75
3) G-1.75 (CC) Coolidge Corner (Refer to §5.06, Special District Regulations)
4) G-1.75 (WS) Washington Square
5) G-2.0
6) G-2.0 (CA) Commonwealth Avenue
7) GMR-2.0 (Refer to §5.06, Special District Regulations)
8) G-(DP) Davis Path (Refer to §5.06, Special District Regulations)
9) G-1.75 (LSH) Limited Service Hotel

3. Industrial Districts

a. Industrial Services (I)

1) I-1.0

4. Overlay Districts

a. Coolidge Corner Design Overlay District
b. Fisher Hill Town-Owned Reservoir Mixed Income Housing Overlay
c. Solar Overlay District
d. Cleveland Circle Hotel Overlay District
e. Transit Parking Overlay District

§3.02 – BOUNDARIES OF THE DISTRICT

1. The location and boundaries of these districts are hereby established as shown on a map entitled, "Zoning Map Number Ten, Town of Brookline," dated April 26, 1962, as subsequently amended, bearing the signatures of the members of the Planning Board and on file in the office of the Town Clerk, which map, with all explanatory matter thereon, is declared to be a part of this By-law.

2. Any change in the location or boundaries of a district hereafter made through the amendments of this By-law shall be indicated by the alteration of such map, and the map thus altered is declared to be a part of the By-law thus amended.

3. Where a district boundary is indicated as approximately following, or parallel to, the center line or exterior line of a street, highway, railroad right of way, or water course, such a district boundary shall be construed as following, or as being parallel to, such center line or exterior line. Where a district boundary is indicated as approximately following a lot line, such line shall be construed to be said boundary.

4. Where a boundary line between districts divides a lot in single ownership upon the effective date of this By-law, or upon the effective date of any amendment changing the boundaries of one of the districts in which the lot lies, the regulations controlling the less restricted part of such lot shall be applicable to as much of the lot within the more restricted district as lies within 25 feet of the district boundary. When two districts with different use designations are involved, the "less restricted part of the lot" shall be that part subject to less restricted use regulations.

5. When a lot in one ownership is situated in part in the Town of Brookline and in part in an adjacent city or town, the regulations and restrictions of this By-law shall be applied to that portion of such lot as lies in the Town of Brookline in the same manner as if the entire lot were situated therein.

6. Where a boundary line between districts divides a lot in single ownership, the Board of Appeals may by special permit allow all or part of the gross floor area calculated to be permitted on the more restricted part of the lot to be transferred to the less restricted part provided that the

aggregate gross floor area on the entire lot does not exceed the sum of the floor areas permitted on each part of the lot provided that all dimensional requirements are met as applicable in each district (except minimum lot size per dwelling unit, which requirement is to be met as follows:

The maximum number of dwelling units shall not exceed the sum of:

a. the number permitted by application of the minimum lot size requirement for the less restricted district to the lot area in that district and

b. the number of dwelling units permitted by application of the average of the minimum lot size requirements for the two districts to the lot area in the more restricted district, and provided that no part of the lot in the more restricted district is used for any use prohibited in that district, including accessory uses other than landscaped open space except for recreational uses or underground parking if permitted by special permit.

§3.03 – INTERIM PLANNING OVERLAY DISTRICT

1. Purpose and Objectives

The Zoning By-Law and Map may be amended by Town Meeting from time to time to address changes in land use, environmental and economic conditions that reflect the evolution of the Town and the recommendations of town-wide or district related plans and studies.

An Interim Planning Overlay District may be adopted for a specified period of time, no greater than twelve months, at an annual or special Town Meeting in accordance with the provisions of Chapter 40A of the General Laws in order to provide an opportunity to complete district or neighborhood level planning studies, including evaluation of land use, density, dimensional, parking and other requirements. If found warranted, revised zoning regulations and/or design guidelines shall be submitted to Town Meeting for adoption to better manage growth consistent with the Town's Comprehensive Plan or the recommendations of subsequent studies. The interim zoning regulations or design guidelines established during the study period will ensure that an area is not impacted by inappropriate growth.

2. Regulations

An Interim Planning Overlay District established in accordance with this section may apply to a district or sub-districts and may replace or amend the Zoning By-law related to use, density, dimensional, parking, design or other regulations for the specified time period, not to exceed twelve months from the date of adoption by Town Meeting.

3. Procedures

The Building Commissioner shall not approve applications for building permits that enable the construction or improvement of uses and/or structures during the time period during which the interim regulations or design guidelines apply.

If the Building Commissioner denies an application for a building permit, an applicant may appeal the decision of the Building Commissioner to the Board of Appeals by filing with the

Town Clerk. The form of the application shall be approved by the Board of Appeals. The Board of Appeals shall seek an advisory report from the Planning Board. The Board of Appeals and Planning Board shall base their findings and recommendations on the specific regulations and guidelines established by Town Meeting for the Interim Planning Overlay District.

4. *Establishment*

An article proposing the establishment of an Interim Planning Overlay District shall, at a minimum, include the following:

a. physical boundaries of the proposed district through a survey or map delineating the boundary in relation to existing zoning, streets and property lines as defined by the Town's Zoning Map and Assessor's Atlas.

b. current land use, zoning and other physical characteristics of the area included within the proposed district.

c. purpose of the proposed district and why the existing underlying zoning may not be appropriate.

d. conformance of the proposed district with the Town's Comprehensive Plan or other land use and related studies or plans.

e. scope of work to be undertaken that will produce proposed Zoning By-Law and Map amendments for consideration by Town Meeting.

f. length of time, not greater than twelve months, from the date of passage by Town Meeting, for which the district will be effective and for the completion of the supporting study necessary to submit Zoning By-Law and Map amendments for consideration by Town Meeting. If, following a twelve month period, work on Zoning By-Law and Map amendments is not complete despite the diligent efforts of all parties, Town Meeting shall have the option of extending an Interim Planning Overlay District for an additional six months.

g. use, dimensional, parking and other related regulations in the Zoning By-Law which will be replaced or amended during the effective period of the district; and

h. interim use, dimensional and related Zoning By-Law regulations or design review guidelines that will be effective during the interim period in which the district is in place.

5. *Severability*

The provisions of this section of the Zoning By-Law are severable, and if any such provision shall be held invalid by a court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of the Zoning By-law.

6. *Districts*

(To be inserted into the Zoning By-Law for a period no greater than twelve months following

adoption of such districts at future Town Meetings.)

[The text for **Section 3.03.6.1**, which would appear here and established the Coolidge Corner Interim Planning Overlay District (CCIPOD), has been removed to conserve space and because it **expired on April 30, 2007**. For copies of the complete text, contact the Town Clerk's Office or the Department of Planning and Community Development.]

ARTICLE IV
USE REGULATIONS

§4.00 - APPLICABILITY OF REGULATIONS
§4.01 - PERMITTED USES
§4.02 - USES SUBJECT TO OTHER REGULATIONS
§4.03 - PRE-EXISTING SPECIAL PERMIT USES
§4.04 - LIMITATION OF AREA OF ACCESSORY USES
§4.05 - RESTRICTIONS ON ACCESSORY USES IN RESIDENCE DISTRICTS
§4.06 - TEMPORARY ACCESSORY USES
§4.07 - TABLE OF USE REGULATIONS
§4.08 - AFFORDABLE HOUSING REQUIREMENTS
§4.09 - WIRELESS TELECOMMUNICATIONS SERVICES
§4.10 - FLOODPLAIN OVERLAY DISTRICT
§4.11 - LAND DISTURBING ACTIVITIES AND STORMWATER MANAGEMENT
§4.12 - REGISTERED MARIJUANA DISPENSARY (RMD)
§4.13 - MARIJUANA ESTABLISHMENTS

§4.00 – APPLICABILITY OF REGULATIONS

Except as provided by law or in this By-law, in each district no building, structure, or land shall be used or occupied except for the purposes permitted in the district in the section of this Article applicable thereto.

§4.01 – PERMITTED USES

1. A use listed in **§4.07** is permitted as of right in any district under which it is denoted by the word "Yes", subject to such requirements as may be specified in **§4.07**.

2. A use listed in **§4.07** may be permitted if the Board of Appeals so determines and issues a special permit therefore as provided in **Article IX** in any district under which it is denoted by the letters "SP", subject to such requirements as may be specified in **§4.07**, and such further restrictions as said Board may establish. Any application for change in a special permit use or condition approved by the Board of Appeals shall require either a new special permit or Board of Appeals approval of modification of the prior special permit as provided in **Article IX**.

3. In accordance with the requirements of **§5.09**, any use listed in **§4.07** which is denoted by the word "Yes" shall be considered to be denoted by the letters "SP", if it falls into any of the following categories:

   a. It is on a lot any part of which is located in the G-l.75(CC) District or which fronts on or is within 100 feet of Beacon Street, Boylston Street, Brookline Avenue, Commonwealth Avenue, Harvard Street, and Washington Street.

   b. It is a non-residential use in a non-residential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces, except municipal facilities in I-1.0 districts when authorized by a two-thirds vote of Town Meeting.

   c. It is a non-residential use in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

§4.02 – USES SUBJECT TO OTHER REGULATIONS

Uses permitted as of right or by special permit shall be subject, in addition to use regulations, to such regulations of height, area, yard, setback, lot size and area, lot width, floor area ratio, provisions for off-street parking and loading, and to such other provisions as are specified in other Articles hereof.

§4.03 – PRE-EXISTING SPECIAL PERMIT USES

Any lawful use existing on the effective date of this By-law or subsequent amendments which is classified as requiring a special permit in the district in which the land occupied by the use is located shall be deemed to have been granted a special permit subject to maintaining the character and extent of operations and structures existing on that date. Any application for change in use or structure shall require a special permit from the Board of Appeals as provided in **Article IX**.

§4.04 – LIMITATION OF AREA OF ACCESSORY USES

1. No accessory use or uses within a building shall occupy more than a combined total of 25 per cent of the floor area of the principal building, other than required off-street parking.

2. No accessory use or uses not within a building shall occupy more than a combined total of 25 per cent of the unbuilt lot area, or of the required rear yard area, other than required off-street parking.

3. No accessory use shall occupy part of the required front or side yards, except off-street parking as required in M-l.0, M-l.5, M-2.0, and M-2.5 Districts and in business and industrial districts, and as provided in **§§ 5.44, 5.53, 5.63,** and **5.72.**

§4.05 – RESTRICTIONS ON ACCESSORY USES IN RESIDENCE DISTRICTS

1. In any residence district, no accessory use shall be permitted which involves or requires any of the following:

   a. The employment of any persons who is not resident in the dwelling unit, other than a domestic employee, except:

      1) Attendant or attendants to an accessory garage or parking space;

      2) Employee or employees of Uses 13, 14, 19, 20, 52, 63, 64, 66, 68 as permitted under **§4.07** and Uses 58, 58A or 59 as permitted hereunder and in **§4.07**.

   b. The maintenance of a stock in trade, except for Uses 63, 64, and 68 in **§4.07**, or the use of show windows or displays or advertising visible outside the premises to attract customers or clients, other than professional announcement signs, except as provided for Use 64 in

§4.07.

2. An accessory use in a dwelling unit in any residence district as permitted under §4.07, Uses 58 or 59, which requires a special permit shall be subject to the office parking provisions of §6.02 unless otherwise modified by the Board of unless otherwise modified by the Board of Appeals, by special permit.

3. An accessory use in a dwelling unit in any residence district as permitted under **§4.07**, Uses 58, 58A or 59, shall not:

   b. occupy space which exceeds in area the area of the ground floor; occupy 25% or more of the total floor area in an S, SC, T or F district, or occupy 50% or more of the total floor area in an M district;

   c. permit the employment of more than two persons not resident in the dwelling unit;

   d. be in operation or be open to clients, pupils or other members of the general public (except those seeking emergency professional services of a physician or member of the clergy) between the hours of 10:00 p.m. and 7:00 a.m.; or

   e. create any objectionable impact in terms of noise, traffic, parking or other nuisance.

2. For Family Child Care Homes, Family Child Care Plus Homes, and Large Family Child Care Homes (uses 60A and 60B), the following materials must be submitted:

   - Site plans showing existing and as-built conditions;
   - Hours of operation;
   - A parking and circulation plan that provides for safe dropoff and pickup areas for parents and adequate parking for employees, where necessary;
   - If an outdoor play area is to be provided, a site plan showing the area so screened from any lot line and from any residential structure on an adjoining lot to avoid a significant noise nuisance;
   - Information on other Family Child Care facilities, or other accessory uses, existing or known to be proposed on the same parcel as the proposed facility. For all such facilities, all of the above information shall also be provided and reviewed in the context of the new application;
   - Documentation of application for appropriate licensing in accordance with M.G.L. chapter 28A, §10 and its implementing regulations. The Building Commissioner or Board of Appeals may condition any approval of such a facility on the owner providing documentation of appropriate licensing prior to receiving a Certificate of Occupancy.

   For use 60A, the Building Commissioner must find that the conditions as described in these submissions serve the facility and the neighborhood adequately and may condition a Certificate of Occupancy on continued compliance with these submissions. For use 60B, the conditions as described in these submissions will be considered in an application for a Special Permit, which may be conditioned on continued compliance with the conditions described in these

submissions.
Under no circumstances shall such a facility cause a significant negative impact on the surrounding neighborhood in terms of traffic, parking, noise, or other factors relating to quality of life. The Building Commissioner shall condition a Certificate of Occupancy for Uses 60A and 60B, and the Board of Appeals shall condition a Special Permit for Use 60B, on compliance with this requirement. This requirement shall also apply to any facility under Uses 60A and 60B that predates the adoption of this zoning language.

Any Special Permit issued for Use 60B shall automatically expire if the operator's state license at the permitted location for a Large Family Child Care Home is terminated.

§4.06 – TEMPORARY ACCESSORY USES

1. The Building Commissioner may grant a permit for a nonconforming temporary building or use incidental to a building development and where reasonably required for such development and for such temporary structures as tents and marquees which will be in place for not more than a few days in connection with special occasions or events.

2. Such permit may be issued for an initial period of not more than two years, and in the case of a building only upon application accompanied by a bond and a bill of sale to the Town to be effective in case the building is not removed prior to the expiration date of the permit.

3. Such a permit may be renewed by the Building Commissioner for successive periods of not more than two years each.

§4.07 – TABLE OF USE REGULATIONS

§4.07 – TABLE OF USE REGULATIONS

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
RESIDENCE USES									
1. Detached dwelling on a separate lot and occupied by not more than one family.	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	No
1A. Cluster subdivisions, designed groups of single-family dwellings, and estate conversions permitted pursuant to the regulations and conditions of **§5.11**.	SP	SP	No	No	No	No	No	No	No
2. Detached dwelling on a separate lot originally constructed for single-family occupancy prior to the effective date of this By-law and containing a minimum gross floor area of 2,400 square feet and converted for occupancy by not more than two families, provided there is no external evidence of occupancy by more than one family.	No	Yes	Yes	Yes	Yes	Yes	No	Yes	No
3. Detached dwelling converted for two-family occupancy conforming to the requirements of the preceding item except that external evidence of conversion is required to conform to other codes.	No	SP	Yes	Yes	Yes	Yes	No	Yes	No
4. Detached dwelling on a separate lot and occupied by two families, other than Uses 2 and 3 above.	No	No	Yes	Yes	Yes	Yes	No	Yes	No
4A. Dwelling on a separate lot for three families or attached dwelling on a separate lot for two families.	No	No	No	Yes	Yes	Yes	Yes	No	Yes
5. Attached dwelling occupied by not more than one family in each unit between side walls, provided that in T Districts no row of such units shall consist of more than two such units or more than three such units in F Districts. *Except as permitted by Use 1A above and **§5.11**.	No*	No	SP	SP	SP	SP	No	SP	No
6. Multiple or attached dwelling of four or more units other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority. *Compliance with **§4.08** required if containing 6 or more dwelling units. Permitted by special permit in S-0.5P and S-0.75P Districts subject to **§5.06**. In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use.	No*	No	No	No	Yes*	Yes*	Yes*	No	Yes*

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
6A. Life care facilities, incorporating independent apartment living units for elders combined with supportive medical, nursing or other shared facilities. *Allowed by special permit only on lots greater than 5 acres.	SP*	SP*	SP*	SP*	SP	Yes	Yes	No	No
6B. Dwelling, Live/Work Space *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*
6C. Dwelling, Age Restricted *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*
6D. Dwelling, Micro Unit *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	No*
7. Lodging House, licensed*. *License is from Selectmen and conformance to Brookline Lodging House Regulations required.	No	No	No	SP	SP	SP	SP	No	No
8. Hotel *Permitted by special permit in M-2.5 Districts and in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC, or T District. **Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No*	No	SP*	No	No**

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
8A. Limited Service Hotel *Permitted by Special permit in M-2.5 and in the Cleveland Circle Hotel Overlay District and I-(EISD) District. **Permitted as of right only in the G-1.75 (LSH) Limited Service Hotel District, provided that the applicant for a building permit certifies to the Building Commissioner that (a) at least 20% of all on-site parking spaces will be available for overnight public parking at prevailing overnight public rates, (b) that all on-site parking spaces will be available between 8:00 a.m. and 6:00 p.m. at prevailing public meter rates and (c) at least 25% of the lot area is to be used for open space open to the public. Otherwise such use shall be by special permit in business districts only if the hotel building is not within 50 feet from a lot or lots in an S, SC or T District. Permitted by Special Permit in G-(DP) District in accordance with **Section 5.06.4.g**.	No	No	No	No	No*	No*	Yes**	No	No
INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES									
9. Places of worship and other religious uses exempt from use regulation by **The Zoning Act, M.G.L. Ch. 40A, §3**.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
10. Educational uses exempt from use regulation by **The Zoning Act, Ch. 40A, §3**.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
11. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business.	SP	SP	SP	SP	Yes	Yes	Yes	Yes	Yes
12. Recreational facility owned or operated by an agency of the Town or other government.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
13. Recreational facility owned or operated by a non-government agency, subject to the following provisions: (a) The use shall not be conducted as a private gainful business. (b) No outdoor active recreation area or parking area shall be located nearer to any lot line than the required front yard depth. (c) Indoor or outdoor noisy activities such as bowling or gymnasium shall be at least 100 feet from any lot line and sound-insulated to meet the approval of the Board of Appeals so as to protect the neighborhood from inappropriate noise in any season.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
14. Adult education center or other similar educational facility other than Use 10, community center, meeting hall, or other similar facility, subject to the same limitations as specified in Use 13.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
15. Day care center defined as any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage, under seven years of age, or under sixteen 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. Day care center shall not include any religious or educational use exempt from use regulation by **The Zoning Act, M.G.L. ch. 40A, §3**, a family day care home, or other facility or program excluded from the definitions of "child care center" and "school-aged child care program" in M.G.L. ch. 15D, §1A. *A day care center shall be licensed in accordance with **M.G.L. chapter 28A, §10**. If such a facility has an outdoor play area, that area shall be screened from any lot line and from any residential structure on an adjoining lot to avoid a noise nuisance. If such a facility requires the use of a public play area, the Director of Parks and Open Space and the Director of Public Health, or designees, shall be required to approve the availability and use of the public space. See also **§6.02.4** and **§9.12**.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*	Yes*
16. Entertainment and recreation facilities operated as a gainful business, including but not limited to bowling alley, theater, and concert hall, provided that such use is housed in a structure sufficiently sound-insulated so as to protect the neighborhood from inappropriate noise in any season.	No	No	No	No	No	No	SP	No	SP
17. Trade, professional or other school conducted as a private gainful business, excluding noisy accessory uses.	No	No	No	No	No	No	Yes	Yes	Yes

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
18. Private Club or Lodge									
a) Health and fitness club, over 2,500 s.f. of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services.	No	No	No	No	No	SP	SP	SP	SP
b) Private club or lodge, operated not for profit and for members only, other than use 13.	No	No	No	No	No	Yes	Yes	Yes	Yes
18A. Small group health and fitness club not exceeding 2,500 square feet of gross floor area operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and/or health services. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	Yes	Yes	Yes	Yes*
19. Licensed hospital or other licensed establishment for the care of sick, crippled, or convalescent persons. *Not permitted in M-0.5 Districts. Permitted as of right (i.e. classification "Yes") with respect to any such hospital or establishment for which a building permit application has been filed with the Building Commissioner on or before the date of the adoption of this amendment by the Town Meeting, November 14, 1967.	No	No	No	No	SP*	No	No	No	No
OFFICE USES									
20. Office or clinic for medical or dental examination or treatment of persons as out-patients, including laboratories incidental thereto. *Permitted by special permit in new residential construction in M-2.5 districts up to a maximum of 20% of total gross floor area.	No	No	No	No	No*	Yes	Yes	Yes	Yes

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
20A. Office or clinic of a licensed veterinarian for treatment of animals, including laboratories and holding facilities. No outdoor facilities for animals shall be permitted. Studies by recognized experts shall be submitted to insure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. *Verification of noise control shall include verification by a professional engineer (P.E.), utilizing an acoustical engineer under his/her supervision if necessary, that under worst-case (e.g., maximum number of animals, open windows if applicable) conditions neither daytime nor nighttime background noise levels, as defined in Article 8.15.3 of the Town By-Laws, will be exceeded at the boundary of the property where the use is located. Moreover, as a condition of a Special Permit, the ZBA shall require that further noise control measures be undertaken in the future if such background noise levels are exceeded during operation of the facility. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	SP*	SP	SP	SP**
20B. Medical Marijuana Treatment Centers (see Section 4.13 for applicable definition), and uses analogous to Marijuana Retailer Uses Only * To be eligible for a special permit under Use 20B, the requirements under Sec. 4.12, Registered Marijuana Dispensary, and Sec. 4.13, Marijuana Establishments, shall be met, as each may be applicable.	No	No	No	No	No	No	SP*[2]	SP*[2]	SP*
20C. Delivery-Only Marijuana Retailers and Marijuana Transporters *To be eligible for a special permit under Use 20C, the requirements under Sec. 4.13, Marijuana Establishments, shall be met.	No	No	No	No	No	SP*[1]	SP*[1]	SP*[1]	SP*[1]

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
21. Business, professional, or governmental office other than Use 20, 20A and 20B. *Provided no commodities are kept for sale on the premises.	No	No	No	No	No	Yes	Yes	Yes*	Yes
AUTOMOTIVE SERVICE USES (SUBJECT TO ARTICLE VI)									
22. Residential parking garage or parking area, whether as the sole use of a lot or as a secondary use, solely for the storage of cars of residents of other lots located within 1,400 feet. *By right for five or fewer spaces.	No*	No*	SP*	SP*	SP*	Yes	Yes	Yes	Yes
22A. Parking garage or parking area for vehicles with a Gross Vehicle Weight Rating (GVWR) of no more than 6,000 pounds and satisfies paragraphs (a) to (e) of the definition of non-commercial motor vehicles, owned by a Car Sharing Organization (CSO), allowed whether as the sole use of a lot or as a secondary use, for up to 10% of the total on-site parking spaces, unless otherwise noted. All open air parking lots with CSO vehicles require an Open Air Parking Lot License to be valid for zoning purposes. A special permit is required for any CSO spaces that are not in an open air parking lot. See **§6.01.5**. *Where the use of a lot is a single, two, or three-family dwelling, one CSO parking space may be allowed by special permit only. For other uses, up to 10% of parking spaces on a lot are allowed by right for CSO vehicles, and an additional 2 CSO spaces are allowed by special permit beyond the 10% cap, but in no case shall there by a total of more than 4 CSO vehicles allowed.	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*	Yes or SP*
23. Parking area abutting or across the street from a non-residence district, for the parking of passenger cars of tenants, employees, customers, or guests of buildings or establishments in the adjoining non-residence district, provided no sales or service operations are performed.	No	No	SP	SP	SP	Yes	Yes	Yes	Yes
24. Non-residential parking garage or parking area, other than Use 23. *Municipal parking facilities permitted in the district.	No	No	No*	No*	No*	Yes	Yes	No*	Yes
25. Gasoline service station.	No	No	No	No	No	SP	SP	No	SP
25A. Partially self-service gasoline stations.	No	No	No	No	No	SP	SP	No	SP

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
26. Sale or rental of automobiles and other motor vehicles, or tires or other motor vehicle accessories, and accessory storage conducted entirely within an enclosed structure, provided any accessory repair operations shall be sufficiently sound-insulated to protect the neighborhood from inappropriate noise; and any flashing, fumes, gases, smoke, and vapor shall be effectively confined to the premises.	No	No	No	No	No	No	Yes	No	Yes
27. Outdoor storage of vehicles for sale or rent.	No	No	No	No	No	No	No	No	SP
28. Repair garage located principally within an enclosed structure, provided repair operations shall be sufficiently sound-insulated to protect the neighborhood from inappropriate noise, and any flashing, fumes, gases, smoke, and vapor shall be effectively confined to the premises; and provided all storage shall be within the structure. *Permitted by right if a municipal facility or portion thereof.	No	No	No	No	No	No	SP	No	SP*
28A. Car washing facility, either as a principal or an accessory use.	No	No	No	No	No	No	No	No	No
RETAIL AND CONSUMER SERVICE USES									
29. Store of less than 5,000 square feet of gross floor area per establishment, primarily serving the local retail business needs of the residents of the vicinity, including but not limited to grocer, baker, food store, package store; dry goods, variety, clothing; hardware, paint, household appliances; books, tobacco, flowers, drugs. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	Yes	Yes	No	Yes*
29A. Storefront Marijuana Retailers, stores of less than 5,000 square feet of gross floor area per establishment * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	SP*[1,2]	SP*[1,2]	No	SP*[1]
29B. Social Consumption Marijuana Retailers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments, only in the event of a Town-wide vote approving on-site consumption pursuant to M.G.L c.94G, § 3(b).	No	No	No	No	No	No	SP*[1,2]	No	SP*[1]

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
30. Eating places of less than 5,000 square feet of gross floor area per establishment, primarily serving local needs, including but not limited to lunch room, restaurant, cafeteria, place for the sale and consumption of beverages, ice cream and the like, primarily in enclosed structures with no dancing, nor entertainment other than music. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	Yes	Yes	No	Yes*
31. Bank.	No	No	No	No	No	Yes	Yes	Yes	Yes
32. Service business primarily serving local needs, including but not limited to the following uses: (a) Barber, beauty shop, laundry and dry-cleaning pickup agency, shoe repair, self-service laundry, or other similar use. (b) Hand laundry, dry-cleaning or tailoring, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time. (c) Printing shop, photographer's studio, caterer, or other similar use, provided, in L and G Districts, personnel is limited to five persons at any one time. *Permitted by special permit in an M-1.0 (CAM) District. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No*	Yes	Yes	No	Yes**
32A. Domestic Household Animal Day Care Center, including grooming, training, walking and other accessory services, and excluding overnight kenneling. No outdoor facilities for the animals shall be permitted. Studies by recognized experts shall be submitted to ensure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. A recommendation from the Director of Public Health shall be required to address the size and location of the facility and any potential impacts. Additionally, annual licenses issued by the licensing authority are required, with the recommendation of the Director of Public Health, the Police Department's Animal Control Officer, and the Director of Parks and Open Space.	No	No	No	No	No	SP	SP	No	SP

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
33. Stores not exceeding 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, furniture and household goods. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	Yes	No	No*
33A. Stores over 10,000 square feet of gross floor area serving the general retail needs of a major part of the Town, including but not limited to general merchandise department store, supermarket, grocery store, furniture and household goods. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	SP	No	SP*
34. Place for the sale and consumption of food and beverages exceeding 5,000 square feet of gross floor area, or providing dancing and entertainment. *Permitted by Special Permit in the Cleveland Circle Hotel Overlay District. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No*	Yes	No	Yes**
35. Office, display or sales space of a wholesale, jobbing, or distributing establishment, provided that no more than 25 per cent of floor space is used for assembling, packaging, and storing of commodities.	No	No	No	No	No	No	Yes	No	Yes
36. Radio or television studio, without transmitting facilities.	No	No	No	No	No	No	Yes	Yes	Yes

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
36A. Research laboratory for scientific or medical research not involving noxious or hazardous substances or processes, provided that the use is operated in compliance with all applicable town, state, and federal health and safety laws and regulations. At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports in accordance with the procedures in **§9.04**.	No	No	No	No	No	No	SP	SP	SP
36B. Research laboratory for scientific or medical research, with a Biosafety Level of Level 1 or Level 2 as defined by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, and National Institutes of Health, provided the use is located on a lot with no less than 50,000 square feet and no more than 65,000 square feet in area and is operated in compliance with all town, state and federal health and safety regulations, and that thirty days prior to a Board of Appeals hearing on the use, and annually, a report detailing hazardous materials operations, processes, disposal and storage shall be reviewed and approved in writing by an independent recognized expert, the Fire Chief and Director of Public Health and Human Services. *Permitted by Special Permit only in a GMR-2.0 district.	No	No	No	No	No	No	SP*	No	No
36C. Marijuana Independent Testing Laboratories, Marijuana Standards Laboratories, and Marijuana Research Facilities * To be eligible for a special permit under Use 36C, the requirements under Sec. 4.13, Marijuana Establishments, and Use 36A. and 36B., restrictions on Marijuana Research Laboratories, shall be met.	No	No	No	No	No	No	SP*[1,2]	SP*[1,2]	SP*[1]
37. Mortuary, undertaking or funeral establishment.	No	No	No	No	No	SP	SP	No	SP

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
38A. Agriculture, horticulture or floriculture on parcels of more than five acres, subject to the regulations specified in Use 57, and not including the retail sale of products or services.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
38B. Agriculture, horticulture or floriculture on parcels of not more than five acres as a principal use.	No	No	No	No	No	No	No	No	No
38C. Open-air use, other than commercial recreation facilities, seasonal outdoor seating for a licensed Food Vendor that does not exceed six months in each calendar year, and Uses 22 to 28 inclusive, including but not limited to the sale of flowers, garden supplies, or agricultural produce.	No	No	No	No	No	SP	SP	No	Yes
38D. Marijuana Cultivators * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	SP*[1,2]	SP*[1,2]	SP*[1,2]	SP*[1]
39. Drive-in use, other than Uses 22 to 28 inclusive, including only those uses permitted in Uses 29 to 32 inclusive.	No	No	No	No	No	SP	SP	No	SP
UTILITIES AND COMMUNICATION									
40. Transformer station, substation, pumping station or automatic telephone exchange, provided that in a residence district such public service building is essential to service such residential area, and that no public business office nor any storage yard or storage building is operated in connection with it.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
40A. Dish antenna not larger than 3 feet in diameter, provided it is not located in a front yard and it conforms to setback requirements for accessory structures.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
40B. Dish antenna larger than 3 feet in diameter, provided it is not located in a front yard, it conforms to setback requirements for accessory structures, and it is located and/or screened so that it is not visible from nearby streets or properties within a 200 foot radius at ground level. *Permitted use for public agencies of the Town of Brookline and the Town's CATV licensee, provided the use is approved by the Board of Selectmen after public hearing.	No*	No*	No*	No*	SP*	SP*	SP*	SP*	SP*
40C. Wireless Telecommunication Services, See **§4.09** for use regulations.									

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
40D. Ground Solar Photovoltaic Installation, Large or Small *Permitted in the Renewable Energy Overlay District under site plan review. See **Section 5.06.4.h** for use regulations.	No	No	No	No	No	No	No	No	No
41. Fire station.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
INDUSTRIAL USES									
42. Steam laundry or dry cleaning plant.* (*See Asterisk After Use 46)	No	No	No	No	No	No	No	No	Yes
43. Wholesale business and storage, in a roofed structure.* (*See Asterisk After Use 46)	No	No	No	No	No	No	No	No	Yes
44. Plumbing shop, carpentry shop, other similar service or repair establishment.* **Permitted by special permit in an M-1.0 (CAM) District. (*See Asterisk After Use 46)	No	No	No	No	No**	SP	SP	No	Yes
45. Printing and publishing.* (*See Asterisk After Use 46)	No	No	No	No	No	No	No	No	Yes

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
46. Light non-nuisance manufacturing, provided that all resulting particulate matter, flashing light, fumes, gases, odors, liquid and/or solid wastes, smoke, and vapor are effectively confined to the premises or disposed of in a manner so as not to create a nuisance or hazard to safety or health and in compliance with all applicable town, state, and federal laws and regulations; further provided that no vibration is perceptible without instruments at a distance greater than 50 feet from such premises and that noise limits shall conform to the **Town's Noise By-law**. At least 30 days prior to the Board of Appeals hearing, the applicant shall submit studies by recognized experts to insure, to the satisfaction of the Board of Appeals, that the use will be designed and operated so as to conform to the standards above. Such studies shall include description of operations and processes proposed, materials to be used, above-and-below-ground storage facilities, and waste products. Any applications, including the required studies, shall be referred to the Conservation Commission and the Health Department for advisory reports in accordance with the procedures in **§9.04**.* *For uses 42 to 46 inclusive, all storage of materials and equipment and all business operations, such as loading, parking, and storage of commercial vehicles, shall be within an enclosed building. This requirement may be modified by the Board of Appeals by special permit only, provided the requirements of **§6.04, paragraph 8**. and **§9.05** are met. Such special permit may be rescinded or modified by the Board of Appeals after notice and hearing if noncompliance with the conditions of approval is determined. *Permitted by special permit in the I-(EISD) District in accordance with 5.06.4.j.	No	No	No	No	No	No	No	No	SP**
46B. Marijuana Product Manufacturers * Permitted by special permit pursuant to Section 4.13, Marijuana Establishments	No	No	No	No	No	No	No	No	SP*[1]

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
OTHER PRINCIPAL USES									
47. Any trade, industry, or other use that is noxious, offensive, or hazardous by reason of vibration or noise or the emission of odors, dust, gas, fumes, smoke, cinders, flashing or excessively bright light, refuse matter or electromagnetic radiation.	No	No	No	No	No	No	No	No	No
48. Any advertising sign or device, including off-premises signs and non-accessory signs as defined in this By-law or the Sign By-law of the Town of Brookline.	No	No	No	No	No	No	No	No	No
49. Any use hazardous to health because of danger of flooding, inadequacy of drainage, high water table, or inaccessibility to fire fighting apparatus or other protective services.	No	No	No	No	No	No	No	No	No
49A. In locations subject to periodic or occasional flooding by water from streams or brooks, including but not limited to the flood hazard district which is defined as all areas in the Floodplain District Boundaries in **4.10.4.a**., any structure erected or any filling undertaken in such manner as to reduce or impede the run-off of flood waters to an extent that would increase the 100 year flood elevation or the hazard of flood damage (See under 49B.) Please refer to **§4.10, Floodplain Overlay District**, of the Zoning Bylaw for flood hazard requirements.	No	No	No	No	No	No	No	No	No
49B. Any new construction, substantial improvement (the cost of which equals or exceeds 50% of the market value of the structure), or land alteration within said flood hazard district shall be subject to a special permit issued by the Board of Appeals, in accordance with the requirements of this By-law, the Zoning Enabling statute and FEMA National Flood Insurance program as cited in **the Code of Federal Regulations, Title 44, Chapter I, Subchapter B, part 60. Please refer to §4.10, Floodplain Overlay District**, of the Zoning Bylaw for flood hazard requirements. *Please note: Any application under Use 49A or 49B shall be referred by the Town Clerk to the Conservation Commission, Town Engineer and Board of Appeals. Applications under this section may also be subject to **Massachusetts General Laws, Chapter 131, Section 40 (as amended), the Wetlands Protection Act.**	SP	SP	SP	SP	SP	SP	SP	SP	SP

Principal Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
49C. Floodplain Overlay District Uses, See **§4.10, Floodplain Overlay District, paragraph 7, Encouraged Uses**, for specific uses in this district.	No	No	No	No	No	No	No	No	No
See **§4.10, paragraph 7., "Encouraged Uses"** of the Zoning Bylaw									
50. Open-lot storage or sale of building material, coal, or other similar materials or junk or salvaged materials.	No	No	No	No	No	No	No	No	No
50A. Commercial and non-commercial manned aircraft landing areas (including on structures)	No	No	No	No	No	SP	SP	SP	SP

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
51. Within a dwelling unit, the renting of not more than two rooms as a lodging without separate cooking facilities and for not more than two lodgers; in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in **§2.06, paragraph 1**.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
51A. Within a dwelling unit in L, G, O, or I Districts, or in dwelling units of more than 2,000 square feet of gross floor area in T, F, and M Districts, the renting of not more than three rooms as a lodging without separate cooking facilities to not more than three lodgers; in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a family in **§2.06, paragraph 1**.	No	No	SP	SP	SP	SP	SP	SP	SP
52. Fraternity, sorority, or dormitory (except as provided in Use 52A) accessory to and located upon the campus of a permitted educational, religious or charitable institution, and provided no building shall be located nearer to the lot line of any lot in a residence district than twice the required front yard depth for that residence district.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
52A. Dormitory of a permitted non-profit educational or religious institution, provided no building shall be located nearer to the side line of any lot in a residence district than the required front yard depth for that residence district. *Special permit required for such a dormitory not located upon the campus of such institution.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
53. Dwelling unit in an accessory building for not more than four persons who are full-time domestic employees or members of the family of such employees. *Allowed only in an S-40 district, on a lot not less than 40,000 s.f. with an accessory building not exceeding 1,200 s.f.	SP*	No	No	No	No	No	No	No	No
54. An accessory private garage or parking area for noncommercial motor vehicles with not more than: three spaces per dwelling unit on that lot, except that there may be four spaces for a single-family dwelling on a 10,000 sq. ft. or larger lot; four spaces for a permitted nonresidential use.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
55. Other private garage* or parking for more non-commercial motor vehicles belonging to occupants or users of the lot than permitted in Use 54.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
56. Garaging* or parking of not more than one commercial motor vehicle, boat, boat trailer, or camper on a lot containing less than 10 dwelling units, or not more than one such boat or vehicle for each 10 dwelling units on a lot containing more than 10 dwelling units, which boat or vehicle may not exceed 1-1/2 ton weight or capacity and which boat or vehicle shall be screened from all streets and adjoining properties. *Any private garage for four or more vehicles must also meet the requirements of the **M.G.L., Chapter 148, §13 and 14**.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
57. The keeping of horses, cows, goats, or other similar animals, other than pigs, or the keeping of poultry, pigeons, rabbits, or other similar birds or animals, or the keeping of bees, provided that no stable or enclosure for any animal may be less than 100 feet from any existing residence building on other premises in any district, or any obvious residence building site on other premises in an S, SC, T, F or M District; and provided that no stable or enclosure for more than four animals may be less than 100 feet from any premises occupied by a church, school, playground, library, or building of a public or eleemosynary institution, except where that distance is intersected by a street at least 60 feet wide; and further provided that no stable or enclosure in a S, SC, T, F or M District may be less than 100 feet from a street, nor contain more than 25 animals on the premises, and subject to such restrictions as to number, and as to location and size of special structures and enclosures, as may be imposed by the Director of Public Health of the Town of Brookline.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
58. Office within the place of residence of a physician or member of the clergy, subject to provisions of **§4.05**, and if registered with the Building Commissioner. *Special permits required in residence districts for: (a) a physician, or (b) the use of more than one room or more floor area than 20% of the area of the ground floor of the dwelling unit, or (c) the employment of a person who is not resident in the dwelling unit, or (d) any clients visiting the premises. Members of the clergy are exempt from this provision.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
58A. Office within the place of residence provided all of the following conditions are met, except that only condition (e) below needs to be met in the G-(DP) and I-(EISD) Districts: (a) the office occupies not more than one room; (b) there are no nonresident employees; (c) there are no clients visiting the premises (members of the clergy shall be exempt from this limitation); (d) there are no signs nor other external evidence of the office; and (e) there is no production of offensive noise, vibration, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
59. Office within the place of residence of a member of a recognized profession, other than a physician or member of the clergy, subject to provisions of **§4.05**, and if registered with the Building Commissioner. *Special permits required in residence districts for: (a) the use of more than one room or more floor area than 20% of the area of the ground floor of the dwelling unit, or (b) the employment of a person who is not resident in the dwelling unit, or (c) any clients visiting the premises.	No	No	SP	Yes*	Yes*	Yes	Yes	Yes	Yes

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
60. Customary home occupation for gain. *Special permit required if customers or pupils come to the house for business or instruction.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
60A. Family child care home or Family child care plus home operated by an occupant of that household, as defined in draft **102 CMR 8.02** or its successor regulations, provided that no more than 6 children of less than school age, or up to 8 children if 2 are of school age, shall be cared for at one time, inclusive of children of the operator.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
60B. Large family child care home operated by an occupant of that household, as defined in draft **102 CMR 8.02** or its successor regulations, provided that no more than 10 children shall be cared for at one time, inclusive of children of the operator.	SP	SP	SP	SP	SP	Yes	Yes	Yes	Yes
61. Non-commercial greenhouse, tool shed, or other similar accessory structure. *Special permit required if in excess of 150 square feet of gross floor area.	Yes*	Yes*	Yes*	Yes*	Yes*	Yes	Yes	Yes	Yes
62. Swimming pool or tennis court except in required front yard (permitted in all districts*). *Special permit required for a swimming pool or tennis court in a required side or rear yard unless it is screened from side or rear lot lines by a strip of land at least four feet wide, densely planted with shrubs or trees which are of a type that may be expected to form a year-round dense screen at least six feet high for swimming pools and at least 10 feet high for tennis courts within three years.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
63. Within a multiple dwelling, hotel or hospital containing more than 50 sleeping rooms or an office building in an O District: newsstand, barber shop, dining room, and similar service primarily for occupants thereof, provided such use is conducted within and entered only from within the principal building. *Not permitted in M-0.5 Districts.	No	No	No	No	SP*	Yes	Yes	Yes	Yes

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
64. Retail sales and consumer services primarily for the occupants of an apartment development on a site of at least 6 acres, provided: (a) Not more than two per cent of the total gross floor area of all buildings on the same lot shall be devoted to such use; (b) Not more than one-half of one per cent of such gross floor area shall be used for restaurant purposes including kitchen and services; (c) Such facilities shall be developed and operated in harmony with the residential uses and shall not create an adverse environment for such residential uses by reasons of unsightliness, noise, congestion, odor, and similar factors.	No	No	No	No	Yes	Yes	Yes	No	Yes
65. Manufacture of goods for sale on the premises to the ultimate consumer provided in L Districts, except by special permit from the Board of Appeals, no products are processed for sale elsewhere and personnel so engaged is limited to five persons at any one time.	No	No	No	No	No	Yes	Yes	No	Yes
65A. Marijuana Manufacturer Residential Uses	No	No	No	No	No	No	No	No	No
66. Accessory laboratory. *In permitted institutions only. **Permitted by special permit in I-(EISD) District iin permitted instituttions only and in accordance with 5.06.4.j.	No	No	No	No	SP*	SP*	SP	SP	SP**
67. Accessory outdoor storage of commodities or materials for processing or sale upon the premises, subject to such requirements for fencing or other screening as are deemed by the Board of Appeals to be necessary to protect the vicinity.	No	No	No	No	No	No	No	No	SP
68. The sale of gasoline and oil or making of minor repairs accessory to a permitted parking garage for more than 10 vehicles if carried on completely within the building.	No	No	SP	SP	SP	Yes	Yes	Yes	Yes
69. The stripping of loam or peat, except for re-use on the same property.	No	No	No	No	No	No	No	No	No
70. On-premises sign or other on-premises advertising device subject to the regulations of **Article VII**.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Accessory Uses	Residence					Business			Ind.
	S	SC	T	F	M	L	G	O	I
71. Other accessory use customarily incidental to a permitted principal use, and not normally conducted as an independent principal use or as an accessory to some other use, provided that any use accessory to a use permitted only under a special permit shall be established only if and as provided in such permit.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Footnotes:

1. Allowed use by Special Permit unless a Town-wide vote bans this use.
2. No manufacturing of Marijuana is permitted in these districts.

§4.08 – AFFORDABLE HOUSING REQUIREMENTS

1. *Purpose*

The purpose of this section is to promote the public welfare by:

a. increasing the supply of housing that is available and affordable to low or moderate income households, with an emphasis on family housing; and

b. preventing the displacement of Brookline residents.

2. *Definitions*

The following definitions shall apply in this §4.08. Where a term is undefined herein, the definition set forth in the Affordable Housing Guidelines adopted pursuant to this §4.08, if any, shall control. All other undefined terms in this section shall either be governed by Article II, Definitions of this Zoning Bylaw or shall be interpreted in accord with such normal dictionary meaning or customary usage as is appropriate to the context.

a. AFFORDABLE HOUSING GUIDELINES are written policies and criteria, recommended by the Housing Advisory Board and adopted by the Planning Board, which supplement and serve to aid in the interpretation of this section. They may be revised from time to time without an amendment to the Zoning Bylaw.

b. AFFORDABLE HOUSING PLAN means a document that constitutes the applicant's showing of compliance with the requirements of this section.

c. AFFORDABLE UNIT means a dwelling unit which meets the following conditions:

1) In a project in which affordable dwelling units will be rented, a unit shall be considered an affordable unit if: (a) it is rented to an eligible low or moderate income household; and (b) it is made available at an initial rent that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income on rent and tenant-paid utilities, unless the occupant has a tenant-based subsidy, in which case the rent may be the amount allowed under the subsidy, provided that the occupant is not paying more than 30% of gross income on rent and tenant-paid utilities.

2) In a project in which affordable dwelling units will be sold, a unit shall be considered an affordable unit if: (a) it is sold to an eligible low or moderate income household; and (b) it is made available at a sales price that is calculated such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30% of gross income towards a mortgage, mortgage insurance, condominium fee and property taxes for a standard thirty-year mortgage at 95% of sales price.

d. ELIGIBLE HOUSEHOLD means a household comprised of a single individual or a family eligible for housing under regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.

e. INCOME, LOW OR MODERATE means a combined household income which is less than or equal to 100% of the median income, except for those units provided under paragraph 5 subparagraph a which shall comply under Chapter 40B of the Massachusetts General Laws, in which case low or moderate income shall mean a combined household income which is less than or equal to 80% of median income or any other limit established under Chapter 40B, its regulations or any amendment thereto.

f. INCOME, MEDIAN means the median income, adjusted for household size, for the Boston Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.

g. PROJECT means any residential or other development, including a cluster development, which results in the construction of new dwelling units, including those set forth in paragraph 3, subparagraph a, b, or c herein. Where the project is a life care facility development, as set forth in paragraph 3, subparagraph c., the term "dwelling unit" shall be construed to mean "assisted living unit".

3. *Applicability*

In all zoning districts, the provisions of this §4.08 shall apply to the following uses:

a. any project that results in the creation of six or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction or change of existing residential or non-residential space, except that the resulting number of pre-existing units remaining within the pre-existing building shall not contribute to such count. A unit shall qualify as within the pre-existing building if no more than five percent of the unit's floor area falls outside of the pre-existing building; and

b. any subdivision of land for development of six or more dwelling units; and

c. any life care facility development that includes six or more assisted living units and accompanying services.

4. *Special Permit Required*

The development of any project set forth in **§4.08, paragraph 3.**, above, shall require the grant of a special permit from the Board of Appeals.

5. *Required Affordable Units*

As a condition for granting any special permit hereunder, applicants shall contribute to the Town's stock of affordable units in accordance with the following requirements:

a. For projects resulting in the creation of six or more dwelling units in accordance with paragraph 3., above, the applicant shall be required to set aside 15% of the units so created as affordable units, except as the provisions of subparagraph d., below, shall apply. Unless at the time of filing for a building permit for a project the number of housing units in Brookline that are qualified as low or moderate income under the Comprehensive Permit Law (Massachusetts General Laws Chapter 40B, Sections 20-23, and Massachusetts regulations thereunder) exceeds the number needed to meet the standard of requirements or regulations that are "consistent with local needs" in Section 20 of said Comprehensive Permit Law, not less than two-thirds of the required affordable units provided under this subparagraph shall be qualified as low or moderate income units under said Comprehensive Permit Law.

b. The required affordable units shall contain 15% of the bedrooms in the project as a whole.

c. In determining the total number of affordable units or bedrooms required in subparagraphs a. and b. above, a fractional unit of 0.5 or more shall be regarded as a whole unit or bedroom.

d. For projects resulting in the creation of six to 15 dwelling units, in accordance with paragraph 3., above, the applicant may choose to make a cash payment to the Housing Trust based on the Affordable Housing Guidelines.

6. Standards

Projects containing affordable units shall meet the following standards:

a. Projects shall not be segmented or phased to avoid compliance with these provisions.

b. Affordable units shall be dispersed throughout the project and shall be indistinguishable from market rate units in external appearance. The affordable units shall have the same mechanical systems as market units, except that affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Affordable units shall have the same finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances.

c. The affordable units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is the smaller:

0 bedrooms:	500 square feet
1 bedroom:	700 square feet
2 bedrooms:	900 square feet
3 bedrooms:	1100 square feet
4 bedrooms:	1300 square feet

For purposes of this subparagraph only, square footage shall be calculated within the interior surfaces of the perimeter walls of the unit.

d. Floor plans for affordable units which differ from those of market rate units shall not be approved without the recommendation of the Director of Planning and Community Development.

e. Sales prices, resale prices, initial rents, and rent increases for the affordable units shall be established in accordance with this section, as further clarified in the Affordable Housing Guidelines and shall be permanently restricted, to the extent legally permissible, to ensure long-term affordability.

f. The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Affordable Housing Guidelines.

g. The Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms, in accordance with the Affordable Housing Guidelines.

h. The Town may require, for itself or its designee, an option to purchase or lease affordable units for amounts consistent with **paragraph 2, subparagraph c**. above. The option shall apply to the initial and any subsequent sale or lease of affordable units.

i. Affordability restrictions shall be embodied in applicable deed covenants, restrictive covenant agreements, other contractual agreements, land trust arrangements, and/or other mechanisms designed to ensure compliance with this section.

j. Covenants and other documents necessary to ensure compliance with this section shall be executed and, if applicable, recorded prior to and as a condition of the issuance of any building permit or certificate of occupancy, as the Board of Appeals shall deem appropriate.

7. Alternative Requirements for Affordable Units

Subject to a finding by the Board of Appeals that the result will be advantageous to the Town in creating or preserving affordable units and not result in the undue concentration of affordable units, the requirements of this section may be satisfied through one or more of the following methods, listed in the order of preference:

a. Off-Site Location—Affordable units may be located on an alternative site or sites in Brookline suitable for housing use, preferably in the same neighborhood as the on-site development. While off-site affordable units may be located in an existing structure, the potential for displacement of existing tenants shall be considered by the Zoning Board of Appeals.

b. Conveyance of Land and/or Buildings—The applicant may donate to the Town or its designee land and/or buildings suitable for housing use, preferably in the same neighborhood as the on-site development. Such land and/or buildings shall have a fair market value comparable to the difference between the value of the affordable units required under this **§4.08** if provided on-site and the fair market value of such units free of the conditions set **forth in paragraph 2, subparagraph c.**

c. Cash Payment—The applicant may make a cash payment to the Town's Housing Trust with a

value comparable to the difference between the value of the affordable units required under this **§4.08** if provided on-site, and the fair market value of such units free of the conditions set forth in **paragraph 2, subparagraph c.**

The applicant's Affordable Housing Plan shall show that the applicant shall provide a greater affordable housing benefit to the Town than would have been provided on site. Affordable units provided through the alternative methods above shall comply in all respects other than on-site location with the requirements of this section.

8. Procedures

All projects shall comply with the following procedures as applicable:

a. Pre-Application Meeting—The applicant shall convene a pre-application meeting with the Director of Planning and Community Development to discuss the project proposal and affordable housing requirements.

b. Submittal of Affordable Housing Plan—The applicant shall fill out and submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit. This form requires the following information:

i. On-Site Unit Projects—Applicants electing to develop on-site affordable units shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of affordable units.

ii. Cash Contribution Projects Under **Paragraph 5, Subparagraph d.—**Applicants electing to make a cash contribution in lieu of providing affordable units shall provide a statement of the number of project units and the corresponding formula required by the Affordable Housing Guidelines.

3) Alternative Requirements—Applicants proposing to **employ paragraph 7, Alternative Requirements for Affordable Units**, above shall provide a proposal specifying the land, buildings, off-site affordable units, and/or cash contribution; and a schedule and proposed security for providing these.

c. Building Permit Application—The applicant shall submit a formal application for a building permit, including the Affordable Housing Plan form.

d. Board of Appeals Application—The applicant shall make a formal application for a special permit to the Town Clerk.

e. Housing Advisory Board Review—Except for applications proposing cash contributions under **paragraph 5, subparagraph d.**, the Housing Advisory Board shall, in the next regularly scheduled meeting after necessary public notice, review the Affordable Housing Plan and prepare a recommendation to the Planning Board.

f. Planning Board Review—The Planning Board shall, in the next regularly scheduled meeting after necessary public notice, hear and make a recommendation on the special permit

application. The recommendation of the Housing Advisory Board (or Director of Planning and Community Development with respect to cash contributions under **paragraph 5, subparagraph d.** shall be considered by the Planning Board. The Planning Board shall explain any deviation from Housing Advisory Board recommendations in writing in its report to the Zoning Board of Appeals.

g. Zoning Board of Appeals Meeting—The Zoning Board of Appeals shall meet to hear the special permit application. The Board of Appeals decision may require modifications, conditions, and safeguards, including documentation regarding affordability and funding commitments reasonably related hereto. The Zoning Board of Appeals shall explain any deviation from Housing Advisory Board recommendations in writing in its decision.

9. Conditions

a. The Zoning Board of Appeals shall require that a Revised Affordable Housing Plan, which shall include any conditions in the grant of a special permit from the Zoning Board of Appeals, shall be submitted to the Director of Planning and Community Development for final approval prior to the issuance of a building permit. For projects providing affordable units, the Affordable Housing Plan shall include a reference to specific floor plans of the affordable units that shall be attached to the plan. For projects providing cash or other contributions under **paragraph 5, subparagraph d. or paragraph 7**., the revised Affordable Housing Plan shall set forth a detailed description, if applicable, and schedule for contributions, including any documentation required to secure such, in accordance with the Affordable Housing Guidelines. The Revised Affordable Housing Plan shall be legally binding as part of a special permit which shall refer to it in any decision.

b. Where set forth as a condition in the approved Revised Affordable Housing Plan, no building permit shall be issued until the applicant submits to the Director of the Department of Planning and Community Development a proper bond, letter of credit, or other financial instrument designed to secure performance of the requirements of this section.

c. No building permit shall be issued until the applicant submits proof that the special permit decision of the Zoning Board of Appeals has been recorded and that the Director of Planning and Community Development has issued a final approval letter for the Revised Affordable Housing Plan.

d. The Zoning Board of Appeals may impose conditions in which the Building Commissioner may limit, restrict, or withhold the issuance of a certificate of occupancy for any market rate unit(s) in a development until:

1) all of the affordable units have obtained a certificate of occupancy; or

2) any land, buildings and/or off-site units required to be donated to the Town or its designee have been conveyed.

e. Prior to issuance of any certificate of occupancy for the a project including affordable units, the applicant shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants; initial rents or sales prices for the units

designated as affordable; and, prior to their being recorded, condominium, cooperative or other homeowner association documents, as appropriate. For projects including affordable units for rent, this plan shall be recorded as a part of the affordable housing restriction set forth in **paragraph 6., subparagraphs i. and j.** herein. All plans shall be consistent with the Affordable Housing Guidelines.

10. Affordable Housing Guidelines

The Planning Board, in consultation with the Housing Advisory Board and after public notice and hearing, shall adopt Affordable Housing Guidelines.

11. Contributions of Cash, Land and/or Buildings

Cash contributions and donations of land and/or buildings made to the Town or its Housing Trust in accordance with this §4.08 shall be used only for purposes of providing affordable housing for low or moderate income households as defined by this section.

§4.09 – WIRELESS TELECOMMUNICATIONS SERVICES

1. Purpose

The purpose of this section is to allow the adequate development of wireless telecommunications services and at the same time regulate the design and location of wireless telecommunications facilities to ensure that demand is fulfilled in a manner which preserves the safety, character, appearance, property values, natural resources, and historic sites of the Town. The intent of the Town of Brookline is to exercise the full rights that §704(a) of the Federal Telecommunications Act of 1996, 47 U.S.C. s 332(c) et. seq. confers to localities in regulating the siting of antennas. The standards herein are intended to achieve the following goals: encourage location of antennas on existing commercial buildings and structures rather than on residential ones or new towers, mitigate any adverse visual and audio effects through proper design, location and screening, encourage co-location where it will minimize visual and other impacts, and prohibit new towers in districts where they may be incompatible with existing residential uses. Monopoles may be approved in non-residential districts by special permit, only if no other alternative is possible.

2. Scope

This **§4.09** shall apply to all wireless telecommunication antennas and towers and related equipment, fixtures and enclosures, including Distributed Antenna Systems located on public utility poles and any modifications to any of the preceding, but shall not apply to dish or television antennas which receive and do not transmit; amateur ham radio antennas; citizens band radio antennas; fire, police, ambulance and other safety communication antennas; antennas utilized by the Town for its communications systems; and to antennas to be located on Town-owned property, except that paragraph 4., subparagraph c. of this section shall apply.

3. Definitions

a. ANTENNA—A device used to receive or transmit electromagnetic waves, such as panel antennas, whip antennas and dish antennas.

b. WIRELESS TELECOMMUNICATIONS—Licensed wireless telecommunication services such as cellular, personal communication services (PCS), mobilized radio services, paging and similar services that are marketed to the general public.

c. TOWER—A structure that is intended to support equipment used to receive and/or transmit electromagnetic waves. Design examples include: guyed tower (tied to ground by cables), lattice tower (self-supporting with multiple legs and cross-bracing structural steel, and monopole (self-supporting with a single shaft).

d. HEIGHT OF TOWER—The vertical distance measured from the average existing grade of the ground level surrounding the tower to the top of the tower.

e. TELECOMMUNICATIONS SPECIALIST—A qualified professional with expertise in monitoring of electromagnetic fields and telecommunications engineering, who has a record of service to municipalities.

4. Procedure

a. All wireless telecommunications antennas mounted on buildings or structures not containing any dwelling units and not exceeding 10 feet above roof height, and related equipment, fixtures and enclosures shall be subject to review and approval by the Planning Board, in accordance with the design review process outlined in **§7.03, paragraph 2.**, which allows for the applicant or any other interested party or Brookline citizen to appeal the Planning Board decision to the Board of Appeals within 30 days. The following additional notification shall be required: publication in a local newspaper at least one week prior to the Planning Board meeting, notice by mail to the applicant, property owner, abutters, and abutters to abutters within 300 feet of the property, Town Meeting members and neighborhood associations of the applicable precincts.

b. All other wireless telecommunications antennas and towers and related equipment, fixtures and enclosures shall require a special permit from the Board of Appeals. Exterior enclosures associated with telecommunication antennas and towers shall be required to meet the setbacks for accessory structures or structures in accordance with the Zoning By-law.

c. All wireless telecommunications antennas, towers, and related equipment, fixtures, and enclosures to be located on Town-owned property shall be exempt from the procedures in subparagraph a. above, and shall require approval from the Board of Selectmen, after an advisory report from the Planning Board and a public hearing. Long term telecommunication leases are subject to **G.L.c.30B** and must be approved by Town Meeting. The submittal requirements and approval standards of this section shall serve to guide the Planning Board in its recommendation to the Selectmen.

5. Submittal Requirements

a. The applicant shall submit to the Building Commissioner the plans and details for the proposed wireless telecommunications antennas, towers and related equipment, fixtures and enclosures. The application shall include: sketches, pictures and photos to illustrate information on the proposed antenna and mount and exterior equipment, fixture and

enclose, including: dimensions, appearance (color and finish), location on building facade or roof (setbacks if applicable), height above building roof when mounted, inventory of other antennas on building, including which antennas have not been used for over one year. Additionally, information shall be submitted on proposed method to camouflage or screen antenna and enclosure from view (screen dimensions, color and style), visibility from ground or upper floor levels of nearby residences within a radius of 500 feet, and method to make it blend in with the style of the building. Information on expected noise impacts on surrounding areas shall be provided. The Planning Board, at its discretion, may require a balloon test and/or model to better evaluate visual impacts or any other information that it deems helpful.

b. An explanation should be submitted to explain process used in selecting the site and other alternatives explored. An ambient emissions baseline reading and plan for continuous monitoring shall be submitted. The proposed range of emissions from the antenna/s shall be submitted. If a tower is proposed, a report shall be required from a structural engineer on safety aspects. Each network company shall submit a master plan for Brookline as part of its application detailing the minimum number of sites that are needed to provide adequate telecommunication coverage. Copies of all submittals to the Massachusetts DPH and FCC pertaining to licensing shall be submitted.

6. Use Regulations

a. Wireless communications antennas and facilities shall not be located:

1) On any of the following structures: residences, public schools, hospitals, nursing homes, or historical sites;

2) Within 50 feet of any residence, nursing home, or hospital;

3) Within 50 feet of any historical site;

4) Within any area in which the Telecommunications Specialist has determined that the applicant already has adequate coverage and capacity measured by the minimal Federal Communications Commission standards for such coverage and capacity.

5) If any provision or portion of subparagraph a., subsubparagraphs 1) through 4) above, is determined to be invalid, the antennas, facilities and locations meant to be prohibited thereunder shall be subject to and regulated by subparagraph c. below.

b. A wireless telecommunications antenna[1] and mount on a building not containing any dwelling units and related equipment, fixtures or enclosures, all not exceeding 10 feet above roof height, shall be permitted in all districts, subject to design review and approval by Planning Board in accordance with design review standards set forth below.

c. A wireless telecommunications antenna and mount on a building or any related equipment, fixtures, or enclosures exceeding 10 feet above roof height, shall require in all districts a special permit issued by the Board of Appeals, subject to the design review standards set forth below.

[1] Which is not permitted within 200 feet of a public school building or within 600 feet of a public conservation area, if visible from the conservation area.

d. lattice tower or guyed tower is not permitted in any district.

e. monopole tower is not permitted in a residential district, permitted by Board of Appeals special permit in all other districts provided that no other alternative is possible.

7. Approval Standards

a. Facade and Roof Antennas and Related Equipment, Fixtures and Enclosures

1) The following design standards shall apply to all approvals and special permits for wireless telecommunications antennas and related equipment, fixtures and enclosures. They shall be as unobtrusive as possible when viewed from the street and from upper floors of nearby residences. Every effort should be made to have them blend in with the style and color of the building they are located upon and with the surrounding environment and not negatively impact property values or environmentally sensitive areas, such as wetlands or historic sites. Where necessary, screening shall be provided to minimize visible impacts. Items for evaluation during the approval process include color, finish, size, location on building facade or roof, camouflaging, and screening. Greater setback from the edge of a building may be required, if it helps to minimize visual impacts and improves over-all aesthetics. Noise impacts shall be minimized on surrounding areas through the use of best commercially available technology and noise dampers whenever possible.

2) The Board of Appeals may grant a special permit if an antenna is greater than 10 feet above the roof height, where the applicant can demonstrate that the additional height is necessary for proper functioning of the antenna or to allow a less obtrusive location.

b. Towers

1) The Board of Appeals may issue a special permit for a monopole only if it is proved that no other alternative is possible to provide adequate wireless communications coverage, such as mounting antennas on existing buildings or structures. Additionally, the tower shall not exceed 100 feet and shall be set back at least one time its height, plus 10 feet from all boundaries of the site, unless additional height up to 150 feet or a lesser setback is found by the Board of Appeals to be necessary to permit co-location, minimize visual impact, and/or minimize the number of monopoles. A six foot fence may be required around the perimeter of the site, if the Board of Appeals finds it is necessary for safety reasons.

2) Every effort should be made to have the tower and related equipment, fixtures and enclosures blend in with the surrounding environment and not negatively impact an environmentally sensitive area, such as a wetlands or an historic area. Where necessary, screening shall be provided to minimize visible impacts. Items for evaluation during the approval process include color, style, finish, size, location on the lot, camouflaging, and screening. No signage or advertising shall be allowed on towers. No tower may have

lighting on it, except as required by the FAA.

c. Special Permit Findings

In addition to the special permit findings referred to above, the general conditions for approval of a special permit under **§9.05** shall be met.

d. Additional Guidelines and Standards.

In addition to the above standards, the Planning Board shall consult a telecommunications specialist and shall adopt additional standards or guidelines, subject to public notice and hearing, to establish parameters for the determination of adequate wireless communication coverage; the Board may also consult the specialist to help it in evaluating wireless telecommunications applications.

8. Issuance of Building Permit

a. Any modification before or after installation that is found to be significant by the Planning Director and/or Building Commissioner shall be reviewed by the Planning Board and/or Board of Appeals, as appropriate, before issuance of a building permit.

b. All obsolete antennas (unused for 1 or more years) as identified in the submittal inventory shall be removed at the applicant's expense, before issuance of a building permit.

9. Fees

a. A bond equal to removal cost of the proposed antenna or existing obsolete antennas may, at the discretion of the Building Department, be required.

b. In addition to a building permit fee, a monitoring fee to be determined by the Building Commissioner shall be required and shall be used for creating and maintaining an accurate inventory of all wireless communications antennas in the Town and for monitoring emissions from them.

c. A fee to be determined by the Building Commissioner shall be required to allow the Planning Board, if it deems necessary, to hire a telecommunications specialist to aid in the evaluation of a specific antenna or tower proposal.

10. Continuation of Special Permit/Monitoring

The continuation of the approval of any antenna permit is contingent upon the submittal to the Building Commissioner and Director of Health and Human Services of an annual report by a qualified engineer indicating current emissions levels and a statement that current Federal and State radio frequency emission standards are not being exceeded.

11. Validity

The invalidity of any provision of this section shall not render invalid any other provision of

this section.

§4.10 – FLOODPLAIN OVERLAY DISTRICT

1. Purpose

The general purpose of this section is to effectively protect the water resources of the Town with zoning provisions that regulate floodplains in a manner that, at a minimum, meets the requirements of the Federal Emergency Management Administration (FEMA) for their National Flood Insurance Program (NFIP). Specifically, the purposes of the Floodplain Overlay District are to:

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

b. Eliminate 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 shut down 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.

2. Establishment and Applicability

a. Establishment—There is hereby established a Floodplain Overlay District which shall be governed by the regulations specified in this section.

b. Applicability—No structure or building shall be erected, constructed, expanded, substantially improved, or moved and no earth or other materials shall be dumped, filled, excavated, transferred, or otherwise altered in the Floodplain Overlay District unless a special permit is duly granted by the Board of Appeals.

c. General Exemptions—For the purposes of this Section, a special permit shall not be required for any demolition or other activity that reduces impervious surface on a lot within the Floodplain Overlay District.

d. Setback Exemptions—Any required flood water retention systems or related facilities may be permitted to extend into required yard setbacks if deemed appropriate by the Board of Appeals.

e. Emergency Repairs—The special permit required in this Section shall not apply to emergency repairs or projects necessary for the protection of the health, safety or welfare of the general public which are to be performed or which are ordered to be performed by a Town

department, or the commonwealth, or a political subdivision thereof. In no case shall any filling, dredging, excavating, or otherwise extend beyond the time necessary to abate the emergency.

3. Definitions

The following definitions specifically refer to the provisions of this section. The definition of any term not provided in this subsection shall be that which can be found in a generally acceptable dictionary of the English language.

a. AREA OF SPECIAL FLOOD HAZARD—Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A or AE.

b. BASE FLOOD—Means the flood having a one percent chance of being equaled or exceeded in any given year.

c. DEVELOPMENT—Means any manmade 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.

d. DISTRICT—Means floodplain district.

e. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)—Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

f. FLOOD INSURANCE RATE MAP (FIRM)—Means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

g. FLOODWAY—Means the channel of a river 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.

h. LOWEST FLOOR—Means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

i. NFIP—National Flood Insurance Program administered by FEMA.

j. NEW CONSTRUCTION—Means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community. For the purpose of determining insurance rates, New Construction means structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

k. ONE-HUNDRED-YEAR FLOOD—See BASE FLOOD.

l. REGULATORY FLOODWAY—See FLOODWAY.

m. SPECIAL FLOOD HAZARD AREA—Means an area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A.

n. START OF CONSTRUCTION—Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, or floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

o. STRUCTURE—Means, 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. STRUCTURE, for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the terms includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

p. SUBSTANTIAL DAMAGE—Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

q. SUBSTANTIAL IMPROVEMENT—Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

r. ZONE A—Means the 100-year floodplain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

s. ZONE AE—Means the 100-year floodplain where the base flood elevation has been determined.

t. ZONE X—Are areas identified in the community Flood Insurance Study as areas of moderate or minimal flood hazard. Zone X replaces Zones B and C on new and revised maps.

4. Floodplain District Boundaries and Base Flood Elevation and Floodway Data

a. Floodplain District Boundaries

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated as Zone A or AE on the Norfolk County Floor Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Brookline are panel numbers 25021C0032E, 25021C0033E, 25021C0034E, 25021C0041E, 25021C0042E, 25021C0051E, and 25021C0053E dated July 17, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 17, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Commissioner, Conservation Commission and Town Engineer. The existing flood insurance maps for the Town of Brookline, dated November 28, 1980, shall remain in effect until July 17, 2012.

b. Base Flood Elevation and Floodway Data

1) Floodway Data

In Zone "A", 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.

2) Base Flood Elevation Data

Base flood elevation data is required for any subdivision proposal, any new building or development, and any other development that would result in additional impervious surface within any floodplain overlay district.

5. Notification of Watercourse Alteration

The Town Clerk, in consultation with the Building Commissioner and Town Engineer, shall notify, in a riverine situation, the following agencies of any alteration or relocation of a watercourse:

a. Adjacent Communities

b. Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104

c. NFIP Program Specialist, FEMA Region I, 99 High Street, 6th Floor, Boston, MA 02110.

6. Use Regulations

a. Reference to Existing Regulations

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with M.G.L., Chapter 131, Section 40 and with the following:

1) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR);

2) Wetlands Protection Regulations, Department of Environmental Protection (DEP), (currently 310 CMR 10.00);

3) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

4) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

5) Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

7. Encouraged Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

a. Urban agricultural uses such as urban farming, horticulture, etc.

b. Nursery uses.

c. Outdoor recreational uses, including fishing, boating, play areas, etc.

d. Conservation of water, plants, wildlife.

e. Wildlife management areas, foot, bicycle, and/or horse paths.

f. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.

g. Buildings lawfully existing prior to the adoption of these provisions.

8. Procedures

a. Application for a special permit shall be made on a form prescribed by the Board of Appeals. In addition to information generally required for such a submittal, the applicant shall also present the following:

1) a detailed site plan drawn to a scale of one inch equals twenty (20) feet showing the

elevation and design of flood water retention systems as required by applicable law;

2) Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

3) base flood elevation data, where the base flood elevation is not provided on the FIRM;

4) certification and supporting documentation by a Massachusetts registered professional engineer demonstrating that such encroachment of the floodway shall not result in any increase in flood levels during the occurrence of the 100-year flood; and

5) four (4) copies of all application materials.

b. Upon receipt of the application and development plans, the Town Clerk shall transmit copies of the plans to the Conservation Commission, Town Engineer, and Board of Appeals. Within forty-five (45) days of receipt of the plans, the Conservation Commission and the Town Engineer shall review said plans and submit their respective reports and recommendations to the Board of Appeals. The Board shall not render any decision on an application for a special permit for development in the Floodplain Overlay District until said reports have been received and considered or until the forty-five (45) day period has expired without the receipt of such report, whichever is earlier.

c. In the course of their standard review and approval of subdivisions, the Planning Board shall assure that:

1) such subdivisions 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.

d. There shall be established a "routing procedure" which will circulate or transmit copies of the development plan to the appropriate review agencies and boards for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

9. *Criteria*

The Board of Appeals may grant a Special Permit for development in the Floodplain Overlay District if the Board finds that such development has met all of the following criteria in addition to other criteria required for the granting of a special permit:

a. No filling or other encroachment shall be allowed in Zone "A" areas or in the floodway which would impair the ability of these special flood hazard areas to carry and discharge flood waters, except where such activity is fully offset by stream improvements such as, but not limited to, flood water retention systems as allowed by applicable law.

b. Displacement of water retention capacity at one location shall be replaced in equal volume

at another location on the same lot, on an abutting lot in the same ownership, on a noncontiguous lot in the same ownership, or in accordance with paragraphs 1) through 3) below:

1) All flood water retention systems shall be suitably designed and located so as not to cause any nuisance, hazard, or detriment to the occupants of the site or abutters. The Board of Appeals may require screening, or landscaping of flood water retention systems to create a safe, healthful, and pleasing environment.

2) The proposed use shall comply in all respects with the provision of the underlying zoning district, provisions of the State Building Code, State Inland Wetland Act, and any other applicable laws.

3) Any development activity requiring a special permit from the Board of Appeals under other provisions of this Zoning By-law shall incorporate the requirements of this Section within the scope of that special permit and shall not require separate application to the Board of Appeals.

§4.11 – LAND DISTURBING ACTIVITIES AND STORMWATER MANAGEMENT

Land disturbing activities and stormwater management are controlled by the By-Laws of the Town of Brookline, ARTICLE 8.26 stormwater management, and administered and enforced by the Department of Public Works. See Town By-Law subsections 8.25.1 Discharges to the Municipal Drain System, 8.25.2 Erosion and Sediment Control, and 8.25.3 Post Construction Stormwater Management for these specific regulations.

§4.12 – REGISTERED MARIJUANA DISPENSARY (RMD)

1. *Purpose*

The intent of this section is to allow RMDs in appropriate locations and under strict safeguards to mitigate any possible adverse public health and safety consequences related to the establishment of RMDs in the Town of Brookline, in conformity with Chapter 369 of the Acts of 2012 (Question # 3 on the November 6, 2012 ballot).

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. *General Restrictions*

An RMD shall:

a. Have a valid license or permit as may be required by law, including 105 CMR 725 and the Town By-Law, and comply with all state provisions.

b. Be located more than 500 feet from an elementary or secondary school, public or private, as measured from lot boundary to lot boundary.

c. Not be located in a building that contains a day care center.

d. Not have direct access from a public way to the portion of the RMD where marijuana or related products or supplies are dispensed.

e. Have signage that conforms to the state regulations, is not internally illuminated, and is approved by the Brookline Planning Board under Article VII of the Brookline Zoning By-Law.

f. Require that if an RMD cultivates marijuana in Brookline, it shall be in an entirely enclosed building for security purposes.

g. Submit a detailed description of security measures for the RMD, such as lighting, fencing, gates, and alarms, etc., that comply with the requirements of 105 CMR 725, to ensure the safety of persons and protect the premises from theft.

3. Submittal Requirements prior to issuance of a Building Permit for an RMD

The following information shall be provided to the Building Department:

a. The name and address of each owner of the RMD.

b. Copies of any required licenses and permits relating to the operation of the RMD, or, if an application for a required license or permit is pending, a copy of the application.

c. Evidence of the Applicant's right to use the proposed site as an RMD, such as a deed or lease.

d. If the Applicant is a business organization, a statement disclosing all of its owners, shareholders, partners, members, managers, directors, officers, 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 the owners/trustees of such entities by listing the individuals' names and addresses.

4. Submittal Requirements prior to issuance of a Certificate of Occupancy for an RMD

The following information shall be provided to the Building Department:

a. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and persons with access to the facility when it is closed, to enable contact if operating problems should arise.

b. Proof that the Brookline Police Department has approved the proposed security measures and that all security measures have been installed or implemented.

§4.13 – MARIJUANA ESTABLISHMENTS

1. *Purpose*

The intent of this section is to permit Marijuana Establishments to operate in locations and pursuant to local requirements that ensure safe and appropriate implementation of Chapter 334 of the Acts of 2016 (Question #4 on the November 8, 2016 ballot), legalizing recreational

Marijuana, within the community.

If any provisions of this section shall be held to be invalid, those provisions shall be severable and the remaining sections shall be valid.

2. *Definitions*

See Massachusetts General Laws Chapter 94G, Section 1, Chapter 94I, Section 1, and the regulations promulgated thereunder, as they may be amended, as well as Section 2, Definitions, of the Zoning By-Law for further definitions of applicable terms.

3. *Medical Marijuana Treatment Centers*

Medical Marijuana Treatment Centers licensed prior to July 1, 2017 shall be subject to §2.13(1) ("Medical Marijuana Treatment Center"), §4.07, Use 20B, and §4.12 ("Registered Marijuana Dispensary (RMD)") of the Zoning By-Laws and not this section, subject to the following: In the event that the medical Marijuana licensing process by the Select Board pursuant to Article 8.34 of the General By-Laws is discontinued in whole or in part, a medical Marijuana treatment center not subject to Select Board licensing pursuant to Article 8.34 shall then be subject to the requirements established for Storefront Marijuana Retailers.

4. *Cap on the Number of Special Permits for Marijuana Retailers*

The Zoning Board of Appeals shall not grant a special permit if doing so would result in a total number of outstanding special permits granted to Marijuana Retailers that exceeds any cap set by a General By-Law on the number of Select Board Marijuana Establishment licenses that can be issued to Marijuana Retailers.

If no such General By-Law is in effect at the time of a vote by the Zoning Board of Appeals on a special permit application, the Zoning Board of Appeals shall not issue a special permit if doing so would result in a total number of outstanding special permits that exceeds the following limitations: The Zoning Board of Appeals shall not issue more special permits in each of the following categories of Marijuana Establishment licenses than the number that is 20% of the number of liquor licenses for off-premises alcohol consumption that have been issued by the Select Board pursuant to M.G.L. c. 138, § 15, as rounded up to the nearest whole number in the event the number is a fraction: a) Storefront Marijuana Retailers; b) Delivery-Only Marijuana Retailers; and c) Social Consumption Marijuana Retailers.

5. *General Requirements for Marijuana Establishments*

Marijuana Establishments shall comply with the following requirements:

A. General

1. Marijuana Establishments shall comply with applicable State and local laws, regulations, by-laws, codes, conditions and agreements with the Town, including, but not limited to, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500, the Town of Brookline's General By-Laws, the Town of Brookline's Zoning By-Laws, all applicable Town building, fire prevention,

police, and health codes, regulations and standards, any conditions imposed on licenses and permits held by the Marijuana Establishment (including, but not limited to, the Town's Zoning Board of Appeals special permit), and agreements between the Marijuana Establishment and the Town, including host community agreements.

2. Marijuana Establishments shall maintain all permits and licenses required by State and local laws. Any laws voiding of the Cannabis Control Commission's license by operation of law (including due to cessation of operations, failure to become operational within the permitted time, or relocation without Cannabis Control Commission approval), and any revocation or suspension of the Marijuana Establishment's Cannabis Control Commission license shall result in an automatic suspension of the special permit pending hearing or the opportunity therefore afforded to the Marijuana Establishment and pending further determination by the Zoning Board of Appeals.

3. All taxes and charges owed to the Town must be paid on a current basis. The Town may place a lien on the property of any person who has an outstanding balance due the Town from any fee, charge or tax, which balance is at least six (6) months past due.

B. Operational Requirements

1. All Marijuana Establishments' licensed operations shall be conducted within a building at a fixed location.

2. No Marijuana Establishment shall allow cultivation, processing, manufacture, sale or display of Marijuana or Marijuana Products to be visible from a public place without the use of binoculars, aircraft, or other optical aids.

3. Marijuana Establishments may cultivate, process, test, store and manufacture Marijuana or Marijuana Products only within an area that is enclosed and secured in a manner that prevents access by persons not permitted by the Marijuana Establishment to access the area.

4. The hours of operation of Marijuana Establishments shall be those that are set by the Marijuana Establishment's host community agreement with the Town or a Select Board-issued license.

5. Marijuana Establishments shall ensure that their hours and methods of transportation of product shall not be a detriment to the surrounding area and nearby uses.

6. Marijuana Establishments shall not permit any disorder, disturbance, or illegality under State or local law of any kind on the premises.

7. Marijuana Establishment operations shall not result in illegal redistribution under State or local law of Marijuana obtained from the Marijuana Establishment, or in use of Marijuana in any manner that violates State or local law.

8. Marijuana Establishment operations shall not create nuisance conditions in parking areas, sidewalks, streets and areas surrounding its premises and adjacent properties.

"Nuisance" includes, but is not limited to, disturbances of the peace, open public consumption of Marijuana, excessive pedestrian or vehicular traffic, odors emanating from the Marijuana Establishment's premises, electrical lighting, illegal drug activity under State or local law, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, excessive citation for violations of State traffic laws and regulations and/or Transportation Division Rules and Regulations, queuing of patrons (vehicular or pedestrian) in or other obstructions of the public way (sidewalks and streets), collisions between vehicles, bicyclists, and pedestrians, lewd conduct or police detentions and arrests.

9. Marijuana Establishments shall equip the premises and otherwise conduct their operations in such a manner that (a) no pesticides or other chemicals or products are dispersed into the outside atmosphere, and (b) no odor of Marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the facility or at any adjoining use or property.

10. A Marijuana Establishment shall be required to remove all Marijuana and Marijuana Products by the earlier of:

a) prior to surrendering its State-issued license; or

b) within six (6) months of ceasing operations.

11. Marijuana Establishments shall comply with 527 CMR and with Chapter 38 of the NFPA 1 (2018), as they may be amended, and as applicable.

12. Marijuana Establishments are prohibited from use of on-site self-service displays. Self-service displays are defined to mean displays from which customers may select Marijuana or Marijuana Products without assistance from an employee or store personnel, and include vending machines.

13. Consumption of Marijuana in the interior or exterior of the premises is not permitted except as follows. Duly-licensed Social Consumption Marijuana Retailers may permit on-premises consumption of Marijuana and Marijuana Products which they are licensed to sell to customers purchasing their products who are aged 21 years and older in the event that on-premises consumption is approved by the Town pursuant to and in the manner provided by M.G.L. c. 94G, § 3(b). In the event that on-premises consumption is approved by the Town in such manner, Social Consumption Marijuana Retailers must abide by all State and local requirements for Marijuana Establishments. Social Consumption Marijuana Retailers shall comply with all legal requirements pertaining to verification that a patron is at least 21 years of age utilizing acceptable forms of proof of age, including any proof-of-age verification requirements established by the Select Board in connection with the local licensing of Marijuana Establishments. In no event shall Social Consumption Marijuana Retailers permit the smoking of Marijuana or Marijuana Products on the premises. Smoking is defined to mean the lighting of, or having in one's possession any lighted cigarette, cigar, pipe or other product designed to be combusted and inhaled. The activation of or inhalation of vapor from an e-cigarette or other similar device shall be considered smoking.

C. Security-Specific Requirements

1. Marijuana Establishments shall maintain compliance with any Town Police Department-approved security and public safety plans as the Police Department may require, which plan may include measures relating to alarms, fencing, gates, limited access areas, delivery procedures, police details, specification of video and lighting locations, notifications to the Police Department in the event of any known or suspected violation of criminal law that has taken place on or near the location of the establishment.

2. Marijuana Establishments shall secure every entrance to the Marijuana Establishment so that access to areas containing the storage of Marijuana products are restricted to employees and others permitted by the Marijuana Establishment to access the area and to Cannabis Control Commission or state and local law enforcement officers, agents and emergency personnel.

3. Marijuana Establishments shall secure their inventory and equipment during and after operating hours to deter and prevent theft of Marijuana, Marijuana Products and Marijuana accessories.

4. Marijuana Establishments shall file an emergency response plan with the Town's Fire, Police and Health Departments and share with these Departments their security plan and procedures and any updates to them in the event they are modified.

D. Access to Premises and Information/Reporting/Record-Keeping

1. Marijuana Establishments shall consent to unannounced, unscheduled, periodic inspections of its premises by the Building Commissioner or designee, including an agent from the Building, Health, Police and Fire Departments (which, when conducted by the Police Department, shall be by a sworn police officer holding the rank of Sergeant or higher) on week-days during normal business hours to determine the Marijuana Establishment's compliance with the requirements of applicable state and local laws, regulations, codes, license and permit conditions, and this section. In addition, routine inspections may be made on week-days during regular Town business hours by authorized inspectional departments to determine compliance with applicable state and local laws, regulations, codes and license and permit conditions. Inspections by the authorized inspectional departments may be made at other times to investigate complaints or suspected non-compliance issues. Inspections may include all areas occupied, used or controlled by the Marijuana Establishment. Facilities requiring re-inspection are subject to applicable re-inspection fees. Inspections shall be conducted in conformity with applicable federal, state and local law.

2. Marijuana Establishments shall cooperate and comply with requests for information made by the Building Commissioner or designee, including agents from the Planning, Building, Health, Police, Fire and Public Works Departments.

3. Within twenty-four (24) hours of receipt of notice of it, a Marijuana Establishment shall file with the Town Administrator, Director of Public Health and the Building Commissioner any summary cease and desist order, cease and desist order, quarantine

order, suspension order, revocation order, order limiting sales, deficiency statement, plan of correction, notice of a hearing, notice of any other administrative process or legal action, denial of a license, denial of a renewal of a license, or final action issued by a state or federal agency (including, but not limited to, the Cannabis Control Commission and Massachusetts Department of Public Health) regarding the Marijuana Establishment, the Cannabis Control Commission license, or the Department of Public Health Certificate of Registration.

E. Additional Location Requirements for Marijuana Establishments

1. Marijuana Establishments shall not be located in a building that contains a pre-existing daycare center.

2. Marijuana manufacturing or extraction shall not be done in any building containing assembly, educational, health care, ambulatory health care, residential board and care, residential, or detention and correctional facilities.

3. Delivery-Only Marijuana Retailers and Marijuana Transporters shall not occupy street-level space in Local or General Business districts.

4. The required distance from schools that serve Kindergarten through 12th grade, public or private, shall be:

a. 500 feet for i) Social Consumption Marijuana Retailers issued a primary use license; and ii) Storefront Marijuana Retailers with the following provisions:

1. Where the 500-foot buffer intersects a major corridor (as defined in subsection 2 immediately below), the buffer zone shall not include land on the opposite side of the major corridor from where the school is located.

2. For purposes of this section, "major corridors" are defined as Beacon Street, Commonwealth Avenue, and/or Route 9 (otherwise known as Boylston Street, including a portion of Route 9 that converts to Washington Street).

b. No distance requirement applicable to i) Marijuana Research Facilities that do not hold a Marijuana Retailer license; ii) Marijuana Independent Testing Laboratories; and iii) Marijuana Standards Laboratories.

c. 200 feet for all other Marijuana Establishments.

d. Measured from lot boundary to lot boundary.

5. Density requirements for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall be:

a. A minimum of 200 feet from another Social Consumption Marijuana Retailer issued a primary use license or Storefront Marijuana Retailer. (applicable to uses 29A and 29B)

b. Measured from lot boundary to lot boundary.

6. Store Size Limitations for Social Consumption Marijuana Retailers issued a primary use license and Storefront Marijuana Retailers shall:

a. Not exceed a total gross floor area of 5,000 square feet per establishment.

b. Not exceed a gross floor area of 3,500 square feet and no more than 5,000 square feet total gross floor area per establishment if any portion of the establishment is located at street-level.

c. Not apply to Medical Marijuana Treatment Centers licensed to operate prior to July 1, 2017, who receive a State Storefront Marijuana Retailer license or Delivery-Only Marijuana Retailer license pursuant to M.G.L. c. 94G and the regulations promulgated thereunder, unless a licensed Medical Marijuana Treatment Center expands the licensed premises or building.

7. *Site Plan Review for Marijuana Establishments*

The following describes requirements for a Marijuana Establishment site plan review process to precede the Marijuana Establishment's application for a building permit and a special permit:

A. Prior to applying for a building permit, the Marijuana Establishment shall have an initial informal meeting with the Planning Director and the Building Commissioner or designees to discuss development plans and relevant Zoning By-Law requirements.

B. The appropriate site plan review process shall be determined at the initial meeting consistent with the Zoning By-Laws, which may include, but is not limited to, the process for Major Impact Projects and Design Advisory Teams.

C. In addition, at the discretion of the Planning Director or designee, the Marijuana Establishment Site Plan Review process may entail submission of reports from all relevant departments and divisions, which may include the Health Department, the Police Departments, the Fire Department, the Building Department, the Department of Public Works (e.g., the Transportation Division in the event that a Transportation Demand Management Plan may be contemplated, the Water Division, the Highway and Sanitation Division, as applicable), and/or any other Department that the Planning Director or designee determines to be appropriate to the project.

D. The applicant is responsible for obtaining any Department report deemed necessary by the Planning Director or designee in connection with Marijuana Establishment Site

Plan Review process and submitting the report to the Planning Department. The Planning Department will assist with identifying to the applicant information and documents that Departments may require in connection with issuing their reports. Departments responsible for reports may identify other needed information and documents needed from the applicant.

E. Each Department designated by the Planning Department to issue a report will make its report available to the applicant no later than forty-five (45) calendar days from the date the applicant has completed submission to the Department of all requested information and documents.

F. In the event a Department designated by the Planning Department to issue a report does not do so within 45 days of when the applicant submitted all requested information and documents to the Department, the applicant may submit to the Planning Department, in lieu of the report, a letter showing evidence of the applicant's submission of requested information and documents to the Department or stating that no documents or information was requested, as the case may be.

G. The Marijuana Establishment shall cooperate with requests for information or meetings by the Planning Director and/or by any of the Departments designated by the Planning Director to issue reports as part of the Marijuana Establishment Site Plan Review process, which information may include the Marijuana Establishment's application for a license from the Cannabis Control Commission or relevant State agency.

H. Marijuana Establishments may not apply for a building permit until the Planning Director and Building Commissioner have issued a written Notice of Completion of Marijuana Establishment Site Plan Review.

8. *Special Permits*

The following apply to special permits to operate a Marijuana Establishment, in addition to the requirements set forth in §9 of the Zoning By-Laws.

A. Application requirements: Marijuana Establishments shall include with their special permit application:

1. Copies of any required licenses and permits relating to the operation of the Marijuana Establishment, or, if an application for a required license or permit is pending, a copy of the application.

2. Evidence of the Marijuana Establishment's right to use the proposed site as a Marijuana Establishment, such as a deed or lease.

3. A copy of the Notice of Completion of Marijuana Establishment Site Plan Review Process for Marijuana Establishments.

4. Any other materials requested by the Special Permit application form, as

well as any other additional materials the Planning Department determines is necessary for review, such as Department reports or transportation studies or a license application.

B. Special permit criteria: The Board of Appeals shall not approve any application for a special permit unless it finds that in its judgment all of the following conditions are met:

1. Issuance of the special permit would not contravene the cap on the number of special permits that may be granted (see subsection 4, Cap on the Number of Special Permits for Storefront Marijuana Retailers of this section) and any applicable density restrictions (see subsection 5, General Requirements for Marijuana Establishments, of this section). Issuance of a special permit must also comply with applicable State and local laws.

2. The location is compliant with Section 4.13 in its entirety.

3. The Board of Appeals is otherwise satisfied that the Marijuana Establishment has the ability to comply with the General Requirements for Marijuana Establishments set forth in Section 4.13, and 4.12 if applicable.

C. Submittal Requirements prior to issuance of a Certificate of Occupancy

The following information shall be provided to the Building Department:

A. Proof that the Brookline Police Department has been provided with the name, phone numbers and email addresses of all management staff, and with access to the facility when it is closed, to enable contact if operating problems should arise.

B. Proof that all security measures required by the special permit have been installed or implemented.

C. Proof that the applicant is compliant with implementing any required transportation mitigation measures.

9. *Enforcement*

This section of the Zoning By-Law shall be enforced by the Building Commissioner or the Building Commissioner's designee, as may be consistent with law. This Section, 9. Enforcement, shall supersede any conflicting provision of the Zoning By-Laws that would otherwise be applicable to the enforcement of this section.

10. *Implementation*

This section shall not be implemented in a manner that conflicts or interferes with the operation of M.G.L. c. 94G, 94I or the regulations promulgated thereunder, including 935 CMR 500.

ARTICLE V
DIMENSIONAL REQUIREMENTS

§5.00 - DISTRICT REGULATIONS
§5.01 - LOT AREA OR YARDS REQUIRED
§5.02 - SPACING OF NON-RESIDENTIAL BUILDINGS ON THE SAME LOT
§5.03 - SPACING OF RESIDENTIAL BUILDINGS ON THE SAME LOT
§5.04 - RESIDENTIAL BUILDING ON REAR OF A LOT
§5.01 - Table of Dimensional Requirements
§5.05 - CONVERSIONS
§5.06 - SPECIAL DISTRICT REGULATIONS
§5.07 - DWELLINGS IN BUSINESS AND INDUSTRIAL DISTRICTS
§5.08 - EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR USES 9 & 10
§5.09 - DESIGN REVIEW
§5.10 - MINIMUM LOT SIZE
§5.11 - CLUSTER SUBDIVISIONS, DESIGNED GROUPS OF SINGLE-FAMILY DWELLINGS, AND ESTATE CONVERSIONS
§5.12 - LOT AREA PER DWELLING UNIT OR EQUIVALENT
§5.13 - LOT WIDTH
§5.14 - LOT FRONTAGE
§5.15 - EXCEPTION TO MINIMUM LOT SIZE & LOT WIDTH REQUIREMENTS
§5.20 - FLOOR AREA RATIO
§5.21 - EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO REGULATIONS (PUBLIC BENEFIT INCENTIVES)
§5.22 - EXCEPTIONS TO FLOOR AREA RATIO REGULATIONS FOR RESIDENTIAL UNITS
§5.30 - MAXIMUM HEIGHT OF BUILDINGS
§5.31 - EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS
§5.32 - EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS (PUBLIC BENEFIT INCENTIVES)
§5.40 - WALLS NOT PARALLEL TO LOT LINES
§5.41 - BUILDINGS OF UNEVEN HEIGHT OR ALIGNMENT
§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS
§5.44 - ACCESSORY UNDERGROUND STRUCTURES
§5.45 - TRAFFIC VISIBILITY ACROSS CORNERS
§5.46 - CORNER LOTS
§5.47 - DIMENSIONAL REQUIREMENTS FOR COURTS
§5.50 - FRONT YARD REQUIREMENTS
§5.51 - PROJECTIONS INTO FRONT YARDS
§5.52 - FENCES AND TERRACES IN FRONT YARDS
§5.53 - ACCESSORY BUILDINGS IN FRONT YARDS
§5.54 - EXCEPTIONS FOR EXISTING ALIGNMENT
§5.55 - FRONT YARD FOR REAR LOT
§5.60 - SIDE YARD REQUIREMENTS
§5.61 - PROJECTIONS INTO SIDE YARDS
§5.62 - FENCES AND TERRACES IN SIDE YARDS
§5.63 - ACCESSORY BUILDINGS OR STRUCTURES IN SIDE YARDS
§5.64 - SIDE YARDS FOR NON-DWELLING USES IN BUSINESS OR INDUSTRIAL DISTRICTS
§5.70 - REAR YARD REQUIREMENTS
§5.71 - PROJECTIONS INTO REAR YARDS
§5.72 - ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS
§5.73 - REAR YARDS IN BUSINESS OR INDUSTRIAL DISTRICTS
§5.74 - FENCES AND TERRACES IN REAR YARDS

Table 5.01 – Table of Dimensional Requirements

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT[9] MAXIMUM (feet)	MINIMUM YARD[3,10] (feet) Front[1,6]	Side[2]	Rear	OPEN SPACE (% of gross floor area) Landsc.	Usable
S-40	1-family detached dwelling subject to Section 5.11(a) Cluster	20,000	0.20	110	35	30	20	50	10%	80%
	1-family detached dwelling not subject to Section 5.11	40,000	0.15	150	35	30	20	50	10%	100%
	Any other structure or principal use[15]	40,000	0.15	150	35	40	30	60	100%	none
S-25	1-family detached dwelling subject to Section 5.11(a) Cluster	12,500	0.25	90	35	30	20	50	10%	60%
	1-family detached dwelling not subject to Section 5.11	25,000	0.20	120	35	30	20	50	10%	80%
	Any other structure or principal use[14,15]	25,000	0.20	120	35	40	30	60	80%	none
S-15	1-family detached dwelling subject to Section 5.11(a) Cluster	7,500	0.30	75	35	25	15	40	10%	60%
	1-family detached dwelling not subject to Section 5.11	15,000	0.25	100	35	25	15	40	10%	60%
	Any other structure or principal use[15]	15,000	0.25	100	35	35	25	50	60%	none
S-10	1-family detached dwelling	10,000	0.30	85	35	20	10	30	10%	40%
	Any other structure or principal use[15]	10,000	0.30	85	35	30	20	40	40%	none
S-7	1-family detached dwelling	7,000	0.35	65	35	20	7.5	30	10%	30%
	Any other structure or principal use[15]	7,000	0.35	65	35	30	20	40	30%	none
S-0.5P	1-family detached dwelling subject to Section 5.11(a) Cluster	7,500	0.30	75	35	25	15	40	10%	40%
	1-family detached dwelling not subject to Section 5.11	15,000	0.25	100	35	25	15	40	10%	60%
	Other dwelling structure		0.50	75	40	25	15	40	10%	40%
	First dwelling unit	300,000								
	Each additional dwelling unit	1,000								
	Any other structure or principal use[15]	15,000	0.25	100	35	35	25	50	60%	none
S-0.75P	1-family detached dwelling	7,000	0.35	65	35	20	7.5	30	10%	30%
	Other dwelling structure		0.75	65	40	20	$10 + \frac{L}{10}$	30	10%	30%
	First dwelling unit	140,000								
	Each additional dwelling unit	1,000								
	Any other structure or principal use[15]	7,000	0.35	65	35	30	20	40	30%	none
SC-7	1-family detached dwelling	7,000	0.35	65	35	20	7.5	30	10%	30%
	Converted 1-family detached dwelling	7,000	0.50	65	35	20	7.5	30	10%	30%
	Any other structure or principal use[15]	7,000	0.35	65	35	30	20	40	30%	none
SC-10	1-family detached dwelling	10,000	0.35	65	35	20	7.5	30	10%	30%
	Converted 1-family detached dwelling	10,000	0.50	65	35	20	7.5	30	10%	30%
	Any other structure or principal use[15]	10,000	0.35	65	35	30	20	40	30%	none
S-4	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	Any other structure or principal use	5,000	1.0	50	35	25	20	40	30%	none

(Additional regulations are contained in the text of Article 5.00) Required Lot Frontage: 25' in S and SC districts and 20' in all other districts

Table 5.01 – Table of Dimensional Requirements		LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	LOT WIDTH MINIMUM (feet)	HEIGHT [9] MAXIMUM (feet)	MINIMUM YARD [3, 10] (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE					Front [1,6]	Side [2]	Rear	Landsc.	Usable
T-6	1-family detached dwelling	5,000	0.75	45	35	15	7.5	30	10%	30%
	2-family dwelling	6,000	0.75	55	35	15	10	30	10%	30%
	1-family attached dwelling	3,000	0.75	25	35	15	none [2]	30	10%	30%
	Any other structure or principal use	6,000	0.75	55	35	25	20	40	30%	none
T-5	1-family detached dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2-family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none [2]	30	10%	30%
	Any other structure or principal use	5,000	1.0	50	35	25	20	40	30%	none
F-1.0	1–family dwelling	4,000	1.0	40	35	15	7.5	30	10%	30%
	2–family dwelling	5,000	1.0	45	35	15	10	30	10%	30%
	3–family dwelling	5,000	1.0	45	40	15	10	30	10%	30%
	1-family attached dwelling	2,500	1.0	20	35	15	none [2]	30	10%	30%
	Any other structure or principal use	5,000	1.0	60	40	25	20	40	30%	none

(Additional regulations are contained in the text of Article 5.00) Required Lot Frontage: 25' in S and SC districts and 20' in all other districts

Table 5.01 - Table Of Dimensional Requirements							PBI [11]		MINIMUM YARD [3] (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI [11] NB ONLY	LOT WIDTH MINIMUM (feet)	HEIGHT [9] MAXIMUM	B	NB	Front [1,6]	Side [2]	Rear	Landsc.	Usable [13]
M-0.5	1-family detached dwelling	4,000	0.5	NA	40	35	NA	NA	15	7.5	30	10%	30%
	2-family detached dwelling	5,000	0.5	NA	45	35	NA	NA	15	10	30	10%	30%
	other dwelling structure		0.5	NA	none	35	NA	NA	15	10+L/10	30	10%	30%
	first dwelling unit	3,000											
	each additional dwelling unit	2,000											
	Any other structure or principal use	5,000	0.5	NA	none	35	NA	NA	25	20	40	30%	none
M-1.0 & M-1.0 (CAM)	1-family detached dwelling	4,000	1.0	NA	40	35	NA	NA	15	7.5	30	10%	20%
	2-family detached dwelling	5,000	1.0	NA	45	35	NA	NA	15	10	30	10%	20%
	1-family attached dwelling	2,250	1.3	NA	20	35	NA	NA	15	none	30	10%	20%
	other dwelling structure		1.0	NA	none	40	NA	NA	15	10+L/10	30	10%	20%
	first dwelling unit	3,000											
	each additional dwelling unit	1,000											
	Any other structure or principal use	5,000	1.0	NA	none	40	NA	NA	25	20+L/10	40	20%	none

(Additional regulations are contained in the text of Article 5.00) Required Lot Frontage: 25' in S and SC districts and 20' in all other districts

Table 5.01 - Table Of Dimensional Requirements							PBI [11]		MINIMUM YARD [3] (feet)			OPEN SPACE (% of gross floor area)	
DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI [11] NB ONLY	LOT WIDTH MINIMUM (feet)	HEIGHT [9] MAXIMUM	B	NB	Front [1,6]	Side [2]	Rear	Landsc.	Usable [13]
M-1.5	1-family detached dwelling	4,000	1.5	NA	40	35	NA	NA	15	7.5	30	10%	20%
	2-family detached dwelling	5,000	1.5	NA	45	35	NA	NA	15	10	30	10%	20%
	other dwelling structure	none	1.5	1.9	none	45 - 50	NA	60	if HEIGHT is Under 40': 15	$10 + \frac{L}{10}$	30	10%	15%
	Any other structure or principal use* *add 10 feet to each minimum yard requirement	5,000	1.5	1.9	none	45 - 50	NA	60	40' & Over: $15 + \frac{H}{10}$	$\frac{H+L}{6}$	$\frac{H+L}{6}$ But at least 30'	20%	none
M-2.0	1-family detached dwelling	4,000	2.0	NA	40	35	NA	NA	10	7.5	30	10%	20%
	2-family detached dwelling	5,000	2.0	NA	45	35	NA	NA	10	10	30	10%	20%
	other dwelling structure	none	2.0	2.5	none	50	60	70	if HEIGHT is Under 40': 15	$10 + \frac{L}{10}$	30	10%	10%
	Any other structure or principal use* *add 10 feet to each minimum yard requirement	5,000	2.0	2.5	none	50	60	70	40' & Over: $15 + \frac{H}{10}$	$\frac{H+L}{6}$	$\frac{H+L}{6}$ But at least 30'	20%	none
M-2.5	1-family detached dwelling	4,000	2.5	NA	40	35	NA	NA	10	7.5	30	10%	20%
	2-family detached dwelling	5,000	2.5	NA	45	35	NA	NA	10	10	30	10%	20%
	other dwelling structure	none	2.5	3.5	none	50	75	85	if HEIGHT is Under 45': 15	$10 + \frac{L}{10}$	30	10%	5%
	Any other structure or principal use* *add 10 feet to each minimum yard requirement	5,000	2.5	3.5	none	50	75	85	45' & Over: $15 + \frac{H}{10}$	$\frac{H+L}{6}$	$\frac{H+L}{6}$ But at least 30'	20%	none

(Additional regulations are contained in the text of Article 5.00) Required Lot Frontage: 25' in S and SC districts and 20' in all other districts

SECTION 5.01 TABLE OF DIMENSIONAL REQUIREMENTS

DISTRICT	USE	LOT SIZE MINIMUM (sq. ft.)	FLOOR AREA RATIO MAXIMUM	PBI [11] NB ONLY	LOT WIDTH [4] MINIMUM (feet)	HEIGHT [9] MAXIMUM	PBI [11]		MINIMUM YARD [3] (feet)			OPEN SPACE (% of gross floor area)	
							B	NB	Front [1,6]	Side [2,7]	Rear [8]	Landsc.	Usable [13]
L-0.5 & L-0.5 (CL)[19]	Any structure or principal use (dwelling-footnote 5)	none [4]	0.5	NA	none	40	NA	NA	10	none	10+L/10	none	none [5]
L-1.0	Any structure or principal use	none [4]	1.0	NA	none	40			10	none	10+L/10	none	none [5]
G-1.0	Any structure or principal use (dwelling–footnote 5)	none [4]	1.0	NA	none	40	NA	NA	none	none	10+L/10	none	none [5]
G-(DP)[18]	Any structure or principal use (dwelling–footnote 5)	none [4]	1.0 to 3.0 [18]	NA	none	65	NA	NA	NA	NA	NA	none	none [5]
G-1.75	Any structure or principal use (dwelling-footnote 5)	none [4]	1.75	2.25	none	45	NA	70(CC)**	none	none	10+L/10	none	none [5]
G-1.75 (LSH)	Any structure or principal use (hotel – footnote 16)	none	3.30	NA	none	90 (8 stories)	NA	NA	none	none	none	none	none
G-2.0	Any structure or principal use (dwelling–footnote 5)	none [4]	2.0	2.5	none	45	60 45 (CA)	70 55(CA)	none	none	10+L/10	none	none [5]
GMR-2.0	Any structure or principal use (dwelling footnote 5)	none[4]	2.0 3.45[17]	2.5 N/A	none	45 115[17]	60 N/A	100 N/A	none	none	10+L/10	none	none [5]
O-1.0	Any structure or principal use (dwelling–footnote 5)	none	1.0	NA	none	40	NA	NA	20	H	H [3]	none	none [5]
O-2.0 (CH)	Any structure or principal use (dwelling–footnote 5)	none [4]	2.0	2.5	none	50	60	100	20	none	10+L/10	none	none [5]
I-1.0 & I-(EISD)	Any structure or principal use (dwelling–footnote 5)	none [4]	1.0 or NA[20]	NA	none	40 or 110[20]	NA	NA	20[20]	none	10+ L/10[20]	none	none [5]

FOOTNOTES:

1. If the entrance to a garage or covered vehicular passageway faces toward the street to which its driveway has access, said entrance shall be at least 20 feet from the street lot line.
2. At the end of each row or block of one-family attached dwellings, a yard shall be provided along the street line or side lot line of at least ten feet plus one foot for each dwelling unit in excess of two. In M and F districts, a building subject to the side yard formula: **10+L/10** may be built to the side lot line: (a) as a matter of right if, on the adjoining

lot, a principal building with no setback from that lot line already exists or is proposed to be built concurrently; (b) by special permit if the Board of Appeals finds that reasonable development of the lot necessitates building to the side lot line, such action does not unreasonably infringe upon the light and air of any existing adjoining building, and the party wall is solid and has neither doors nor windows. A building with no side yard shall not have a building wall on the side lot line extending more than 70 feet to the rear of the front yard required by this By-law; except that a building wall may be located along any part of a side lot line on which a principal building on the adjoining lot abuts between the rear yard required by this By-law and the required front yard line. Where building walls more than 70 feet to the rear of the required front yard are not permitted to be built along the side lot line, said walls shall have a side yard setback not less than: **10+L/10** the "L" dimension being that portion of the wall required to be set back from the side lot line.

3. L is the length of a wall parallel (or within 45 degrees of parallel) to the lot line, measured parallel to the lot line, subject to the provisions of **§5.41** for buildings of uneven alignment or height. H is the height, measured as provided in **§5.30**, of that part of the building for which the setback or yard is to be calculated.
4. Automotive uses are subject to the requirements of **§§ 6.08** and **6.09**.
5. See **§5.07**, Dwelling in Business and Industrial Districts.
6. See **§5.54**, Exception for Existing Alignment.
7. See **§5.64**, Side Yards for Non-Dwelling Uses in Business or Industrial Districts.
8. See **§5.73**, Rear Yard in Business or Industrial Districts.
9. Where two different maximum height figures are specified with a hyphen for the same use in one zoning district, the lower figures shall apply to any lot or part of a lot located in a buffer area as defined by **§5.31, paragraph 3**. Where a height figure is followed by a zoning district designation as defined in **§3.02**, that figure shall be the maximum allowable height in that category for that particular district.
10. The setback requirements for other dwelling structures in any of the S and T districts shall be the most restrictive setbacks required for the dwellings permitted in the districts, but the side yard setback shall be no less than 10 feet in any case.
11. PBI (Public Benefit Incentives) for floor area ratio and height may be granted only if the requirements of **§5.21** and **§5.32** respectively are satisfied. B represents buffer area and NB nonbuffer area regulations. Further, projects shall also be subject to any design guidelines adopted by the Planning Board.
12. Where any land in a G-2.0 Districts abuts a public street opposite any land in an S district, any building in the G-2.0 District shall be set back a minimum 20 feet from the street lot line facing the S district and the setback area shall be landscaped and not be used to provide parking.
13. See **§5.91**, Minimum Usable Open Space, for open space requirements for residential use with more dwelling units than are permitted as of right in that district.
14. For life care facilities in S-25 districts, the Board of Appeals may allow by special permit an FAR up to 0.3, where appropriate public benefits are provided, such as listed in **§5.21, paragraph 1**.
15. For dwelling subject to **§5.11, paragraphs 2** and **3**, the allowed floor area ratio maximum shall be the same as for 1-family detached dwellings subject to **§5.11, paragraph 1** in the relevant zoning district.
16. In the G-1.75 (LSH) Limited Service Hotel District, for Use 8A, Limited Service Hotel, the following dimensional requirements are allowed: Floor Area Ratio Maximum of 3.30; Height Maximum of 90 Feet and 8 stories above grade; and Minimum Rear Yard – None.
17. See **Section 5.06 – Special District Regulations, d.** General Business and Medical Research (GMR).
18. See **Section 5.06(4)(g), Special District Regulations** with respect to uses and all dimensional requirements.
19. See **Section 5.06 – Special District Regulations, subsections f.** Cleveland Circle Local Business District L-0.5 (CL) and **i.** Cleveland Circle Hotel Overlay District.
20. See S**ections 4.07 and 5.06.4.j** with respect to uses and all dimensional requirements.

§5.80 - SETBACK REQUIREMENTS IN BUSINESS OR INDUSTRIAL DISTRICTS
§5.90 - MINIMUM LANDSCAPED OPEN SPACE
§5.91 - MINIMUM USABLE OPEN SPACE
§5.92 - EXCEPTION FOR RESIDENTIAL STRUCTURES DESIGNED FOR TRANSIENT OCCUPANCY

§5.00 – DISTRICT REGULATIONS

The regulations for each district pertaining to minimum lot size, minimum lot area per dwelling unit, minimum lot width, maximum height of buildings, maximum floor area ratio, minimum usable open space per dwelling unit, minimum front yard depth, minimum side yard width, minimum rear yard depth, minimum setback distance of top of wall from any lot line, shall be as specified in this section, **Table 5.01, Table of Dimensional Requirements**, subject to the further provisions of Article V.

GENERAL REGULATIONS

§5.01 – LOT AREA OR YARDS REQUIRED

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with any requirements of this By-law. No required lot or yard area shall include any property the ownership of which has been transferred subsequent to the effective date of this By-law if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

§5.02 – SPACING OF NON-RESIDENTIAL BUILDINGS ON THE SAME LOT

Where two or more main buildings for other than residential uses are proposed to be built upon property in one ownership, front, side, and rear yards are required only at lot lines abutting other property.

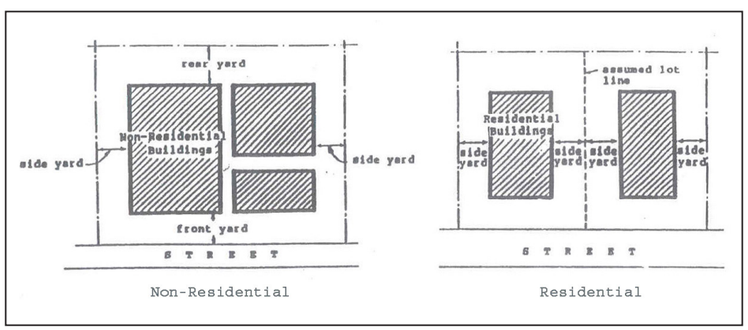


Figure 5.01 - Buildings on the Same Lot

§5.03 – SPACING OF RESIDENTIAL BUILDINGS ON THE SAME LOT

Where two or more main buildings to be used as family dwellings are proposed to be built upon property in one ownership or where one or more such buildings are proposed upon property where there are one or more existing residential buildings, except as provided in **§5.04**, required front, side, and rear yards shall be provided between each building and assumed lot lines shown upon

the building permit application. The Board of Appeals, however, may by special permit, modify the yard dimensions between such buildings designed and intended to remain under the same ownership and management where it is demonstrated that there will result light, air, sunlight, and amenity of a standard no lower than would result from such requirements.

§5.04 – RESIDENTIAL BUILDING ON REAR OF A LOT

1. Where a permitted main building, designed for occupancy by one or more families, is to be located on the same lot with and to the rear of another permitted main building, each such building shall be independently provided with all required front, side, and rear yards, and required lot area; and the distance between such buildings shall not be less than twice the required rear yard depth. The Board of Appeals, however, may by special permit modify the yard dimensions between such buildings intended to remain under the same ownership and management where it is demonstrated that there will result light, air, sunlight, and other amenities of a standard no lower than would result from such requirements. Access to the street shall be provided as specified in **§5.14**.

2. Where an existing garage, stable or similar detached structure on the rear of a lot with a permitted main building, is to be converted for the occupancy of one or more families, the provisions of paragraph 1. above shall apply.

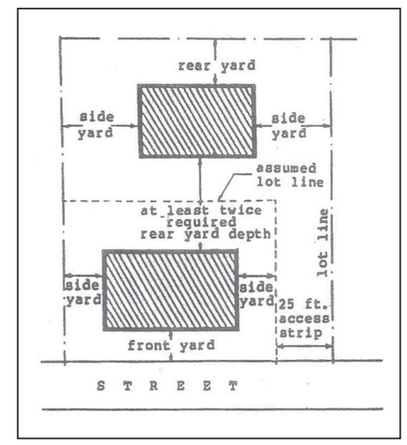


Figure 5.02 - Residential Building on Rear of a Lot

§5.05 – CONVERSIONS

In the case of the conversion of a single-family detached dwelling to a two-family dwelling in an SC or T District, or the conversion of a dwelling to create additional dwelling units in an F or M District, the structure shall conform to all dimensional requirements specified in **§5.01**. However, the Board of Appeals by special permit may waive any of said dimensional requirements except minimum lot size, provided that no previously existing nonconformity to such requirements is increased and provided that all other requirements of this By-law for such conversions are met.

§5.06 – SPECIAL DISTRICT REGULATIONS

1. Purpose

The following Special District Regulations recognize that unique land use, environmental, architectural and other physical conditions present within the Town may require detailed neighborhood, district or site planning and design review to insure: orderly and planned growth and development; historic and natural resource conservation; residential neighborhood preservation; economic viability of commercial areas; and concurrent planning for transportation, infrastructure and related public improvements. To insure that the dimensional and related requirements of the Zoning By-Law address these unique conditions, Town Meeting, from time to time, in accordance with M.G.L. Chapter 40A, may establish Special District Regulations and the Board of Appeals may consider applications for Special Permits based on those regulations.

2. Establishment

The establishment of Special District Regulations shall be based on one or more of the following:

a. A study of land use, building, environmental, economic, architectural, design or other physical features of an area or district that defines the conditions and purposes supporting the establishment of Special District Regulations and the geographic area that will be subject to the regulations.

b. The Comprehensive Plan, neighborhood or commercial area plan that defines an area where Special District Regulations should be applied.

c. A conceptual or schematic design plan for one or more parcels of land or buildings within a district that will benefit from Special District Regulations**.**

3. Procedures

Applicants for Special Permits, subject to Special District Regulations, shall submit to the Board of Appeals the supporting studies and plans defined by **§5.06.2.**

4. Special Districts

a. Multiple or Attached Dwelling Development in S-0.75P District

1) For a multiple or attached dwelling development in an S-0.75P District, in addition to the special permit findings in **§9.05, paragraph 1.**, the Board of Appeals must find that the development will preserve a substantial portion of the existing buildings on the site and significant architectural features thereof, particularly those buildings with historical significance.

2) Such developments shall be subject to the Community and Environmental Impact and Design Review procedures and standards of **§5.09, Design Review**.

3) For such developments, the Board of Appeals may grant by special permit a maximum gross floor area and a number of dwelling units higher than permitted in **Table 5.01** where any of the following conditions obtain, provided that the increase shall not exceed 10% for each condition below and shall not exceed 20% in total beyond what is permitted in **Table 5.01**, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements.

a) Setbacks of proposed buildings from abutting residential property: 1% bonus per 10% setback increase in excess of required. The setback shall be calculated as the weighted average setback based on the length of the proposed building(s) from the nearest lot line abutting or across the street from residential property.

b) Open space in excess of total required open space: 1% bonus per 10% extra open space (either landscaped, usable, or a combination thereof).

c) Concealed parking: 1% bonus per 5% of required parking concealed below grade or within a residential structure.

b. Coolidge Corner General Business District G-l.75 (CC)

1) All applications in the G-l.75(CC) District shall be subject to **§5.09, Design Review**. The Preservation Commission, Transportation Board, or any other interested Town body may submit an advisory report to the Planning Board and Board of Appeals for their consideration. Any such reports shall be transmitted to the Board of Appeals with the Planning Board report and shall be considered therewith.

2) For such applications, the Board of Appeals may grant by special permit an increase in gross floor area subject to the procedures, limitations, and conditions of **Table 5.01** and **§5.21**.

3) For such applications, the gross floor area of the building used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in the main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements.

4) For such applications, the Board of Appeals may grant by special permit an increase in height in accordance with the procedures, limitations, and conditions of **Table 5.01** and **§5.32**.

5) For such applications, residential development shall be permitted above the first floor.

c. *Multiple or Attached Dwelling Development in S-0.5P District*

1) For multiple or attached dwelling developments in an S-0.5P District, in addition to the Special Permit findings in **§9.05, paragraph 1.**, the Board of Appeals must find that:

a) the development will preserve a parcel of land of seven (7) acres or more as a single lot, with not less than 6 acres as open space, which may be in condominium ownership, and will preserve significant exterior architectural features of significant historical buildings on the site, but excluding minor buildings such as sheds, garages, greenhouses etc., located on said parcel and significant landscape and topographic features, and

b) at least seventy-five percent (75%) of all parking spaces required by the Zoning By-law will be located in a subsurface parking garage.

2) Such development shall be subject to the procedures and standards of **§5.09, Design Review**.

3) For such development, the Board of Appeals may grant by Special Permit a maximum height greater than is permitted in **Table 5.01** for building(s) on a single lot, provided that the maximum height shall not exceed 70 feet. The Board of Appeals, however, may require a greater front yard setback for any part of the building taller than 40 feet if necessary to reduce the impact on abutting single family residences to a reasonable degree. Notwithstanding any other provision of this By-law, for the purpose of this **§5.06, paragraph 3.** only, height is defined as the vertical distance to the top of the highest roof ridge from the average of finished ground level adjoining the building at all exterior walls.

d. *General Business and Medical Research (GMR)*

1) All major impact applications for new structures, outdoor uses, and exterior alterations or additions in the GMR-2.0 District shall be subject to the requirements of §5.09, Design Review, obtain a special permit per §9.03, and meet the following requirements:

a) the maximum height shall not exceed 115 feet. The maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.

b) no less than 35% of the total area of all lots within the GMR-2.0 District shall be devoted to open space, consisting of the part or parts of the lots at ground level designed and developed for pleasant appearance with trees and shrubs, ground covers and grass, including other landscaped elements such as natural features of the site and walks and including areas developed for outdoor use for recreation. Such space may not include lot area used for automotive circulation or parking. Hard surfaced walks and plazas may not exceed 55% of the total area required for such open space.

c) The buildings shall be subject to the following special dimensional requirements, as illustrated in the Figure at the end of §5.06(4)d:

i) No buildings shall be constructed within the area defined by the north and west Pearl Street property lines, and lines perpendicular to said boundary lines, one line 80 feet from the intersection of the west and north boundary lines on the west boundary line, and the other line 115 feet from the intersection of the west and north boundary lines on the north boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine a no-build area that it deems will best approximate the requirements of this subsection;

ii) Any development that has frontage on both Pearl Street and Washington Street shall contain an area designed and intended for non-vehicular use not less than 45 feet in width that is interior to such development area and not on the perimeter bounding Pearl Street or Washington Street, which area shall be kept open for public pedestrian passage;

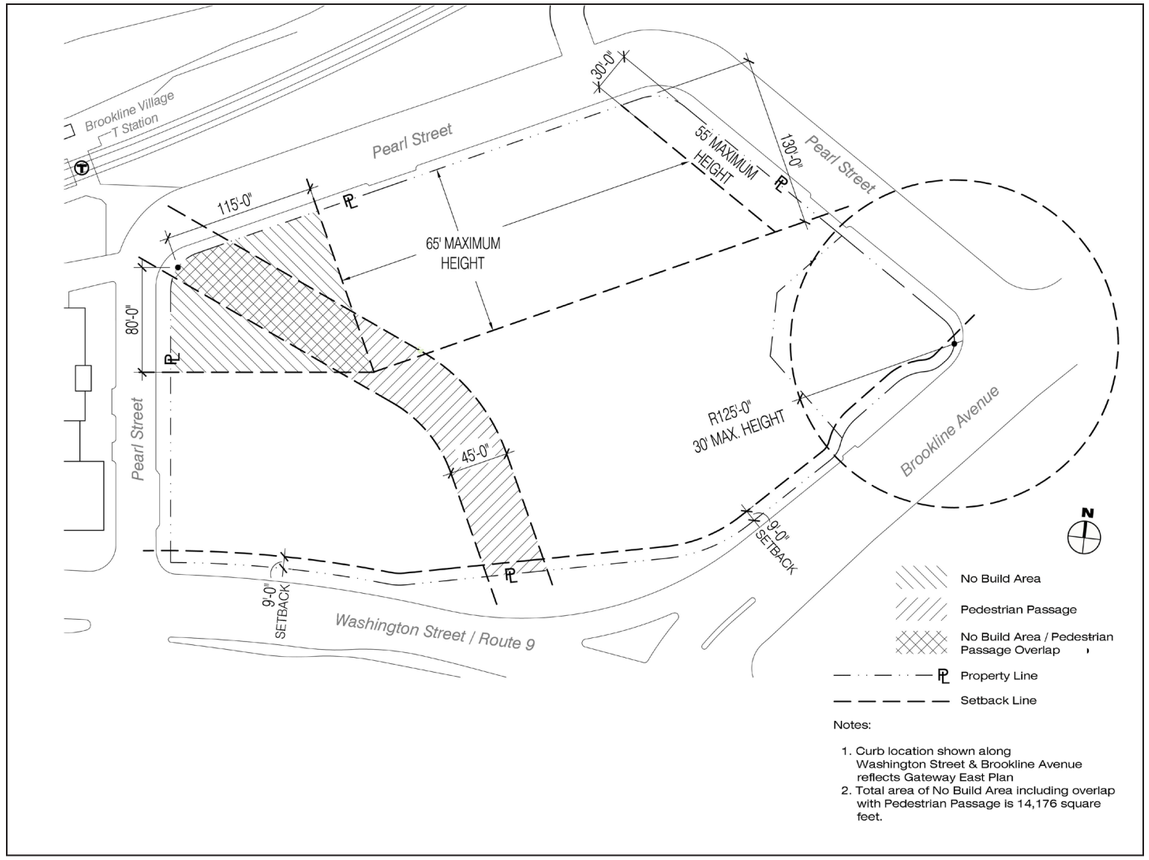
iii) The maximum height of any building measured to the top of the railings or parapet above the roof shall not exceed 65′-0″ within the area defined by the Pearl Street north and east property lines, a line parallel to the north boundary line located 130′-0″ from said boundary line, and a line perpendicular to the north boundary line located 115 feet from the intersection of the north and west boundary lines. It shall not exceed 55 feet within the portion of this area defined by the Pearl Street north and east property lines, and a line 30′ from the east boundary line and parallel to said boundary line. In a situation where the interpretation of the boundaries of such area is not clear, the Board of Appeals may determine an area that it deems will best approximate the requirements of this subsection. Only in the area in which the height of 65′-0″ is permitted, substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment may exceed this height limit by 10 feet or such greater amount as may be authorized by special permit granted by the Board of Appeals;

iv) The gross floor area of the buildings used to calculate the maximum permitted floor area ratio shall include the floor space at or above grade in an accessory building or in a main building intended and designed for the parking of motor vehicles, but such floor space shall not be included in the gross floor area for the purpose of calculating parking requirements;

v) There shall be a front yard setback of 9 feet from the front lot line bordering Washington Street and Brookline Avenue, subject to modification by the Board of Appeals as provided in Section 5.43.

d) no less than 25% of the provided parking spaces shall be offered to residents for overnight parking.

e) no less than 1% of the hard construction costs of constructing a building within the GMR-2.0 District (exclusive of tenant fit-up) shall be devoted to making off-site



streetscape improvements (such as, but not limited to, lighting, street furniture and widening sidewalks) and undertaking transportation and community benefit mitigation measures. In addition to review by the Planning Board, a plan of the proposed off-site streetscape improvements and a description of the proposed transportation mitigation measures shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees.

2) The parking requirements for applications in the GMR-2.0 District shall be reviewed as a single lot without regard to lot ownership and in light of the proximity to rapid public transit shall be as follows:

a) retail use: one parking space per 533 g.s.f. of floor area

b) office use: one parking space per 800 g.s.f. of floor area

c) research laboratory use (Use 36B): one parking space per 1,250 g.s.f. of floor area

d) medical office use: one parking space per 467 g.s.f. of floor area

e) For any major impact project within the GMR-2.0 District, a Transportation Access Plan Agreement ("TAPA") that includes recognized Transportation Demand Management ("TDM") programs shall be a condition of the special permit. Such TAPA shall be submitted to the Director of Transportation and the Director of Planning and Community Development for their review and approval. All owner(s) of the property or properties subject to the special permit shall submit an annual report for review and approval to the Director of Transportation relative to the implementation and effectiveness of the TAPA. The Director of Transportation in consultation with the Director of Planning and Community Development shall determine whether the TAPA is working satisfactorily or whether reasonable modifications to the TAPA are required. The TAPA shall be modified to incorporate any reasonable requests of the Director of Transportation within sixty (60) days after he/she issues his/her determination. Failure to issue such a determination within sixty (60) days of receiving the annual report shall be deemed acceptance of the report and existing provisions of the TAPA. If any owner objects to any new request as being unreasonable or not required, such matter may be presented to the Transportation Board for recommendation to the Board of Appeals for determination.

f) The maximum number of parking stalls within the GMR-2.0 District shall not exceed 683, excluding drop-off and loading zones. The Board of Appeals may also approve, based on the criteria set forth in §9.05, accommodation of up to 20% additional number of vehicles, which may be in tandem parking arrangement, and/or any other parking arrangement, operation or devices that enable additional vehicles to be accommodated within parking garages.

3) All structures and uses in the GMR-2.0 District shall be subject to the following provisions, including both developments that constitute major impact projects and developments that do not constitute major impact projects:

a) Notwithstanding any other provision of this by-law with respect to calculating allowable height of a building, within the GMR-2.0 District the height for a building shall be measured from the mean natural grade of ground contiguous to such building. In a situation where the interpretation of natural grade is not clear, the Board of Appeals may determine height that it deems will best approximate the requirements of this subsection.

b) All lot lines which are not front lot lines shall be subject to the provisions applicable to side lot lines.

c) Buildings within 125 feet of the intersection of Pearl Street and Brookline Avenue property lines shall be no taller than 30 feet, as illustrated in the Figure at the end of §5.06(4)d. In a situation where the interpretation of the point from which the height restriction is measured is not clear, the Board of Appeals may determine the restricted area that it deems will best approximate the requirements of this subsection.

d) Prior to the issuance of any special permit for a major impact project under §5.06(4) d(1), the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the Lot Area and not based on the combined total area of all lots within the GMR-2.0 District. Subsequent to the issuance of any special permit for a major impact project under §5.06(4)d(1) that has not lapsed, the maximum gross floor area and open space requirements as described in Table 5.01 shall be determined based on the combined total area of all lots within the GMR-2.0 District.

4) A special permit granted under this section as well as special permits granted under other sections of the Zoning By-law that are combined in a single decision with the special permit granted under this section shall lapse within 2 years if a building permit is not issued and construction has not begun by such date except for good cause.

5) By special permit of the Board of Appeals, signs may be permitted on building walls not parallel or within 45 degrees of parallel to the street.

Figure 5.02a – Special Dimensional Requirements for the GMR District

e. *Fisher Hill Town-Owned Reservoir Site Mixed Income Housing Overlay*

1) It is found that the Fisher Hill Town-Owned Reservoir Site (the "Site") has been identified in the Town's Comprehensive Plan and through a Fisher Hill Planning Process ("Planning Process") as an appropriate site for mixed-income housing development of a high quality and contextual design. For this reason, the development of the Site shall be permitted under the criteria of this section. It is further found that, due to the sensitive nature of the Site, a construction oversight committee of neighbors and other stakeholders will be charged to advise the Building Commissioner during construction.

2) Any applicant may seek relief under this overlay, provided it meets the following requirements:

a) It contains no more than 40 units of housing.

b) More than 50% of the units on the Site shall be affordable, defined generally in accordance with **Section 4.08.2.c**, to households with incomes up to 120% of median income, defined in accordance with **Section 4.08.2.f**. These units shall include at least 25% of the units on the Site that shall be affordable to households with incomes up to 80% of median income and which shall also qualify for the Town's Subsidized Housing inventory as per Massachusetts General Laws Chapter 40B and 760 CMR 56., including requirements for minimum unit size. In no case, however, shall an affordable unit be smaller than those sizes listed in **Section 4.08.6.c** of the Zoning Bylaw. These affordable units shall, to the extent feasible, consist of an equal mix of 2 and 3 bedroom units.

3) Any development plan that is created under this overlay district shall include the full design and/or design guidelines for each component of the development as well as landscape guidelines for the overall district. The Planning Board shall review and approve the guidelines with any modifications the Board sees fit. The approved design and/or

guidelines shall be binding on any future purchaser or developer of any component of the development.

4) A project that qualifies for use of this overlay district shall be subject to the following review criteria and process:

a) The applicant shall apply for a Special Permit, which the Board of Appeals may grant if, upon review of a master site plan, it finds that the project meets the following criteria:

1) It has met all the requirements of **Section 9.05** of the Zoning Bylaw;

2) It has met the requirements of **Section 5.09** of the Zoning Bylaw relating to Design Review for a Major Impact Project;

3) It is consistent with the design guidelines **approved** by the Planning Board as per **5.06.4.e.3** above;

4) It has a viable plan for maintaining affordability for the longest period permitted by law that has been approved by the Department of Planning and Community Development.

b) A preliminary subdivision plan for the Site must be approved by the Planning Board. In addition, if any Approval Not Required lots are to be created along Fisher Avenue as part of this project, the Planning Board must complete its review of the ANR plan. A definitive subdivision plan that addresses any conditions placed on the preliminary plan and ANR lots may be submitted subsequent to receipt of this Special Permit. A Special Permit granted under this overlay shall be conditioned upon approval of the definitive subdivision.

c) If this initial Special Permit is granted, and the land is subdivided as per the approved definitive subdivision plan, construction on each lot shall be permitted subject to the conditions set forth in the Special Permit, which shall include design review by the Planning Board. Such design review shall be conducted as per sign/façade review in Section 7 of the Zoning Bylaw, and shall determine consistence with the project Special Permit, including design guidelines. The specific location of each single-family detached and attached dwelling unit within a parcel may be adjusted as part of this review, provided that it meets all setback requirements and is otherwise consistent with the dimensional requirements of the Special Permit and design guidelines.

d) Any lot that is created as part of this process and is not built upon within 3 years of issuance of the Special Permit must be landscaped consistent with the overall landscape plan approved for the Site as part of the Special Permit

5) Any Special Permit sought under this overlay district shall permit the following uses for lots located in their entirety more than 100 feet from Fisher Avenue:

a) Principal Use 5 (attached dwelling unit). For this use, no side yard setback is

required on the attached side of the structure.

b) Principal Use 4A (dwelling in a separate lot for three families or attached dwelling on a separate lot for two families); however, only three-family dwellings shall be permitted; and

c) Principal Use 6 (multiple or attached dwelling of four or more units), provided that no more than 4 units may be contained on any one lot other than as provided for in **5.06.e.6.a.4** below.

Any other uses sought shall be in accordance with other relevant sections of this Zoning Bylaw.

6) Any Special Permit sought under this overlay district shall permit development subject to the following dimensional requirements, superseding any conflicting requirements in Sections 5 and 6 of the Zoning Bylaw for the underlying zoning district.

a) Provided that the Site is laid out consistent with the design guidelines outlined above and in the Planning Process, the Site may be developed subject to the following restrictions:

1. An overall maximum Floor Area Ratio of 0.4, or a maximum total of 72,000 square feet shall be permitted.

2. No building located on any part of the Site other than the "Multifamily Lot" referred to in **5.06.e.6.4.a.** below, shall be larger than 4,500 square feet of Gross Floor Area.

3. No attached single-family dwelling unit shall be larger **than** 3,500 square feet.

4. One lot ("the Multifamily Lot") shall be permitted to have a set of buildings under uses 4A, 5, and 6, provided the Gross Floor Area of these buildings does not exceed 36,000 square feet.

b) Minimum lot sizes and widths, yard setbacks, and open space requirements in the overlay may be reduced as part of the overall Special Permit provide the plan is consistent with the vision for the Site referred to in the Planning Process. However, no more than four lots on the site shall be smaller than the 15,000 square feet.

c) Consistent with the Town's Planning Process, more than one principal structure shall be permitted on the same lot, for the Multifamily Lot only. For that parcel only, the maximum height permitted may also be increased to 45 feet. For all other buildings, the base zoning district maximum height requirement of 35 feet shall apply.

d) Consistent with the Town's Planning Process, parking requirements under **Article 6** of the Zoning Bylaw may be modified. In particular, the parking requirement for the affordable units shall be 1.75 spaces per unit. A significant majority of the parking shall be located below grade, in garages, or otherwise shielded from public view.

e) Consistent with the higher level of affordability on this site required by the Town's Planning Process, **Section 4.08** of the Zoning Bylaw shall not apply to projects using this overlay, with the exception of the minimum unit sizes in **Section 4.08.6.c.**

f) These dimensional restrictions apply to the overlay district as a whole and shall not be exceeded on the Site if it is developed by more than one applicant.

Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.

7) Once any lot in the Site is subdivided and conveyed to be used for construction of a single-family home or an attached dwelling unit (a "Sold Lot"), the Sold Lot shall not be in violation of this **Section 5.06.4.e** or any other provision of the Zoning Bylaw or any Special Permit granted with respect to the Site by virtue of any violation of any other lot in the Site. Likewise, no other lot in the Site shall be in violation of this **Section 5.06.4.e** or any other provision of the Zoning Bylaw or any Special Permit granted with respect to

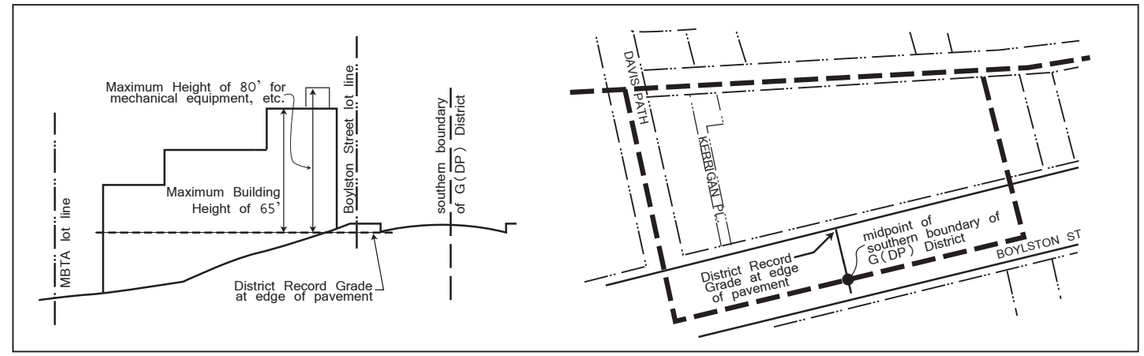


Figure 5.02b – Height of Building Measurements in the G-(DP) District

the Site by virtue of any violation of any Sold Lot.

f. *Cleveland Circle Local Business District L-0.5 (CL)*

1) It has been determined through study of the Local Business District in Cleveland Circle that there exists potential for redevelopment of much of this district. It has further been

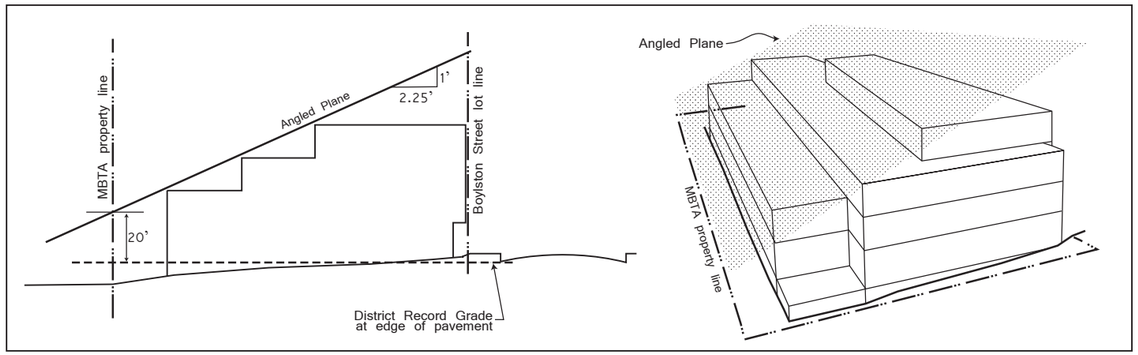


Figure 5.02c – Angled Plane Diagram

determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston, any redevelopment in this district would need to be closely analyzed for its impacts on the roadway, transit and pedestrian system and for its overall design taking into consideration previous mitigation due to traffic flow patterns within the district.

2) All applications in the L-0.5 (CL) district shall be subject to **§5.09, Design Review**. Further, any development in this district shall, for the purposes of determining if it is a Major Impact Project under **§5.09.3.b.**, be viewed in its entirety, even if a portion of the project is located in another municipality.

3) All Major Impact Projects in this special district shall be required to submit a traffic impact and access study that clearly outlines the strategy for providing access to and from the proposed development and the impacts of that access on the transportation system of the Town, the area's mass transit systems, pedestrian and bicycle circulation, and public safety in this area. The Board of Appeals may condition any Special Permit under

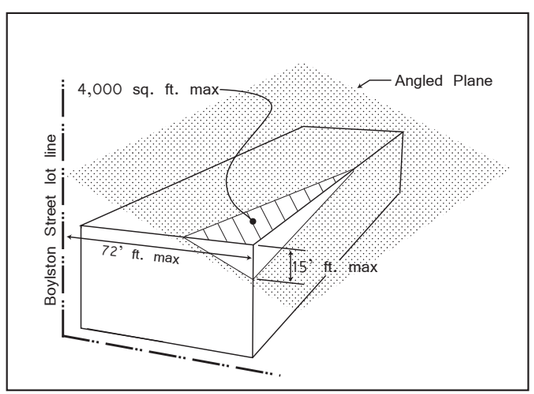


Figure 5.02d – Diagram of Allowable Projection Above Angled Plane

§5.09 on a specific plan for traffic mitigation that will take into consideration previous mitigation due to traffic patterns within the district and, if appropriate, compliance with an approved Transportation Demand Management program.

4) In any review of a project that is located across municipal boundaries, the project and improvements shall be reviewed as a single lot, without regard to municipal boundaries, in connection with parking requirements or setbacks. Additionally, any Design Review per **Section 5.09** shall include review and approval of the entire length of the facade facing the MBTA property line as well as any lighting proposed along this length, irrespective of municipal boundaries. Such facade shall be designed and constructed with care and quality of finishes equivalent to the northern facade.

g. *Davis Path Special District G-(DP)*

1) It has been found through study by the Davis Path Special District Zoning Study Committee that very specific rules are required to encourage appropriate redevelopment of the Davis Path Special District, due to the combination of the close proximity of the White Place National Register District, which contains residential uses on lots that are relatively shallow in depth, the substantial differences in elevation between the Davis Path Special District and the White Place district, the substantial differences in the scale of existing buildings in the White Place district and existing and proposed development in the Davis Path Special District, and the solar orientation of White Place district and the Davis Path Special District. Following a comprehensive study by financial, architecture, and transportation experts, the Committee further concluded that the concepts relating to Building Envelope, facade articulation, and parking requirements have only been deemed appropriate for this Special District, and not intended to affect other districts.

2) For the purposes of the Special District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet may be located in the same building as a Limited Service Hotel without being considered an accessory use.

3) Building Envelope

a) This section describes the three dimensional space within which all Building Construction must occur, subject to further limitations and exceptions as provided in this **Section 5.06.4.g**. Notwithstanding the provisions of **Section 5.31**, Building Construction shall include all portions of a structured parking area or building, including elevator penthouses, mechanical equipment enclosures, water tanks and water towers, and cooling towers, with only the exceptions set forth in **Section 5.06.4.g.3.e** below.

b) Minimum Yard Setbacks shall be defined as follows:

i. 20 feet from the property line bordering the MBTA property.

ii. 7 feet from the property line bordering Davis Path.

iii. 5 feet from the property line bordering Boylston Street for the ground floor (excluding support columns).

iv. 5 feet from the eastern property line of the G-(DP) District.

c) Height of Building shall be measured from the District Record Grade rather than as prescribed in **Section 5.30**. The District Record Grade shall be the record grade of Boylston Street at the edge of pavement opposite the midpoint of the southern boundary of the G-(DP) district. The Height of Building shall be in no case taller than 65′. Additionally, any elevator penthouse, mechanical equipment enclosure, water tanks and water towers, or cooling towers may in no case be taller than 80′ from the District Record Grade. Notwithstanding the foregoing, in no case may any Building Construction exceed the Building Envelope set forth in **Section 5.06.4.g.3.d** below, except as expressly provided in **Section 5.06.4.g.3.e** below.

d) The Building Envelope shall be further restricted by an Angled Plane beginning at an elevation 20 feet above the District Record Grade and aligned with the MBTA property line, with such plane rising toward Boylston Street at an angle of one foot of vertical height for every 2.25 horizontal feet from the MBTA property line in a direction perpendicular to the MBTA property line.

e) Exceptions to the Building Envelope may be permitted only as follows:

i. flag poles and transmission towers not exceeding 5 feet in horizontal width including appurtenant equipment;

ii. railings up to 44″ high provided they are at least 75% open (measured at 90 degrees to the vertical surface);

iii. seasonal shading devices, including any awnings and canopies, provided they are removed between October 1st and April 1st; and

iv. if within 72′ of the Boylston Street property line, a projection or projections containing no more than 4,000 square feet of total gross floor area, such floor area to be measured by the area of the floor immediately below any mass that penetrates the Angled Plane, but in no case 15 feet above the Building Envelope at any point as shown in Figure 5.02d.

4) No relief by Special Permit may be approved for setbacks, height, floor area ratio, or projections above the defined Building Envelope beyond any provisions specified in this **Section 5.06.4.g**. For example, relief from setbacks per **Section 5.43** shall not be available for buildings within these provisions. Similarly, the "public benefit incentive" exceptions to floor area ratio and height regulations set forth in **Sections 5.21** and **5.32** shall not apply.

5) Any building façade parallel to or within 45 degrees of parallel to any property line other than the eastern property line shall be designed and constructed with care and quality of design equivalent to the Boylston Street façade. Visual articulation shall be achieved for each such façade by (a) employing variations in materials and/or ensuring that no portion of any such façade is coplanar for more than 3,500 square feet without a change in depth of 2 feet or more in depth, or (b) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for reasons expressed in such written determination. The Planning Board and the Board of Appeals shall provide a similar written determination and reasons with respect to façade design.

6) Nearby properties, including properties north of the MBTA property, shall be visually screened and protected from the lights of any parking lot or garage by compliance with the requirements of **Section 6.04.6**, notwithstanding the fact that such properties do not abut and are not across the street from any proposed parking lot or garage.

7) All applications for new structures, outdoor uses, and exterior alterations or additions in the G-(DP) District which seek a floor area ratio (FAR) greater than 1.0 or reduced parking requirements shall be permitted only on a lot no less than 28,000 square feet in contiguous area, shall be subject to the requirements of **Section 5.09**, Design Review, obtain a special permit pursuant to **Section 9.03**, and meet the following requirements:

a) All underlying provisions described in **Section 5.04.6.g.1** to **5.04.6.g.6** above.

b) An FAR above 1.0 may be increased by special permit up to 3.0 for Principal Use 8A (Limited Service Hotel), up to 2.0 for other residential uses, and up to 2.25 for all other uses. Where a building contains more than one use, the gross floor area attributable to each use (including an allocated portion of any common areas) shall be computed and divided by the total allowable gross floor area for such use to determine a percentage. The total of all percentages for all uses shall not exceed 100%.

c) Parking and Vehicular Requirements

i. Parking requirements may be reduced from **Section 6.02, Paragraph 1**, the Table of Off-Street Parking Space Requirements, for the following uses:

1. Residential studio units that are less than 500 net square feet in size: 1.0 parking spaces per dwelling unit

2. Residential units that are less than 700 net square feet in size and have less than 2 bedrooms: 1.25 parking spaces per dwelling unit

3. Limited Service Hotel: 0.5 spaces per room and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes

4. Retail: one space per 500 g.s.f.

5. Office: one space per 600 g.s.f.

6. Medical and Dental Office: one space per 400 g.s.f.

ii. In addition to relief available under **Section 6.04.14.c**, the width of a building façade facing or within 45 degrees of parallel to the Boylston Street property line devoted to the entrance or exit of a garage, carport, loading dock, parking area or other vehicular use may as of right:

1. exceed twenty-four feet in width, provided, however, that no such individual entrance or exit shall exceed 30 feet in width and the total width of all en-

trances and exits shall not be more than 40% of the facade; and

2. in the case of multiple entrances, the measurement shall not include the portion of any facade between the entrances that is usable floor area.

iii. Notwithstanding the provisions of **Section 6.06.6**, only one loading dock shall be required.

iv. Notwithstanding the provisions of footnote 1 of the **Table 5.01 Dimensional Requirements**, the entrance to a garage or covered vehicular passage facing the street shall be at least 5 feet from the street lot line.

d) The applicant shall provide trees at regular intervals approximately every 25' along the public sidewalk of Boylston Street. The final design of landscaping along the public sidewalk shall be approved by the Director of Parks & Open Space or his/her designee.

e) In addition to (d) above, the applicant shall devote no less than 1% of the hard construction costs (including any site work, above-ground or underground structures, but exclusive of tenant fit-up) towards improvements to the adjacent Davis Path and/or Boylston Street Playground, with such improvements subject to the review and approval of the Director of Parks & Open Space or his/her designee, or, in the alternative, the applicant shall make a cash payment to the Town in an equivalent amount to be utilized by the Town for such purposes.

h. *Renewable Energy Overlay District (SOL)*

1) The Town is interested in being designated a Green Community by the Commonwealth of Massachusetts. The Town is also committed to decreasing its carbon footprint by encouraging the development of alternative energy supplies. For these reasons, the Town has surveyed potential sites for a renewable energy facility and created this overlay district.

2) Notwithstanding any other portion of the Zoning Bylaw, including **Section 4.07 – Table of Uses**, the location of renewable energy generation facilities in the form of ground-mounted solar photovoltaic arrays shall be permitted by-right in this district. While both large- and small-scale solar photovoltaic facilities are allowed, large-scale solar photovoltaic facilities are encouraged.

3) **Compliance with Laws, By-laws and Regulations:** The construction and operation of all solar photovoltaic installations, large or small, shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

4) No ground-based solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.

5) Site Plan Review: Such facilities shall be subject to site plan review by the Planning Board to ensure that the facility is adequately set back from neighboring properties, reasonably shielded from view, and that utility connections are adequately screened. Such site plan review shall be conducted in accordance with the design review process outlined in **Section 7.03, paragraph 2,** of the Zoning Bylaw with the exception that such site plan review is not discretionary and any conditions attached cannot render a Large Scale Solar Facility (of at least 250 kW DC) infeasible. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, the project proponent shall provide to the Planning Board the following documents:

a. A site plan showing:

i. Property lines and physical features, including roads, for the project site;

ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

iii. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;

iv. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

v. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;

vi. Name, address, and contact information for proposed system installer;

vii. Name, address, phone number and signatures of the project proponent, as well as all co-proponents or property owners, if any;

viii. The name, contact information and signature of any agents representing the project proponent; and

b. Documentation of actual or prospective access and control of the project site;

c. An operation and maintenance plan;

d. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose);

e. Proof of liability insurance; and

f. Description of financial surety that satisfies subparagrah **13.c** of this section.

6) **Site Control:** The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

7) **Operation & Maintenance Plan:** The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

8) **Utility Notification:** No ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

9) **Dimension and Density Requirements**

a. Setbacks: For ground-mounted solar photovoltaic installations, all setbacks from lot lines shall be at least 25 feet. As part of Site Plan Review, the Planning Board may require larger setbacks if appropriate for screening, provided, however, that such larger setbacks shall not have the effect of rendering a Large Scale Solar Facility (of at least 250 kW DC) infeasible.

b. Appurtenant Structures: All appurtenant structures to ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

10) **Design Standards**

a. Lighting: Lighting of ground-mounted solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and away from residential structures and shall incorporate full cut-off fixtures to reduce light pollution.

b. Signage: Signs on ground-mounted solar photovoltaic installations shall comply with the regulations of Article 7. A sign consistent with these regulations shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

c. Utility Connections: Reasonable efforts, as determined by the Building Commissioner, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility

interconnections may be above ground if required by the utility provider, however, they shall be screened from view.

11) **Safety and Environmental Standards**

a. Emergency Services: The large scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

b. Land Clearing, Soil Erosion, and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar photovoltaic installation, or otherwise prescribed by applicable laws, regulations, and bylaws.

12) **Monitoring and Maintenance**

a. Solar Photovoltaic Installation Conditions: The ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level applicable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

b. Modifications: All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

13) **Abandonment or Decommissioning**

a. Removal Requirements: Any ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with sub-paragraph **13.b** of this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning of the installation shall consist of:

i. Physical removal of all large-scale ground-mounted solar photovoltaic installations, structures, equipment security barriers and transmission lines from the site.

ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Commissioner may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption

to vegetation.

b. Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

c. Financial Surety: Proponents of ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Building Commissioner, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

i. *Cleveland Circle Hotel Overlay District*

1) It has been determined through study of the Local Business District in Cleveland Circle that potential exists for appropriate, planned redevelopment of the western side of this Local Business District. It has further been determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston that this is an appropriate district for development density consistent with transit oriented development schemes. For this reason, additional uses typical of transit oriented developments may be permitted under the criteria of this section, as long as such development is planned in a way consistent with other pedestrian-friendly commercial properties in Cleveland Circle.

2) Any applicant may seek relief under this Overlay District by Special Permit per **Section 9.03** and Design Review by **Section 5.09**, provided it meets the following requirements within the Town of Brookline:

a) It contains a minimum of 40 Limited Service Hotel guest rooms.

b) The Floor Area Ratio of the proposed project shall be no less than 2.2 and no greater than 2.5.

3) For the purposes of this Overlay District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet under separate ownership and operation from a Limited Service Hotel may be located in the same building as the Limited Service Hotel without being considered as an accessory use, or as part of the Limited Service Hotel use.

4) Any application requesting relief under this Overlay District shall be subject to the following dimensional requirements, superseding any conflicting requirements in **Article 5** of the Zoning By-law. Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning By-law.

a) Maximum Floor Area Ratio: There is a strong desire for pedestrian-friendly uses along Chestnut Hill Avenue in this Overlay District, which has a grade change of more than 8′ along this edge of the District. Therefore, with regards to calculating Gross Floor Area in this Overlay District, up to 10,000 square feet of area on the ground floor fronting Chestnut Hill Avenue may have finished floor to ceiling heights greater than 12′, but no greater than 18′, without requiring the Gross Floor Area to be calculated by multiplying this area by a factor greater than 1 where the floor to ceiling height exceeds 12′.

b) Setbacks and Build-to Lines:

1. Buildings shall not be greater than 15 feet nor less than 5 feet from the frontage of Chestnut Hill Avenue; and

2. Any portion of building within 50′ of the frontage of Chestnut Hill Avenue that is above three stories shall be set back not less than 5 feet from lower floors, along all facades. For the purposes of this Overlay District, "Story" shall be defined as that portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above, whether or not such space is enclosed; and

3. Buildings shall be set back not less than 5 feet from the MBTA right-of-way.

c) The maximum height permitted is 56 feet;

d) Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment shall not be located within 15′ of the MBTA property line.

e) A screen fence along the property line with the MBTA right-of-way which exceeds a height of seven feet may be allowed by Special Permit granted by the Board of Appeals.

5) Parking requirements for Special Permit applications utilizing this Overlay District shall be as follows, superseding any conflicting requirements under **Article 6**:

a) Minimum Parking ratios:

1. Limited Service Hotel use: 0.5 parking spaces per hotel room

2. Retail use: 0.75 parking spaces per 1,000 g.s.f. of floor area

3. Restaurant use: 1 parking space per 1,000 g.s.f. of floor area

4. Office/Medical office use: 1 parking space per 1,000 g.s.f. of floor area

b) Subject to the approval of the Brookline Director of Transportation and Engineering,

the required off-street loading facilities under **Section 6.06.6** may be limited to the provision of 2 loading bays.

c) Any other parking relief sought shall be pursued as per any other relevant sections of this Zoning By-law.

6) The following traffic mitigation measures shall be required, subject to the review and approval of the Brookline Director of Transportation and Engineering:

a) Vehicle ingress and egress:

1. Vehicle ingress and egress to and from Chestnut Hill Avenue shall be via no more than one curb cut two lanes in width, controlled by a traffic signal. Such traffic signal shall include demand-actuated technology such that the light phase for egress from the Overlay District will not be triggered when there is no demand.

2. A segregated parking facility containing not less than 60 vehicle parking spaces shall be provided for the exclusive use of the Limited Service Hotel guests, visitors and employees. Vehicle egress for all users of this segregated parking facility shall be via the one-way rear exit roadway easement to Beacon Street. Both signage and physical barriers shall prohibit any vehicles entering the Limited Service Hotel segregated parking facility from exiting that facility back onto Chestnut Hill Avenue. To the extent a parking area is established to be shared by multiple uses, hotel users (except for taxicab/shuttle service vehicles and deliveries) parked in the shared parking area shall be required to exit the one way rear exit roadway to Beacon Street and other users shall exit via Chestnut Hill Avenue.

3. Vehicle egress for all uses other than that of the Limited Service Hotel and for taxicab/shuttle service vehicles and deliveries shall be via the single Chestnut Hill Avenue curb cut. All vehicles exiting the site onto Chestnut Hill Avenue must be able to make either a left or a right turn. No right turn on a red light shall be permitted from the site onto Chestnut Hill Avenue.

4. Taxicab stand and taxi pickup and drop-off shall be provided in an adjacent area on both the Brookline and the Boston segments of the site.

b) Final traffic design and mitigation shall be required and include the potential impact of the redevelopment of any directly abutting parcels, regardless of municipal boundaries. Specifically, the traffic design and mitigation shall allow for no more than a total of 110,000 square feet of Limited Service Hotel use; 48,000 square feet of office or medical office; and 18,000 square feet of restaurant or retail use.

c) Pedestrian improvements shall include:

1. Improvements to two pedestrian crossings across Chestnut Hill Avenue, including at Cleveland Circle as well as the crossing aligned with vehicular turn-around at the MBTA station south of the MBTA right-of-way. A third pedestrian crossing shall be provided where the signal for the Chestnut Hill Avenue entrance will be located, near the Boston/Brookline boundary, if approved by the Brookline Director of Transportation and Engineering as well as Boston Transportation Department.

2. Sidewalk improvements on the western side of Chestnut Hill Avenue shall include a minimum 10’ wide sidewalk from the Brookline Boundary to the MBTA bridge and a replacement of sidewalk from the MBTA bridge to Clinton Road.

7) Noise. A required condition for any Special Permit under this Overlay shall be an enforceable agreement and/or condition to the Special Permit that requires the property owner to comply with the requirements any Noise By-law or ordinance of both Brookline and Boston, without regard to municipal boundaries.

j. *Emerald Island Special District*

1) The Emerald Island Special District – the area bounded by River Road, Brookline Avenue, and Washington Street – is an area in transition. It has been determined through study by the River Road Study Committee that specific zoning parameters are required to encourage appropriate redevelopment of this district. In developing these zoning parameters, due consideration has been given to the prominent location of this area as a major gateway to Brookline. The proximity of the Muddy River, Emerald Necklace, Longwood Medical Area as well as the differences in the scale of existing buildings, recently permitted and proposed developments, access to transit, and the solar orientation of sensitive nearby uses, including the residences of Village Way and Emerald Necklace Park all combined to shape the Special District parameters. Following a comprehensive study by financial, architecture, urban design and real estate experts, the Committee further concluded that the following concepts related to allowed uses, building heights, building form, parking requirements and the public realm are appropriate for this Special District.

2) All applications for new structures, outdoor uses, and exterior alterations in the Emerald Island Special District which exceed a floor area ratio of 1.0, a height greater than 40’ and/or seek alternative parking and loading zone requirements shall be permitted only on lots greater than 13,600 square feet in contiguous area and only for the uses described in Section 5.06.4.j.3, shall be subject to Site Plan Review by the Planning Board as described in Section 5.06.4.j.4, shall be subject to the requirements of Section 5.09, Design Review, shall obtain a special permit per Section 9.03, and shall meet the following requirements:

a. Setbacks and Sidewalk Widths:

i. All buildings shall be setback 10 feet from the mid-district drainage easement as shown in Figure 5.06.4.j.1 below.

ii. All buildings shall be setback 45 feet from the Point of Intersecting Tangents of Brookline Avenue and River Road as shown in Figure 5.06.4.j.2 below.

iii. Notwithstanding Section 5.01 and other than as provided in Sections 5.06.4.j.2a.i and 5.06.4.j.2a.ii, there shall be no additional setback requirements except as is necessary to achieve the required sidewalk widths for the district. For the purposes of the EISD only, sidewalk shall be defined as the area between the building façade and the face of the curb. The required sidewalk width shall be measured from the ground level of the

proposed building façade to the face of the curb at the time of special permit application. All sidewalks shall maintain a minimum 5 foot wide walkway clear from all obstructions, including, but not limited to tree pits, structural columns and street furniture. The minimum sidewalk width along Brookline Avenue and River Road shall be no less than 12 feet. The minimum sidewalk width along Washington Street shall be no less than 10 feet.

iv. Where it can be demonstrated that achieving the required sidewalk width would be infeasible in limited areas, the Board of Appeals may by special permit reduce the required width of the affected areas to no less than 8 feet on Washington Street and River Road. No relief may be granted for a reduction in sidewalk width along Brookline Avenue. Applicants for a special permit to reduce the width of a sidewalk shall provide written and graphic documentation to the Planning Board illustrating why the required width is not attainable in the affected area. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to reduce the width of the sidewalk in limited areas. Where relief is granted, applicants shall provide counterbalancing amenities in the form of wider sidewalks and/or landscaping on-site or in the immediate area adjacent to their site, subject to the review and approval of the Planning Board.

b. The minimum finished floor to floor height for all ground floor levels shall be no less than 15 feet.

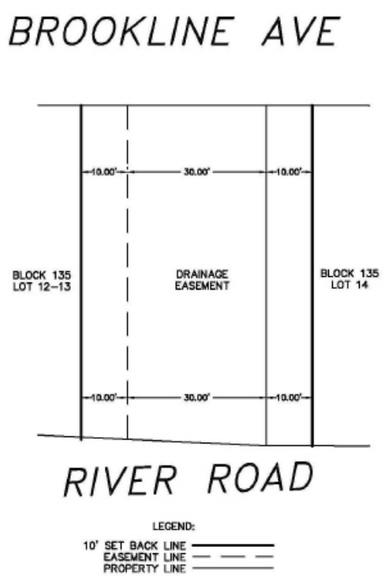


Figure 5.06.4.j.1 Setbacks from Mid-District Drainage Easement

Figure 5.06.4.j.2 Northern District Edge Sideyard Setback

c. No permanent on-site parking spaces shall be located on the ground level in the Special District.

d. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner and Director of Planning and Community Development that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.

e. Street trees shall be provided at regular intervals approximately every 25 feet along the sidewalks of Brookline Avenue, Washington Street and River Road. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public way shall be approved by the Director of Parks and Open Space or his/her designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or his/her designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.

f. The applicant shall devote no less than 1% of the hard construction cost of constructing its project, (including any building, site work, above ground or underground structures, but exclusive of tenant fit-up) to making off-site, streetscape and parks improvements within 500 feet of the Special District boundaries. In addition to review

by the Planning Board, a plan of the proposed off-site improvements shall be submitted for the review and approval of the Director of Transportation and the Director of Parks and Open Space or their designees. Alternatively, with the approval of the Director of Transportation and the Director of Parks and Open Space, the applicant may make a financial contribution to the Town in an equivalent dollar amount to be used by the Town for such purposes.

g. Public seating and pedestrian-scale lighting shall be provided at regular intervals. The location, number and design of all seating and lighting in the public way shall be approved by the Director of Parks and Open Space or his/her designee.

h. Notwithstanding the provisions of Sections 6.06.6 and 6.07, the number and size of required loading zones may be reduced in accordance with Site Plan Review as noted in Section 5.06.4.j.4 below.

i. A building shall not have more than 30% of its frontage along a street devoted to residential use including associated lobby use.

j. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential, or office, or hotel use without being considered an accessory use.

3) Exceptions to Maximum FAR and Maximum Height

a. Additional height may be granted by special permit up to 85 feet for buildings primarily containing only the following uses: 6B (Dwelling, Live/Work Space); 6C (Dwelling, Age Restricted); 6D (Dwelling, Micro Unit) 8 (Hotel); 8A (Limited Service Hotel); 20 (Medical Office); 21 (Professional Office); 29 (Store less than 5,000 SF), 30 (Eating Place less than 5,000 SF); 33 (Stores not exceeding 10,000 SF); 33a (Stores over 10,000 SF); 34 (Place for the sale and consumption of food and beverages exceeding 5,000 SF); 66 (Accessory Laboratory), only for buildings located a minimum of 189.12 feet from the intersection of Washington Street and Brookline Avenue, provided that the footprint of any building mass above a height of 65 feet covers no more than 55% of the lot area. Buildings may also contain Principal Uses 18A (Small Group Health/Fitness), 20a (Licensed Veterinarian), and 32 (Service Business) provided that such uses occupy no more than 25% of the building. The required 189.12 foot distance from the intersection of Washington Street and Brookline Avenue shall be measured from the Point of Intersecting Tangents as show in Figure 5.06.4.j.3 below.

b. Additional height of up to 110 feet may be granted by special permit for buildings containing only the following uses: 8 (Hotel) and 8A (Limited Service Hotel) and only for buildings with frontage on Washington Street provided that the footprint of any building mass covers no more of the lot area than is specified in Table 5.06.4.j.1 and as depicted in Figure 5.06.4.j.4 below. Where an applicant can demonstrate that additional lot coverage for any building mass above 35 feet would result in an improved building design, the Board of Appeals may by special permit grant an

increase in the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. Applicants for a special permit to increase the maximum percentage of lot coverage shall provide written and graphic documentation to the Planning Board and Design Advisory Team illustrating how the building design has improved. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum percentage of lot coverage as shown in Table 5.06.4.j.1 below. The Design Advisory Team shall provide a similar affirmative written recommendation.

4) Site Plan Review

a. All applications for new structures shall be subject to site plan review by the Planning Board to: ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading zones; ensure adequate provision of parking; minimize impacts on wetland resource areas; minimize storm water flow

Table 5.06.4.j.l Maximum % Lot Area Coverage by Building Height

Building Mass Heights	Maximum % Lot Area Coverage	Maximum % Lot Area Coverage By Special Per mit with Planning Board Recommendation
0 up to 15′	80%	N/A
15′ up to 35′	92%	N/A
35′ up to 50′	80%	85%
50′ up to 75′	75%	80%
75′ up to 110′	50%	55%

from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:

i. Property lines and physical features, including roads, driveways, loading

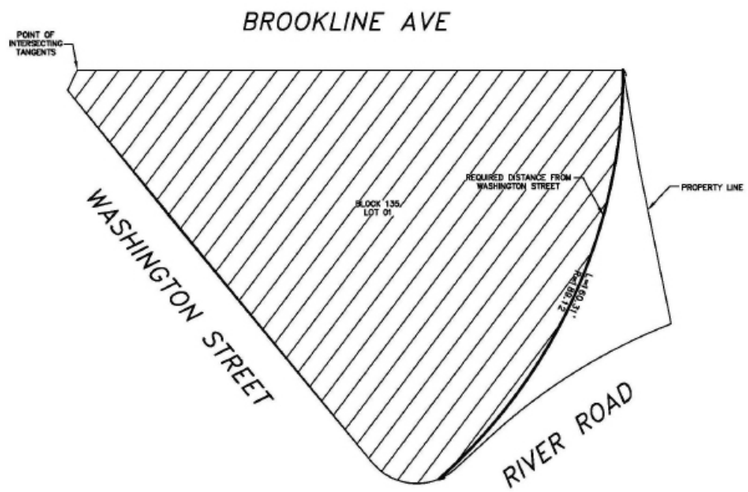


FIGURE 5.06.4.j.3 Required Distance from Washington Street

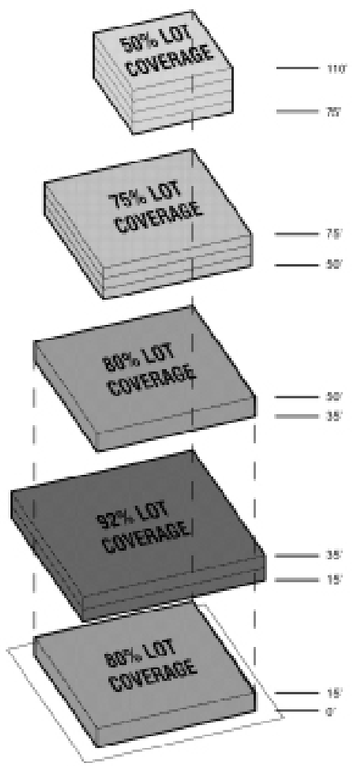


FIGURE 5.06.4.j.4 Maximum % Lot Coverage by Building Height

areas and trash storage for the project site;
ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting and exterior lighting.

5) Parking and Vehicular Requirements:

a. Notwithstanding Section 6.02, there shall be no minimum parking requirements for the following uses and such uses shall have the maximum parking limits noted in Table 5.06.4.j.2 below.

b. Notwithstanding the above, where it can be demonstrated that additional parking is needed, the Board of Appeals may by special permit increase the maximum parking ratio by no more than 20%. Applicants for a special permit to increase the maximum parking ratio shall provide written documentation to the Planning Board demonstrating the need for additional parking. The Planning Board may in an affirmative and written determination make a recommendation to the Board of Appeals to increase the maximum parking ratio by no more than 20%.

c. Notwithstanding the above, dedicated spaces for Car Sharing Organizations (CS0) may be provided without regard to such maximum parking limits. If such dedicated parking spaces are not leased by any CSO they shall be dedicated to bicycle parking and appropriate bicycle parking hardware shall be provided.

6) Design Standards:

a. Building façades parallel to or within 45 degrees of parallel to any property line shall be designed and constructed with equal care and quality. Visual articulation shall be achieved for each façade by (a) employing variations in materials and/or ensuring that no portion of any such façade is coplanar or unbroken for more than 3,500 square feet without a change in depth of 2 feet or more, or (b) utilizing alternative methods of vertical or horizontal articulation, or (c) utilizing other design elements that, in the affirmative and written determination of the Design Advisory Team provide equivalent or better visual relief with respect to building massing, for the reasons expressed in such written determination. The Planning Board and the

Table 5.06.4.j.2 – Maximum Parking Limits

USE	MAXIMUM PARKING
Principal Use 6B (Dwelling, age restricted)	1.25 per unit
Principal Use 6C (Live/Work space)	0.50 per unit
Principal Use 6D (Dwelling, Micro Unit)	0.50 per unit
Principal Use 8 (Hotel) and 8a (Limited Service Hotel)	0.40 per room

Principal Uses: 18A (Small group health/fitness); 20 (medical office); 20a (Licensed veterinarian); 21 (professional office); 29 (store less than 5,000K SF); 30 (Eating places less than 5,000K SF); 32 (Service use business); 33 (Stores not exceeding 10,000K SF); 33a (Stores over 10,000K SF); 34 (Place for sale and consumption of food not exceeding 5,000K SF); 66A (Accessory Laboratory)	1.50 per 1,000 SF

Board of Appeals shall provide a similar written determination and reasons with respect to façade design. During their review of all proposed building designs, both the Design Advisory Team and Planning Board shall consult the Emerald Island Special District Design Guidelines developed by the River Road Study Committee for guidance on general exterior massing, scale and design.

b. In order to minimize visual and audible impacts, all rooftop mechanical equipment shall be insulated and screened to the greatest extent possible from all public ways via substantial screening materials and/or shall be located in the interior of the building. Additionally, all rooftop mechanical equipment shall be located such that all shadow impacts are minimized.

§5.07 – DWELLINGS IN BUSINESS AND INDUSTRIAL DISTRICTS

Dwellings in business and industrial districts shall conform to the minimum usable open space and minimum side and rear yard requirements of the M district with the same maximum permitted floor area ratio as the business or industrial district in which the dwelling is located or of the M-2.0 district for dwellings in G-1.75 districts. However, if the Board of Appeals finds that a waiver of such dimensional requirements would promote reasonable development of the site compatible with adjacent buildings and the surrounding area, the Board may waive such requirements by special permit.

§5.08 – EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR USES 9 & 10

1. The floor area ratio requirements as applied to Uses 9 and 10 listed in **§4.07** shall be less restrictive than as specified in **Table 5.01** in the following respects:

   a. Where several lots in the same ownership and also in the same use district are separated from each other only by an adjacent street or intersecting adjacent streets, the area of all such lots may be aggregated in calculating floor area ratio.

   b. The floor area ratio shall be increased by one per cent for each 2,000 square feet of lot area exceeding the lot size minimum for the district under consideration, up to a maximum of 65

percent.

2. Under a special permit the Board of Appeals may permit further modifications in the dimensional requirements specified in **Article V** as applied to Uses 9 and 10 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

§5.09 – DESIGN REVIEW

1. Purpose

   The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the Town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The design review process is intended to promote the specific purposes listed in **§1.0, paragraph 1**. of this By-law.

2. Scope

   In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior modifications or changes, including exterior demolitions, which require a building permit from the building department under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards hereinafter specified. Exterior alterations, exterior additions and exterior changes (except as provided below), including fences, walls, and driveways, to residential uses permitted by right in S, SC, T, and F districts; signs as regulated in **§§ 7.02**, and **7.03**; and regulated facade alterations as defined and regulated in **§7.06** shall be exempt from the requirements of this section.

   a. Any structure or outdoor use on a lot any part of which is located in the G-1.75(CC) or L-0.5 (CL) Districts or which fronts on or is within 100 feet of: Beacon Street, Commonwealth Avenue, Boylston Street, Harvard Street, Brookline Avenue, or Washington Street.

   b. attached dwellings in groups of three or more

   c. designed groups of single-family dwellings as per **§5.11, paragraph 2**.

   d. multiple dwellings with four or more units on the premises, whether contained in one or more structures

   e. lodging houses and hotels

   f. gasoline service stations

   g. outdoor automobile sales and storage for sales

   h. non-residential uses in a non-residential district with more than 10,000 square feet of gross

floor area or with 20 or more parking spaces, except municipal facilities in I-1.0 districts when authorized by a two-thirds vote of Town Meeting

i. non-residential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces

j. any exterior addition or exterior modification for which a special permit is requested pursuant to **§5.22**

k. any structure for which a variance is requested pursuant to **§9.09, paragraph 1., subparagraph d.**

l. all subdivisions of 10 lots or more.

m. any substantially complete demolition of a principal structure in the Coolidge Corner Design Overlay District with the exception of those located in Local Historic Districts. Any demolition of a building in a National Register District shall be presented to the Preservation Commission for advisory design review that may include consideration of any replacement structure(s).

n. any construction of newly created space, whether or not habitable, finished or built out, where such space substantially satisfies the requirements for habitability under the State Building Code or could with the addition of windows or doors and without other significant alterations to the exterior of the building be modified to substantially meet such habitability requirements, and which space if finished or built out or converted to habitable space would result in the total Gross Floor Area of the structure being greater than the permitted Gross Floor Area in Table 5.01. In granting any such special permit, the Board of Appeals, in addition to the requirements of §5.09 and §§9.03 to 9.05, shall be required to find that the massing, scale, footprint, and height of the building are not substantially greater than, and that the setbacks of the building are not substantially less than, those of abutting structures and of other structures conforming to the zoning by-law on similarly sized lots in the neighborhood. In granting a special permit for construction of such non-habitable space, the Board of Appeals shall set forth as a condition of the special permit the extent to which such space may or may not be converted to habitable space in the future pursuant to Section 5.22 or otherwise, with the allowed future conversion to habitable space no greater than the applicant's representation of the intended amount of future conversion.

3. Procedure

a. General

1) Site Disturbance and Clearing — Pursuant to **§3.c.2)** and **§4.a.** of this Article, the applicant seeking a special permit or variance shall maintain all existing trees and other site features until a special permit or variance is approved.

In the event that site excavation, grading or clearing of trees and vegetation does occur on a property that is the subject of a pending application for a Special Permit or Variance, the Planning Board or Board of Appeals may take the following actions:

a) Request in writing that the Building Commissioner order the applicant to stop work

and cease all activities associated with excavating, grading, or tree and vegetation clearance.

b) Request that the applicant engage the services of a Massachusetts Certified Arborist to inspect the subject property and file a written report with the Town's Tree Warden detailing the following:

1) The nature and extent of the excavating, grading or clearing trees and vegetation that has occurred, including the species and caliper size of the trees and plant material removed, where possible.

2) Preliminary recommendations, to the extent practicable, that will either restore the site or introduce replacement trees and landscape features as part of the landscape plan.

c) Based on the report and preliminary recommendations from the Director of Planning and Community Development, the Board of Appeals may, as part decision on an application for a Special Permit or Variance, include conditions that will require, to the extent practicable, the restoration or replacement of trees, landscape and other site features.

d) Either prior to or following the filing of an application for a Special Permit or Variance with the Town Clerk, the applicant may submit to the Building Commissioner, a request to proceed with limited site disturbance or clearing necessary to conduct site surveys and other routine predevelopment investigations not associated with routine property maintenance. The request shall be in a form prescribed by the Building Commissioner. Upon receipt, the Building Commissioner shall convey the request to the Director of Planning and Community Development, Tree Warden and Planning Board. The Planning Board, in consultation with the Director of Planning and Community Development and Tree Warden, shall have 14 days to either recommend approval, approval with conditions or denial of the request. The applicant may appeal the determination of the Planning Board to the Board of Appeals.

2) Preapplication — Prior to a formal submission to the Building Commissioner, the applicant is strongly encouraged to take the following steps, and in the case of a Major Impact Project as defined in Section 5.09 3. b. such preliminary steps are required:

a) consult with the Building Commissioner and Planning Director or their designees for technical advice relative to the community and environmental impact and design review standards of this section; and

b) schedule and hold at least one neighborhood meeting and make good faith effort to notify in a timely manner abutters, tenants of abutters, Town Meeting Members for the precincts of all abutters, neighborhood associations, and other interested citizen groups to review the project plans, and the applicant should actively promote citizen involvement throughout the review process. Timely notification requires notices to be mailed or delivered at least seven days prior to the scheduled neighborhood meeting. Failure to provide timely notice for a Major Impact Project shall require scheduling of

another meeting with timely notice. In the case of Major Impact Projects, the meeting shall be convened prior to the Planning Board's preliminary meeting as required by Section 5.09 3. b. 4). The Department of Planning and Community Development will assist the applicant in identifying the parties to be notified; and

c) meet with the Planning Director or his/her designee to determine if the Planning Board has adopted design guidelines which pertain to the proposed project; and

d) meet with the Transportation Director and the Planning Director or their designees for advice on the preparation of any required transportation studies; and

e) meet with the Town's Tree Warden and/or Tree Planting Committee if either the removal or relocation of existing public shade trees or the planting of new public shade trees is proposed. Removal of public shade trees is governed by **Massachusetts General Law Chapter 87.**

3) Application — Applications for uses subject to community and environmental design review shall be submitted to the Building Commissioner and to the Board of Appeals in accordance with the procedure for special permits specified in **§§ 9.03 and 9.04**, including the requirements for public notice and hearing and referral to the Planning Board. The report of the Planning Board to the Board of Appeals shall contain a specific evaluation or statement in relation to each of the following:

a) fulfillment of the preapplication phase of this section;

b) designation of the proposal as a major impact project (or exemption as such) as defined in paragraph 3., of this section;

c) conformance with each of the standards listed in paragraph 4. of this section; and

d) conformance with the goals and objectives of the Comprehensive Plan.

e) conformance with the Affordable Housing requirements in **§4.08**, where applicable.

The Board of Appeals shall not deny a special permit for any use or condition which requires a special permit solely because it falls into one of the categories listed in **§4.01, paragraph 3**., unless it finds that the use or condition departs from the standards listed in paragraph 4. of this section to such an extent as to produce a serious adverse impact upon the character of the area or upon traffic, utilities and property values therein, thereby adversely affecting the public health, safety, and general welfare. In reviewing applications under this section, the Board of Appeals may require modifications, conditions and safeguards reasonably related to the community and environmental impact and design standards of this section.

b. Major Impact Projects Only — Prior to formal submission of an application to the Building Commissioner pursuant to this section, the applicant shall consult with the Planning Director and the Building Commissioner or their designees to determine whether such application involves a major impact project which shall be defined as any residential development of 16

units or more, any nonresidential development containing more than 25,000 square feet, or any other project with the potential for substantial environmental impact on the community. If the proposal is deemed by either official to be a major impact project, then the following procedural requirements shall be completed prior to the filing of an application with the Building Commissioner.

1) The applicant shall meet informally with the Planning Director and the Building Commissioner to discuss the development program and the relevant Zoning By-law requirements.

2) The applicant shall submit to the Planning Director or his/her designee a program statement and zoning analysis of the proposed project, schematic site plan, massing model with a photo of the model, and perspective massing studies prior to a preliminary review by the Planning Board. If a floor area bonus is proposed, the applicant shall first present material for a proposal without any bonus and then an alternative with the bonus, indicating the public benefit features possible, if the bonus is granted.

3) The Planning Director or his/her designee shall, in the normal course of notification of the Planning Board's preliminary meeting on the project, send the program statement, zoning analysis, and schematic site plan to the following departments and boards: Building, Engineering/ Transportation, Fire, Police, Public Works, Conservation Commission, Economic Development Advisory Board, Preservation Commission, Tree Planting Committee and, if a residential development, the Housing Advisory Board. The enumerated departments and commissions and any other entities with an interest in the project may at their discretion submit in writing a statement of their concerns and recommendations to the Planning Board and Board of Appeals.

4) The Planning Board shall review these materials at a regular Planning Board meeting and shall issue an initial report to the applicant within three weeks of the preliminary meeting. Once the basic environmental aspects of the proposal, and in the case of a residential development project of sixteen units or more, the affordable housing aspects of the proposal, are reviewed by the Planning Board, the applicant may proceed with a formal submission to the Building Commissioner.

c. All §5.09 Projects — To aid the Board of Appeals in making the findings required in **§9.05** and the Planning Board in preparing the advisory report provided in **§9.04**, the applicant shall submit the following materials in addition to the usual drawings at the time of application to the Building Commissioner:

1) Model—An inexpensive study model or final presentation model at a minimum scale of 1 inch equals 20 feet showing the tract, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. (Not required for additions, alterations, or changes which increase gross floor area by less than 100%.)

2) Drawing of Existing Conditions—A drawing showing the location, type, size, or dimension of existing trees, rock masses, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a special permit as specified in **§9.05** all existing trees, rock masses, and other natural features shall

be retained until a special permit is approved. The location of existing public shade trees situated within the public right-of-way adjoining the subject property shall also be located on the drawing if any modification to the public sidewalk or a new or modified curb cut is proposed or required.

3) Drawing of Proposal

a) Structure—A drawing including color and type of surface materials showing front and rear elevations, and side elevations where there are no adjoining buildings, and floor plans.

b) Landscaping—A drawing showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, color and type of surface materials, methods to be employed for screening, and proposed grades.

4) Photographs—Photographs showing the proposed building site and surrounding properties, and of the model (if required). Applications for alterations, modifications and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.

5) Impact Statement—A statement by applicant with explanation of how each of the community and environmental impact and design standards is incorporated into the design of the proposed development. In cases, where construction is located within 50' of a public shade tree, the method that will be used to protect the tree during construction shall be submitted for review and approval of the Tree Warden. Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact statement prepared in accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement.

6) Transportation Studies—Certain projects which, due to their size, use characteristics or location, may have a significant impact on traffic require the preparation of transportation studies. The following development threshold levels indicate the nature of studies required. However, additional studies may be required for projects of any size which the Transportation Director or the Planning Director consider may have substantial environmental effects on the community. Any required transportation studies must be prepared in accordance with the Transportation Access Plan Guidelines issued by the Transportation Department. An access Plan should include a transportation impact analysis and, as warranted, a proposed package of mitigation measures. Impact mitigation measures may include-but should not be limited to: construction management; traffic mitigation and encouragement of transit use; parking management; transit improvements; number and location of bicycle parking and storage facilities; parking and access for delivery and service vehicles, pedestrian amenities, and capital improvements.

a) Projects with more than 10,000 square feet of non-residential space or 10 dwelling units shall require the preparation of a Project Summary and Project Description.

b) Projects with more than 25,000 square feet of non-residential space or 25 dwelling units shall require the preparation of a Transportation Impact Study and Access Plan

and may require the preparation of an Access Plan Agreement.

c) Projects over 100,000 square feet of non-residential space or 100 residential units shall require the preparation of a Transportation Impact Study and an Access Plan Agreement.

d) Parking resulting from a Transportation Access Plan Agreement shall receive an annual permit from the Building Department. The permit shall require the fulfillment of all elements of the Transportation Access Plan.

d. Design Advisory Teams

The Planning Board is authorized to appoint a Design Advisory Team (DAT) to assist it in design review of any project that requires a special permit under **Section 5.09, Design Review**. In the case of a Major Impact Project, or substantial modification as determined by the Building Commissioner or Planning and Community Development Director to a Major Impact Project, the Planning Board shall appoint a DAT. DAT review of a project shall be coordinated with any other applicable review of the same project by other Town Boards and Commissions. The DAT shall consist of the following: one or more Planning Board member(s); professional architect(s), landscape architect(s) or other design related professional(s); and one or more neighborhood representatives. The DAT will provide professional design review assistance to the Planning Board and the Planning and Community Development Department in review of certain **§5.09** projects which may have a significant impact on the character of the area. The Planning Board may, in its discretion, also appoint representatives from other appropriate Town boards and commissions to serve on a DAT, when deemed necessary to insure coordinated project review. The Planning Board shall appoint a DAT at a regularly scheduled meeting where public notice has been provided pursuant to **Section 9.08**. At the direction of the Planning Board, the applicant may be required to meet with the DAT to discuss resolution of design concerns. Following a meeting with the DAT, the applicant must include in any further submissions its responses to issues raised by the DAT. The DAT may also submit a report to the Planning Board and the Board of Appeals for consideration.

e. Plan Revisions

Any plans revised after a formal application has been made to the Building Commissioner shall be submitted in triplicate to the Building Commissioner prior to the Board of Appeals hearing. Once the Board of Appeals public hearing on the proposal is closed, any plan revision, other than a change governed by a condition of the Board of Appeals approval, which in any way affects or alters the visual appearance of the facade, roof, or cornice line, or modifies the site plan, shall be reviewed by the Building Commissioner and the Planning Director, or their designees. If such revision is deemed by either the Building Commissioner or Planning Director to constitute a change other than a minor modification, the matter shall be referred to the Planning Board for its recommendation in accordance with the community and environmental impact and design review standards of this section and to the Board of Appeals for any action it deems appropriate.

4. Community and Environmental Impact and Design Standards

The following standards shall be utilized by the Board of Appeals and Planning Board in reviewing all site and building plans. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the reviewing authority. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in paragraphs a. through o. below shall also apply to all accessory buildings, structures, freestanding signs and other site features, however related to the major buildings or structures.

a. Preservation of Trees and Landscape—Trees and other landscape features shall be preserved in a natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Public shade trees within the public right-of-way are governed by **Massachusetts General Law Chapter 87** and, where feasible, shall be preserved and the appropriate addition of such trees is encouraged.

b. Relation of Buildings to Environment—Proposed development shall be related harmoniously to the terrain, trees, landscape, and natural features. The Board of Appeals may require a modification in massing so as to reduce the effect of shadows on abutting property or on public open space and public streets.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood—Proposed development shall be consistent with the use, scale, massing, height, yard setbacks and architecture of existing buildings and the overall streetscape of the surrounding area including existing abutting buildings and existng buildings that conform to the zoning by-law on lots of similar size in the neighborhood. The Board of Appeals may require a modification in massing, scale, height, setbacks or design so as to make the proposed building more consistent with the form of such existing buildings and the existing streetscape, and may rely upon data gathered that documents the character of the existing streetscape in making such a determination. Examples of changes that may be required include addition of bays or roof types consistent with those nearby; alteration of the massing, scale, setbacks and height of the building to more closely match such existing buildings and the existing streetscape, or changes to the fenestration. The street level of a commercial building should be designed for occupancy and not for parking. Unenclosed street level parking along the frontage of any major street as listed in paragraph 2., subparagraph a. of this section is strongly discouraged. Otherwise, street level parking should be enclosed or screened from view.

d. Open Space—All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance. All landscaped open space shall be continuously maintained.

e. Circulation—With respect to vehicular, bicycle and pedestrian circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation,

separation of pedestrian and vehicular traffic, access to community facilities, demand for and availability of bicycle parking and storage facilities, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

f. Stormwater Drainage—Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas. **See By-Laws of the Town of Brookline-ARTICLE 8.25 Stormwater Management.**

g. Utility Service—Electric, telephone, cable TV and other such lines and equipment shall be underground from the source in the public way to all buildings on the site. The location and screening of transformers and dumpsters shall be indicated on the site plan. The proposed method of sanitary sewage disposal and solid waste disposal shall be indicated.

h. Advertising Features—The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.

i. Special Features—Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures whether on the building or on the ground, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

j. Safety and Security—With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces be so designed as to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.

k. Heritage—With respect to Brookline's heritage, removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

l. Microclimate—With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard-surface ground coverage, or the installation of machinery which emits heat, vapor, or fumes, shall endeavor to minimize, insofar as practicable, any adverse impact on light, air, and water resources, or on noise and temperature levels of the immediate environment. The development shall comply with the provisions of the Noise Control By-law.

m. Energy Efficiency—To the maximum extent possible, proposals shall utilize energy-efficient technology and renewable energy resources and shall adhere to the principles of energy-

conscious design with regard to orientation, building materials, shading, landscaping, and other elements. Efforts shall be made to harmonize energy-related components with the character of the building and its surroundings and to prevent adverse effects on the energy consumption of neighboring structures and on the environment.

n. Specific Standards for Beacon Street And Coolidge Corner General Business District

1) A front setback may be required greater than would be required under **§5.54, paragraph 2**., if deemed necessary to preserve the line of existing facades where this is essential to the purposes of this section.

2) Where preservation of the existing roof or cornice line of adjoining buildings is considered necessary to the preservation of the desirable visual quality and property values of a particular part of Beacon Street, or the G-1.75 (CC) District, conformance with that roof or cornice lines may be required; or, in the case of new buildings permitted to be taller than such adjoining buildings, a setback of the building may be required at the level of the adjoining roof or cornice line.

3) Where the nature of the following design features is considered significant to the preservation or enhancement of the desirable visual quality and property values of a particular part of Beacon Street, or of the G-l.75 (CC) District, any new structure or alteration shall be harmoniously related to nearby pre-existing structures and the street facade in terms of color, texture, materials, scale, height, setbacks, roof and cornice lines, signs, and design elements such as door and window size and location, door and window detailing including materials for sills, lintels, frames, and thresholds, and any other major design elements.

o. Guidelines—The Planning Board is authorized to adopt additional guidelines for specific areas of the Town, subject to public notice, hearing and review by the Planning Board. These guidelines amplify the standards outlined in subparagraphs a. through l. above. The goal of these guidelines is to promote building design which is compatible with the character of the Town and its neighborhoods and to avoid negative impacts on these neighborhoods. The guidelines shall be used by the reviewing authority in considering proposals. Strict adherence to the guidelines shall be important in all new development projects but will be especially important where an applicant seeks to take advantage of higher floor area or building height than allowed in **§5.00** by providing public benefits under the provisions of **§5.21 and §5.32**. The guidelines include, but are not limited to, consideration of the following concerns: building massing and setbacks which may in certain cases be more restrictive than those otherwise specified in this By-law; provision of screening and maintenance of screening between non-residential and residential properties; design and location of parking areas and structures; provision of site vehicular access; provision of streetscape improvements including widened sidewalks and streetscape amenities; design character and materials of building facades; and building design and active uses at first floor level facing a public street.

p. Limited Service Hotel District (Use 8A)—Notwithstanding the other provisions hereof, no special permit shall be required under **§5.09** for a Use 8A – Limited Service Hotel in the G-1.75 (LSH) Limited Service Hotel District which otherwise satisfies the applicable

provisions of this By-law. In the G-1.75 (LSH) Limited Service Hotel District, the area of any floor space intended and designed for on-site or off-site parking which is made available for use by the public in a limited service hotel, and any increase in floor area in any existing building resulting from additional parking provided for use by the public in such building or the lot on which such building is located shall not be included in calculating the gross floor area of any building. In addition, in the G-1.75 Limited Service Hotel District, (i) there shall be no minimum rear yard requirement and no minimum setback requirements (either above or below grade) for any structure or facility which provides parking for use by the public and which is otherwise permitted under this By-law, and (ii) access drives for any such structure or facility may be located on an adjoining lot and share a common driveway with such lot. Except to the extent specifically otherwise provided in this By-law, all of the provisions of the By-law applicable to the G-1.75 (CC) Coolidge Corner District (including, without limitation, **§5.06, paragraph 2**. shall apply to the G-1.75 (LSH) Limited Service Hotel District.

LOT SIZE, AREA, AND WIDTH REGULATIONS

§5.10 – MINIMUM LOT SIZE

Where a minimum lot size is specified in **Table 5.01** no main building or use shall be erected or established on any lot of lesser size, except as may be permitted by **§5.15**.

§5.11 – CLUSTER SUBDIVISIONS, DESIGNED GROUPS OF SINGLE-FAMILY DWELLINGS, AND ESTATE CONVERSIONS

1. The minimum lot size for lots in a residential subdivision approved by the Planning Board may be 20,000 square feet in an S-40 District, 12,500 square feet in an S-25 District and 7,500 square feet in an S-15 District, provided that the following conditions are met:
   a. the subdivision is 5 acres or more in total area in S-40 Districts, 3 acres or more in S-25 Districts, and 2 acres or more in S-15 Districts, including public or private ways, platted lots, and the permanent open space specified below;

   b. the total number of lots does not exceed the number that would result if the total area of the subdivision were divided by the minimum lot size for lots in subdivisions not subject to this Section;

   c. land is set aside within the subdivision and its maintenance as permanent open space assured by covenant satisfactory to the Board of Appeals or by some other manner satisfactory to the Board of Appeals, in compliance with **M.G.L. Chapter 40A, The Zoning Act**, the area of such land to be not less than the difference between the total area platted in the subdivision and the total area which would have been so platted if all lots were of the minimum lot size for lots in normal subdivisions not subject to this Section, as determined by the Planning Board in the review of the subdivisions;

   d. the land so set aside is shown on the approved subdivision plan and provided in such a manner that it is usable for recreation or other activities, and is accessible to all residents of the subdivision or, where the land has been deeded to the Town, to the public.

2. The Board of Appeals by special permit may authorize the development of designed groups of single-family dwellings in S and SC Districts subject to the following conditions and procedures:

   a. the lot is 5 acres or more in area in S-40 Districts, 3 acres or more in S-25 Districts, 2 acres or more in S-15, S-10 and S-7 Districts; and 1 or more acres in SC-10 and SC-7 Districts. Lot area shall be defined in accordance with, **§2.12, paragraph 6** and contiguous lots may be combined to satisfy the acreage requirements of this paragraph;

   b. except as increased under **§5.11, paragraph 2, subparagraph d**., the total number of dwelling units does not exceed the number that would result if the area of the lot were divided by the minimum lot size in the district for single-family detached dwellings (the "base density"). Where the computation of base density results in a fractional number, only the fraction of one-half or more shall be counted as one. The Board of Appeals may limit the total number of dwelling units to less than the base density if in its judgment substantially adverse lot conditions, such as soil, topography, shape, significant landscape features or abutting uses, so require. In determining the lot area for purposes of calculating the allowable number of dwelling units, if any part of the lot is wetland as determined by the Conservation Commission, no more than 10 percent of the area to be used for calculation shall be wetland;

   c. permitted dwellings may be either attached or detached or any combination of the two types;

   d. the Board of Appeals may grant a number of dwelling units higher than permitted in **§5.11, paragraph 2, subparagraph b.** where any of the following conditions obtain, provided that the increase shall not exceed 25% in total beyond what is permitted in **§5.11, paragraph 2, subparagraph b.**

      1) Open Space—A 1% bonus for every 20% increase in landscaped open space over the minimum amount of landscaped open space required by **Table 5.01** and a 1% bonus for every 20% increase in usable open space over the minimum amount of usable open space required by **Table 5.01**.

      2) Concealed Parking—A 1% bonus per 5% of required parking concealed below grade, within or under a residential structure.

      3) Superior Site Design—Up to 10% bonus for superior site design, which may include, without limitation: public open space, either accessible to the public or within public view; historically appropriate building materials; preservation of existing dwellings or other architecturally significant structures; preservation of significant trees; street improvements such as wider sidewalks, underground wiring, lighting, landscaping, and pedestrian walkways and benches; provision of active and passive recreational facilities that are appropriate to the proposed development and to its immediately surrounding neighborhood; maintenance of Town open space; creation, restoration and preservation of access to existing Town open space; preservation and protection of environmentally sensitive areas; sensitivity to the surrounding neighborhood; support for neighborhood facilities and services; and preservation of historical structures significant to the Town. Any such element of site design which usefully and substantially exceeds the applicable minimum requirement for such element, if any, shall be deemed to contribute to the superiority of such site design.

   e. The entire lot shall be designed to, and shall, remain in one ownership and shall be developed and maintained as a whole, except that:

      1) individual dwelling units together with the immediately adjacent yard areas designed for the private use of the residents of the individual dwelling units may be individually owned by any method deemed by the Board of Appeals to ensure the unified control and maintenance of the entire lot; and

      2) the open space created under this Section shall be owned, preserved and protected as provided in **§5.11, paragraph 2., subparagraph j.**

   f. The minimum land area occupied by each detached single-family dwelling together with immediately adjacent yard areas designed for the private use of the occupant family shall not be less than is required in **§5.11, paragraph 1.**;

   g. The minimum land area occupied by each attached single-family dwelling together with immediately adjacent yard areas designed for the private use of the occupant family shall be 2,000 square feet, and the minimum width of such land area and of each such dwelling between party walls shall be 25 feet;

   h. The maximum horizontal dimension of any group of attached single-family dwellings together with one-story wings or attached accessory structures shall not exceed 150 feet, and the maximum horizontal dimension of that part of such a group that is more than one-story in height shall not exceed 120 feet;

   i. Each group of attached single-family dwellings shall be separated from the end of any other such group by a distance not less than two times the minimum side yard specified in **Table 5.01** for the district in which the site is located; and where two such groups are placed face to face or back to back and are parallel or within 45 degrees of parallel they shall be separated by a distance not less than the sum of the minimum front and rear yards specified for the district in said section;

   j. The open space created under this Section shall be designed, developed and maintained for the use and enjoyment of all residents in common, and shall be restricted by deed or covenant to be used primarily for recreational, park, conservation or other open space uses, and shall be conveyed to the Town and accepted by it for park or open space use, or to a non-profit organization the principal purpose of which is the conservation of open space, or to a corporation or trust owned or to be owned by the owners of the dwelling units. When facilities for the service and maintenance of the open space are located within the open space, their combined gross floor area shall not exceed one half of one percent of the open space area;

   k. No building, parking area, swimming pool, or any area designed and intended for active recreation shall be located nearer to any side or rear lot line than the dimension specified for the minimum rear yard by **Table 5.01** for the district in which the site is located and the Board of Appeals may require that such intervening space be so densely landscaped as to provide effective visual screening from adjoining property zoned for residence; except that

no detached single-family dwelling need be farther from any lot line than required by the yard regulations applicable in the district;

l. An application for a special permit for a designed group of single-family dwellings under this Section shall be subject to the Community and Environmental Impact and Design Review procedures and standards of **§5.09**;

m. In granting a special permit for a designed group of single-family dwellings under this Section, in addition to the findings required under **§5.09** and **§9.05**, the Board of Appeals shall find that:

1) the location, topography, vicinity or natural features of the site make it particularly suitable for such development, and

2) the design of the development is such as to be in harmony with the prevailing character of the neighborhood.

3. The Board of Appeals may by special permit authorize the conversion of an existing structure or structures in S or SC Districts, constructed prior to the effective date of this By-law (July 27, 1962), to two or more dwelling units provided the following conditions are met:

a. The lot upon which the existing structure or structures are located is 5 acres or more in S-40 Districts, 3 acres or more in S-25 Districts, 2 acres or more in S-15, S-10 and S-7 Districts, and 1 or more acres in SC-10 and SC-7 Districts. Lot area shall be defined in accordance with **§2.12, paragraph 6.**, and contiguous lots may be combined to satisfy the acreage requirements of this paragraph;

b. one or more of the existing structure or structures to be converted contain at least 5,000 square feet of floor area either as defined in **§2.07, paragraph 1.** or potentially habitable area that could be converted without any exterior construction that adds floor area;

c. except as increased under **§5.11, paragraph 3, subparagraph d.**, the total number of dwelling units does not exceed the number that would result if the area of the lot were divided by the minimum lot size in the district for single-family detached dwellings (the "base density") or, if:

1) more than 50% of the total number of dwelling units are contained in existing structure or structures; and

2) more than 50% of the total floor area of the existing structure or structures are preserved, restored, renovated and rehabilitated as dwelling units or ancillary structures; the total number of dwelling units does not exceed 125% of the base density. The number of dwelling units permitted by the Board of Appeals under this **§5.11, paragraph 3., subparagraph c.** in excess of the base density shall reflect the historic, architectural and community significance of the existing structure or structures once converted to dwelling units, including, without limitation, their design, location, facades, building materials and compatibility with the predominant architecture of the surrounding neighborhood. The Board of Appeals may limit the total number of dwelling units to less than the base density if in its judgment substantially adverse lot conditions, such as soil, topography, shape, significant landscape features or abutting uses, so require, or if the preservation or

restoration of the historical or other architecturally significant features of the building(s) would be prevented or materially impaired.

d. The Board of Appeals may grant a number of dwelling units higher than permitted in **§5.11, paragraph 3., subparagraph c.** where any of the following conditions obtain, provided that the increase shall not exceed 25% in total beyond what is permitted in **§5.11, paragraph 3., subparagraph c.**

1) Effective Conversion of Existing Structures to Residential Use—A 2% bonus per every 10%, in excess of 50%, of a percentage equal to the number of dwelling units contained in the existing structure or structures divided by the total number of proposed dwelling units on the lot.

2) Open Space—A 1% bonus for every 20% increase in landscaped open space over the minimum amount of landscaped open space required by **Table 5.01** and a 1% bonus for every 20% increase in usable open space over the minimum amount of usable open space required by **Table 5.01**.

3) Concealed Parking—A 1% bonus per 5% of required parking concealed below grade, within or under a residential structure.

4) Superior Site Design—Up to 10% bonus for superior site design, which may include, without limitation: public open space, either accessible to the public or within public view; historically appropriate building materials; preservation of existing dwellings or other architecturally significant structures; preservation of significant trees; street improvements such as wider sidewalks, underground wiring, lighting, landscaping, and pedestrian walkways and benches; provision of active and passive recreational facilities that are appropriate to the proposed development and to its immediately surrounding neighborhood; maintenance of Town open space; creation, restoration and preservation of access to existing Town open space; preservation and protection of environmentally sensitive areas; sensitivity to the surrounding neighborhood; support for neighborhood facilities and services; and preservation of historical structures significant to the Town. Any such element of site design which usefully and substantially exceeds the applicable minimum requirement for such element, if any, shall be deemed to contribute to the superiority of such site design.

e. The entire lot shall be designed to, and shall, remain in one ownership and shall be developed and maintained as a whole, except that:

1) individual dwelling units together with the immediately adjacent yard areas designed for the private use of the residents of the individual dwelling units may be individually owned by any method deemed by the Board of Appeals to ensure the unified control and maintenance of the entire lot; and

2) the open space created under this Section shall be owned, preserved and protected as provided in **§5.11, paragraph 3., subparagraph f.**

f. The open space created under this Section shall be designed, developed and maintained for

the use and enjoyment of all residents in common, shall be restricted by deed or covenant to be used primarily for recreational, park, conservation or other open space uses, and shall be conveyed to the Town and accepted by it for park or open space use, or to a non-profit organization the principal purpose of which is the conservation of open space, or to a corporation or trust owned or to be owned by the owners of the dwelling units. When facilities for the service and maintenance of the open space are located within the open space, their combined gross floor area shall not exceed one- half of one percent of the open space area.

g. No building, parking area, swimming pool, or any area designed and intended for active recreation shall be located nearer to any side or rear lot line than the dimension specified for the minimum rear yard by **Table 5.01** for the district in which the site is located and the Board of Appeals may require that such intervening space be so densely landscaped as to provide effective visual screening from adjoining property zoned for residence;

h. An application for a special permit for a conversion under this paragraph shall be subject to the Community and Environmental Impact and Design Review procedures and standards of **§5.09**;

i. In granting a special permit under this paragraph, in addition to the findings required under **§ 5.09** and **9.05**, the Board of Appeals shall find that:
   1) the location, topography, vicinity, or natural features of the lot make it particularly suitable for such development, and

   2) the structure(s) on the lot is of an appearance which is compatible with the vicinity or which shall be preserved or restored in a manner to justify granting a special permit under this **§5.11**;

j. In addition to the conditions and safeguards listed in **§9.05, paragraph 2.** which the Board of Appeals may attach to a special permit relief, the Board may require facade, open space or other such easements to ensure that the historical and architectural character of the lot and structure(s) is protected.

4. The Board of Appeals, where appropriate, shall consult with the Planning Board, the Conservation Commission, the Preservation Commission and any other municipal authority, board, commission or other agency when any site condition, element of site design or other aspect of the proposed cluster subdivision, designed group of single-family dwellings or estate conversion falls within the regulatory authority of such municipal agency and bears materially on any discretionary increase or decrease in the total number of dwelling units allowed under any special permit granted under this **§5.11**.

5. A proposal may combine the development alternatives permitted by **paragraphs 1. through 3. of this §5.11** provided that the site satisfies the most restrictive threshold acreage requirement of the subsections under which a special permit is sought. Otherwise, and where applicable, when a majority of the site's proposed dwelling units are to be developed as a subdivision, as a designed group or from the conversion of an existing structure or structures, then the development of the site will be subject to the conditions and standards set out in **paragraphs 1., 2., or 3., respectively, of this §5.11.** Regardless of which subsection of **§5.11** governs

the development of the site, any new construction shall contain only attached or detached dwellings, but converted existing structures may contain one or more dwelling units in any configuration.

6. All subdivisions of 10 lots or more seeking special permits or variances for increases in permissible density or intensity of use are also subject to the provisions of **§4.08**.

§5.12 – LOT AREA PER DWELLING UNIT OR EQUIVALENT

Where a minimum lot area per dwelling unit is specified in **Table 5.01** the minimum lot area for the first dwelling unit on a lot shall be provided on such lot for each additional dwelling unit as specified in **Table 5.01**.

§5.13 – LOT WIDTH

Where a minimum lot width is specified in **Table 5.01** no main building shall be erected on any part of a lot which has a width less than is specified in said Section, except as may be permitted by **§5.15**, and except that under a special permit the Board of Appeals may permit lot widths less than the minimum specified for one-family attached dwellings.

§5.14 – LOT FRONTAGE

1. Every lot shall have a minimum frontage of not less than 25 feet in S and SC Districts, and of not less than 20 feet in other districts, upon a street not less than 40 feet in width; except that the Board of Appeals may grant a special permit for use of a lot which has the required frontage upon a street not less than 30 feet in width, provided such street had been opened or dedicated to public use prior to 1922 or has been approved by the Planning Board as part of a subdivision. Such frontage shall not be obstructed from vehicular access to the street by walls, fences, or other barriers.

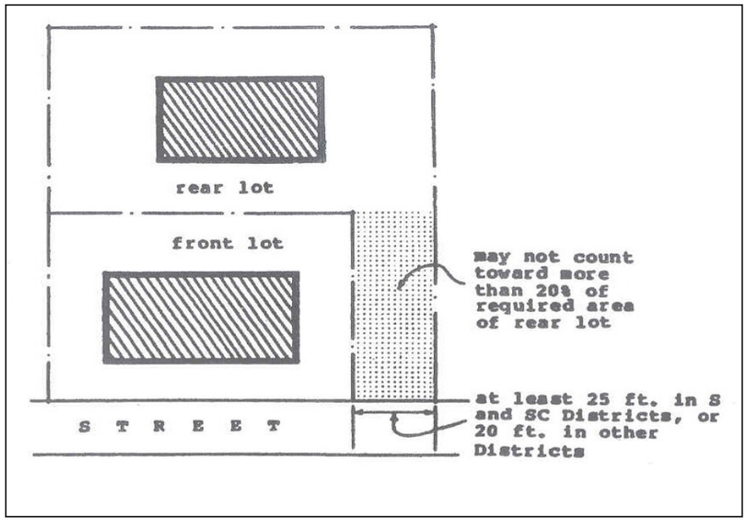


Figure 5.03 - Lot Frontage

2. Where a lot is located to the rear of another lot or lots, it shall have feasible vehicular access to a street over a strip of land not part of any other lot and not less than 25 feet wide in S and SC Districts nor less than 20 feet in other districts. Such land may not be counted as more than 20 percent of the required lot area of such rear lot.

§5.15 – EXCEPTION TO MINIMUM LOT SIZE & LOT WIDTH REQUIREMENTS

The provisions of **§§ 5.10 and 5.13** shall not prevent the construction or alteration of a single-family dwelling:

1. On a lot that was not, on July 27, 1962, or any subsequent date, contiguous to a lot in the same ownership, provided that it meets the following conditions:

   a. The lot was lawful under zoning and subdivision regulations in effect when the lot was created.

   b. The yard requirements are observed.
   c. The lot is 4,000 square feet or more in area.

2. On a lot that was, on July 27, 1962, or on some subsequent date, contiguous to another lot in the same ownership, provided the Board of Appeals finds that a replatting into conforming lots is not practicable and issues a special permit subject to the following conditions:
   a. The yard requirements are observed.
   b. The lot size or lot width is not less than three-fourths of the requirement specified in **Table 5.01** unless more than half of the frontage on the same side of the same street in the same block is already built up with such lesser lot sizes or lot widths.

FLOOR AREA RATIO REGULATIONS

§5.20 – FLOOR AREA RATIO

For any building or group of buildings on a lot the ratio of gross floor area to lot area shall not exceed the maximum specified in the **Table of Dimensional Requirements**.

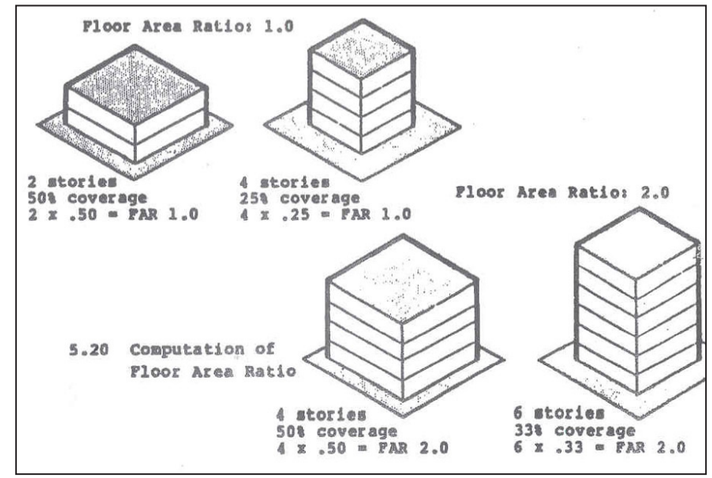


Figure 5.04 - Computation of Floor Area Ratio

§5.21 – EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO REGULATIONS (PUBLIC BENEFIT INCENTIVES)

The following public benefits have been determined to be of sufficient importance to the Town to provide eligibility for additional Floor Area Ratio. The Board of Appeals shall find that the size of any bonus granted is commensurate with the public benefit offered. No bonus shall be granted where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

1. The Board of Appeals may grant by special permit a maximum gross floor area higher than is permitted in Table 5.01, subject to the procedures, limitations, and conditions specified in this Section, and provided that public benefits including but not limited to the following are provided by the developer of the lot as required by the Board of Appeals: affordable housing, in excess of that required by the Zoning By-Law; landscaped and/or usable open space within public view, in excess of that required by the Zoning By-Law; support, financial or otherwise, for community facilities and services, including maintenance, enhancement, and acquisition of Town parks or open space; environmentally friendly sustainable building and site planning practices, significant provision of public parking and/or parking for car rental sharing services; subsidized MBTA passes for employees; provision of daycare space, either on or off-site; and preservation of historic structures.

2. Public Benefit Incentives may be granted under this Section only for a lot (or part of a lot) which

meets the following basic requirements:

a. The lot (or part of a lot) is located in a district with a floor area ratio of 1.5 or greater.

b. The lot (or part of a lot) is not less than 20,000 square feet.

c. No lot (or part of a lot) within a buffer area, as defined in §5.31, paragraph 3., shall be eligible for any provision or counted toward any requirement of this Section for gross floor area in excess of that permitted in **Table 5.01**, nor shall such bonus floor area be located thereon.

d. No driveway from the lot shall enter a street opposite from an S, SC, or T district.

3. To aid the Board of Appeals in making the findings required in §9.05 and the Planning Board in preparing the advisory report provided for in §9.04, the applicant shall submit the materials required by **§5.09, paragraph 3.** in addition to the usual drawings at the time of application.

4. The additional gross floor area granted in accordance with this Section, as calculated by the following percentage, shall not exceed the maximum floor area ratio specified in the Public Benefit Incentives column of **Table 5.01**:

Table 5.02 – Table of Maximum Gross Floor Area Increase

Each Condition	M-2.5 Districts	M-1.5, M-2.0, G-1.75(CC),G-2.0,GMR-2.0 & O-2.0(CH) Districts
Affordable Housing	30%	20%
Landscaped and/or Usable Open Space	20%	15%
Community Facilities and Services Support	20%	15%
Preservation of Historic Structures	20%	15%

5. The Board of Appeals may grant additional gross floor area where any of the following conditions obtain, subject to the limitations in paragraph 4. above. The additional gross floor area shall be calculated separately for each condition based upon the gross floor area permitted in **Table 5.01**.

a. **Affordable Housing**
Where on site affordable units, defined as dwelling units subject to restrictions on the income of occupants and on maximum rents or sales prices in order to conform with federal, state or local legislation or regulations, including **Section 4.08** of the Zoning By-Law, are provided in excess of the requirement in the zoning by-law, such gross floor area attributable to such affordable units may be allowed up to the bonus percentage listed in **Table 5.02** above but the total FAR shall not exceed the maximum floor area ratio specified in the Public Benefit Incentives column of **Table 5.01**.

b. **Landscaped or Usable Open Space**

Where public landscaped open space or usable open space within public view is provided in excess of the minimum specified in **Table 5.01**, additional gross floor area may be allowed at the rate of two square feet of gross floor area for each one square foot of either kind of open space in excess of the minimum requirements, up to the bonus percentage listed in Table 5.02 above but the total FAR shall not exceed the maximum floor area ratio specified in the Public Benefit Incentives column of Table 5.01.

c. **Community Services and Facilities Support**

Where support, financial or otherwise, for community services and/or facilities is provided, such as maintenance, enhancement, and acquisition of Town parks or open space, environmentally friendly sustainable building and site planning practices, significant provision of public parking and/or parking for car rental sharing services; subsidized MBTA passes for employees; provision of daycare space, either on or offsite, the allowed gross floor area in Table 5.01 may be exceeded up to the bonus percentage listed in Table 5.02 above but the total FAR shall not exceed the maximum floor area ratio specified in the Public Benefit Incentives column of Table 5.01.

d. **Preservation of Historic Structures**

Where preservation of historic structures, not otherwise required by the zoning by-law, is undertaken, the gross floor area in **Table 5.01** may be exceeded up to the bonus percentage listed in **Table 5.02** above, but the total FAR shall not exceed the maximum floor area ratio specified in the Public Benefit Incentives column of **Table 5.01**. In any such case, the Board of Appeals shall, prior to allowing additional gross floor area, consult with the Preservation Commission in connection with determining whether the structure in question is historic, and the Preservation Commission shall advise the Board of Appeals in connection with the design review of changes affecting the structure in question.

§5.22 – EXCEPTIONS TO MAXIMUM FLOOR AREA RATIO (FAR) REGULATIONS FOR RESIDENTIAL UNITS

1. General Provisions

a. Any expanded unit (individual residential units subject to an increase in gross floor area as per this Section) shall not be eligible to be subsequently divided into multiple units. If the limitations set forth in this paragraph 1, subparagraph a, or the limitations in paragraph 2 regarding separate dwelling units, should be found to be invalid, §5.22 shall be deemed null and void in its entirety, and no increase in gross floor area shall be allowed pursuant to §5.22.

b. Insofar as practicable, the additional floor area allowed pursuant to this Section shall be located and designed so as to minimize the adverse impact on abutting properties and ways, and interior conversions shall be considered preferable to exterior additions. Any exterior additions or modifications shall further comply with the provisions of **§5.09**, including **§5.09.4.c**, **§§9.03 to 9.05**, and this Section. The limitations and standards set forth in

such provisions shall also guide the Zoning Board of Appeals in determining under **G.L. c.40A, §6** whether a change, extension or alteration is substantially more detrimental to the neighborhood than an existing nonconforming use.

c. Additional floor area shall be allowed pursuant to this Section only if the Certificate of Occupancy for the original construction was granted at least ten years prior to the date of the application for additional gross floor area under this section or if there is other evidence of lawful occupancy at least ten years prior to the date of such application. In the case of the substantial demolition of a structure or of an increase in the number of units, the time period prior to such demolition or unit increase shall not be counted toward the required ten-year waiting period, and the ten-year waiting period shall be deemed to commence with the grant of a new Certificate of Occupancy after such demolition or unit increase. As used in this paragraph 1, subparagraph c, "substantial demolition" shall mean the act of pulling down, destroying, removing or razing a structure or a significant portion thereof, by removing one or more sides of the structure, or removing the roof, or removing 25% or more of the structure. If the limitation set forth in this paragraph 1, subparagraph c should be found to be invalid, **§5.22** shall be deemed null and void in its entirety, and no increase in gross floor area shall be allowed pursuant to **§5.22**.

d. Exterior modifications to accommodate an exterior addition or interior conversion shall include without limitation the addition of a dormer, penthouse, cupola, windows, doors or the like. Such modifications shall also not conflict with any other provisions of the Zoning By-law. Interior conversion and exterior addition are terms defined in **§2.09.** An exterior modification such as a dormer or penthouse which is usable for human occupancy shall be deemed an exterior addition.

e. The interior conversion shall not result in the displacement of interior storage of equipment, vehicles, or materials to a location which is now exterior to the house.

f. In determining the appropriate amount of space to be converted into habitable space, the Board of Appeals shall consider the extent of exterior modifications required to effectuate the proposed conversion and/or exterior addition and the impact thereof on abutting properties.

g. Space that has previously been decommissioned shall not be converted under this Section.

h. Under paragraph 3 below, the Board of Appeals may allow for the conversion of attic or basement space not meeting the requirements of paragraph 2, for conversions of interior space other than attic or basement space, and for exterior additions.

2. Conversion of Attic or Basement Space in Single-Family and Two-Family Residential Dwellings

Conversions of attics or basements to habitable space for use as part of an existing single- or two-family dwelling, not as a separate dwelling unit, and effectively increasing the gross floor area of the dwelling, shall be allowed in S and SC districts provided the following conditions are met in addition to the conditions set forth in paragraph 1 of this Section:

a. Any exterior modifications that are made to the structure to accommodate the conversion

shall be subject to the procedures, limitations, and conditions specified in **§5.09, §§9.03 to 9.05**, and this Section. No exterior modifications made under the provisions of this subparagraph may project above the ridge of the roof nor project beyond the eaves.

b. Any increase in gross floor area through such basement or attic conversion shall be limited such that the total resulting gross floor area of the building(s) after such conversion is no more than 130% of the total permitted in **Table 5.01** (the "permitted gross floor area").

3. Special Permit for Exceeding Maximum Gross Floor Area for Residential Dwellings

a. The Board of Appeals may allow, by special permit, a maximum gross floor area greater than permitted gross floor area for an existing residential building(s) on a single lot, subject to the procedures, limitations, and conditions specified in **§5.09, §§9.03 to 9.05**, and this Section for an existing residential building which meets the following basic requirements:

1) The existing building(s) is located on a lot (or part of a lot) in an S or SC district.

2) The existing building contains at least one residential unit but no more than two total units. For the purpose of this **paragraph 3, subparagraph (a)(2)**, total units shall be defined to include all residential dwellings, offices, and commercial spaces within the building.

3) The additional floor area allowed by special permit pursuant to this Section shall not include the floor area permitted by right under **Table 5.01**.

b. The maximum increase in floor area allowed by special permit may be allowed only in accordance with the following conditions, which shall be in addition to the other conditions set forth in this Section, including **paragraph 1**, and any other conditions that the Board of Appeals may prescribe. In no case shall the resulting total gross floor area of the building(s) after all conversions and additions be more than 130% of the permitted gross floor area:

1) In all S and SC Districts, a special permit may be granted for an increase in floor area above the permitted gross floor area for only one of the following subparagraphs (such that the grant of a special permit under one subparagraph shall preclude the subsequent grant of a special permit under a different subparagraph, but shall not, to the extent the increase in floor area allowable under one subparagraph has not been fully utilized, preclude a subsequent grant of an additional special permit under that same subparagraph so as to fully utilize the increase in floor area allowable under that subparagraph. Notwithstanding the foregoing, an applicant who has received a special permit under subparagraph (a) or (b) and has not fully utilized the allowable increase in floor area under that subparagraph may apply for a special permit under subparagraph (c), with the increased floor area previously allowed under subparagraph (a) or (b) counted against the floor area allowable under subparagraph (c)):

a) an interior conversion that is less than or equal to 30% of the permitted gross floor area;

b) an exterior addition that is less than or equal to 20% of the permitted gross floor

area; or

c) a combination of an interior conversion and exterior addition that is less than or equal to 30% of the permitted gross floor area, provided that the additional floor area attributable to exterior construction (which shall include the floor area included within dormers, penthouses, cupolas, and the like) does not exceed 35% of the additional floor area allowed by special permit.

The grant of a special permit under any prior version of **Section 5.22** shall be deemed the grant of a special permit under this section.

c. If the application of the percentages in **paragraph 3, subparagraph b** results in a floor area increase of less than 350 square feet, a special permit may be granted for an increase in floor area of up to 350 square feet provided that the resulting gross floor area of the building(s) is not more than 150% of the permitted gross floor area. The prior grant of additional gross floor area as of right or by special permit under **Section 5.22** or any prior version **of Section 5.22** shall preclude a subsequent grant of a special permit under this **paragraph 3, subparagraph c.**

HEIGHT OF BUILDING REGULATIONS

§5.30 – MAXIMUM HEIGHT OF BUILDINGS

Where a maximum height of buildings is specified in **Table 5.01** no building or part of a building shall exceed the number of feet in height, except as permitted in **§§ 5.31** and **5.32**. Height shall be measured as follows:

1. Where the lot abuts other lots to the rear which are subject to the same or less restrictive height limitations:

   a. Height shall be measured from the record grade of the street opposite the midpoint of the street frontage of the lot, or, if a corner lot, of the street frontage having the lower record grade.

   b. Where the grade of the natural ground contiguous to the building is higher than said record grade, height may be measured from the mean grade of said natural grade, except if said mean grade is higher than the mean natural grade of any abutting lot at the lot line.

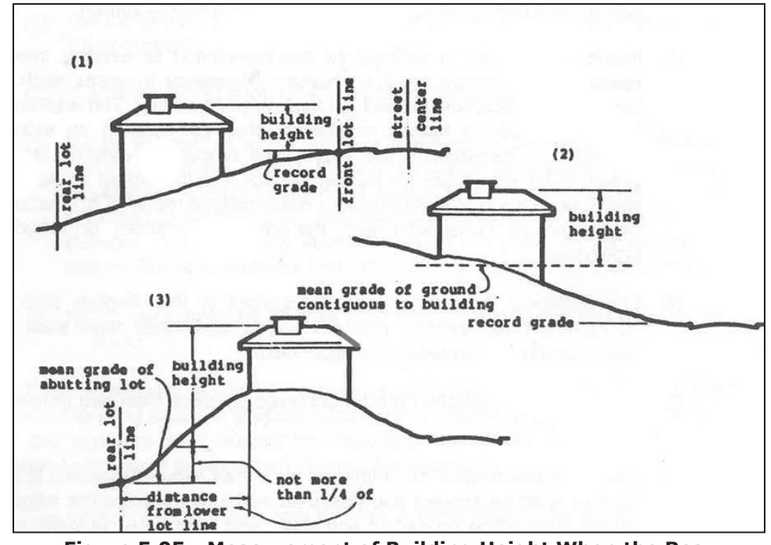


Figure 5.05 - Measurement of Building Height When the Rear Abutting Lot is Subject to Same or Less Restrictive Height Limitation

   c. Where the mean grade of the natural ground contiguous to the building is higher than both the record grade of the street and the mean natural grade of any abutting lot at the lot line, height shall be measured from a level not exceeding the mean grade of the lowest of any lot by more than one-fourth of the distance between the building and said abutting lot line.

2. Where the lot abuts other lots to the rear which are subject to more restrictive height limitations:

   a. For a building or buildings on a lot not more than 160 feet in any dimension:

      1) Height shall be measured from the record grade of the street opposite the midpoint of the street frontage of the lot, or, if a corner lot, of the street frontage having the lower record grade.

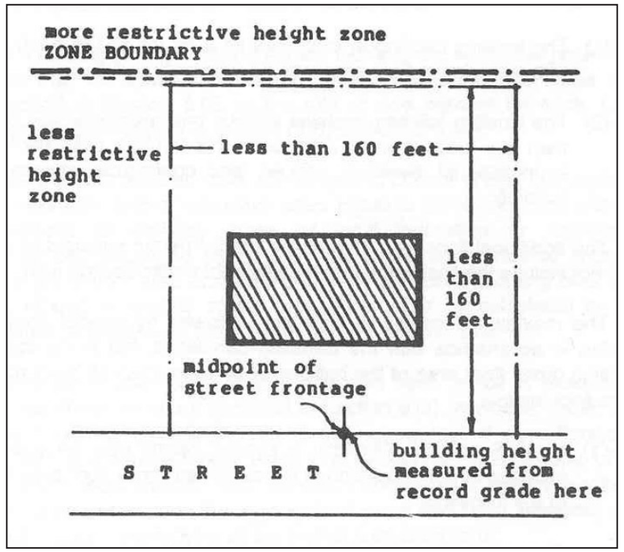


Figure 5.06 – Height Measurement For a Lot Not More Than 160 Feet in Any Dimension

b. For a building or buildings on a lot whose depth is not more than 160 feet but whose frontage is greater than 160 feet:

1) For that part of the lot within 80 feet of each side lot line not also a street line, height shall be measured from the record grade of the street at a point 40 feet from the side lot line.

2) For that part of the lot within 80 feet of a side lot line, which is also a street line, height shall be measured from the record grade of the side street at a point opposite the midpoint of the side street lot line.

3) For that part of the lot more than 80 feet from a side lot line, height shall be measured from the record grade of the street opposite the midpoint of that part of the lot.

c. For a building or buildings on a lot whose depth and frontage both exceed 160 feet, height shall be measured as provided in subparagraph b. hereof with the following exceptions:

1) If the grade of the natural ground contiguous to the building is not more than 10 feet higher than the record grade of the street, height may be measured from the mean grade of said natural ground.

2) If the grade of the natural ground contiguous to the building is more than 10 feet higher than the record grade of the street, height may be measured from a level 10 feet above said record grade.

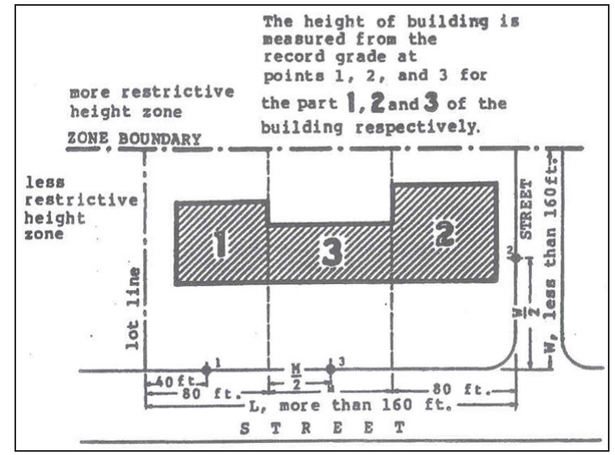


Figure 5.07 - Height Measurement For a Lot Not More Than 160 Feet in Depth

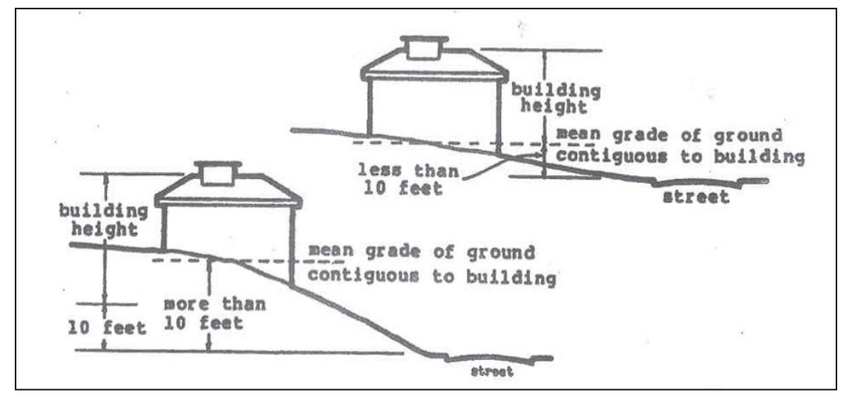


Figure 5.08 – Height Measurement For a Lot More Than 160 Feet in Both Depth and Frontage

d. For a building or buildings on a lot whose frontage is not more than 160 feet but whose depth is greater than 160 feet:

1) Height shall be measured from the record grade of the street opposite the midpoint of the street frontage of the lot, or, if a corner lot, of the street frontage having the lower record grade.

2) If the grade of the natural ground contiguous to the building is not more than 10 feet higher than the record grade of the street, height may be measured from the mean grade of said natural ground.

3) If the grade of the natural ground contiguous to the building is more than 10 feet higher than the record grade of the street, height may be measured from a level 10 feet above said record grade.

3. Where the lot fronts on two streets, maximum height shall be calculated as provided in **paragraphs 1. and 2.** of this Section, whichever is appropriate, interpreting "lots to the rear" as lots across the street. In such cases, a line shall be drawn halfway between the two streets which the lot adjoins, maximum height shall be measured from the record grade of each street separately, and the maximum height so measured shall apply on each side to that portion of the lot which lies between the line and each street. Maximum height for corner lots shall be calculated as provided in **paragraphs 1. and 2.** of this Section.

§5.31 – EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS

1. The provisions of **§5.30** shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, silos, derricks, conveyors, flag poles, masts, aerials, elevator penthouses, water tanks, monitors, or other structures normally built above the roof and not devoted to human occupancy. Such structures, however, shall be erected only to such heights and of such areas as are necessary to accomplish the purpose they are normally intended to serve, and shall harmonize with the facade of the building. Any structure designed for mechanical or electrical use shall be concealed or screened from public view to the greatest extent feasible and shall comply with the provisions of the Noise Control By-law. Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment shall not exceed the height limit by more than 10 feet unless a special permit is granted by the Board of Appeals.

2. In a situation where the interpretation of the requirements of **§5.30** is not clear as a result of non-typical lot shape, topography, building alignment or configuration, or other characteristic, the Board of Appeals under a special permit after a hearing may establish maximum heights for a building or buildings or for different parts of a building which it deems will best approximate the requirements of **§5.30** and will assure the same standard of amenity to nearby properties as would have been provided by the application of said requirements to the site in question in the absence of non-typical characteristics.

3. Where two different maximum height figures are specified for the same zoning district in **Table 5.01**, the lower figure shall apply to any lot or part of a lot located in a buffer area. A buffer area is defined as a lot or part of a lot located in an M-l.5, M-2.0, M-2.5, G-l.75(CC), G-2.0 or O-2.0(CH) District which is located at a lesser distance from any land not within a public way in an S, SC, T or F District than the following:

   a. 200 feet if the direction of the land in the S, SC, T or F District is northerly, between northwest and northeast;

   b. 150 feet if such direction is easterly, between northeast and southeast, or westerly, between northwest and southwest;

   c. 100 feet if such direction is southerly, between southeast and southwest.

§5.32 – EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS (PUBLIC BENEFIT INCENTIVES)

1. Special Permit Required

   The Board of Appeals may allow by special permit a maximum height greater than is permitted in **Table 5.01** in M-l.5, M-2.0, GMR-2.0, M-2.5, G-l.75(CC), G-2.0 and O-2.0(CH) Districts, provided the maximum height allowed does not exceed the maximum heights specified in the Public Benefit Incentives column of **Table 5.01**, and provided that all of the conditions of paragraph 2. of this Section are satisfied.

2. Public Benefits and Conditions

   a. As required by the Board of Appeals, the developer of the lot shall provide substantial public benefits including but not limited to public parking; public open space, either within public view or access; historically appropriate building materials; street improvements such as paving, wider sidewalks, underground wiring, lighting, landscaping, and pedestrian walkways and benches; maintenance of Town open spaces; and preservation of historic structures significant to the Town. The Board of Appeals shall find that the amount of any additional height allowed is commensurate with the public benefit offered. No additional height shall be allowed where the claimed public benefit is otherwise required by this Zoning By-Law or by any other by-law, statute, code or regulation.

   b. Any additional height allowed by the provisions of this Section, above that permitted by right, shall be set back from street lot lines as follows:

      1) In M-1.5, M-2.0, M-2.5, G-1.75, and O-2.0(CH) Districts, the setback requirement from any street lot line on which the lot fronts shall be one-half of the width of the street right-of-way, up to a maximum requirement of 50 feet.
      2) In G-2.0 Districts, for lots which have frontage on Harvard, Cypress, Walnut or Dummer Street, the setback requirement in (i) above shall apply only to the portions of the lots which front on these streets.

   c. Any additional height allowed under the provisions of this Section shall be set back 50 feet from any surrounding land not in a public way in an S, SC, T, F, or M District.

   d. Applications in the G-l.75(CC) District shall be subject to the conditions of **§5.06, paragraph 2**.

3. Any such special permit issued on or after June 7, 1966, shall not be impaired by a modification of the boundaries of zoning districts under **§3.02** within a period of three years subsequent to the date of issuance of such special permit. In addition to the usual conditions which the Board of Appeals may attach in approving a special permit as specified in **§9.05**, the Board may require buildings to be located on the south side of the property so as to reduce the effect of shadows on abutting property.

GENERAL YARD AND SETBACK REGULATIONS

§5.40 – WALLS NOT PARALLEL TO LOT LINES

Where a wall of a building is not parallel with its corresponding lot line, the average width or depth of any yard or setback shall not be less than the dimension specified in **Table 5.01** for the required width or depth, provided that said yard or setback shall not be narrower at any point than three-fourths of the required width or depth. In no case in an M District shall a required front yard or side yard adjacent to a street be less than the front yard dimension specified in **Table 5.01**.

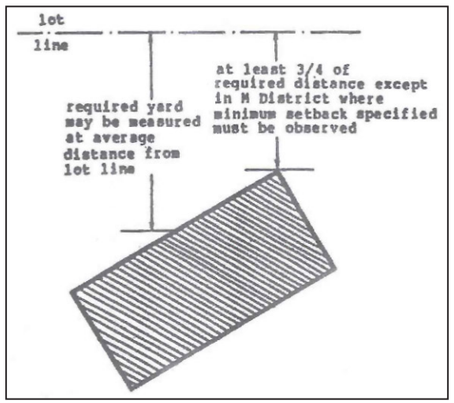


Figure 5.09 - Measurement of Yard or Setback When Walls Are Not Parallel to Lot Lines

§5.41 – BUILDINGS OF UNEVEN HEIGHT OR ALIGNMENT

1. Where a building is not of the same height throughout its length parallel (or within 45° of parallel) to any lot line, but where it is in one alignment along said length, required yards and setbacks shall be either $\frac{H^1+L^1}{6}$ or $\frac{H^2+L^2}{6}$, whichever is greater, where:

   H^1 = the height of the taller portion of the building;
   H^2 = the height of the lower portion of the building;
   L^1 = the length of the taller portion of the building;
   L^2 = the entire length of the building.

   Where the formula $10+\frac{L}{10}$ applies, L shall be defined as L^2 above.

2. Where a building of the same height throughout its length parallel (or within 45° of parallel) to any lot line, but where it is not in one alignment along said length, required yards and setbacks shall be $\frac{H+L^1}{2}$ for the portion of the building nearer the lot line, and $\frac{H+L^2}{2}$ for the portion of

the building further from the lot line where:

H = the height of the building;
L^1 = the length of the portion of the building nearer the lot line; and
L^2 = the entire length of the building.

Where the formula $10+\frac{L}{10}$ applies, the required yards and setbacks shall be $10+\frac{L^1}{10}$ for the portion of the building nearer the lot line, and $10+\frac{L^2}{10}$ for the portion of the building further from the lot line, with L^1 and L^2 defined as above.

3. Where a building is not of the same height throughout its length parallel (or within 45° of parallel) to any lot line, and where it is not in one alignment along said length, required yards and setbacks shall be calculated as follows:

   a. Where the taller part of the building is nearer to the lot line required yards and setbacks shall be $\frac{H^1+L^1}{6}$ for the portion of the building nearer to the lot line; and $\frac{H^2+L^2}{6}$ for the portion of the building further from the lot line, where:

      H^1 = the height of the taller part of the building;
      H^2 = the height of the lower part of the building;
      L^1 = the length of the taller part of the building;
      L^2 = the entire length of the building.

   b. Where the formula $10+\frac{L}{10}$ applies, required yards and setbacks shall be $10+\frac{L^1}{10}$ for the portion of the building nearer the lot line; and $10+\frac{L^2}{10}$ for the portion of the building further from the lot line, with L^1 and L^2 defined as above.

   c. Where the taller part of the building is further from the lot line, required yards and setbacks shall be $\frac{H^1+L^2}{6}$ for the portion of the building further from the lot line, and $\frac{H^2+L^1}{6}$ for the portion of the building nearer the lot line, where:

      H^1 = the height of the taller part of the building;
      H^2 = the height of the lower part of the building;
      L^1 = the length of the lower part of the building;
      L^2 = the length of the entire building.

      Where the formula 10 + L applies, the required yards and setbacks shall be $\frac{10+L^1}{10}$ for the

portion of the building nearer the lot line, and $\frac{10+L^2}{10}$ for the portion of the building further from the lot line, with L^1 and L^2 defined as above.

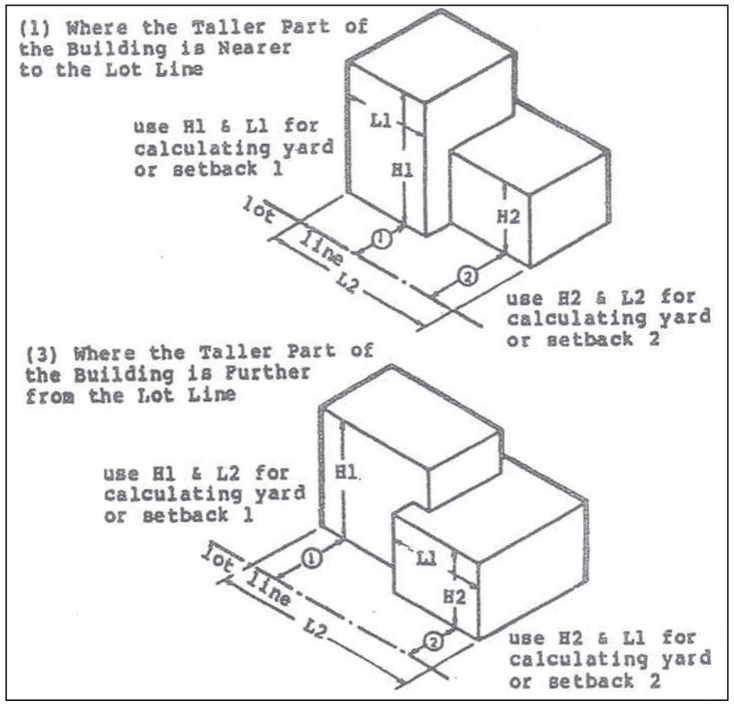


Figure 5.10 - Calculation of Yard and Setback

§5.43 – EXCEPTIONS TO YARD AND SETBACK REGULATIONS

Under a special permit after a hearing the Board of Appeals may permit, in lieu of the requirements for yards or setbacks specified in this By-law, the substitution of such other dimensional requirements as shall assure the same standard of amenity to nearby properties as would have been provided by compliance with the regulations of the By-law, as measured by off-setting a reduction in the depth or area of a required yard or setback by an increase in the depth or area of another yard or setback or by the provision or preservation of a condition or a facility not otherwise required that will counterbalance such a reduction; provided, however, that under this section the Board of Appeals shall not reduce the depth of a required front yard below 15 feet in M Districts.

§5.44 – ACCESSORY UNDERGROUND STRUCTURES

1. Any accessory structure or any part of a main structure or building which is located entirely

beneath the surface of the ground at the natural grade level may extend into a required yard, except that in any Residence District and in any other situation where Landscaped Open Space is required, no underground structure or building shall be located beneath more than fifty percent of the required Landscaped Open Space nor nearer than ten feet to any lot line.

2. Any part of a required side or rear yard may be occupied by an accessory underground garage structure or part of a main building for accessory garage use which is not located entirely beneath the surface of the ground at the natural grade level provided:

   a. The height of any such structure shall not exceed at any point along its wall or walls the grade of the natural ground contiguous to the structure by more than three feet.

   b. There shall be no fence or parapet higher than six feet above such grade of natural ground.

   c. In any situation where Landscaped Open Space is required, such structure shall not be located beneath more than fifty per cent of the required Landscaped Open Space.

   d. Such structure shall be set back from any lot line at least twenty feet in all S Districts, at least ten feet in all other Residence Districts or in any other situation where Landscaped Open Space is required, and at least five feet in all other districts where a side or rear yard setback is required.

3. The Board of Appeals may by special permit authorize such an accessory underground garage structure or part of a main building which is not located entirely beneath the surface of the ground at the natural grade level within a required front yard provided:

   a. The structure shall meet all the conditions of **paragraph 2.** of this section.

   b. There shall be no parking on the roof of such structure.

   c. No parked vehicles shall be seen from the street.

4. The Board of Appeals may by special permit modify the setback requirements in **paragraphs 1., 2., and 3.** above and the height limitations in **subparagraphs a. and b. of paragraph 2.** above subject to the provisions of **§9.06** and provided that such modification is counterbalanced by appropriate landscaping and screening to assure the same standard of amenity to nearby properties as would have been provided by compliance with the regulations of the By-law.

§5.45 – TRAFFIC VISIBILITY ACROSS CORNERS

In any district where a front yard is required, no structure, fence, planting or other structure shall be maintained between a plane two and one-half feet above curb level and a plane seven feet above curb level so as to interfere with traffic visibility across the corner within that part of the lot which is within a triangle bounded by the street lot lines and, a straight line drawn between points on each such lot line 25 feet from the intersection of said lot lines or extension thereof, except if the Director of Transportation determines that no safety hazard will result, such as from a fence or plantings that allows adequate visibility.

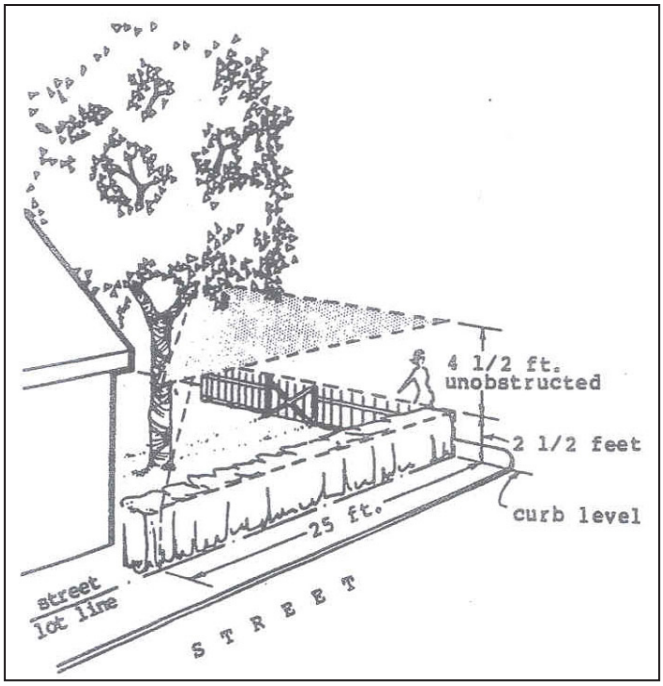


Figure 5.11 – Traffic Visibility Across Corners

§5.46 – CORNER LOTS

For a corner lot, the required yard along any street lot line shall be calculated as a front yard, except that in S, SC, T and F Districts where the rear lot line of a corner lot is also the rear lot line of the contiguous lot, the required front yard extending from the rear yard to the corner shall be 20 percent of the width of the lot measured along the other front yard line, but need not be greater than the required front yard depth and shall not be less than the required width of a side yard calculated as if the street lot line were an interior side lot line.

§5.47 – DIMENSIONAL REQUIREMENTS FOR COURTS

1. Where a court opens out to a yard or lot line, and where the minimum required yard is specified in terms of a formula, any wall of the building bounding the court parallel or within 45° of parallel with the lot line shall be set back from that lot line in accordance with the provisions of **§5.41 paragraphs 1.** or **2.**

2. Where a court is enclosed by apartment wings, any one of which contains all the rooms of one or more dwelling units, a distance equal to twice the required side yard as specified in **Table 5.01** shall be provided between the wings.

3. Projections, accessory buildings and structures in courts shall be controlled by the regulations for yards applicable to the yard or lot line upon which the court opens or, in the case of apartment wings, the regulations applicable to side yards.

FRONT YARD REGULATIONS

§5.50 – FRONT YARD REQUIREMENTS

Where a minimum depth of front yard is specified in **Table 5.01**, an open space of at least the specified depth shall be provided between the front lot line or lines and the nearest point of any building or structure except as may be permitted hereafter. (See illustrations in **§5.40**)

§5.51 – PROJECTIONS INTO FRONT YARDS

Bays and porches not over half the length of the front wall may project into any front yard three and one-half feet. Belt courses, chimneys, flues, fins, columns, leaders, sills, pilasters, lintels and ornamental features may project not more than one foot, and cornices and gutters not more than two feet, over a required front yard. In no case shall any such projection come within five feet of any front lot line, except in districts where no front yard is required.

§5.52 – FENCES AND TERRACES IN FRONT YARDS

Subject to **§5.45**, the provisions of **§5.50** shall not apply to front fences, hedges, or walls not over six feet high above the natural grade in the required front yard nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line.

§5.53 – ACCESSORY BUILDINGS IN FRONT YARDS

Accessory buildings shall not be permitted within required front yards.

§5.54 – EXCEPTIONS FOR EXISTING ALIGNMENT

1. In L, G, O or I Districts, if the alignment of existing buildings on adjacent lots on both sides of a lot fronting on the same street is nearer to the street than the required front yard depth, the average of the existing alignment of all buildings within 150 feet of said lot shall be the required front yard.

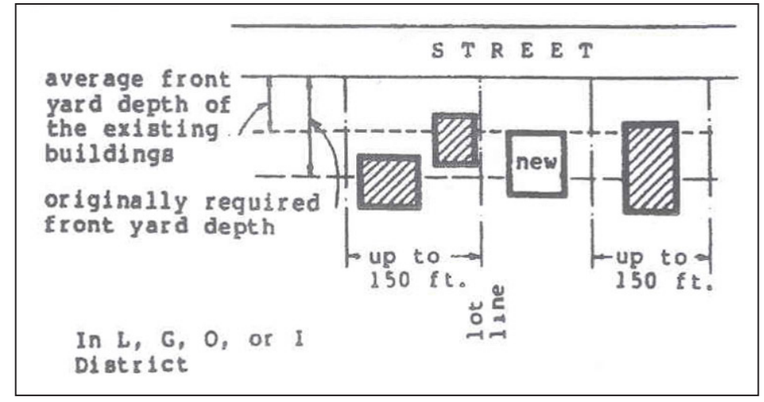


Figure 5.12 - Exception for Existing Alignment

2. In all Residence Districts, if the alignment of two or more existing buildings on lots on either or both sides of a lot fronting on the same side of the same street in the same block is farther from the street than the required front yard depth, the average of the existing alignment of all buildings within 150 feet of said lot shall be the required front yard, except that no front yard requirement resulting from the application of this section shall exceed twice the front yard requirement specified in **Table 5.01**.

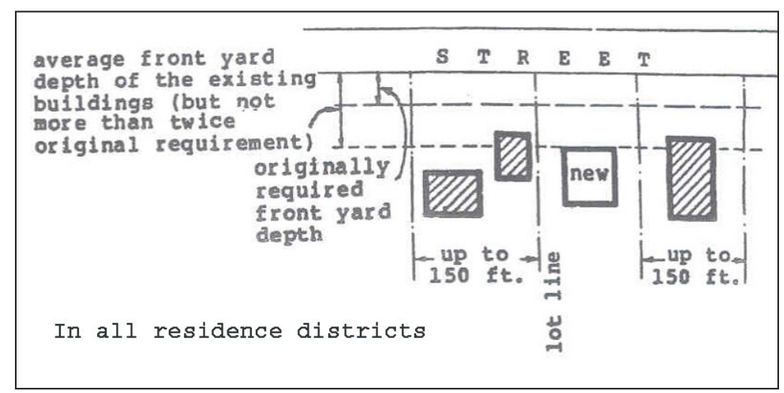


Figure 5.13 - Exception for Existing Alignment

3. The average of the existing alignment as used in paragraphs 1. and 2. of this section shall be calculated as follows:

   a. Multiply the actual front yard depth of each part of each existing building by the frontage of that part of the building measured parallel to the street, and

   b. Add the products thus calculated and divide the sum by the total of the frontage of all existing buildings.

SECTION 6.02, Paragraph 1, TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS

	RESIDENCE***	PUBLIC ASSEMBLY***	INSTITUTION	RETAIL & OFFICE				INDUSTRIAL	WAREHOUSE & OTHER
				General			Medical & Dental		
	(Number of Spaces per dwelling unit)	(Number of seats requiring one space)		Ground Floor	Other				
	(Number of square feet of gross floor area requiring one space)								
ZONING DISTRICT DEFINED BY MAXIMUM FLOOR AREA RATIO	0.15								
	0.20								
	0.25								
	0.30								
	0.35								
	0.40								
	0.50								
	0.75	2.0/2.3**	2	350	200*	400*	200*	800*	1200*
	1.00								
	1.50								
	1.75	2.0/2.3**	3	450	200	400	200	800	1200
	2.00								
	2.50								
	2.0/2.3**	5	550	350	600	250	800*	1200	
	2.0/2.3**	4	450	200	400	200	800	1200	

1. For the G-(DP) Special District, parking requirements shall be the same as those districts with a maximum floor area of 1.0, except as otherwise provided for in **Section 5.06.4.g**.

*Applicable to nonconforming uses.

**The greater requirement shall be provided for each dwelling unit containing more than two bedrooms and for each attached single-family dwelling containing two or more bedrooms. Bedrooms shall include any habitable room containing at least 100 square feet of area which could be converted to a bedroom other than a bathroom, kitchen, or living room.

***For use 8A. Limited Service Hotel in the G-1.75 (LSH) Limited Service Hotel District, the minimum number of spaces for each dwelling unit shall be 0.5 and no additional spaces shall be required for floor areas used for eating, drinking, dancing, meeting halls or similar purposes.

§6.02, paragraphs 2. through **7.** contain additional requirements by type of use.

4. In any district, where a row of two or more existing attached buildings in different ownership has a deeper front yard than that required by **Table 5.01** of this By-law, construction of any building or structure in the area between any one of said buildings and its required front yard line shall require a special permit from the Board of Appeals.

§5.55 – FRONT YARD FOR REAR LOT

Where a dwelling is to be located on a rear lot, the front yard depth shall be not less than the minimum rear yard specified in **Table 5.01**. A lot shall be considered to be a rear lot if a straight line drawn from any part of the proposed building, to and perpendicular to the street providing required access to the lot, passes through any part of a conforming main building, or site thereof, on another lot.

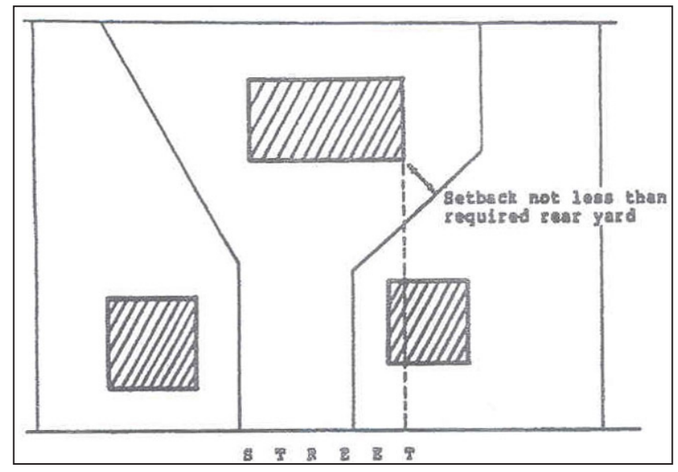


Figure 5.14 - Front Yard for Rear Lot

SIDE YARD REGULATIONS

§5.60 – SIDE YARD REQUIREMENTS

Where a minimum width of side yard is specified in **Table 5.01**, no building or structure shall be erected within the specified distance from either side lot line, except as permitted in **§§ 5.44** and **5.63**. (See illustrations on following pages)

§5.61 – PROJECTIONS INTO SIDE YARDS

Bays and porches, balconies, open fire escapes, chimneys and flues, all of which occupy not over one-third the length of the side wall, may project into a required side yard not more than one-third of its width and not more than four feet in any case. Belt courses, fins, columns, leaders, sills,

pilasters, lintels and ornamental features may project not more than one foot, and cornices and gutters not more than two feet, over a required side yard. In no case shall any such projection come within three feet of any side lot line.

§5.62 – FENCES AND TERRACES IN SIDE YARDS

Subject to **§5.45**, the provisions of **§5.60** shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to mitigate noise or other detrimental impact or provide greater safety, such as when a property is bounded by active train tracks.

§5.63 – ACCESSORY BUILDINGS OR STRUCTURES IN SIDE YARDS

Except as may be permitted in **§5.44**, in any S, SC, T, F, or M District no part of any accessory building or structure situated within 75 feet of the street line, or within a distance equal to three-fourths of the lot depth if that be less, shall extend within any required side yard. Elsewhere on the lot such buildings or structures may extend into the side yard one-half the required width, but such setback shall be no less than six feet. No accessory building or structure within a required side yard shall exceed 15 feet in height.

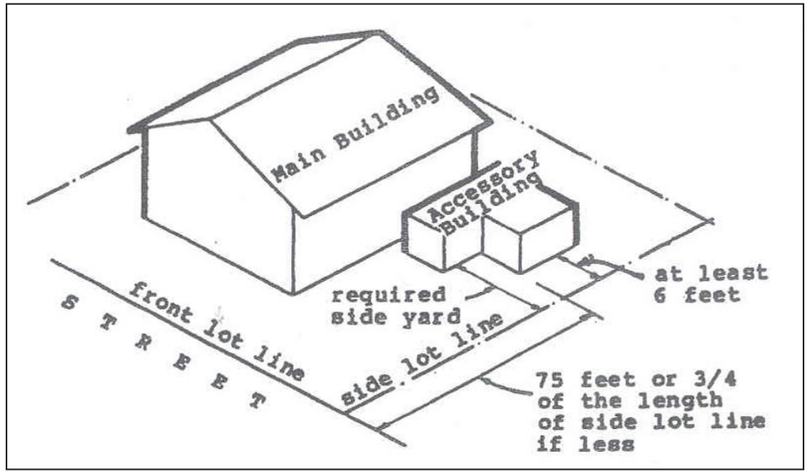


Figure 5.15 - Accessory Building or Structure in Side Yard Yard in S, SC, T, F, or M Districts

§5.64 – SIDE YARDS FOR NON-DWELLING USES IN BUSINESS OR INDUSTRIAL DISTRICTS

No side yards are required for permitted uses, other than dwellings, in L, G, O-2 or I Districts, except where a side lot line abuts an S, SC, T, F, or M District, in which case the side yard requirements of the S, SC, T, F, or M District shall apply.

REAR YARD REGULATIONS

§5.70 – REAR YARD REQUIREMENTS

No building or structure shall be built within the minimum depth from the rear lot line specified in **Table 5.01**, except as permitted in **§5.72**. In the case of a triangular lot with no rear lot line, the distance between any point on the building and corner of the lot farthest from the front lot line shall be at least twice the minimum depth specified in **Table 5.01**.

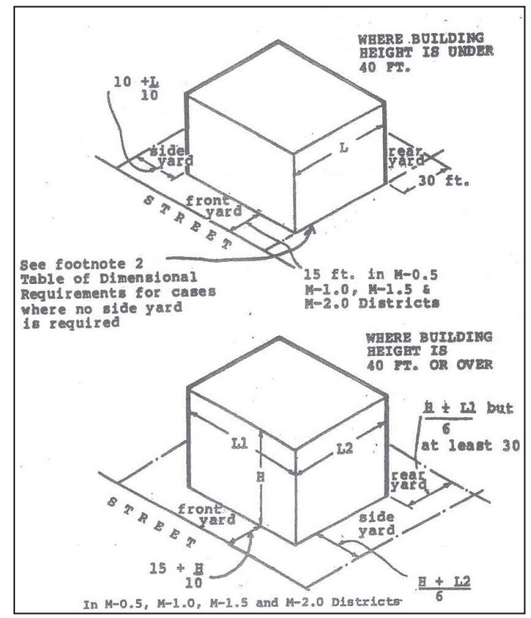


Figure 5.16 – Minimum Yard Requirements in M Districts (re: §§ 5.50, 5.60, 5.70)

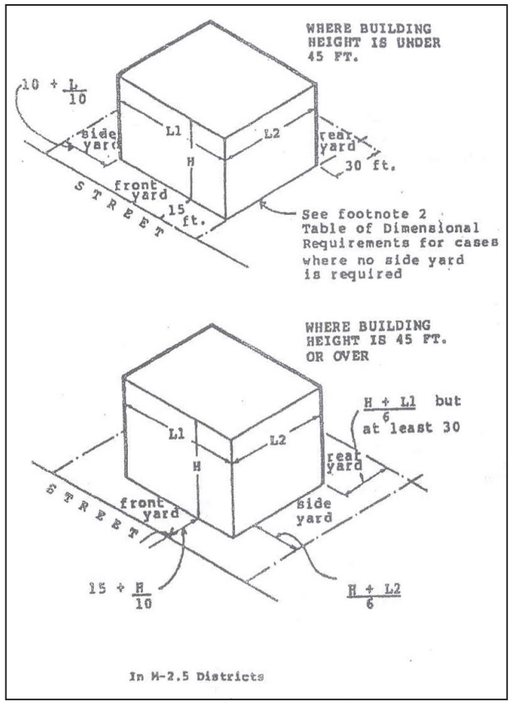


Figure 5.17 – Minimum Yard Requirements in M-2.5 District (re: 5.50, 5.60 & 5.70)

§5.71 – PROJECTIONS INTO REAR YARDS

Such projections as are permitted by **§5.61** into side yards may also be permitted into rear yards up to the same number of feet, but in no case within 10 feet of a rear lot line or within eight feet of an accessory building.

§5.72 – ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS

Except as may be permitted in **§5.44**, accessory buildings or structures may occupy up to 25 percent of the required rear yard provided that no such accessory building or structure within a required rear yard shall exceed 15 feet in height, nor be located closer than six feet to any side or rear lot line; nor shall an accessory building be closer than six feet to a principal building; however, if the rear lot line is adjacent to an alley, the setback for the accessory building shall be governed by the State Building Code.

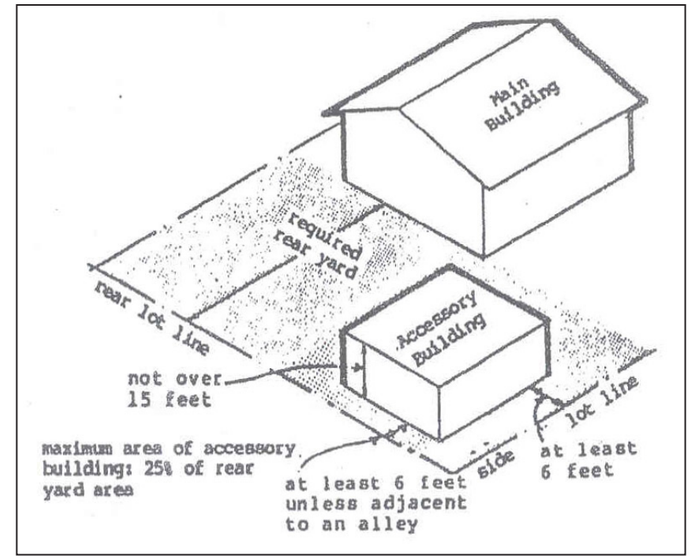


Figure 5.18 – Accessory Building or Structure in Rear Yard

§5.73 – REAR YARDS IN BUSINESS OR INDUSTRIAL DISTRICTS

1. Where a rear lot line in an L, G, O, or I District abuts an S, SC, T, F, or M District, the rear yard requirements as specified in **Table 5.01** shall be applied, except that no rear yard shall be less than 20 feet.

2. Where a rear lot line in an L, G, I or 0 District abuts a public parking lot owned by the Town, the abutting rear yard requirement shall be the same as the front yard requirement.

§5.74 – FENCES AND TERRACES IN REAR YARDS

Subject to **§5.45**, the provisions of **§5.70** shall not apply to fences, hedges or walls not over seven feet high above the natural grade nor to terraces, steps, uncovered porches, or other similar features not over three feet high above the level of the floor of the ground story. Piers, pilasters, columns, and posts not over sixteen inches square as supports may exceed the height limitation by not more than twelve inches. Uncovered porches or decks may not extend into the yard more than fifty per cent of the required yard setback but in no case closer than six feet to the property line. Fences or walls over seven feet high above the natural grade may be allowed by special permit in cases where the Board of Appeals determines that it is warranted to mitigate noise or other detrimental impacts or provide greater safety, such as when a property is bounded by active train tracks.

SETBACK OF TOP OF WALL

§5.80 – SETBACK REQUIREMENTS IN BUSINESS OR INDUSTRIAL DISTRICTS

In business or industrial districts where a minimum setback of top of wall from any lot line is specified in **Table 5.01**, the line of any parapet, cornice, eaves, or other top line of a wall that is perpendicular or within 45% of perpendicular shall not be located closer to any lot line to which it is parallel or substantially parallel than the distance specified in said section.

OPEN SPACE REGULATIONS

§5.90 – MINIMUM LANDSCAPED OPEN SPACE

Every lot in any residence district shall include landscaped open space with a total area not less than the percentage of gross floor area of all buildings on the lot as specified in **Table 5.01**.

§5.91 – MINIMUM USABLE OPEN SPACE

1. Where a minimum usable open space is required in addition to landscaped open space, there shall be included in every lot used in whole or in part for dwelling units intended for family occupancy an area of usable open space provided at the rate specified in **Table 5.01**. The percentage specified in **Table 5.01** shall be the percent of gross floor area of all buildings on the lot. In S, SC, T, and F Districts, a residential use with more dwelling units than are permitted as of right shall provide as much usable open space as required for the dwellings permitted as of right in that district.

2. In addition to the requirements of **§2.15, paragraph 3.**, open space shall be deemed usable only if:

   a. At least 75 percent of the area has a grade of less than eight percent;

   b. At least 75 percent of the area is open to the sky, except that roofed space separated from outdoor unroofed open space by doors and windows constructed of transparent material which can be opened in good weather to the extent of 40 percent of intervening wall area may be counted toward the 25 percent of usable open space not open to the sky provided such space is designed and maintained for recreational use;

   c. Each dimension of such space is at least 15 feet;

   d. Such space is at least 10 feet from the front lot line if it is required to serve a multiple dwelling; and

   e. If such space is above ground level on a roof, terrace, or the like, and is designed and maintained for recreational use, it may be counted up to 50 percent of the usable open space requirement, provided that for every two percent counted toward that requirement an additional one percent of landscaped open space, beyond that required by **Table 5.01**, shall be provided at ground level.

§5.92 – EXCEPTION FOR RESIDENTIAL STRUCTURES DESIGNED FOR TRANSIENT OCCUPANCY

The requirements for minimum usable open space shall not apply to hotels, hospitals, or other residential structures intended and designed primarily for transient occupancy.

ARTICLE VI
VEHICULAR SERVICE USES REQUIREMENTS

§6.00 - INTENT OF REQUIREMENTS
§6.01 - GENERAL REGULATIONS APPLYING TO REQUIRED OFF-STREET PARKING FACILITIES
§6.02 - OFF-STREET PARKING SPACE REGULATIONS
§6.03 - LOCATION OF REQUIRED OFF-STREET PARKING FACILITIES
§6.04 - DESIGN OF ALL OFF-STREET PARKING FACILITIES
§6.05 - BICYCLE SPACE AND DESIGN REGULATIONS
§6.06 - OFF-STREET LOADING REGULATIONS
§6.07 - DESIGN AND LAYOUT OF OFF-STREET LOADING FACILITIES
§6.08 - REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS
§6.09 - REGULATIONS APPLYING TO OUTDOOR AUTOMOBILE RENTAL OR SALES AND STORAGE FOR RENTAL OR SALE

§6.00 – INTENT OF REQUIREMENTS

1. It is the intent of this Article of the By-law that any use of land involving the arrival, departure, storage, or entry upon the land of motor vehicles be so designed and operated as to reduce hazard to pedestrians upon the public sidewalks, to protect the use of adjoining property from nuisance caused by the noise, fumes, and glare of headlights which may result from the operation of cars parking off the street, and at the same time to reduce congestion in the streets and contribute to traffic safety by assuring adequate places for the standing and storing off the street of motor vehicles associated with any use of land.

2. In order that all structures and land uses eventually be provided with sufficient off-street parking space to meet the needs of persons employed at or making use of such structures or land uses, no application for a permit for the erection of a new structure or substantial alteration of an existing structure to the extent specified in **§6.01, paragraph 2.** or for the development of a land use, shall be approved unless the plan for off-street automobile parking facilities is in accordance with the provisions of **§6.04**.

3. Where a parking facility is a principal use of any lot, it shall not be opened to use until the Building Commissioner has issued a certificate of compliance to the effect that the lot conforms to the provisions of **§6.04** or any other conditions specified by the Board of Appeals. Such certificate may be revoked by the Building Commissioner upon violation of any of the conditions set forth in **§6.04** or imposed by the Board of Appeals.

4. In order that all structures and uses requiring the large-volume delivery of goods by truck as part of their functions eventually be provided with necessary space for off-street loading as required in **§6.06**, no application for permit for the erection of a new structure or substantial alteration of an existing structure to the extent specified in **§6.06, paragraph 2.**, or for the development of a land use, shall be approved unless the plan for off-street loading facilities is in accordance with the provisions of **§6.07**.

5. Uses specifically regulated in **§§ 6.08** and **6.09** shall be permitted only if they conform to the locational and design provisions of those sections.

6. It is further the intent of this Article to encourage the use of bicycles for many types of personal travel by means of assuring the residents of multi-family residential buildings of the availability of convenient and safe places for storage of their bicycles, sheltered from precipitation, and secure against theft or vandalism of the bicycles or accessories thereon. Such facilities shall be provided in accordance with the general regulations of **§6.01**, as well as the bicycle parking space and design regulations of **§6.05**.

§6.01 – GENERAL REGULATIONS APPLYING TO REQUIRED OFF-STREET PARKING FACILITIES

1. Structure and land uses in existence or for which building permits have been issued at the date of adoption of this By-law shall not be subject to the requirements of this Article so long as the kind or extent of use is not changed, provided that any parking facilities now serving such structures or uses shall not in the future be reduced below such requirements.

2. Whenever there is an alteration of a structure or a change or extension of a use which increases the parking requirements by 15 percent or more according to the standards of **§6.02** and **§6.05**, the total additional parking requirements for the alteration, change, or extension shall be provided in accordance with the requirements of that section. The calculation of a 15 percent increased requirement shall be based on the aggregate of alterations, changes, or extensions undertaken since July 27, 1962, or since the effective date of any later change in the parking requirements applicable to the premises prior to any alteration, change or extension.

   a. In F, M, L, or G Districts, when a structure is converted for one or more additional dwelling units and the conversion results in an increased parking requirement, parking requirements for the entire structure shall be provided in accordance with the requirements of **§6.02** and **§6.05**. However, the Board of Appeals by special permit under **Article IX** may waive not more than one-half the number of parking spaces required under **§6.02** and **§6.05**.

3. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.

4. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the employees or other persons whom the facilities are designed to serve. Required parking spaces shall not be assigned to specific persons or tenants nor rented or leased so as to render them in effect unavailable to the persons whom the facilities are designed to serve, except as described below in **§6.01.5**. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance, or a hazard, or unreasonable impediment to traffic.

5. Parking spaces that do not require the moving of any motor vehicle to access such spaces may be rented or leased to a CSO per Use 22A of **§4.07**. Where the computation of allowed CSO parking spaces results in a fractional number, only the fraction of one-half or more shall be counted as one. The Building Commissioner, in reviewing any open air parking lot license for zoning purposes, shall forthwith transmit a copy to the Planning and Community Development

Director. Comments from these departments to the Selectmen shall include, but are not limited to, issues such as screening, nuisance issues, hours of cleaning or other operations, circulation of vehicles, traffic concerns, or other site-specific concerns, and may include recommended conditions to the Board of Selectmen. In the case of a Special Permit, in addition to the conditions for approval described in **§9.05**, a demonstration must be made, through utilization surveys and other techniques where appropriate, that previous on-site parking demand will not be shifted to parking spaces on adjacent public streets to the detriment of the neighborhood as a whole. All parking facilities renting or leasing spaces to a Car Sharing Organization (CSO) shall have non-illuminated signage not to exceed three square feet per parking facility that includes the name and phone number of the property owner or lessor to be contacted for any nuisance issues that may arise. Such signage is not subject to the design review process as described in **§7.03, paragraph 2**.

§6.02 – OFF-STREET PARKING SPACE REGULATIONS

1. Off-street parking facilities shall be provided for each type of land use, in accordance with the following table, which is part of this Article, except as otherwise permitted in this section, and subject to the further provisions of **Article VI**. Parking spaces for the physically handicapped shall meet the number and dimensional requirements set forth in the Rules and Regulations of the Architectural Access Board and any other applicable provisions of law.

   a. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.

   b. When a change or expansion of a non-residential use in a business district is proposed primarily or entirely within an existing building, the Board of Appeals by special permit may waive up to 10 spaces, or up to 50%, of any increased requirement, whichever is greater. In determining whether a waiver of parking is appropriate, the Board of Appeals shall consider evidence which shall be provided by the applicant regarding the following items:

      1) the operating characteristics of the proposed use including but not limited to a description of the type of business, hours of operation, number of employees, and delivery service requirements;

      2) the peak parking demand for the proposed use in relation to the peak parking demand generated by other uses in the area;

      3) the need for and provision of employee parking; and

      4) the availability and/or shortage of existing public parking and transit facilities in the area.

   c. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually. The number of spaces required in a common parking facility may be reduced below this total by special permit under **Article IX** if it can be demonstrated to the Board of Appeals that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility.

SECTION 6.02, Paragraph 1, TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS

	RESIDENCE***	PUBLIC ASSEMBLY***	INSTITUTION	RETAIL & OFFICE			INDUSTRIAL	WAREHOUSE & OTHER
	(Number of Spaces per dwelling unit)	(Number of seats requiring one space)		General		Medical & Dental		
				Ground Floor	Other			
	(Number of square feet of gross floor area requiring one space)							
ZONING DISTRICT DEFINED BY MAXIMUM FLOOR AREA RATIO	0.15			200*	400*	200*	800*	1200*
	0.20							
	0.25	3	350					
	0.30							
	0.35							
	0.40			200	400	200	800	1200
	0.50							
	0.75	4	450					
	1.00							
	1.50			350	600	250	800*	1200
	1.75	5	550					
	2.00							
	2.50							

1. For the G-(DP) Special District, parking requirements shall be the same as those districts with a maximum floor area of 1.0, except as otherwise provided for in **Section 5.06.4.g**.

2. For the I-(EISD) Special District, parking requirements shall be the same as those districts with a maximum floor area ratio of 1.0, except as otherwise provided for in **Section 5.06.4.j.**

*Applicable to nonconforming uses.

**The greater requirement shall be provided for each dwelling unit containing more than two bedrooms and for each attached single-family dwelling containing two or more bedrooms. Bedrooms shall include any habitable room containing at least 100 square feet of area which could be converted to a bedroom other than a bathroom, kitchen, or living room.

***For use 8A. Limited Service Hotel in the G-1.75 (LSH) Limited Service Hotel District, the minimum number of spaces for each dwelling unit shall be 0.5 and no additional spaces shall be required for floor areas used for eating, drinking, meeting halls or similar purposes.

§6.02, paragraphs 2. through **7.** contain additional requirements by type of use or location.

d. Where part of a lot is or has been acquired by the Town to be used by the Town for a public parking or off-street loading facility or for facilities accessory to public parking and off-street loading, the parking requirements on the remaining property in private ownership shall be reduced by the number of spaces that could have been provided on the part of the lot so acquired by the Town, calculated on the basis of one space per 400 square feet of lot area so acquired.

2. Residence Uses shall include Uses 1 through 8 inclusive, 51, 51-A, 52, and 52-A, as listed in **Article IV**.

   a. For hotels, each sleeping room shall equal one dwelling unit. For lodging houses, each ten sleeping rooms shall equal one dwelling unit. Where sleeping rooms contain beds for more than two persons, each 20 beds shall equal one dwelling unit.

   b. For that floor area of hotels used for eating, drinking, dancing, meeting halls or similar purposes, parking spaces shall be provided according to the requirements for Public Assembly Uses. Where no fixed seats are used, 20 square feet of floor area shall equal one seat.

   c. A low-rent housing project of the Brookline Housing Authority for elderly persons or elderly families (as defined in applicable state or Federal legislation[2]) need not provide more than one-fifth the number of spaces which would otherwise be required by this section. The foregoing sentence shall cease to be applicable when and if such project is no longer operated by a public body to provide low-rent housing for such elderly persons or elderly families.

   d. The number of spaces required for housing (other than as specified in subparagraph c. above) having age of occupant or maximum rents or maximum sales prices controlled in order to comply with the conditions of Federal, state, or local legislation or regulations or on-site unit approved per **§4.08** thereunder may be reduced by the Board of Appeals by special permit where it can be demonstrated that the parking needed for occupants and visitors will be below that otherwise required by this section and that the number of spaces otherwise required by this section could eventually be accommodated on the site should the building ever be changed to other kinds of occupancy requiring additional parking spaces. Special permits granted under this section shall apply only for the type of rents and occupancy specified at the time of application, and shall not reduce the parking requirement below one-fifth of the number of spaces which would otherwise be required by this section.

   e. For a dwelling unit which is occupied by three or more unrelated persons (including lodgers), the parking requirement for the dwelling unit shall be twice that indicated in the Table of Off-Street Parking Space Requirements in **§6.02**.

   f. For residential uses in M, L, and G districts, ten percent of all required parking spaces shall be designed and marked for use by visitors and tradespeople. For mixed use developments, the number of visitor spaces shall be based on the parking requirement for the residential use only.

   g. If residential uses include an extended care facility, one additional space shall be provided for each eight patient beds.

[2] General Laws c. 121B, s. 1 and 42 U.S.C. s. 1437A, both as amended and equivalent provisions of law from time to time in force.

h. The number of off-street parking spaces required for life care facilities as defined by this By-law or other forms of congregate elderly housing defined by the Commonwealth of Massachusetts' Department of Elder Affairs, shall be subject to a special permit from the Board of Appeals. However, in no instance shall the total number of off-street parking spaces be less than twenty-five percent of the spaces which would otherwise be required by this section. An approved Transportation Access Plan shall be required for any parking reduction and shall evaluate the parking needs not only of residents but also of employees and visitors.

i. Residential uses on any lot for which any portion of the lot is within the Transit Parking Overlay District, notwithstanding the requirements of **§3.02 paragraph 4**, must provide no fewer off-street parking spaces per dwelling unit than 1 for studio units, 1.4 for one-bedroom units, 2 for two-bedroom units, 2 for dwelling units of three or more bedrooms.

3. Places of Public Assembly shall include Uses 9, 12 to 14 inclusive, 16, 30, and 34, as listed in **Article IV**.

a. Where Places of Public Assembly are provided with benches rather than fixed individual seats, each 1.5 linear feet of bench shall equal one seat.

b. Where no fixed seats are used, each 20 square feet of public floor area shall equal one seat.

c. Places of worship need not provide the requirements specified in this section.

d. Bowling alleys shall provide two parking spaces for each alley.

e. For recreational or social uses primarily designed for neighborhood or Town-wide activities and owned or operated by an agency of the Town, the Board of Appeals may by special permit modify the requirements of this section.

f. For any place of public assembly that obtains a license for seasonal outdoor seating subject to **§8.10.8** of the Town's General Bylaws, the additional seasonal outdoor space shall be exempt from parking requirements.

4. Institutions shall include Uses 10, 11, 15, 17, and 19 as listed in **Article IV**.

a. Institutional uses intended primarily for children under 15 need not provide more than one-third the requirement specified, and parking spaces for safe drop-off and pick-up shall be provided to the satisfaction of the Director of Engineering/Transportation, who may take into consideration safety factors that include, but are not limited to, the number of children being dropped off, the time of the drop-off , speed limit for vehicles on the roadway abutting the drop-off, access to and from such spaces, pedestrian and vehicle flow, proximity to crosswalks, bus stops and/or intersections and signage.

b. Hospitals shall provide one parking space for each four patient beds. Hospitals, sanitariums or convalescent homes primarily providing long-term custodial care for patients need not provide more than one parking space for each eight patient beds.

c. Under a special permit the Board of Appeals may permit modification in the requirements specified in this Article as applied to Use 10 and Use 15 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

5. Retail and Office uses of land or structures shall include Uses 18, 20, 20A, 20B, 21, 26, 27, 29, 31 to 33 inclusive, 35 to 39 inclusive, 41, 58, and 59 as listed in **Article IV**.

a. Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Building Commissioner shall determine the area to be considered equivalent to floor space.

b. Office or clinic for medical or dental practice (Use 20) shall provide parking in accordance with **§6.02, paragraph 1.** or shall provide three parking spaces per doctor, whichever is greater.

c. Where a principal use on a lot is a drive-in use whose customers or clients will remain in their cars while purchasing or consuming a product or service, off-street parking facilities shall be provided to a number twice the number specified in the table in **§6.02, paragraph 1.**

d. Where a use is of such a kind that the occupancy of floor-space by customers, clients, or employees is substantially below the normal or average for retail and office uses, such as a shop for the retail sale of pianos, the Board of Appeals by special permit may waive up to half the number of parking spaces specified in the table in **§6.02, paragraph 1**.

6. Industrial uses of land or structures shall include Uses 25, 25A, 28, 28A, 42, and 44 to 46 inclusive, as listed in **Article IV**.

Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Building Commissioner shall determine the area to be considered equivalent to floor space.

7. Warehouse and Other Uses of land or structures shall include Uses 40 and 43, as listed in **Article IV**.

Where a principal use on a lot is an open-air use not enclosed in a structure, the area of the lot devoted to such use shall be considered to be floor space for purposes of calculating parking requirements. Where the area devoted to such use is not clearly determinable, the Building Commissioner shall determine the area to be considered equivalent to floor space.

§6.03 – LOCATION OF REQUIRED OFF-STREET PARKING FACILITIES

1. Required off-street parking facilities shall be provided:

a. On the same lot or premises with the principal use served.

b. Where the requirements in **subparagraph a.** above cannot be met, the Board of Appeals by special permit under **Article IX** may authorize within the same district required parking on any lot in the same ownership within 400 ft. of the principal use served, subject to such bond or other assurance of permanence as it may deem adequate.

2. With the exception of housing subject to control of age of occupants or maximum rents or maximum sales prices in order to comply with the conditions of Federal, state or local legislation or regulations thereunder relating to subsidy for low or moderate income housing, all accessory parking facilities with fifty or more parking spaces in M-l.5, M-2.0 and M-2.5 Districts shall be designed so that no more than 20 percent of said spaces shall be located in the open, the remainder to be located in an underground structure as regulated in **§5.44** or within the main structure.

§6.04 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

1. Parking facilities shall be occupied only by passenger cars and commercial vehicles not exceeding seven and one-half feet in width and 18 feet in length, unless the special standards provided in **paragraph 8** of this section are met.

2. The minimum dimensions of stalls and aisles shall be as follows:

a. Standard stall width shall be 8.5 feet; compact stall width shall be 7.5 feet.

b. Standard stall depth shall be at least 18 feet for angle parking and 21 feet for parallel parking; compact stall depth shall be 16 feet for angle parking and 18 feet for parallel parking. Such dimensions may include no more than two feet of any landscaped setback area adjacent to the front or rear of a stall used for bumper overhang.

c. Minimum width of aisles providing access to stalls for one-way traffic only, varying with the angle of parking and stall width, shall be:

Table 6.01 – Dimensional Requirements for Parking Stalls and Aisles

Angle of Parking	Minimum Aisle Width			
	7.5′ Stall (Compact)	8.5′ Stall	9.0′ Stall	10.0′ Stall
Parallel	10 feet	12 feet	12 feet	11 feet
45°	12 feet	13 feet	12 feet	12 feet
60°	16 feet	17 feet	16 feet	15 feet
90°	20 feet	23 feet	22 feet	20 feet

When parking stalls of different widths are on opposing sides of the same aisle, the wider aisle width shall be required.

d. Minimum width of aisles providing access to stalls for two-way traffic shall be 20 feet or the aisle width required in (3) above, whichever is greater.

e. No more than 25% of the total number of parking spaces provided may be designated

for use by compact cars only. If authorized by special permit, the percent of compact spaces may be increased up to 50% provided that one additional parking space (either full size or compact), not to be included in the total number of spaces required pursuant to **§6.02, paragraph 1.**, is provided for every eight compact spaces proposed beyond the 25% allowed by right, but at least one additional space shall be provided in any case where a special permit is granted pursuant to this section.

f. In no case shall parking lots be designed to require or encourage cars to back into a public or private way in order to leave the lot; except for a parking stall where the sole access is an alley adjacent to the rear lot lines and so arranged that there is at least 20 feet of clear backing between the rear line of the parking stall and the opposite and more distant line of the alley.

g. Handicapped Accessible Parking Requirements: Parking garages or parking areas associated with all new development are required at a minimum to provide handicapped accessible parking in conformance with the standards in 521 CMR 23.2.1: Architectural Access Board regulations, as follows:

Total Parking in Lot	Required Minimum Number of Accessible Spaces
15-25	1
25-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total
1001 and over	20 plus 1 for each 100 over 1000

Required handicapped accessible parking spaces shall conform to the design and dimensional standards in **521 CMR 23.3** to **23.8** as related to location, size, aisle width, van accessibility and signage.

3. Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle. The Board of Appeals, however, may by special permit modify this requirement, and the dimensional requirements of **paragraph 2.** of this section where a parking facility is under full-time attendant supervision.

4. Entrance and exit drives, except as permitted in **paragraph 11.** below, shall be:

a. a minimum of 12 feet wide for one-way use only;

b. a minimum of 20 feet wide for two-way use;

c. a maximum of 20 feet wide at the street lot line in residence districts, and 30 feet wide in business and industrial districts, except that the Board of Appeals by special permit may modify these limitations upon reports from the Commissioner of Public Works and the Director of Transportation that an increased width would facilitate traffic and be safer, copies of such reports to be provided to the applicant;

d. located at least the following distance from a street corner, said distance to be measured from the intersection of the street lot lines or extension thereof:

1) 25 feet in all S, SC, T, and F districts;

2) 50 feet in all other districts, except that the Board of Appeals by special permit may modify this requirement after receipt of reports from the Commissioner of Public works and the Director of Transportation that such modification in distance would facilitate traffic and be safer and subject to the provisions of **§9.05**.

e. The grade and design of any driveway providing access to a required parking facility shall be such as to provide a clear view to the driver of any car exiting from the facility of traffic on the street and of pedestrians on the sidewalk, and in no case shall the grade of the driveway within 20 feet of the property line be greater than 10 percent.

f. Designed to insure maximum pedestrian and vehicular safety and minimize potential conflicts between pedestrians and motor vehicles. To do so, the Planning Board and Board of Appeals, as a condition of a special permit, and with technical input from the Building Commissioner and Director of Engineering and Transportation, may require that one or more of the following safety enhancements be provided:

1) Adequate sight distance so that exiting vehicles have a clear view of any pedestrian on the sidewalk within a minimum of five (5) feet to either side of the entrance or exit drive measured from six (6) feet behind the property line and along the centerline of the driveway;

a) Enhancements to the facility exit that will insure that all exiting vehicles will come to a complete stop before entering the sidewalk area, apron, or intersecting roadway.

b) Textured or marked ramps, drives, or driveway aprons (defined as that area where the sidewalk and exit drive are the same) as well as adjacent sidewalk area to provide a perceptible auditory and/or visual signal to pedestrians and exiting vehicles;

c) Modifications to required or proposed landscaping including but not limited to cut slopes, hedges, trees, bushes, or other streetscape improvements to insure that visibility is not impaired;

d) Modifications to the building setback where the exit to the parking facility is to be located to provide additional sight lines and visibility to exiting vehicles and pedestrians;

e) Visual and or auditory warning devices designed to alert approaching pedestrians and motor vehicle traffic that a vehicle is exiting the facility;

f) Other enhancements that provide the optimum level of pedestrian safety to insure adequate advance opportunity to detect an exiting vehicle from the parking facility. Such enhancements shall take into consideration potential physically challenging conditions that pedestrians may have including sight, auditory, or other physical disabilities;

g) Based on the particular siting or orientation of the building, or other special condition exhibited by the facility, other mitigation measures may also be required.

5. Setbacks for parking areas shall be provided as follows:

a. In all districts, parking stalls in parking lots shall be set back from the street lot line, a minimum of five feet and further to whatever extent may be necessary in the specific situation, as determined by the Building Commissioner, to avoid the probability of cars backing or otherwise maneuvering on the sidewalk upon entering or leaving the stalls.

b. In M-1.0, M-1.5, M-2.0, and M-2.5 Districts, the surfaced area of a parking lot and all entrance and exit drives shall be set back a minimum of 10 feet from all street lot lines and 5 feet from all other lot lines except where an access driveway crosses the street lot line. Such setback shall be 12 and 7 feet respectively where 2 feet of setback area is included in minimum stall depth as provided in paragraph 2., subparagraph b. of this section. Such setback area shall be landscaped and maintained, subject to **§5.45**.

c. In S, SC, T, F, and M-0.5 Districts, the surfaced area of a parking lot and all entrance and exit drives shall be set back in accordance with the following requirements, and such setback area shall be landscaped and continuously maintained substantially in accordance with the original approved plan:

1) from the front lot line, except where an access driveway crosses the street lot line, either the distance specified for building setback under **Table 5.01**, or the average of the setbacks of the buildings on the adjacent lots on either side, as calculated in **§5.54**, whichever is greater;

2) from the side lot line in the front yard and side yard, the distance specified for minimum side yard width under **Table 5.01**, except that for a driveway the distance may be reduced to 5 feet or one-third the driveway width, whichever is greater;

3) from the side and rear lot lines in the rear yard, a minimum of five feet. Such setback shall be seven feet where two feet of setback area is included in minimum stall depth as provided in paragraph 2., subparagraph b. of this section;

4) notwithstanding the provisions of subparagraphs 1), 2), and 3) above, a parking lot containing more than six vehicles shall be set back from all lot lines the distance specified for minimum front yard depth under **Table 5.01**.

d. In all districts, curbs shall be provided to prevent motor vehicles from being parked within

required setback areas, or beyond the boundaries of the lot where no setback is required.

e. In all districts, the Board of Appeals may by special permit authorize the owners of adjoining properties to establish common driveways under mutual easements provided that any such special permit shall not become effective until the easement has been recorded, notwithstanding the provisions of paragraphs b. and c. above.

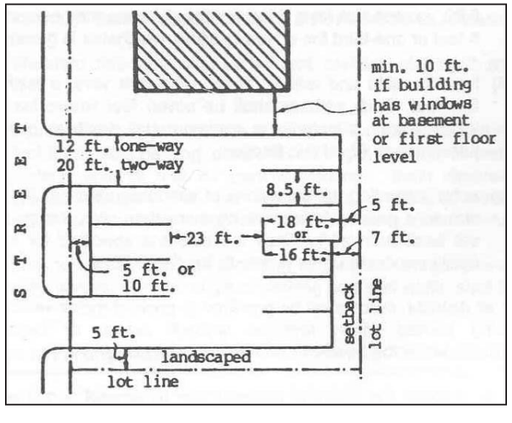


Figure 6.01 – Dimensions for Parking Layout
(See Paragraphs 2 through 5 for alternative dimensions)

6. Nearby properties shall be protected from lights, as follows:

   a. All illumination on parking lots must be shielded so as not to shine upon abutting or other nearby properties or streets.

   b. Properties other than the use served by the parking lot, which abut or are across the street from the parking lot shall be protected from headlight glare by either:

      1) A strip of at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

      2) A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade, or above the roof level, if on a roof. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50 percent of the face is open.

   c. Such screening shall be maintained in good condition at all times, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

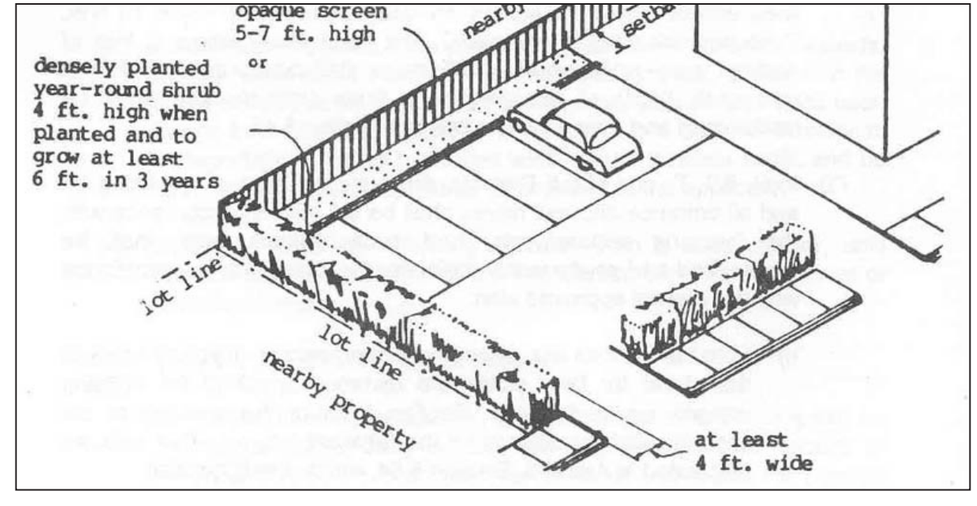


Figure 6.02 – Light Protection to Nearby Property from Parking Lot
(In Reference to Paragraph 6)

7. No stall shall be located within 10 feet of that part of a building having windows of habitable rooms at the basement or first-story level, except as permitted in paragraph 11.

8. The regulations for the parking of trucks, buses, or other commercial vehicles exceeding seven and one-half feet by 18 feet in size shall be as follows:

   a. Stalls to provide parking for commercial vehicles exceeding seven and one-half feet by 18 feet in size shall be located at least 100 feet from the nearest dwelling unit in a residence district.

   b. Stalls for such vehicles shall be specifically identified upon the 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.

   c. Whenever such lot is adjacent to residential districts it shall be screened from abutting property as provided in paragraph 6. above.

   d. In all business and industrial districts, screen plantings or other screening methods as are reasonably necessary to prevent commercial vehicles from being incongruous with the environment and surrounding properties shall be required. The sufficiency of the screening shall be determined by the Building Commissioner in consultation with the Planning Director.

9. Drainage, surfacing and maintenance of parking lots shall be as follows:

   a. The parking lot shall be marked so as to indicate clearly the space to be occupied by each

motor vehicle, in accordance with the dimensions specified in paragraph 2. of this section. Such markings shall be maintained so as to be plainly visible.

b. The area of the lot not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisance of dust, erosion, or excessive water flow across public ways.

c. Lots shall be kept clean and free from rubbish and debris.

10. The preceding regulations shall not apply to parking lots built and in use before July 27, 1962, which conformed to all applicable regulations in effect when established, except that where parking lots are increased in capacity after the effective date of this By-law, the expanded portion thereof shall be designed in accordance with the regulations of this section.

11. Parking lots for six vehicles or fewer shall conform to the regulations of this section, with the exception of paragraphs 2., 3., 4., (subparagraphs a. and b.) and 7.

12. Under a special permit after a hearing, the Board of Appeals may permit in lieu of the dimensional requirements of this section, where new parking facilities are being installed to serve existing structures and land uses, the substitution of other dimensional requirements provided such substitution is necessary to permit the installation of some or all of the off-street parking spaces that would be required for a similar new building, and provided that the provisions of paragraph 6. of this section are met.

13. At least 5% of the interior of a parking lot with 21 or more parking spaces shall be landscaped and continuously maintained. Planting along the perimeter of a parking area, whether for required screening or general beautification, shall not be considered as part of the 5% interior landscaping. The landscaping shall be distributed throughout the parking area and shall include trees as well as other plant material. Existing trees shall be preserved where possible. No planting bed shall have a width of less than 3 feet.

14. No more than 40% of the width, or twenty-four feet, whichever is less, of the façade of a building facing a way or within 45 degrees of parallel to a way may be devoted to the entrance of a garage, carport, or covered parking area. The measurement of such entrance shall be the distance between the inside edge furthest to the left of the leftmost vehicular opening and the inside edge furthest to the right of the rightmost vehicular opening to the garage(s), carport(s), or covered parking area(s), which measurement shall include any distance between vehicular openings.

a. The foregoing limitation shall not apply to a garage, carport or covered parking area located behind the plane of the rear wall of the principal building, as long as other dimensional requirements of the Zoning By-law are met.

b. For lots with more than one frontage on a way, a garage, carport, or covered parking area may be located facing the way that has the least visual and/or safety impact on the street, if a location in the side yard is not practicable, subject to the determination of the Building Commissioner.

c. The Board of Appeals by special permit may waive the requirements in **Section 6.04.14**, but only to the extent necessary, if it finds that a garage, carport, or covered parking area, accessed by or facing a side or rear yard on a lot is not feasible or would result in substantially less landscaped or usable open space on the lot.

§6.05 – BICYCLE SPACE AND DESIGN REGULATIONS

1. Spaces for off-street parking of bicycles shall be provided for the residents of each multi-family residential building in the amount of one space per five housing units or fraction thereof, not counting units having a ground floor entrance, and wherever else the Board of Appeals requires bicycle spaces as part of design review under **Section 5.09.4.d** "Circulation" and/or as transportation mitigation measures, subject to the further provisions of this section, **§6.01**, and adopted Planning Board Bicycle Guidelines. The requirements of this section shall not apply to that portion of a housing development designed exclusively for elderly persons.

2. The design, location and maintenance of bicycle parking facilities shall be guided by the Bicycle Guidelines approved by the Planning Board pursuant to **Section 5.09.4.n**, Design Review-Guidelines.

3. Changes in the requirements of this section, consistent with the intent of this Article, may be approved by the Board of Appeals for an individual building by special permit.

§6.06 – OFF-STREET LOADING REGULATIONS

1. Structures and land uses in existence or for which building permits have been issued at the date of adoption of this By-law shall not be subject to the requirements stated below so long as the kind or extent of use is not changed, provided that any loading facilities now serving such structures or uses shall not in the future be reduced below such requirements.

2. Where a structure existing on the effective date of this By-law is altered or extended in such a way as to increase the gross floor area by 5,000 square feet or more only this additional gross floor area shall be counted in computation of the off-street loading requirements.

a. Alterations or extensions aggregating less than 5,000 square feet subsequent to the effective date of this By-law do not require such provisions of loading space.

3. Where retail, or other, stores are designed or constructed as a group or as a unified building, the aggregate of individual stores shall be treated as one building for the purpose of calculating off-street loading facilities.

4. Where mixed uses occur, off-street loading facilities shall be the sum of the requirements for the several individual uses computed separately, except that such facilities may be less than said sum by special permit from the Board of Appeals when it can be demonstrated that such individual uses are not in operation at the same time.

5. Where part of a lot is or has been acquired by the Town to be used by the Town for a public parking or off-street loading facility or for facilities accessory to public parking and off-street

loading, the loading requirements on the remaining property in private ownership shall be reduced by the number of spaces that could have been provided on the part of the lot so acquired by the Town, calculated on the basis of one space per 600 square feet of lot area so acquired.

6. Off-street loading facilities shall be provided in accordance with the following requirements for each type of land use except Uses 1 to 6 inclusive, as listed in **Article IV**:

Table 6.02 - Table of Loading Requirements

	Number of Loading Bays Required for New Structures By Gross Floor Area of Structure (in thousands of square feet) ↓					
Uses as listed in Article IV ↓	**2-15**	**15-50**	**50-100**	**100-150**	**150-300**	**Over 300 (for each additional 150 or fraction thereof)**
• **Retail Trade** • **Wholesale and Storage** • **Industry** • **Communications and Utilities** (Uses 25 to 29 Inclusive, 33, and 40 to 46 Inclusive)	1	2	3	4	5	1
• **Consumer Service** • **Office Building** • **Hotel and Dormitory** • **Institution** • **Recreation** • **Education** (Use 7 to 21 Inclusive, 30 to 32 Inclusive, 34 to 39 Inclusive, 52 and 64)	1	1	2	3	4	1

7. The number of required loading bays may be reduced by special permit from the Board of Appeals where the adequacy of the reduced number of loading bays can be demonstrated based on the proposed uses, hours of operation, delivery service requirements, and allocation of loading facilities across the various uses and buildings. The Director of Engineering/Transportation and the Director of Planning and Community Development shall make recommendations to the Planning Board and Board of Appeals regarding any request for a reduced number of loading bays.

§6.07 – DESIGN AND LAYOUT OF OFF-STREET LOADING FACILITIES

1. Off-street loading facilities shall be designed to conform to the following specifications:

   a. Each required space shall be no less than 12 feet in width, 30 feet in length, and 14 feet in height, exclusive of drives and maneuvering space, and located entirely on the lot being served.

   b. There shall be appropriate means of access to a street or alley as well as adequate maneuvering space.

   c. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 12 feet.

   d. Loading spaces may be enclosed in a structure and must be so enclosed if located within 50 feet of a residence district where the use involves regular night operation.

   e. All accessory driveways and entrance-ways shall be graded, surfaced, drained, to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

   f. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance, or hazard or unreasonable impediment to traffic.

2. All required loading facilities shall be provided and maintained in accordance with the following requirements:

   a. They shall be provided and maintained so long as the use exists which the facilities were designed to serve.

   b. They shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article.

   c. Reasonable precautions shall be taken by the owner or sponsor of particular uses to assure the availability of required facilities to the delivery and pick-up vehicles that they are designed to serve.

3. By special permit, the Board of Appeals may permit, in lieu of the dimensional requirements of this section, the substitution of other dimensional requirements for the design and layout of off-street loading facilities, where it finds that such substitute dimensions would be adequate for the uses proposed for which the facilities are designed to serve. The Director of Engineering/Transportation and the Director of Planning and Community Development shall make recommendations to the Planning Board and Board of Appeals regarding any request for substituted dimensional requirements for loading facilities.

§6.08 – REGULATIONS APPLYING TO GASOLINE SERVICE STATIONS

Gasoline service stations shall be designed to conform to the following requirements:

1. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the Building Commissioner deems that access to or egress from a gasoline services station at such a location will create hazardous conditions.

2. The minimum lot area shall be 10,000 square feet.

3. The minimum frontage on a street shall be 100 feet.
4. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet; the minimum width shall be 20 feet.

5. The minimum distance of driveways, measured at lot line, shall be as follows:

   a. From corner lot line, 20 feet;

   b. From interior side lot line, 10 feet;

   c. From other driveway on same lot, 20 feet.

6. The minimum setback of any building (including a canopy) from all street lot lines shall be 40 feet, except that the Board of Appeals by special permit may permit canopies over pump islands to have a minimum setback of 5 feet at gasoline service stations located on Boylston Street, Brookline Avenue, and Commonwealth Avenue.

   a. The minimum setback of gasoline pumps from all street lot lines shall be 12 feet.

   b. A raised curb at least six inches in height shall be constructed along all lot lines except at driveway openings.

7. Properties in residential districts which abut a gasoline service station shall be protected from headlight glare by either:

   a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

   b. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade. Such wall, barrier, or fence must be opaque.

   c. Such screening shall be maintained in good condition at all time, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

8. All illumination on outdoor areas shall be shielded so as not to shine upon any property in a residence district.

9. All washing, lubricating, and making of repairs shall be carried on inside the building.

10. No repairs such as body work shall be performed.

11. No merchandise other than accessory, portable automotive merchandise may be displayed or sold on the premises.

12. The area of the lot not landscaped and so maintained shall be graded, surfaced with asphalt or other suitable material, and drained to the satisfaction of the Building Commissioner, to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

§6.09 – REGULATIONS APPLYING TO OUTDOOR AUTOMOBILE RENTAL OR SALES AND STORAGE FOR RENTAL OR SALE

A lot to be used for outdoor automobile rental or sales or storage for rental or sale shall conform to the following requirements:

1. No driveway shall be permitted to any street that carries traffic at such speed or in such quantity that the Building Commissioner deems that access to or egress from such use at such location will create hazardous conditions.

2. The minimum lot area shall be 10,000 square feet.

3. The minimum frontage on one street shall be 100 feet.

4. The maximum width of driveways and sidewalk openings measured at the street lot line shall be 30 feet, the minimum width, 20 feet.

5. The minimum distance of driveways, measured at lot line, shall be as follows:

   a. From corner lot line, 20 feet;

   b. From interior side lot line, 10 feet;

   c. From other driveway on same lot, 20 feet.

6. Properties in residential districts which abut or are across the street from a lot with such use shall be protected from headlight glare by either:

   a. A strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

   b. A wall, barrier, or fence of uniform appearance at least five feet high, but not more than seven feet above finished grade, or above the roof level, if on a roof.

   c. Such screening shall be maintained in good condition at all times, and shall not be permitted to exceed seven feet in height within required side yards. Such screening or barrier may be interrupted by normal entrances or exits, and shall have no signs hung or attached thereto other than those permitted in the district.

7. All illumination on a lot with such use shall be shielded so as not to shine upon any property in a residence district.

8. No repair work of any kind shall be performed.

ARTICLE VII
SIGNS, ILLUMINATION, & REGULATED FACADE ALTERATIONS

§7.00 - SIGN BY-LAW
§7.01 - SIGNS IN ALL DISTRICTS
§7.02 - SIGNS IN S, SC, T, AND F DISTRICTS
§7.03 - SIGNS IN M DISTRICTS
§7.04 - SIGNS IN I, G, L AND O DISTRICTS
§7.05 - TEMPORARY SIGNS
§7.06 - ILLUMINATION
§7.07 - EXCEPTIONS TO THE ABOVE
§7.08 - DESIGN REVIEW PROCEDURES
§7.09 - NONCONFORMANCE OF SIGNS

§7.00 – SIGN BY-LAW

1. Purpose: The purpose of this Article 7.00 is to improve pedestrian and traffic safety; to avoid the proliferation of signs; to minimize their adverse effect on nearby public and private property, to preserve the esthetic environment; to encourage the effective use of signs; and, to enable fair, consistent and content-neutral enforcement of this section.

Applicability: The following shall apply to all signs in all zoning districts.

Severability: The provisions of this By-Law shall be deemed to be severable. Should any of its provisions be held to be invalid, unenforceable or unconstitutional, the remainder of this By-Law shall continue to be in full force and effect.

Definitions: The following words and phrases used in this section shall have the meanings set forth below:

a. Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, attract attention to or announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. For the purposes of this by-law, the term "sign" shall not include the following:

i. Official traffic control devices required, maintained, or installed by a Federal, State or local governmental agency.
ii. Town of Brookline government signs and signs permitted by the Town on Town property.
iii. Building markers indicating the name of a building and date and incidental information about its construction, which marker is cut into a masonry surface or made of other permanent material.
iv. Flags, holiday lights and decorations.

b. Regulated Façade Alteration: Any change intended to be permanent in the visual appearance of the facade including the blocking of the view through a street-level window and any change in door or window style, unless such change consists of an exact replication in terms of size, color, location and detail of the replaced element. A regulated alteration shall also include installation of a fence, wall or driveway. A regulated facade alteration shall include:

i. commercial building facades in all districts; and
ii. residential building facades on lots with frontage on Beacon Street, Boylston Street, Brookline Avenue, Commonwealth Avenue, Harvard Street, or Washington Street, with the exception of buildings on lots located in S, SC, and T districts.

§7.01 – SIGNS IN ALL DISTRICTS

a. All regulated facade alterations shall be subject to the design review process in **§7.08.**

b. Signs with visible moving or moveable parts or with flashing animated or intermittent illumination are prohibited.

c. Signs or parts thereof attached to a building, shall not exceed a height of 25 feet above ground level.

d. Projecting or banner signs attached to a building shall not be internally illuminated, shall not exceed 12 square feet in area per face and shall not extend lower than a height of 8 feet.

e. Signs attached to a building shall not project above the roof or parapet line nor more than 12 inches out from the wall to which it is attached.

f. Signs shall not be permitted on building walls not parallel or within 45 degrees of parallel to the street.

g. No A-Frame or "Sandwich board" signs shall be permitted in any district.

h. Signs, whether attached to a building or free-standing, shall have an aggregate areanot exceeding two square feet for each foot of building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.

i. The aggregate area of all signs in any window, whether temporary or permanent, shall not exceed 30% of the area of such window, and the area of permanent window signs shall be included in the aggregate sign area permitted in paragraph (h) above.

j. All permanent free standing signs in excess of 1 square foot shall be set back one-half the depth of the required front yard setback from all street lot lines.

k. Permanent signs not attached to a building shall not exceed 30 square feet in area of

each face exclusive of posts or other structural supports and shall not exceed 19 feet in height.

l. Temporary, non-illuminated, signs may be placed on private property in all zoning districts, provided that the signs are in fact temporary, not involving any substantial expense, and are displayed in a manner which will not deface the building facade.

m. Non-illuminated signs that do not exceed 1.5 square feet in area identifying allowed users of individual parking spaces may be placed in all zoning districts.

n. All lighting shall be installed and maintained so that no direct light or glare shines on any street or nearby property.

o. No neon type or exposed gas-illuminated tube type of sign which is red, yellow, or green shall be located within 100 feet of a traffic signal unless it is shielded from the line of sight of any driver of a motor vehicle approaching the traffic signal.

p. There shall be not more than one freestanding sign per property, except that the Board of Appeals by special permit may allow additional freestanding signs on a property with more than one building or more than one street frontage but not more than one sign per building per street frontage. Whenever possible, signs shall be combined or clustered to minimize their number.

q. Signs, whether temporary or permanently attached to the exterior of buildings shall be made of substantial materials.

§7.02 – SIGNS IN S, SC, T AND F DISTRICTS

1. In any S, SC, T and F District, no permanent on-premises sign or other permanent on-premises advertising device shall be permitted except as follows:

   a. One sign located in a manner intended to identify the address and/or occupant of the premises not exceeding 1 square foot in area.

   b. Two bulletin board or announcement board signs not exceeding 10 square feet in area.

§7.03 – SIGNS IN M DISTRICTS

1. In any M District, no permanent on-premises sign or other permanent on-premises advertising device shall be permitted except as follows:

   a. As permitted in S, SC, T and F districts.

   b. Two signs not exceeding a total aggregate of 20 square feet in area.

   c. Dwellings with more than 200 units may have an additional aggregate area of 5 square

feet per 100 units above 100 units, up to a maximum aggregate area of 40 square feet.

§7.04 – SIGNS IN I, G, L AND O DISTRICTS

1. In any I, G, L or O District, no permanent on-premises sign or other permanent on-premises advertising device shall be permitted except as follows:

a. As permitted in S, SC, T, F and M districts

b. Signs on upper floors of a building may have signage additional to **§7.01(h)**, above, if located at the second floor level, but not exceeding the height limit of 25 feet as stipulated in **§7.01(c)**, at an additional aggregate area of a half a square foot for each foot of building face parallel or substantially parallel to a street lot line.

c. One sign not parallel or within 45 degrees of parallel to a street, not exceeding twelve square feet in area for structures with a single business and not exceeding eighteen square feet in area for structures with more than one business provided that the sign is proportionate to the area of the building wall to which it will be attached. Where such building wall contains the main business entrance or entrances, the Planning Board may allow a larger sign or signs, but in no case shall the aggregate area of such signs exceed two square feet for each linear foot of building face of that wall.

§7.05 – TEMPORARY SIGNS

1. In all districts, no temporary on-premises sign or other temporary on-premises advertising device shall be permitted except as follows:

a. The design and location of all temporary signs attached to or associated with a commercial property or use shall be subject to the approval of the Building Commissioner following guidelines approved by the Planning Board.

b. Except as provided in **§7.07(b)**, the Building Commissioner may approve temporary signs attached to or associated with a commercial property or use for no more than a four month period in any calendar year.

c. Temporary signs associated with a non-commercial property, dwelling or use not exceeding 12 square feet may be placed in all districts.

d. Signs related to an event on a specific date or dates shall be removed within 7 days after the event.

§7.06 – ILLUMINATION

1. In all districts, no sign shall be illuminated except as follows:

a. In any residence district, no sign shall be of the neon type or exposed gas-illuminated tube type; and any lighting of a sign shall be continuous, indirect white light installed in a

manner that will prevent direct light from shining onto any street or nearby property. In S, SC, and T Districts no sign shall be illuminated after 11 p.m.

b. In an S, SC, T, M-0.5, M-1.0, or M-1.5 District, no outdoor floodlighting or decorative lighting shall be permitted except lighting primarily designed to illuminate walks, driveways, doorways, outdoor living areas, or outdoor recreational facilities.

c. New internally illuminated signs in L, G, I and O Districts may be illuminated via low intensity LED light bulbs from 5 am until 11 pm; or ½ hour past the close of business, whichever is later. In the case of a business that operates 24 hours per day; internally illuminated signs shall be dimmed between the hours f 11 pm and 5 am. Signs shall be installed with an automatic timer to comply with this Section.

§7.07 – EXCEPTIONS TO THE ABOVE

1. Signs in all districts shall comply with this section of the By-Law except as follows:

a. In cases where an attached sign size larger than permitted in this Article VII is appropriate because of the size of a natural space for a sign on a facade or because of other architectural features of a building, a larger attached sign up to but not more than 25% larger than permitted by the specific regulations in this Article may be allowed by the Planning Board in accordance with the procedures of **§7.01(h)** only if such an increase is necessary to fill the most appropriate sign area on the building and the sign location is a proper one for an oversized sign. No lettering or other advertising message shall be placed in the additional sign area authorized by this paragraph. The increase of the background up to 25% shall not in any event permit an increase in the size of the lettering had the background increase not been permitted.

b. Upon the expiration of the initial four month period for a temporary sign for a commercial property or use, the Building Commissioner may permit a temporary sign for an additional four month period upon written application, if need is shown.

c. Additional temporary signs on a construction or development site may be allowed by special permit of the Board of Appeals which shall specify limits on the size and number of signs and the length of time to be maintained.

d. Permanent decorative floodlighting of institutional or historic buildings may be permitted by the Board of Appeals by special permit. Any permanent lighting permitted by the preceding sentence shall be continuous, indirect, white light, installed in a manner that will prevent direct light from shining onto any street or nearby property.

§7.08 – DESIGN REVIEW PROCEDURES

All permanent signs permitted in **§7.02, 7.03 and 7.04,** except signs permitted in paragraph 7.02(a) shall be subject to the following design review process:

1. ALL APPLICATIONS

a. The applicant shall submit to the Planning and Community Development Department an application form, plans of the proposed sign, facade alterations, if any, and photographs showing the existing building or site, and such other material as may be required by the Assistant Director for Regulatory Planning or designee, Building Commissioner or Planning Board.

2. ADMINISTRATIVE APPROVAL

a. Within 10 working days, the Assistant Director for Regulatory Planning or designee may administratively approve an application only if it solely relates to either an in-kind or substantially similar replacement of an existing sign following the guidelines of the Planning Board with respect to size, color, number, style, location and illumination. All administratively approved applications shall be subject to the notice and appeals procedures described in subparagraphs b, c, d, e and 3.b below.

b. Within 5 working days of any administrative approval, notice shall be provided to the Building Commissioner and those Town Meeting Members set forth in subparagraph 3.b below.

c. The address and a description of all administratively approved signs shall be noticed in the next Planning Board Design Review Meeting agenda.

d. Upon receipt of the notice of administrative approval, the Building Commissioner may issue a permit for a sign which conforms to the administrative approval; regulations of the Zoning By-Law and such other technical requirements as are within the Building Commissioner's jurisdiction.

e. An aggrieved party may appeal the administrative approval to the Planning Board within 15 days of the date of publication of the next Planning Board Design Review Meeting agenda containing the notice of approval by submitting a written request for Planning Board review of the application to the Assistant Director for Regulatory Planning.

3. PLANNING BOARD APPROVAL

a. Within 10 working days, all applications not subject to administrative approval as described above as well as those for which an aggrieved party has requested Planning Board review, shall be referred to the Planning Board along with recommendations, and accompanying materials for review and approval and shall be subject to the notice and appeals procedures described in subparagraphs b, c and d below.

b. After its receipt of the application and all required materials, the Planning Board shall review the application at its next public meeting for which legal notice can be given. At least seven days before such meeting, the Planning Board shall mail or deliver a notice of the meeting, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located, and to those Town Meeting Members of a precinct which is within 200 feet of such property as to which such application has been made. The notice requirements of this section shall be deemed satisfied if such notices are mailed and/or emailed to those individuals whose names

appear as Town Meeting Members in the records of the Town Clerk at the addresses as they appear in such records. The Planning Board shall submit its recommendations in writing to the applicant, aggrieved part(ies) and the Building Commissioner. The recommendations shall be based on the provisions of this Section of the Zoning By-law, the community and Environmental Impact and Design Standards in **§5.09** and such design guidelines as the Planning Board may adopt.

c. Upon receipt of the Planning Board's report or the lapse of thirty days from referral to the Board without such report, the Building Commissioner may issue a permit for a sign which conforms to the Planning Board's recommendations, if any, the regulations in the Zoning By-law, and such other technical requirements as are within the Building Commissioner's jurisdiction.

d. If the applicant or other aggrieved party does not agree with the staff administrative approval, recommendations of the Planning Board or other requirements imposed by the Building Commissioner, he may appeal to the Board of Appeals within 30 days through the special permit procedure in Article IX.

§7.09 – NON-CONFORMANCE OF SIGNS

Signs legally erected may continue to be maintained, subject to the provisions of **§5.83** of the Town of Brookline Sign By-law (Article 5.8); provided, however, that no such sign shall be permitted if it is enlarged, reworded (other than in the case of theatre or cinema signs or signs with automatically changing messages) redesigned or altered in any way including repainting in a different color, except to conform to the requirements of this By-law; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed thirty-five percent of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this By-law. Any exemption provided in this Article VII shall terminate with respect to any sign which:

1. has been abandoned;

2. advertises or calls attention to any products, businesses or activities which are no longer sold or carried on at the particular premises; or

3. has not been repaired or properly maintained within thirty days after notice to that effect has been given by the Building Commissioner.

ARTICLE VIII
NONCONFORMANCE

§8.01 - CONTINUANCE
§8.02 - ALTERATION OR EXTENSION
§8.03 - REBUILDING AFTER CATASTROPHE
§8.04 - ABANDONMENT
§8.05 - SUBSTITUTION

§8.01 – CONTINUANCE

Any nonconforming building, structure or use which lawfully existed at the time of passage of the applicable provision of this or any prior By-law or any amendment thereto may be continued subject to the provisions of this Article or may be changed to be conforming, but when so changed to be conforming it shall not be made nonconforming again.

§8.02 – ALTERATION OR EXTENSION

1. A use, or structure housing a use, which does not conform to the use regulations of **Article IV**, but which did conform to all applicable regulations when initially established shall not be altered, reconstructed, or enlarged and no building permit shall be granted therefore except in accordance with the following provisions; and provided that if the use or structure also falls under **paragraph 2**. of this Section, any change shall be subject to the provisions of that paragraph:

    a. Such change shall be approved by the Board of Appeals by special permit under the provisions of **Article IX**.

    b. Such change to a nonconforming use shall be permitted only upon the same lot or upon an adjoining lot that was owned by the owner of the lot occupied by the nonconforming use on the date that it became nonconforming.

    c. Any increase in volume, area, or extent of the nonconforming use shall not exceed an aggregate of more than 25 percent during the life of the nonconformity.

    d. No change shall be permitted which tends to lengthen the economic life of the nonconformity longer than a period reasonable for such amortization of the initial investment as to make possible the elimination of the nonconformity without undue hardship.

2. A use or structure which does not conform to the regulations of this By-law, other than **Article IV** as regulated by the provisions of paragraph 1. above, but which did conform to all applicable regulations when initially established, may be altered, repaired, or enlarged, except that any nonconforming condition may not be increased unless specifically provided for in a section of this By-law other than **paragraph 1., subparagraph a.** above.

3. Any alteration or extension of a sign or other advertising device shall comply with the requirements of **§7.06**.

§8.03 – REBUILDING AFTER CATASTROPHE

1. If a non-conforming building or use shall have been damaged or destroyed by fire, explosion or other catastrophe, it may be repaired or rebuilt, except in accordance with paragraph 2 below, provided that:

   a. the non-conforming nature of the repaired or rebuilt building is not increased in any respect;

   b. the repaired or rebuilt building shall be used in the same manner as the building being replaced or otherwise used in compliance with the use limitations of the applicable zoning district; and

   c. a building permit for the repair or rebuilding shall be applied for within two years from the date of damage or destruction; time incurred in resolving an appeal or other court action or insurance claim shall not be counted as part of the two year limit; the Zoning Board of Appeals may extend the two year period for good cause.

2. Except for buildings in Local Historic Districts whose repair or rebuilding is exempt from Preservation Commission review per **Section 5.6.7(f)** of the Town By-Laws, a nonconforming building listed in the National and/or State Registers of Historic Places as an individual or contributing property or located in a Local Historic District, which building has been damaged or destroyed by fire, explosion, or other catastrophe to such an extent that the cost of rebuilding would equal or exceed fifty percent of the replacement value of the building at the time of the catastrophe, as estimated by the Building Commissioner, may be rebuilt if approved by the Board of Appeals by special permit. In such cases, the Board of Appeals shall consider the recommendations of the Preservation Commission and the Planning Board.

3. Notwithstanding the provisions above, all other relevant sections of the Zoning By-Law, including but not limited to **Sections 5.09** and **7.06** and **Article 5.6** of the Town By-Laws, shall apply.

§8.04 – ABANDONMENT

A nonconforming use of a building or of land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when said use has been discontinued for a period of two years, or when the characteristic equipment and the furnishing of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within two years.

§8.05 – SUBSTITUTION

By special permit, the Board of Appeals may permit a nonconforming use to be by another use, provided that the substituted use is permitted in the same districts in which the prior nonconforming use is permitted, and provided that the new use will be less objectionable in terms of noise, traffic, or other characteristics than the prior use.

ARTICLE IX
ADMINISTRATION AND PROCEDURE

§9.00 - ENFORCEMENT
§9.01 - PROVISION FOR BOARD OF APPEALS
§9.02 - PENALTY FOR VIOLATION
§9.03 - SPECIAL PERMITS
§9.04 - PROCEDURES FOR APPLICATION AND REVIEW OF SPECIAL PERMITS
§9.05 - CONDITIONS FOR APPROVAL OF SPECIAL PERMIT
§9.06 - APPEALS FOR VARIANCE CALLING FOR ADVISORY REPORT FROM PLANNING BOARD
§9.07 - TIME LIMITS FOR SPECIAL PERMITS AND VARIANCES
§9.08 - NOTICE TO TOWN MEETING MEMBERS AND OTHERS
§9.09 - CONDITIONS FOR APPROVAL OF USE VARIANCE
§9.10 - EVENING MEETINGS
§9.11 - ADMINISTRATIVE SITE PLAN REVIEW REQUIREMENTS FOR EDUCATIONAL USES IN RESIDENCE DISTRICTS
§9.12 - ADMINISTRATIVE REVIEW FOR DAY CARE CENTERS

§9.00 – ENFORCEMENT

1. This By-law shall be enforced by the Building Commissioner. The Building Commissioner shall not issue a permit for the erection or alteration of any building or part thereof, unless the plans, specifications and intended use of such buildings are in all respects in conformity with the provisions of this By-law.

2. No person shall use or permit the use of any building or part thereof hereafter erected, or altered in its use or construction in whole or in part, or any building when the open spaces in the lot upon which it stands have been reduced in area or shape, until the Building Commissioner has issued a certificate of occupancy and use under the Commonwealth of Massachusetts State Building Code, and until the Building Commissioner has issued a certificate to the effect that the building so erected or the part thereof so altered, the proposed use thereof, the size of the lot and its yards and setbacks, and all other applicable requirements, conform to the provisions of this By-law.

3. In addition to the provisions of **paragraphs 1 and 2** of this Section, no building permit or certificate of occupancy shall be issued by the Building Commissioner on an application or petition to the Board of Appeals until all of the conditions and safeguards imposed by the Board of Appeals in accordance with **§9.05, paragraph 2**, regarding such application or petition have been complied with or compliance with conditions to be met at a future date has been arranged. Compliance with conditions and safeguards to be reviewed or approved by a Designated Authority shall be determined by the following procedure:

   a. Notice of Method of Compliance—The applicant shall complete and submit for signature a separate notice of compliance which shall include revised plans or other supporting material if applicable, to each board, commission, department head, or other administrative body or official (hereinafter the "Designated Authority") designated by the Board of Appeals to review or approve a specific aspect of the application or petition. The notice of compliance

shall document compliance with the condition and/or intent to comply provided that adequate assurances for compliance such as the delivery of a bond or deposit as permitted in **paragraph 4** are given. The sufficiency of the notice of compliance shall be within the discretion of the Designated Authority. If the Designated Authority fails to take action on the notice of compliance within 20 days of its receipt, compliance shall be determined by the Building Commissioner.

b. Declaration of Compliance—The applicant shall deliver to the Building Commissioner all of the required notices of compliance. For any notice of compliance that has not been acted upon by a Designated Authority within the 20 day period, the applicant shall affix to that notice a statement to that effect. Upon a determination by the Building Commissioner that the requirements of **paragraph 3, subparagraph a** of this Section have been met, a declaration of compliance shall be issued by the Building Commissioner, copies of which shall be promptly forwarded to each Designated Authority.

c. Building Permit—The Building Commissioner may issue a building permit once a declaration of compliance has been issued.

d. Certificate of Occupancy—Prior to the issuance of a certificate of occupancy, the Building Commissioner shall send a notice of pending certificate of occupancy to each Designated Authority which shall have 14 days from the date of that notice to request that the certificate of occupancy be withheld. If such action is requested in writing or was requested in a notice of compliance, the certificate of occupancy shall not be issued until the Building Commissioner has received a notice of completion, which may incorporate provisions for a bond or deposit as permitted in **paragraph 4**, from the Designated Authority that requested such action.

In the event of disagreement on the procedural requirements of this Section, or in the event of unreasonable administrative delay, the matter shall be referred to the Board of Appeals for resolution.

4. The Building Commissioner shall not issue a certificate of occupancy until all required site improvements have been completed in accordance with the final project plans, except that the Building Commissioner may issue a certificate of occupancy if the applicant posts a bond or deposit with the Town in the amount of 1 1/2 times the total installed cost of uncompleted required at-grade site improvements at the time of issuance of the certificate of occupancy. If said improvements (such as landscaping and fences) are not completed within one year from the time of issuance of the certificate of occupancy, said bond or deposit shall be forfeited to the Town, and the Town shall utilize the bond or deposit to complete the required at-grade site improvements.

5. Whenever application has been made to the Building Commissioner for a permit or certificate and the interpretation of this By-law with respect to the granting of such application is not clear, the Building Commissioner is authorized and directed to submit the matter to the Planning Board for the expression of its opinion before making his/her decision.

6. Within 60 days after the date this paragraph becomes effective, (June 19, 1969), every owner of a building containing a dwelling unit the occupancy of which became legally nonconforming

because of the Zoning By-law amendments adopted at the Town Meeting called for March 25, 1969, by reason of occupancy by unrelated persons shall file with the Building Commissioner a written statement for each affected dwelling unit on the form provided therefore to be known as a registration statement. The statement shall contain the following information for that dwelling unit and such other information as the Building Commissioner may require: street address, floor and apartment number, names of occupants and relationship to each other, if any type of tenancy, gross floor area, and number of parking spaces available for that dwelling unit. The registration statement shall be signed by the owner under the penalty of perjury. In the event that no registration statement is filed as required herein for any dwelling unit, it shall be presumed that on December 5, 1968, no nonconforming rights existed with respect to the occupancy of such dwelling unit by unrelated persons or parking requirements therefore.

§9.01 – PROVISION FOR BOARD OF APPEALS

There shall be a Board of Appeals to consist of three members and five associate members to be appointed by the Board of Selectmen. The terms of office for the members shall be three years and so arranged that the term of one member shall expire each year. The terms of office for the associate members shall be three years with staggered terms. A vacancy in any office shall be filled for the unexpired term in the same manner as in the case of an original appointment. The Board of Appeals shall have all of the powers and duties given to it by law, including the provisions in **The Zoning Act, General Laws, Chapter 40A**, as amended.

§9.02 – PENALTY FOR VIOLATION

1. Upon any well-founded information that this By-law is being violated, or upon his/her own initiative, the Building Commissioner shall take the appropriate immediate steps to enforce this By-law.

2. In accordance with the statutory provisions for enforcement, whoever violates any provision of this By-law shall be punished by a fine not exceeding $300.00 for each offense, and each day that such violation continues shall constitute a separate offense.

3. As an alternative to the provisions of paragraph 2. above, the Building Commissioner or his/her agents may issue non-criminal citations for violations of the Zoning By-law or approvals granted thereunder, pursuant to **Article 10.1 of the Town By-laws**.

§9.03 – SPECIAL PERMITS

The Board of Appeals may grant a special permit after public notice and hearing in such cases as are specified in this By-law, subject to the requirements and procedures set forth in **§§ 9.04, 9.05, 9.08** and **9.10**.

§9.04 – PROCEDURES FOR APPLICATION AND REVIEW OF SPECIAL PERMITS

An applicant shall follow the following procedures when filing an application for a special permit.

1. Plan Review for Determination of Compliance with the Zoning By-Law

The applicant shall first submit plans to the Building Commissioner, who shall advise the applicant in writing as to whether the plans comply or do not comply with the Zoning By-Law. The application for Plan Review, including all associated plans, drawings and documents, shall be in a form specified by the Building Commissioner.

A written determination of non compliance, hereinafter referred to as the "Denial Letter", shall identify the following:

a. All plans, drawings and documents submitted by the applicant that provided the basis for the review and determination by the Building Commissioner; and

b. Each section of the Zoning By-Law that the plans do not comply with and which will require a special permit from the Board of Appeals.

The Building Commissioner shall issue the Denial Letter within thirty (30) days after the application for Plan Review is complete. Copies of the Denial Letter shall be submitted to the Town Clerk, Planning Board and Zoning Administrator as part of the application for a special permit.

2. Compliance with Prior Decisions and Conditions of the Board of Appeals

As part of the Plan Review procedure, defined by **§9.04 1.**, the Building Commissioner, in consultation with the Zoning Administrator, shall determine whether the applicant's plans are in compliance with any applicable decision and corresponding conditions previously issued by the Board of Appeals. The Denial Letter shall note whether or not the subject property is in compliance with any prior decision of the Board of Appeals.

3. Special Permit Application to Town Clerk

Four copies of each application for a Special Permit shall be submitted to the Town Clerk. The application shall be filed in a form approved by the Board of Appeals and as specified by the Board's Rules and Regulations adopted pursuant to **Chapter 40A § 12**.

4. Determination of Complete Application

Prior to scheduling a hearing before the Board of Appeals, the Town Clerk shall submit one copy of the application to the Zoning Administrator who shall determine whether or not the application is complete. Within fourteen (14) days of receiving the application, the Zoning Administrator shall send a letter with a copy to the Town Clerk notifying the applicant that his/her application is complete or what additional information is required to complete the application. If the Zoning Administrator does not issue a letter within the fourteen day period, the application shall be deemed complete and the Town Clerk shall then proceed to schedule a hearing before the Board of Appeals. Applicants are encouraged to meet with the Zoning Administrator prior to filing with the Town Clerk to review the Rules and Regulations of the Board of Appeals that pertain to applications for Special Permits and to obtain a preliminary determination that all of the necessary information is contained in the application.

Once the Zoning Administrator determines that the application is complete or the fourteen day

period has expired, whichever occurs first, the Town Clerk shall maintain a copy and forward copies to the Planning Board and the Building Commissioner with the Zoning Administrator's determination, if any.

5. Planning Board Advisory Report

The Planning Board shall, within twenty (20) days of the date an application has been determined complete, submit an advisory report to the applicant and Board of Appeals after holding a public meeting. The advisory report, which shall be accompanied by appropriate plans, drawings, and other supporting documents, will provide a recommendation and proposed conditions as warranted.

6. Time Extension for Completion of Planning Board Advisory Report

An applicant may submit a written request to the Planning Board to extend the 20 day period for filing the advisory report with the Board of Appeals. The Planning Board, following consideration of the request at a public meeting noticed pursuant to **§9.08**, may grant such a request and provide written notice of such action to the applicant, Board of Appeals, Town Clerk, Building Commissioner and Zoning Administrator.

7. Board of Appeals Decision

The Board of Appeals shall not render a decision on an application for a special permit until the advisory report from the Planning Board has been received and considered or until the 20 day period, or any extension requested by an applicant and granted by the Planning Board for this period, has expired and after the Board of Appeals has held a public hearing.

The applicant may also submit a written request to the Board of Appeals requesting an extension of time or postponement of the public hearing on the application for a special permit. If the request is made after the legal notice for the hearing is published, the Board of Appeals shall consider such a request at a public meeting noticed pursuant to **§9.08**. The Board may also seek a report from the Zoning Administrator regarding the requested extension or postponement. The Zoning Administrator shall provide written notice of the Board of Appeal's decision on the request to the applicant, with copies to the Planning Board, Town Clerk and Building Commissioner.

§9.05 – CONDITIONS FOR APPROVAL OF SPECIAL PERMIT

1. The Board of Appeals shall not approve any such application for a special permit unless it finds that in its judgment all of the following conditions are met:

   a. The specific site is an appropriate location for such a use, structure, or condition.

   b. The use as developed will not adversely affect the neighborhood.

   c. There will be no nuisance or serious hazard to vehicles or pedestrians.

   d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

2. In approving a special permit, the Board of Appeals may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, such as but not limited to the following:

   a. Requirement of front, side or rear yards greater than the minimum required by this By-law.

   b. Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other devices, as specified by the Board of Appeals.

   c. Modification of the exterior features or appearances of the structure.

   d. Retention, replacement or planting of trees, including public shade trees as defined by **Massachusetts General Law Chapter 87**, and other landscape and natural features.

   e. Limitation of size, number of occupants, method or time of operation, or extent of facilities.

   f. Regulation of number, design, and location of access drives or other traffic features.

   g. Requirement of off-street parking or other special features beyond the minimum required by this or other applicable By-laws.

   If the Board of Appeals exercises its authority to attach conditions and safeguards which require expert review or approval by an administrative body or official, it shall appoint in its decision a Designated Authority as described in **§9.00, paragraph 3**.

§9.06 – APPEALS FOR VARIANCE CALLING FOR ADVISORY REPORT FROM PLANNING BOARD

The provision for a report from the Planning Board to the Board of Appeals required by **§9.04** shall also apply to appeals for a variance from the terms of this By-law.

§9.07 – TIME LIMITS FOR SPECIAL PERMITS AND VARIANCES

A special permit or variance shall become invalid unless the work or action authorized under it shall commence within one year after the Board of Appeals has granted such special permit or variance and thereafter shall proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances.

The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant a time extension not to exceed six months for a variance, and not to exceed one year for a special permit. Time extension requests shall not require an advisory report from the Planning Board.

§9.08 – NOTICE TO TOWN MEETING MEMBERS AND OTHERS

At least seven days before any public hearing on an application for a variance, a special permit, or an extension of time pursuant to **§9.07**, the Board of Appeals shall mail or deliver a notice of such hearing, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located and to those Town Meeting Members within all immediately adjoining precincts. At least seven days before any Planning Board Meeting, whether preliminary or final, on an actual or future application for a variance, special permit, or extension of time, the Planning Board shall mail or deliver a notice of such meeting to the applicants, to immediate abutters to the subject property, to each elected Town Meeting Member for the precinct in which the subject property is located, to Town Meeting members within all immediately adjoining precincts, to all neighborhood associations registered with the Planning and Community Development Department and to all those specified on the Planning Board interoffice and distribution lists which may be amended from time to time. Notice to Town Meeting Members shall be in accordance with the names and addresses in the records of the Town Clerk.

§9.09 – CONDITIONS FOR APPROVAL OF USE VARIANCE

1. The Board of Appeals may grant a use variance, provided statutory variance requirements are met, only on a lot that conforms to one or more of the following conditions:

   a. Expiration of the time limit specified for a previously granted use variance.

   b. Existence prior to January 1, 1977, of uses of the same general classification as the use variance applied for, on lots adjoining the lot in question on both sides, or, if the lot in question is a corner lot, on both the side and the rear.

   c. Existence on an adjoining lot of a use of such nuisance characteristics as to render unreasonable any conforming use of the lot in question.

   d. Existence on the lot in question of a structure(s) of appearance compatible with its vicinity which is either of historical or architectural significance which shall be preserved or restored in a manner sufficient to justify the relief granted herein, and/or contains gross floor area excessive for the use permitted in the district wherein the structure is located, and which can reasonably be maintained as a visual and taxable asset only if a nonconformity of use is permitted. A special permit under **§5.09** shall be required in conjunction with every variance request pursuant to this subparagraph.

2. A use variance may be granted only if the Board of Appeals makes all of the findings required by statute for a variance, and further subject to all of the following limitations:

   a. The extent of the use nonconformity as to floor space, bulk, number of occupants or other relevant measure shall be no greater than the minimum necessary to provide relief from the statutory hardship.

   b. If the use is authorized under **paragraph 1, subparagraphs a or b** of this section by the prior existence of adjoining nonconformities or incompatibilities, then the use nonconformity on the lot in question shall be permitted no further from such prior adjoining conditions than the width of the lot or 100 feet, whichever is less;

§9.10 – EVENING MEETINGS

No public hearing shall be held on an application for a variance, a special permit, or an extension of time pursuant to **§9.07** earlier than 7:00 p.m.

§9.11 – ADMINISTRATIVE SITE PLAN REVIEW REQUIREMENTS FOR EDUCATIONAL USES IN RESIDENCE DISTRICTS

1. A project plan application for an educational use in a residence district shall be filed for any proposed development, which is an outdoor structure, exterior alteration, or addition, greater than 10,000 square feet, or any project which the Planning Director and Building Commissioner determine shall have major impacts on the surrounding neighborhood. The application shall be filed with the Planning Director at least forty-five (45) days prior to the application for a building permit. Such application shall consist of ten (10) sets of a written explanation of the project and plan(s) prepared, as appropriate, by an architect, landscape architect, professional engineer or land surveyor. Site plan(s) shall be drawn at a minimum scale of 1" equal 20'. In an initial meeting with the Planning Director, it shall be determined which of the following should reasonably be required for submission given the scope of the project.

   a. Evidence of the applicant's nonprofit educational status, except if a child care facility;

   b. Boundaries, dimensions and area of the subject lot(s);

   c. Use of the existing building or structures on the subject lot(s);

   d. Existing and proposed topography of the subject lot(s) at two (2) foot intervals;

   e. Existing and proposed easements and existing and proposed wetlands and watercourses, if any;

   f. All existing and proposed buildings, structures, parking lots, maneuvering aisles, driveways, driveway openings, pedestrian walks, loading areas, pick-up and drop-off areas, and natural areas and landscaping on the subject lot(s) with the dimensions thereof;

   g. Vehicular and pedestrian circulation both within the site and in relation to adjacent streets, properties and proposed project, and a traffic study, in accordance with **§5.09**, to evaluate safety impacts if the Planning Director determines in his/her reasonable judgment that a significant traffic impact will result;

   h. All facilities for sewage, refuse and other waste disposal, for surface water, drainage, utilities, and proposed screening, associated with the proposed development;

   i. All landscaping, including fencing, walls, planting areas, signs, exterior storage, and lighting associated with the proposed development;

   j. Facade elevations, floor plans and roof top utilities for any proposed new construction and/or alteration to the existing building or structure.

2. At the time the applicant files an application, the Planning Director shall give written notice of said filing to Town Meeting members in the precinct in which the proposed project is located and to immediate abutters of the property. The applicant shall give all reasonable assistance to the Planning Director in his/her review of the site plan, including, but not limited to, attendance of at least one meeting called by the Planning Director.

3. The Planning Director, upon receipt of the application, shall forthwith transmit a copy to the Building Department, Public Works, Transportation Division, Preservation and Conservation Commissions, and Fire and Police Chiefs. These departments shall respond with their comments and recommendations to the Planning Director within twenty-one (21) day period thereof. Upon the receipt of any responses by the above-mentioned departments, and/or, upon the expiration of said twenty-one (21) day period, the Planning Director shall review said submittal for completeness and the proposed project for compliance with the dimensional and parking requirements in the Zoning By-law. Further, the Director may consider the application in light of the criteria set forth below:

   a. Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged wherever feasible;

   b. Adequacy of the methods for disposal of sewage, refuse and other wastes and of the methods of regulating surface water drainage;

   c. Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the site;

   d. Screening of parking areas and structure(s) on the site from adjoining premises or from the street by walls, fences, plantings or other means;

   e. Wherever feasible, major topographical changes and tree and soil removal shall be minimized, and any topographic changes shall be in keeping with the appearance of the neighboring developed areas;

   f. Location of utility service lines underground wherever possible. Consideration of the site design, including the location and configuration of structures and the relationship of the site's structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines;

   g. Avoidance of the removal of disruption of historical resources on or off-site. Historical resources include designated historical structures or sites, historical architectural elements or archaeological sites.

4. After said review the Planning Director may make recommendations to the applicant for changes in the site plan, which changes shall be consistent with accepted and responsible planning principles. Upon completion of the review process, the Director shall indicate, in writing, to the Building Commissioner that there has been compliance by the applicant with the procedural

requirements as stated above and whether in his/her opinion, the applicant has complied with the Zoning By-law. This statement shall be made within forty-five (45) days after receipt of the site plan application. If no such statement is received by the Building Commissioner within the above-stated time period, he/she shall accept an application for a building permit without receipt of such statement. If the applicant does not apply for a building permit within one (1) year from the date of the original site plan application to the Planning Director, the applicant must refile under the procedures set forth above.

§9.12 – ADMINISTRATIVE REVIEW FOR DAY CARE CENTERS

1. Prior to the issuance of a building permit from the Building Department, an applicant shall submit to the following departments — Planning and Community Development, Building, Transportation, Public Health, and Parks and Open Space — a description of the number of children and employees; operating hours, location of outdoor play activities (whether on-site or at a public playground); employee and drop-off/pick-up parking, and if requested, a site plan showing the location of outdoor play space and parking.

2. After review, the departments above may submit to the applicant, with copies to the Planning and Community Development Department, written recommendations for suggested improvements to the proposal, especially to improve safety and/or mitigate any negative impacts to the surrounding area.

3. Within 14 business days of receipt of the required information, the Planning Director, or designee, shall indicate in writing to the Building Commissioner that the procedural requirements, as stated above, have been met. If within the above stated time period, such statement is not received by the Building Commissioner, a building permit may be issued if all other applicable regulations have been met.

ARTICLE X
AMENDMENT AND INTERPRETATION

§10.00 - AMENDMENT
§10.01 - VALIDITY OF ACTION TAKEN UNDER PRIOR BY-LAW
§10.02 - UNIFORMITY IN EACH DISTRICT
§10.03 - UNSAFE WALLS AND FIRE ESCAPES
§10.04 - VALIDITY
§10.05 - EFFECT OF SUBSEQUENT AMENDMENT

§10.00 – AMENDMENT

This By-law may be amended from time to time at an annual or special Town Meeting in accordance with the provisions of **Chapter 40A of the General Laws**.

§10.01 – VALIDITY OF ACTION TAKEN UNDER PRIOR BY-LAW

Except as otherwise provided in **Chapter 40A of the General Laws**, the adoption of this By-law shall not affect the validity of any action lawfully taken under the provision of the Zoning By-law in effect prior to the date this By-law becomes effective.

§10.02 – UNIFORMITY IN EACH DISTRICT

Nothing in this By-law shall be construed as establishing regulations or restrictions which are not uniform for each class or kind of buildings, structures or land, and for each class or kind of use in each district.

§10.03 – UNSAFE WALLS AND FIRE ESCAPES

Nothing in this By-law shall prevent the restoration of a wall declared unsafe by the Building Commissioner, or the erection of iron fire escapes on any building in existence on June 24, 1922.

§10.04 – VALIDITY

The invalidity of any section or provision of this By-law shall not render invalid any other section or provision of this By-law.

§10.05 – EFFECT OF SUBSEQUENT AMENDMENT

In the case of amendments to this By-law or changes in the district or their boundaries subsequent to the date this By-law becomes effective, the right to continue the use or maintenance of any building, structure or premises which was lawful when such amendment or change became effective shall not be impaired by any such amendment or change, except as provided in **Chapter 40A of the General Laws**. Amendments shall not adversely affect special permits and variances issued or granted by the Board of Appeals prior to the date of the first advertisement of the amendments, provided the work or action authorized under such special permits or variances shall commence

within one year after the effective date of such an amendment and within six months of the issuance of the permit and thereafter shall proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances. The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant one or more extensions of time for periods not to exceed one year for each such extension. The date when each such amendment or change was made is shown by an appendix to this By-law on file in the office of the Town Clerk.

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First Advertised March 29, 1962
Adopted by Town Meeting May 23, 1962
Approved by Attorney General July 25, 1962
Effective Date May 23, 1962

Amendments to Sections 4.12; 4.30; 5.12; 5.30; 5.40, 5.43; 5.51; 5.63; 5.72; 5.74; 6.00; 6.11; 6.13; 6.21; 7.0; 8.1
First Advertised January 10, 1963
Adopted by Town Meeting March 27, 1963
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Amendments to Sections 2.03; 3.20; 4.30; 5.00; 5.44; 5.47; 5.54; 5.65; 5.91; 6.13; 9.2
First Advertised December 12, 1963
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Approved by Attorney General May 19, 1964
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Amendments to Section 6.11
First Advertised August 5, 1965
Adopted by Town Meeting September 21, 1965
Approved by Attorney General September 29, 1965
Effective Date October 1, 1965

Amendments to Sections 2.28; 4.30; 5.08;5.13; 5.15; 5.21; 5.31; 5.40; 5.44; 5.54; 5.73; 6.11; 6.13; 6.20; 8.0
First Advertised November 4, 1965
Adopted by Town Meeting December 14, 1965
Approved by Attorney General December 22, 1965
Effective Date December 24th, 1965

Amendments to Section 5.45
First Advertised April 14, 1966
Adopted by Town Meeting June 21, 1966
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Effective Date July 7, 1966

Amendments to sections 2.11; 2.28; 4.22; 4.30; 5.00; 5.14; 5.15; 5.31; 5.44; 5.54; 5.55; 5.63, 5.65; 5.72; 6.10; 6.13; 8.4; 9.2.
First Advertised July 11, 1967
Adopted by Town Meeting November 14, 1967
Approved by Attorney General November 30, 1967
Effective Date December 6, 1967

Amendments to Sections 2.09; 2.32A; 4.30; 5.00; 6.11; 9.0
First Advertised December 5, 1968
Adopted by Town Meeting April 10, 1969
Approved by Attorney General June 11, 1969
Effective Date December 5, 1969

Amendments to Sections 2.09 and 2.32A declared invalid by Superior Court on April 12, 1971

Amendments to Sections 2.09; 2.17; 2.21; 2.28; 2.41; 3.1; 4.10; 4.30; 5.00; 5.05; 5.09(added); 5.21; 5.31; 5.44; 5.46; 5.54; 5.61; 5.72; 5.91; 6.10; 6.11; 6.13; 7.0; 7.1; 7.2; 7.3; 7.4; 8.2; 9.0; 9.4; 9.7; (added); 10.5; Sections 5.06; 5.65; 5.93 (deleted)
First Advertised October 14, 1971
Adopted by Town Meeting December 13, 1971
Approved by Attorney General January 10, 1972
Effective date January 22, 1972

Amendments to Sections 4.20; 4.30; 5.00; 5.09; 5.31; 6.10; 6.11; 6.13
First Advertised August 31, 1972
Adopted by Town Meeting October 24, 1972
Approved by Attorney General January 24, 1973
Effective Date February 7, 1973

Addition of Article 11
First Advertised February 8, 1973
Adopted by Town Meeting April 4, 1973
Effective Date July 26 1973

Amendments to Sections 3.1; 4.10; 4.20; 4.30, 5.00; 5.03; 5.09; 5.11; 5.21; 5.30; 5.31; 5.42; 5.91; 6.10; 6.11; 6.12; 7.0; 7.3; 7.4; 8.1; Sections added 5.32; 7.5
First Advertised October 25, 1973
Approved by Attorney General March 29, 1974
Effective Date April 17, 1974

Amendments to Sections 5.21; 5.31
First Advertised January 22, 1974
Adopted by Town Meeting March 26, 1974
Approved by Attorney General May 22, 1974
Effective Date May 29, 1974

Amendments to Sections 5.00; 9.0 (effective as of Jan. 1, 1975); Section 2.50 deleted (effective as of Jan. 1, 1975)
First Advertised September 26, 1974
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Approved by Attorney General March 30, 1976
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Amendments to Section 9.3; Section added 9.8; Section 5.42 deleted
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Adopted by Town Meeting May 8 & 12, 1975
Approved by Attorney General September 24, 1975
Effective Date October 1, 1975

Amendments to Sections 2.27; 3.2; 4.30; 5.00; 5.09; 5.31; 5.43; 5.44; 6.13; 7.3; Sections added 2.01B; 5.48
First Advertised September 18, 1975
Adopted by Town Meeting November 18, 1975
Approved by Attorney General March 30, 1976
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Amendments to Sections 5.09; 7.0; 7.3
First Advertised January 22, 1976
Adopted by Town Meeting April 12, 1976
Approved by Attorney General July 30, 1976
Effective Date April 12, 1976

Amendments to Sections 4.30; 5.00; 5.11; 5.48; 6.00; 6.10; 6.11; 6.13; 7.0; 7.2; 7.3; 7.4; 8.3; 9.4; 9.6; 9.7; 10.0; 10.1; 10.5; Sections added

6.14; 9.9
First Advertised September 23, 1976
Adopted by Town Meeting November 15, 1977
Approved by Attorney General February 2, 1978
Effective Date November 16, 1976

Amendments to Sections 4.30; 5.09; 7.2; 7.3
First Advertised September 8, 1977
Adopted by Town Meeting November 15, 1977
Approved by Attorney General February 2, 1978
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Amendments to Sections 4.30; 6.11
First Advertised November 10, 1977
Adopted by Town Meeting May 2, 1978
Approved by Attorney General August 16, 1978
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Amendment to Section 4.30 Use 10 declared invalid by Land Court on May 21, 1982

Amendments to Sections 4.12; 4.21; 4.30; 6.13; 9.3; Section added 9.11
First Advertised September 14, 1978
Adopted by Town Meeting November 14, 1978
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Amendment to Sections 3.1; 4.30; 5.00; Sections Added 5.06; 5.31; 7.00
First Advertised October 11, 1979
Adopted by Town Meeting December 11, 1979
Approved by Attorney General December 8, 1980
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Amendments to Sections 5.09, 7.3; Retitled Article 7; Section added 7.6
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Amendments to 4.30
First Advertised November 26, 1981
Adopted by Town Meeting February 3, 1982
Approved by Attorney General April 16, 1982
Effective Date June 17, 1982

Amendments to Section 5.32
First Advertised May 6, 1982
Adopted by Town Meeting June 17, 1982
Approved by Attorney General September 27, 1982
Effective Date June 17, 1982

Amendments to Sections 4.30, 5.11; 6.13; 7.5
Article 11 deleted
First Advertised September 23, 1982
Adopted by Town Meeting November 16, 1982
Approved by Attorney General February 11, 1983
Effective Date November 16, 1982

Amendments to Section 4.30
First Advertised March 31, 1983
Adopted by Town Meeting May 24, 1983
Approved by Attorney General August 31, 1983
Effective Date May 24, 1983

Amendments to Sections 4.30; 5.00; 5.09; 5.52; 5.62; 5.74, 6.11; 6.13; 7.3; 8.3; 9.0
First Advertised October 6, 1983
Adopted by Town Meeting December 13, 1983
Approved by Attorney General February 29, 1983
Effective Date December 13, 1983

Amendments to Sections 5.04; 5.09; 6.11; 6.13; 7.0; 7.3
First Advertised September 20, 1984
Adopted by Town Meeting November 13, 1984
Approved by Attorney General February 12, 1985
Effective Date November 13, 1984

Amendments to Sections 1.0; 3.1; 4.30; 5.00; 5.06; 5.09; 5.21; 5.31; 5.52; 6.11; Section Added 5.22
First Advertised November 15, 1984
Adopted by Town Meeting January 22, 1985
Approved by Attorney General April 22, 1985
Effective Date January 22, 1985

Amendments to Sections 4.10; 5.00; 5.07; 5.09; 5.22; 5.32; 5.44; 5.90; 5.91; 6.13; 8.1; 9.2; 9.7; 9.9
First Advertised September 12, 1985
Adopted by Town Meeting November 19, 1985
Approved by Attorney General January 6, 1986
Effective Date November 19, 1985

Amendments to Section 4.30
First Advertised March 20, 1986
Adopted by Town Meeting June 3, 1986
Approved by Attorney General August 28, 1986
Effective Date June 3, 1986

Amendments to Sections 4.30; 5.09; 7.0; 7.1; 7.6; 9.2
First Advertised September 11, 1986
Adopted by Town Meeting November 1, 1986
Approved by Attorney General January 9, 1987
Effective Date November 18, 1986

Amendments to Sections 1.0; 2.11; 2.14; 2.16; 4.30; 5.00; 5.06; 5.09; 5.11; 6.11; 6.13; 9.0; 9.5.
Article 11 and Section 4.40 added
First Advertised March 19, 1987
Adopted by Town Meeting June 1 & 9, 1987
Approved by Attorney General August 19, 1987
Effective Date June 1 & 9, 1987

Amendments to Sections 2.27; 2.28; 3.1; 4.30; 4.40; 5.00; 5.06; 5.07; 5.09; 5.11; 5.21; 5.22; 5.31; 5.32; 5.63; 5.72; 5.91; 6.11; 7.0; 7.1; 7.2; 7.3; 8.1; 9.0; 9.8

First Advertised October 8, 1987
Adopted by Town Meeting December 14, 1987
Approved by Attorney General January 4, 1988
Effective Date December 14, 1987

Amendments to Section 4.30
First Advertised March 27, 1990
Adopted by Town Meeting June 5, 1990
Approved by Attorney General September 17, 1990
Effective Date June 5, 1990

Amendments to Section 8.2
First Advertised August 7, 1990
Adopted by Town Meeting October 24, 1990
Approved by Attorney General February 1, 1991
Effective Date October 24, 1990

Amendments to Section 6.11
First Advertised April 16, 1991
Adopted by Town Meeting May 29, 1991
Approved by Attorney General September 23, 1991
Effective Date May 29, 1991

Amendments to Sections 4.30; 5.09; 5.54; 6.13; 7.2; 7.3
First Advertised September 10, 1991
Adopted to Town Meeting November 5, 1991
Approved by Attorney General February 3, 1992
Effective Date November 5, 1991

Amendments to Sections 3.1; 4.30; 5.00; 5.09; 5.21; 5.31; 5.32; 6.11; 6.13; 6.30; 6.40; 7.0; 7.2; 7.3; 7.6; 9.1; Article 11 deleted
First Advertised September 15, 1992
Adopted by Town Meeting November 17, 18, & 19, 1992
Approved by Attorney General February 24, 1993
Effective Date November 17, 18, & 19, 1992

Amendments to Sections 4.30; 5.00; 5.09; 5.32; 5.52; 5.62; 5.64; 5.74; 6.11; 6.13
First Advertised September 7, 1993
Adopted by Town Meeting November 17, 1992
Approved by Attorney General January 31, 1994
Effective Date November 17, 1993

Amendments to Section 5.11
First Advertised April 12, 1994
Adopted by Town Meeting May 26, 1994
Effective Date May 26, 1994

Amendments to Sections 3.11; 4.30; 4.40; 5.00; 5.11; 6.11; 6.13, 7.0; 7.3
First Advertised Sept. 22, 1994 & Aug. 18, 1994
Adopted by Town Meeting November 15 and 17, 1994
Approved by Attorney General March 8, 1995
Effective Dates November 15 and 17, 1994

Amendments to Sections 7.0; 7.3
First Advertised September 5, 1995
Adopted by Town Meeting November 9, 1995
Approved by Attorney General December 26, 1995
Effective Date November 9, 1995

Amendments to Sections 3.1; 4.30; 5.00; 5.06
First Advertised January 23, 1996
Adopted by Town Meeting March 26, 1996
Approved by Attorney General May 13, 1996
Effective Date March 26, 1996

Amendments to Sections 4.10; 4.30; 4.40; 5.09
First Advertised April 23, 1996
Adopted by Town Meeting May 29, 1996
Approved by Attorney General June 10, 1996
Effective Date May 29, 1996

Amendments to Sections 4.30; 4.40; 4.50 added; 5.00; 5.09; 5.21; 6.11; 9.1
First Advertised September 18, 1997 & October 9, 1997
Adopted by Town Meeting November 4 &5, 1997
Approved by Attorney General May 4, 1998
Effective Dates November 4&5, 1997

Amendments to Sections 4.30; 5.09; 5.21; 5.61; 5.63; 6.11; 6.12; 9.12 added
First Advertised September 10, 1998
Adopted by Town Meeting November 17&18, 1998
Approved by Attorney General February 2, 1999
Effective Date November 17 & 18, 1998

Section added 2.14A. Amendments to Sections 3.1; 4.3; 5.00; 5.72; 6.11; 6.20
First Advertised September 30, 1999
Adopted by Town Meeting November 16, 1999
Approved by Attorney general February 7&23, 2000
Effective Date November 16, 1999

Amendments to Section 6.11
First Advertised September 28, 2000
Adopted by Town Meeting November 14, 2000
Approved by Attorney General March 2, 2001
Effective Date November 14, 2000

Amendments to Sections 2.09; 6.13
First Advertised April 5, 2001
Adopted by Town Meeting May 23, 2001
Approved by Attorney General October 9, 2001
Effective Date May 23, 2001

First Advertised September 20, 2001
Adopted by Town Meeting November 13, 2001
Adopted with revision by Attorney General Mar. 25, 2002

Effective Date November 13, 2001

March 21, 2002
Adopted by Town Meeting May 30, 2002
Approved by Attorney General September 25, 2002
Effective Date October 4, 2002

Approved by the Attorney General of the Commonwealth of Massachusetts with an amendment to Article IX, Section 9.09. See A.G. Letter to Town dated September 25, 2002.

First Advertised September 18, 2003
Adopted by Town Meeting November 18, 2003
Approved by Attorney General January 27, 2004
Effective Date November 18, 2003

First Advertised April 22, 2004
Adopted by Town Meeting June 1, 2004
Approved by Attorney General August 25, 2004
Effective Date June 1, 2004

First Advertised September 16, 2004
Adopted by Town Meeting November 16, 2004
Approved by Attorney General February 9, 2005
Effective Date November 16, 2004

Amend Section 5.22.2
First Advertised March 24, 2005
Adopted by Town Meeting May 25, 2005
Approved by Attorney General September 13, 2005
Effective Date May 25, 2005

Amendments to Sections 9.04; 9.08; 5.09; 5.09.3.d; 4.08.3.a; 4.09; 1.00.1; 5.09.1; 5.09.2; 5.09.3.a - 5.09.3.c; 5.09.4 – 5.09.4d, and addition of Coolidge Corner I.P.O.D., 3.03.6.1
First Advertised September 15, 2005
Adopted by Special Town Meeting November 15-17, 2005
Approved by Attorney General March 31, 2006
Effective Dates November 15&16, 2005

New definitions, attic, decommission, gross floor area and habitable space, added 6.04(14), and new 5.22
First Advertised March 23, 2006
Adopted by Town Meeting May 23-30, 2006
Approval by Attorney General September 26, 2006
Effective Date 30 May, 2006

Extension of CCIPOD, changed 3.03.4 (f) and replace 3.03.6.1 (f); amend 5.09.2 (Scope) by adding demolitions
First Advertised September 14, 2006
Adopted by Town Meeting November 14, 2006
Approval by Attorney General January 23, 2007
Effective Date November 14, 2006

Creation of new "F" zone, amend Table of use Regs, Amend §8.03, Rebuilding After Catastrophe
First Advertised March 29, 2007
Adopted by Town Meeting May 29, 2007
Approved by Attorney General October 11, 2007
Effective Date May 29, 2007

Rezone to F-1 parcels on Harvard Ave., Wellman and Center St., Dwight and Green St., (Art#11) and create Coolidge Corner Design Overlay District, (Art#12) changes to T-5 and T-6 zones and new Section 5.21, (Art#13) Maximum Floor Area Ratio Regulations (PBI) (Art#14)
First Advertised September 27, 2007
Adopted by Town Meeting November 13 & 14, 2007
Approved by Attorney General March 25, 2008
Effective Date November 13, 2007 (Art#11)
November 14, 2007 (Art#12 ,13 & 14)

F zone clarification amendments; amendment to Section 5.06.d.2 to modify parking requirements for the GMR-2.0 zoning district.
First Advertised March 27, 2008
Adopted by Town Meeting May 28, 2008
Approved by Attorney General August 20, 2008
Effective Date May 28, 2009

Add Use 15B to Section 4.07, Table of Use Regulations, to allow for large family daycares in residential districts (except S) by special permit, sunset clause June 1, 2010; amend Section 4.08.6.c; amend Section 5.09.3.d, Design Advisory Teams.
First Advertised September 18, 2008
Adopted by Town Meeting November 20, 2008
Approved by Attorney General March 18, 2009
Effective Date November 20, 2008

Amend Section 6.02.1.b; Add Section 6.02.3.f regarding seasonal outdoor space and parking.
First Advertised April 2, 2009
Adopted by Town Meeting May 27, 2009
Approved by Attorney General August 24, 2009
Effective Date May 27, 2009

Add Fisher Hill Town-Owned Reservoir Site Mixed Income Housing Overlay, Section 5.06.4.e; Add new Cleveland Circle Local Business District L-0.5 (CL), Section 5.06.4.e; Add Accessory Uses 60A and 60B, delete Uses 15A and 15B, and amend Section 4.05.1.a.2 and Add Section 4.05.4; Amend Section 2.03 by adding definitions for "Car Sharing Organization" and "Commercial Motor Vehicle," Amend Section 2.14 by adding a definition for "Non-Commercial Motor Vehicle," Amend Section 2.16 by adding definitions for "Parking Garage or Parking Area, Non-Residential" and "Parking Garage or Parking Area, Residential," Add Use 22A to Table 4.07, Amend Section 6.01.4, Add Section 6.01.5, Amend Section 7.00.1.e, Add Sections 7.00.3 and 7.00.4, Amend Section 7.03.2
First Advertised September 17, 2009
Adopted by Town Meeting November 17 & 18, 2009
Approved by Attorney General February 26, 2010
Effective Date November 17 & 18, 2009

Add new G-1.0 (DP) Davis Path zoning district, Sections 3.01.8 and 5.06.4.f; Amend Section 6.04.14, regarding width of garage and drive-

ZONING MAP AMENDMENTS

through space facing the street.
First Advertised March 25, 2010
Adopted by Town Meeting May 26 & 27, 2010
Effective Dates May 26 & 27, 2010.

Add definitions for Ground-Mounted Solar Photovoltaic Installation, Large or Small (Section 2.07.1), On-Site Solar Photovoltaic Installation (Section 2.15.2), and Rated Nameplate Capacity (Section 2.18.1); add new Section 3.01.4.b Solar Overlay District; add new use #40D: Ground Solar Photovoltaic Installation, Large or Small; amend Sections 4.09.1, 4.09.2, 4.09.4.c, 4.09.5.a, and 4.09.7.a.1 to allow consideration of noise impacts for wireless facilities on public utility poles; add new Section 5.06.4.h and amend Section 7.00.1.c to allow for projecting signs.
First Advertised September 16, 2010
Adopted by Town Meeting November 16, 2010
Approved by Attorney General March 24, 2011
Effective Date November 16, 2010

Modify the definitions of Hotel and Limited Service Hotel (Sections 2.08.5 and 2.12.1); Replace the G-1.0 (DP) zoning district with the G-(DP) district and make several related modifications for the Davis Path Special District (Sections 3.01.2.c.8; 4.07 Principal Use 8A and Accessory Use 58A; Table 5.01 and footnote 18; 5.06.4.g; Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements, footnote 1); Modify Section 5.73.1 for rear yard setbacks of commercially-zoned properties that abut residentially-zoned districts.
First Advertised March 22, 2011
Adopted by Town Meeting May 24, 2011
Approved by Attorney General November 28, 2011
Effective Date May 24, 2011

Create the Cleveland Circle Hotel Overlay District (Sections 3.01.2.a.2; 3.01.4; Section 4.07 Use 8A and Use 34; Section 5.01 – Table of Dimensional Requirements Footnote 19; Section 5.06.4.f; add a new Section 5.06.4.i).
First Advertised March 22, 2011
Adopted by Town Meeting May 26, 2011
Approved by Attorney General November 28, 2011
Effective Date May 26, 2011

Allow for health/fitness clubs in L Districts by special permit (Use 18) and add a new use, health/fitness clubs of less than 2,500 s.f. (Use 18A), to be allowed by-right in L, G, O, and I Districts; allow veterinary offices (Use 20A) in L Districts by special permit; make several modifications to Section 4.10, Floodplain Overlay District, to be consistent with new flood maps by FEMA; modify Section 5.21 and 5.32.2.a; modify Section 9.07 to not require a Planning Board report for time extension requests.
First Advertised March 22, 2012
Adopted by Town Meeting May 24, 2012
Approved by Attorney General October 16, 2012
Effective Date May 24, 2012

Add Use 32A to Section 4.07, Table of Use Regulations, to allow for Domestic Household Animal Day Care Centers; add new Section 9.12, Administrative Review for Day Care Centers.
First Advertised September 18, 2012
Adopted by Town Meeting November 13, 2012
Approved by Attorney General April 5, 2013
Effective Date November 13, 2012

Modify Use 15, Day Care Center, in Section 4.07, Table of Use Regulations, to allow use by-right in all districts and require approvals from Parks and Open Space and Public Health if using a public play area, and modify Sections 6.02.4.a and 6.02.4.c to require approval of day care parking by Transportation and allow for modification of parking requirements by special permit; modify Section 2.07.1, definition of "Gross Floor Area," to limit 12-foot-ceiling provision to single- and two-family buildings; modify Section 2.12.3, definition of "Lodger," and Section 2.12.4, definition of "Lodging House," and Use 7, Lodging House, in Section 4.07, Table of Use Regulations, to allow for lodging houses to provide individual cooking facilities if the building is 100% affordable; create a new definition for "Medical Marijuana Treatment Center" under Section 2.13.1, create a new Use 20B, Medical Marijuana Treatment Center, in Section 4.07, Table of Use Regulations, and add reference to the new use in Use 21 to create a temporary moratorium on medical marijuana treatment centers until June 30, 2014.
First Advertised March 21, 2013
Adopted by Town Meeting May 30, 2013
Approved by Attorney General September 26, 2013
Effective Date May 30, 2013

Modify Section 2.13.1, definition of "Medical Marijuana Treatment Center" to include the term Registered Marijuana Dispensary (RMD), modify Use 20B in Section 4.07, Table of Use Regulations, allowing for RMDs by special permit in G, O and I Districts, and create a new Section 4.12, Registered Marijuana Dispensary (RMD), with general restrictions and submittal requirements for new RMDs; modify Use 5 in Section 4.07, Table of Use Regulations, to restrict the number of attached dwellings in F districts to three and to require a special permit for attached dwellings in T districts, modify Section 5.01 – Table of Dimensional Requirements to create a new use "1-family attached dwelling" for the F-1.0 district with the same dimensional requirements for those structures and for "Any other structure or principal use" as found in the T-5 zoning district, and modify Section 2.07.1, definition of "Gross Floor Area" to ensure three-family dwellings are subject to the 12-foot-ceiling provision; modify Use 53 in Section 4.07 – Table of Use Regulations to require a special permit for separate dwelling units for domestic employees and restrict the use to S-40 districts on lots of at least 40,000 s.f. where the accessory dwelling is not more than 1,200 s.f.; add new Sections 6.06.7 and 6.07.3 to allow the number of and dimensional requirements for loading bays to be reduced or modified by special permit.
First Advertised September 19, 2013
Adopted by Town Meeting November 19, 2013

Approved by Attorney General April 4, 2014
Effective Date November 19, 2013

Modify Section 2.07, definition of "Gross Floor Area" to reference required parking in the GMR-2.0 District, modify Section 5.01, Table of Dimensional Requirements, to lower the allowed FAR for the GMR-2.0 District, and make several modifications and additions to Section 5.06.4.d, General Business and Medical Research (GMR), regarding parking and open space, allowable height, and transportation demand management requirements; add a new zoning district classification S-4 to Section 3.01.1.a, and modify Section 5.01, Table of Dimensional Requirements by adding a new row for the S-4 District.
First Advertised March 27, 2014
Adopted by Town Meeting June 2, 2014
Approved by Attorney General July 15, 2014
Effective Date June 2, 2014

Amend Section 3.01.31 to create the Emerald Island Special District (EISD) zoning district under Industrial Services (I); amend Section 2.04.3 by adding new dwelling categories; amend Section 4.07 Table of Use Regulations to add provisions for special permits under Use 6B, 6C, 6D, 8, 8A, 18A, 20A, 21, 29, 30, 32, 33, 33A, 34, 46, 58A, 66; amend Section 5.01 Table of Dimensional Requirements by adding I-EISD, amend Section 5.06.4 to create Section 5.06.4.j "Emerald Island Special District"; add footnote to Section 6.02, Paragraph 1 Table of Off-Street Parking Space Requirements.
First Advertised September 22, 2016
Adopted by Town Meeting November 15, 2016
Approved by Attorney General April 10, 2017
Effective Date November 15, 2016

Amend Section 7.0 (Signs, Illumination & Regulated Facade Alterations) to reflect content-neutral enforcement of sign regulations; amend Section 7.00 to remove content-based regulations and add definitions; amend Sections 7.02 through 7.06 to remove content-based regulations; add Sections 7.07 through 7.09 to add language regarding exceptions, design review procedures and non-conformance.
First Advertised September 22, 2016
Adopted by Town Meeting November 15, 2016
Approved by Attorney General April 10, 2017
Effective Date November 15, 2016

Amend Section 5.09.2 to include language referencing exterior modifications; add new section 5.09.2.n requiring design review for any construction of newly created space that, if finished, would result in the total Gross Floor Area being greater than the allowable GFA; amend Section 5.09.3.c.4 to include modifications; amend Section 5.09.4.c to reference massing, height and existing abutting structures; amend Sections 5.22.1.a, 5.22.1.b and 5.22.1.c regarding expanded units, exterior additions and ten-year waiting periods; amend Section 5.22.2 to reduce basement and attic conversions to 130% of allowable FAR, limit FAR bonuses to S and SC districts; amend Section 5.22.3.a, 5.22.3.a.1, and 5.22.3.a.2 to limit FAR bonuses to residential buildings of no more than two units; amend Section 5.22.3.b.2 by removing FAR bonuses in T, F, M-0.5, M-1.0, and M-1.5 districts.
First Advertised September 22, 2016
Adopted by Town Meeting November 16, 2016
Approved by Attorney General April 10, 2017
Effective Date November 16, 2016

Create the Transit Parking Overlay District - Add overlay district to Section 3.01(4); add description of new parking requirements to Section 6.02.2 (Off-Street Parking Space Regulations - Residential Uses); amend the last footnote of Section 6.02, paragraph 1, Table of Off-Street Parking Space Requirements.
First Advertised September 22, 2016
Adopted by Town Meeting November 16, 2016
Approved by Attorney General April 10, 2017
Effective Date November 16, 2016

Amend Section 4.07 Table of Use Regulations by adding Use #50A to prohibit commercial and non-commercial manned aircraft landing areas, including on structures, in all residential districts and allow such landing areas in non-residential districts by Special Permit only.
First Advertised September 22, 2016
Adopted by Town Meeting November 16, 2016
Approved by Attorney General April 10, 2017
Effective Date November 16, 2016

Amend Section 2.13 "M" definitions, Section 4.07 Table of Use Regulations to add uses 20B, 20C, 29A, 29B, 36C, 38D, 46B, 65A and add new Section 4.13 "Marijuana Establishments".
First Advertised March 22, 2018
Adopted by Town Meeting May 24, 2018
Approved by Attorney General June 12, 2018
Effective Date May 24, 2018

First Advertised March 29, 1962
Adopted by Town Meeting May 23, 1962
Approved by Attorney General July 25, 1962
Effective Date July 27, 1962

First Advertised April 14, 1966
Adopted by Town Meeting June 21, 1966
Approved by Attorney General June 30, 1966
Effective Date July 7, 1966

First Advertised July 11, 1967
Adopted by Town Meeting November 14, 1967
Approved by Attorney General November 30, 1967
Effective Date December 6, 1967

First Advertised December 5, 1968
Adopted by Town Meeting April 10, 1969
Approved by Attorney General June 11, 1969
Effective Date June 19, 1969

First Advertised October 14, 1971
Adopted by Town Meeting December 13, 1971
Approved by Attorney General January 10, 1972
Effective Date January 22, 1972

First Advertised December 9, 1971
Adopted by Town Meeting April 13, 1972
Approved by Attorney General May 19, 1972
Effective Date June 2, 1972

First Advertised December 7, 1972
Adopted by Town Meeting March 27, 1973
Approved by Attorney General July 17, 1973
Effective Date July 26, 1973

First Advertised October 25, 1973
Adopted by Town Meeting December 10, 12, 17 & 18, 1974
Approved by Attorney General March 29, 1974
Effective Date April 17, 1974

First Advertised September 26, 1974
Adopted by Town Meeting November 26, 1974
Approved by Attorney General December 13, 1974
Effective Date December 19, 1974

First Advertised January 30, 1975
Adopted by Town Meeting May 8 & 12, 1975
Approved by Attorney General September 24, 1975
Effective Date October 1, 1975

First Advertised September 23, 1976
Adopted by Town Meeting November 16, 1976
Approved by Attorney General February 28, 1977
Effective Date November 16, 1976

First Advertised November 10, 1977
Adopted by Town Meeting May 2, 1978
Approved by Attorney General August 16, 1978
Effective Date May 2, 1978

First Advertised March 22, 1979
Adopted by Town Meeting May 8, 1979
Approved by Attorney General June 1, 1979
Effective Date May 8, 1979

First Advertised October 11, 1979
Adopted by Town Meeting December 11, 1979
Approved by Attorney General March 19, 1980
Effective Date December 11, 1979

First Advertised November 26, 1981
Adopted by Town Meeting February 3, 1982
Approved by Attorney General April 13, 1982
Effective Date February 3, 1982

First Advertised May 6, 1982
Adopted by Town Meeting June 17, 1982
Approved by Attorney General September 27, 1982
Effective Date June 17, 1982

First Advertised March 31, 1983
Adopted by Town Meeting May 24, 1983
Approved by Attorney General August 31, 1983
Effective Date May 24, 1983

First Advertised November 15, 1984
Adopted by Town Meeting January 22, 1985
Approved by Attorney General April 22, 1985
Effective Date January 22, 1985

First Advertised September 12, 1985
Adopted by Town Meeting November 19, 1985
Approved by Attorney General January 6, 1986
Effective Date November 19, 1985

First Advertised March 20, 1986
Adopted by Town Meeting June 3, 1986
Approved by Attorney General August 28, 1986
Effective Date June 3, 1986

First Advertised September 11, 1986
Adopted by Town Meeting November 18, 1986
Approved by Attorney General January 9, 1987
Effective Date November 18, 1986

First Advertised March 19, 1987
Adopted by Town Meeting May 27, 1987
Approved by Attorney General August 19, 1987
Effective Date May 27, 1987

First Advertised October 8, 1987
Adopted by Town Meeting December 14, 1987
Approved by Attorney General January 4, 1988
Effective Date December 14, 1987

First Advertised September 15, 1992
Adopted by Town Meeting November 19, 1992
Approved by Attorney General February 24, 1993
Effective Date November 19, 1992

First Advertised September 7, 1993
Adopted by Town Meeting November 17, 1993
Approved by Attorney General January 31, 1994
Effective Date November 17, 1993

First Advertised September 22, 1994
Adopted by Town Meeting November 15, 1994
Approved by Attorney General March 8, 1995

First Advertised August 18, 1994
Adopted by Town Meeting November 17, 1994
Approved by Attorney General March 8, 1995
Effective Dates November 15 and 17, 1994

First Advertised January 23, 1996
Adopted by Town Meeting March 26, 1996
Approved by Attorney General May 13, 1996
Effective Date March 26, 1996

First Advertised September 10, 1998
Adopted by Town Meeting November 17, 1998
Approved by Attorney General February 2, 1999
Effective Date November 17, 1998

First Advertised September 30, 1999
Adopted by Town Meeting November 16, 1999
Approved by Attorney General February 7, 2000
Effective Date November 16, 1999

First Advertised April 20, 2000
Adopted by Town Meeting May 24, 2000
Approved by Attorney General October 10, 2000
Effective Date May 24, 2000

G-2.0. to T-5 (9, 11, 13 & 15 White Place)
First Advertised September 19, 2002
Adopted by Town Meeting November 12, 2002
Approved by Attorney General May 29, 2003
Effective Date November 12, 2002

First Advertised April 22, 2004
Adopted by Town Meeting June 2, 2004
Approved by Attorney General August 25, 2004
Effective Date June 2, 2004

Create new F-1.0 Zoning District
First Advertised March 29, 2006
Adopted by Town Meeting May 29, 2007
Approved by Attorney General October 11, 2007
Effective Date May 29, 2007

Create Coolidge Corner Design Overlay District; Rezone Parcels to F-1.0 District
First Advertised September 27, 2007
Adopted by Town Meeting November 13, 2007
Approved by Attorney General March 25, 2008
Effective Date November 13, 2007

Creation of Fisher Hill Town-Owned Reservoir Site Mixed Income Housing Overlay District
First Advertised September 17, 2009
Adopted by Town Meeting November 17, 2009
Approved by Attorney General February 26, 2010
Effective Date November 17, 2009

Creation of G-1.0 (DP) District
First Advertised March 25, 2010
Adopted by Town Meeting May 27, 2010
Approved by Attorney General September 13, 2010
Effective Date May 27, 2010

Creation of Renewable Energy Overlay (SOL) District
First Advertised September 16, 2010
Adopted by Town Meeting November 16, 2010
Approved by Attorney General March 24, 2011
Effective Date November 16, 2010

Replace the G-1.0 (DP) District with the G-(DP) District
First Advertised March 22, 2011
Adopted by Town Meeting May 24, 2011
Approved by Attorney General November 28, 2011
Effective Date May 24, 2011

Create the Cleveland Circle Hotel Overlay District
First Advertised March 22, 2011
Adopted by Town Meeting May 26, 2011
Approved by Attorney General November 28, 2011
Effective Date May 26, 2011

Update the Floodplain Overlay District
First Advertised March 22, 2012
Adopted by Town Meeting May 24, 2012
Approved by Attorney General October 16, 2012
Effective Date May 24, 2012

Create the S-4 Zoning District
First Advertised March 27, 2014
Adopted by Town Meeting May 29, 2014
Approved by Attorney General July 15, 2014
Effective Date May 29, 2014

Expand the Renewable Energy Overlay (SOL) District
First Advertised April 2, 2015
Adopted by Town Meeting May 28, 2015
Approved by Attorney General November 30, 2015
Effective Date May 28, 2015

Creation of I-(EISD) District
First Advertised September 22, 2016
Adopted by Town Meeting November 15, 2016
Approved by Attorney General April 10, 2017
Effective Date November 15, 2016

Create Transit Parking Overlay District
First Advertised September 22, 2016
Adopted by Town Meeting November 15, 2016
Approved by Attorney General April 10, 2017
Effective Date November 15, 2016