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Barney Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: January 6, 2017

TO: Councilor Ted Hess-Mahan, Chairman
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director

RE: #53-16(2): DIRECTOR OF PLANNING requesting technical amendments to the Newton Zoning Ordinance, Chapter 30, in order to address edits related to missing or incorrectly transcribed ordinance provisions.

MEETING DATE: January 9, 2017

CC: City Council
Planning and Development Board
Donnalyn Kahn, City Solicitor

At the adoption of the reformatted Zoning Ordinance, the Planning Department described a plan to conduct an annual review of the ordinance to identify minor corrections and edits. Over the years staff have always noted inconsistencies and errors in the City's Zoning Ordinance, but never had a clear avenue for addressing these such that these problems always persisted. This year marks the first of these annual reviews. Over the past year, staff from Planning and ISD have identified errors and other problems in the ordinance and logged them into a tracking sheet. This docket item represents the resolution of these problems.

Attached is a table describing each individual change to the ordinance and sample pages from the ordinance showing the reline changes for each item.

RECOMMENDATION AND NEXT STEPS

The Planning Department recommends that docket item # 53-16(2) be approved and forwarded to the City Council for consideration.

Attachments:

January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Sections	Ordinance Pages
3.1.3, 3.1.4, 3.15, 3.1.6, 3.1.7, 3.1.8, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.10	3-2, 3-4, 3-5, 3-6, 3-7, 3-8, 3-12, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20
3.1.5	3-5, 3-15
3.4.2.A.4	3-27
3.4.2.A, 3.4.2.B	3-27
4.2.2.B.3	4-10
4.4.1	4-18, 4-19, 4-20
5.1.4.A	5-4, 5-5
5.1.7.A	5-7
5.2.6.A.1	5-18
5.2.8	5-21
6.2.1, 6.2.2	6-3
6.2.3.B.2	6-3
6.3.12.B.1	6-9
6.4.25	6-12
7.3.2.E	7-4
7.3.4.A	7-5
7.6.5	7-17
7.8.2.B.2	7-22

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Section References	Page Numbers	Issue	Recommended Solution
Sec. 3.1.3, 3.1.4, 3.15, 3.1.6, 3.1.7, 3.1.8, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.10	Pg. 3-2, 3-4, 3-5, 3-6, 3-7, 3-8, 3-12, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20	Ordinance has definitions for 'Open Space, Beneficial' and 'Open Space, Usable'. The dimensional tables in article 3 just say 'open space'.	In each dimensional table, add the word 'Usable' next to 'Open Space'.
Sec. 3.1.5	Pg. 3-5, 3-15	The language in 1.5.2.G.2 states that when the Council issues a special permit, a rear lot may satisfy the min frontage by measuring the lot frontage along the rear line of the lot or lots in front. The graphic in section 3.1.5 implies that the frontage (D in the graphic) is measured along the street.	Make the graphic in section 3.1.5 and 3.2.5 consistent.
Sec. 3.4.2.A.4	Pg. 3-27	Section 3.4.2.A.4 references 6.7.3 incorrectly. Should reference 6.7.2	Replace "Sec. 6.7.1" with "Section 6.7.2"
Sec 3.4.2 a & b	Pg. 3-27	In the old ordinance, all accessory uses allowed in the single residence districts were also allowed in the multi-residence districts.	Change 3.4.2.A to read: "By Right in All Residence Districts. Such accessory purposes as are proper and usual with detached single-family dwellings or detached two-family dwellings, including but not limited to:" Remove sec. 3.4.2.B. Relabel sec 3.4.2.C as B.
Sec 4.2.2.B.3	Pg. 4-10	The table appears to not allow 4 stories for MU4. 'Or more' is not accurate. The story requirement is not applicable to MU3. The mixed use building heights are only applicable to MU4. [Note: The table on page 4-11, max stories row, is also incorrect and will need to be updated but was not advertised for this round.]	Add SP to Sec. 4.2.2.B.3 to the 4 stories row and remove "or more" from that row heading. Make MU3 column all NA. Make Mixed Use building rows NA for columns other than MU4.

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Section References	Page Numbers	Issue	Recommended Solution
Sec 4.4.1	Pg. 4-18	Live/work space was first identified as a use for the MU3 district, and also allowed in MU4. In doing so, the use became not allowed in all other districts. This use should exist in BU 1 to 4 and MU1 and 2.	There should be a P added in the BU1, BU2, BU3, BU4, MU1, and MU2 columns in the 'Live/work space' row.
Sec 4.4.1	Pg. 4-18	'Community use space' was first identified as a use for the MU3 district, and also allowed in MU4. In doing so, the use became not allowed in all other districts. This use currently, and appropriately, exists in all commercial areas of the City.	There should be a P in all columns in the 'Community use space' row.
Sec 4.4.1	Pg. 4-18	Rail and bus stations should be allowed in all commercial districts.	There should be a P in all columns in the 'Rail/bus station' row.
Sec. 4.4.1	Pg. 4-19	Banks no longer permitted in the MU4 district where they had been allowed by right or by special permit depending on size. Similarly, in MU3, banks had been allowed by special permit and now are not allowed.	Replace the 'Bank' row with two rows, 'Bank, up to 5,000 square feet; and 'Bank, over 5,000 square feet. The column entries for P and SP should be the same in both rows as the current row except under MU3 it should be SP in both new rows and in MU4 it should be P in the under 5,000 row and SP in the over 5,000 row.
Sec 4.4.1	Pg. 4-19	Business incubator was first identified as a use for the MU3 district. In doing so, the use became not allowed in all other districts. This use should exist in BU1 to 4, in MU1 and 2, and in M and LM.	There should be a P added in the BU1, BU2, BU3, BU4, MU1, MU2, M, and LM columns in the 'Business incubator' row. There should be two dashes signifying not allowed in the MU4.

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Section References	Page Numbers	Issue	Recommended Solution
Sec 4.4.1	Pg. 4-19	Car and bike sharing/rental as well as electric car charging stations were first identified as uses for the MU3 district, and also allowed in MU4. In doing so, the use became not allowed in all other districts. This use should exist in all commercial areas of the City and had previously been interpreted as allowed.	There should be a P in all columns in the 'Car-sharing service, car rental, bike rental, electric car-charging station' row except the M.
Sec 4.4.1	Pg. 4-19	In Sec 4.2.5.A.7 requires special permit for office uses on street level and rules for lobbies. Section 4.4.1 simply identifies office use as permitted.	Replace P in the MU4 column in the 'Office' row with 'L/SP'.
Sec 4.4.1	Pg. 4-19	Public parking facility use conflicts with public use definition, which includes public parking lots. All public uses are allowed in all districts, therefore, a public parking facility is allowed in all districts.	Remove Parking Facility, Public from Table 4.4.1
Sec 4.4.1	Pg. 4-20	The 'Service Establishment' use should be allowed in business districts & mixed-use.	For both the under and over 5,000 square feet, place a P in the column for BU1, BU2, BU3, and BU4.
Sec. 5.1.4.A	Pg. 5-4, 5-5	The previous ordinance had the use category of 'Service Use', but to address inconsistencies, this use was split into 'Personal Service' and 'Service Establishment'. There is no parking requirement assigned to Personal Service.	Add Personal Service to the parking table with 1 per 300 sf plus 1 per 3 employees.
Sec 5.1.7.A	Pg. 5-7	Should allow 2 parking spaces in side setback and 1 in the street/front setback.	Clarify language.

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Section References	Page Numbers	Issue	Recommended Solution
Sec 5.2.6.A.1	Pg. 5-18	Reference to Sec 6.2.9 should be 5.2.9.	Replace '(see Sec. 6.2.9)' with '(see Sec. 5.2.9)'
Sec 5.2.8	Pg. 5-21	Chart is inconsistent as to whether the # of signs allowed is per business establishment or per building	<p>Table for Sec 5.2.8, number column:</p> <p>Row 1: Replace "1 total" with "1 per establishment"</p> <p>Row 2: Replace "2 total" with "2 total per establishment"</p> <p>Row 3: Replace "1 total" with "1 per building entrance"</p>
Sec. 6.2.1, 6.2.2	Pg. 6-3	The ordinance reads that single and two family houses in the Business districts may not continue to exist unless abutting residentially zoned lots on two sides. The entire provision is unnecessary because a legally non-conforming use is allowed to continue and section 7.8.2.C.2 deals with how such nonconforming lots are handled.	Remove the text found in sec 6.2.1.B and 6.2.2.B. Leave 'standards' and insert 'reserved' in both places.
Sec 6.2.3.B.2	Pg. 6-3	Parking space restrictions here should be waivable by special permit as it was in the old ordinance.	Add to section 6.2.3.B.2 "In particular instances the City Council may, in accordance with Section 7.3, grant exceptions to Sec. 6.2.3.B.2 if it is determined that literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety of protection of environmental features."

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Section References	Page Numbers	Issue	Recommended Solution
Sec 6.3.12.B.1	Pg. 6-9	Ref to Admin Site Plan Review should be to section 7.5.	Replace "Sec. 7.2" with "Sec. 7.5"
Sec 6.4.25	Pg. 6-12	Laundry and dry-cleaning shows up both as a stand-alone use and as part of the personal services use. The difference between these uses needs to be clarified.	In personal service definition, reword so that it becomes 'and laundry and/or dry cleaning drop off.'
Sec 7.3.2.E	Pg. 7-4	Legislature has amended MGL 40A to increase the term of a special permit to 3 years.	Change 1 year to 3 years so that it reads: "Any approval of an application for a special permit shall lapse not later than <u>3 years</u> from the grant of such approval..."
Sec 7.3.4.A	Pg. 7-5	Ordinance indicates rear lots are subject to the dimensional controls of 3.1.4, which covers only single residence districts and rear lots are also allowed in MR districts. Reference to 3.1.4 should be to 3.1.5.	Change text in 7.3.4.A to read: Creation of rear lots in residential districts requires a special permit. The rear lot development density and dimensional controls in <u>Secs. 3.1.5 and 3.1.10 for Single Residence districts, and 3.2.5 and 3.2.12 for Multi Residence districts, respectively</u> , shall apply to the proposed rear lot and the remainder of the original lot shall be subject to the density and dimensional controls of the underlying district unless waivers from either of such controls are granted by the <u>City Council</u> .
Sec. 7.6.5	Pg. 7-17	Typo	Replace 're-establidf' with 're-established'.

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Section References	Page Numbers	Issue	Recommended Solution
Sec 7.8.2.B.2	Pg. 7-22	Should be reference to section 1 not section a.	Change so that it reads: "In accordance with Sec. 7.8.2.B.1 , the following de minimus alterations are allowed:"

Sec. 3.1. Single Residence Districts

3.1.1. District Intent

[reserved]

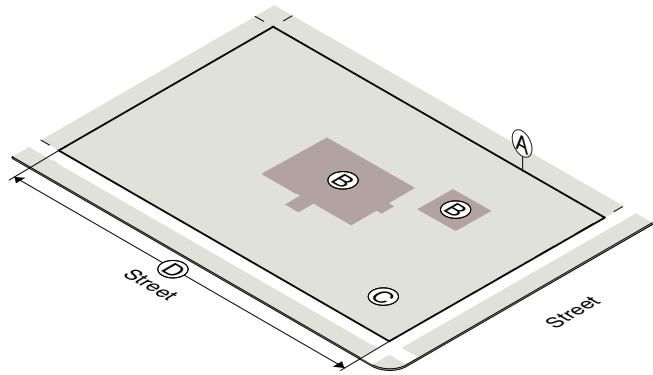
3.1.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in Sec. 3.1 apply to all buildings, structures and uses in each of the listed districts.
2. Lots created before December 7, 1953 (referred to as 'Before 12/7/1953') use a different set of density and dimensional standards than lots created on or after December 7, 1953 (referred to as 'On or After 12/7/1953'), as shown in the tables in Sec. 3.1.3.
3. Where a density or dimensional control is not set forth in this Sec. 3.1 for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the Board of Aldermen.
4. Where a lot does not meet these standards it is nonconforming (see Sec. 7.8).

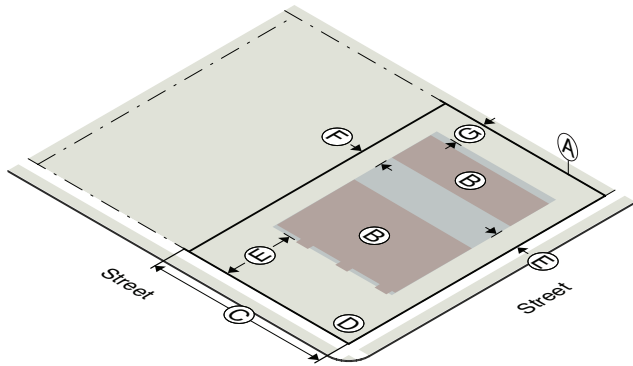
(Ord. No. S-260, 08/03/87)

3.1.3. Single-Family Detached



	SR1	SR2	SR3
Lot Dimensions (On or After 12/7/1953)			
Ⓐ Lot Area (min)	25,000 sf	15,000 sf	10,000 sf
Lot Area Per Unit (min)	25,000 sf	15,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	15%	20%	30%
Ⓒ Usable Open Space (min)	70%	65%	50%
Ⓓ Lot Frontage (min)	140'	100'	80'
Build Factor (max)	30	25	20
Lot Dimensions (Before 12/7/1953)			
Ⓐ Lot Area (min)	15,000 sf	10,000 sf	7,000 sf
Lot Area Per Unit (min)	25,000 sf	15,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	20%	30%	30%
Ⓒ Open Space (min)	65%	50%	50%
Ⓓ Lot Frontage (min)	100'	80'	70'

3.1.4. Single-Family Attached Dwelling



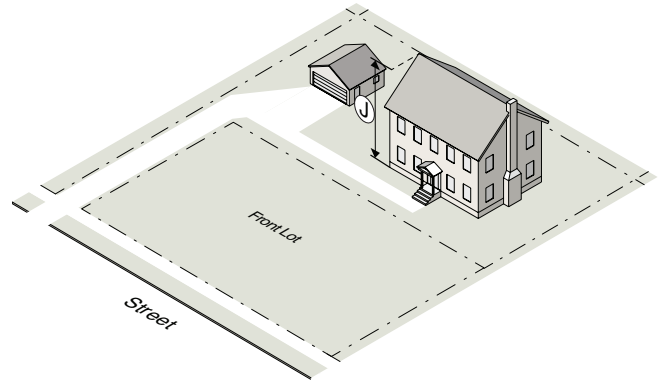
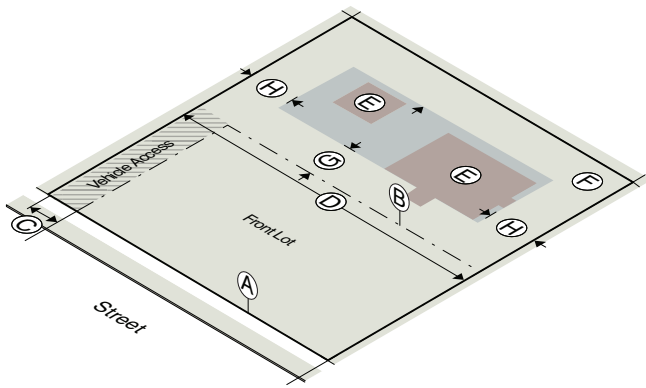
	SR1	SR2	SR3
Lot Dimensions			
Ⓐ Lot Area (min)	3 ac	2 ac	1 ac
Lot Area Per Unit (min)	25,000 sf	15,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	15%	20%	30%
Ⓒ Lot Frontage	140'	100'	80'
Ⓓ Usable Open Space (min)	70%	65%	50%
Principal Building Setbacks			
Ⓔ Front (min) *	40'	30'	30'
Ⓕ Side (min)	25'	25'	25'
Ⓖ Rear (min)	25'	25'	25'

	SR1	SR2	SR3
Building Height			
Sloped Roof (max)	36'	36'	36'
Flat Roof (max)	30'	30'	30'
Ⓗ Stories (max)	2.5	2.5	2.5
Ⓗ Stories by special permit (max)	3	3	3

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

*See Sec. 1.5.3 for setback averaging requirement.

3.1.5. Single-Family Detached: Rear Lot



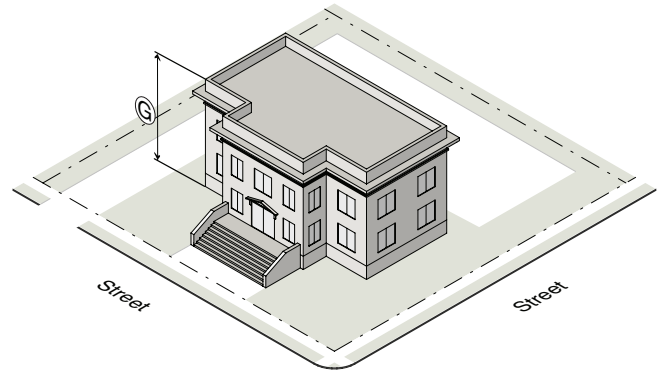
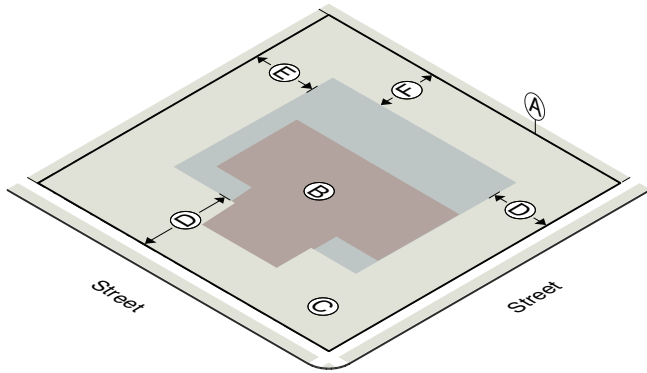
	SR1	SR2	SR3
Lot Dimensions			
Ⓐ Lot Area, Front Lot plus Rear Lot (min)	55,000 sf	33,000 sf	22,000 sf
Ⓑ Lot Area (min)	30,000 sf	18,000 sf	12,000 sf
Ⓒ Vehicle Access (min)	20'	20'	20'
Ⓓ Frontage (min)	140'	100'	80'
Ⓔ Lot Coverage (max)	13%	17%	25%
Ⓕ Usable Open Space (min)	70%	65%	50%
Principal Building Setbacks			
Ⓖ Front (min)	40'	30'	30'
Ⓗ Side (min)	30'	23'	15'
Ⓙ Rear (min)	38'	23'	23'
Alternate Side Building Separation			
Side Separation (min)	60'	46'	30'
Distance to Side Lot Line (min)	20'	15'	10'
Rear Separation (min)	76'	46'	46'
Distance to Rear Lot Line (min)	25'	15'	15'

	SR1	SR2	SR3
Building Height			
Sloped Roof (max)	36'	36'	36'
Flat Roof (max)	30'	30'	30'
⓫ Stories (max)	2.5	2.5	2.5
⓫ Stories by special permit	3	3	3
Floor Area Ratio			
Floor Area Ratio (max)	0.12	0.20	0.24

For additional requirements, see [Sec. 3.1.10](#)

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.1.6. Single-Use Institution



	SR1	SR2	SR3
Lot Dimensions			
Ⓐ Lot Area (min)	25,000 sf	15,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	30%	30%	30%
Ⓒ Usable Open Space (min)	50%	50%	50%
Principal Building Setbacks			
Ⓓ Front (min)*	40'	30'	30'
Ⓔ Side (min)	20'	15'	10'
Ⓕ Rear (min)	25'	15'	15'

* See Sec. 1.5.3 for setback averaging requirement.

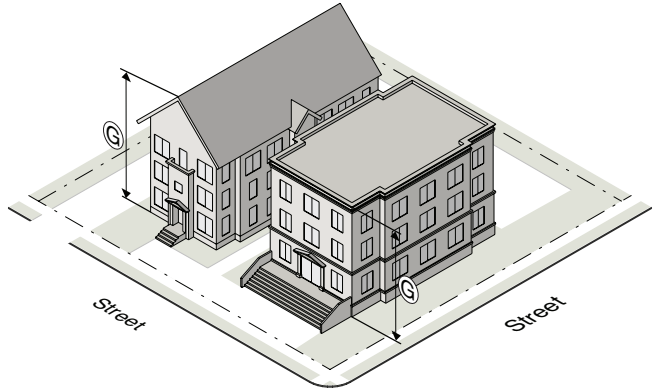
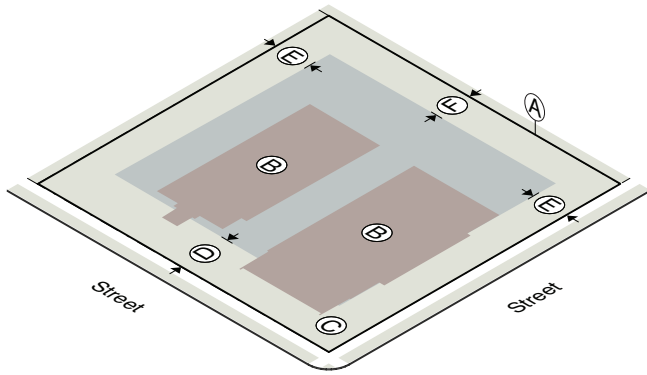
	SR1	SR2	SR3
Building Height*			
Flat/Sloped Roof (max)	36'	36'	36'
Ⓖ Stories (max)	3	3	3
Floor Area Ratio**			
Floor Area Ratio (max)	0.2	0.33	0.5

* Building and structure height may be increased by one story for every 150 feet of distance from streets and abutting properties, but not to exceed 6 stories or 60 feet.

** Floor area ratio may be increased by 0.1 for each additional 10 percent of the lot area that is devoted to usable open space up to a maximum floor area ratio of 1.0.

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.1.7. Multi-Use Institution: With or Without Dormitory



	SR1	SR2	SR3
Lot Dimensions			
(A) Lot Area (min)	50,000 sf	30,000 sf	20,000 sf
(B) Lot Coverage (max)	30%	30%	30%
(C) Usable Open Space (min)	30%	30%	30%
Principal Building Setbacks			
(D) Front (min)*	60'	50'	40'
(E) Side (min)	40'	30'	30'**
(F) Rear (min)	40'	30'	30'**
OR			
Where greater: (bldg ht + bldg length + bldg width)/3			

* See Sec. 1.5.3 for setback averaging requirement.

** See Sec. 3.1.12

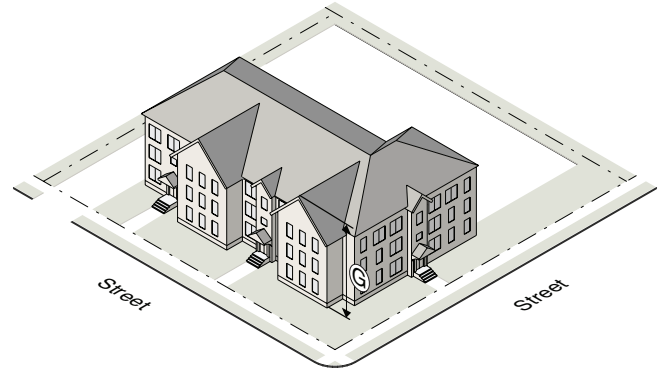
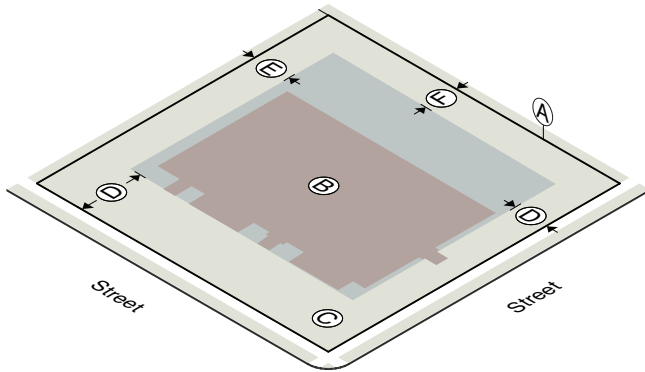
	SR1	SR2	SR3
Building Height*			
Flat/Sloped Roof (max)	36'	36'	36'
(G) Stories (max)	3	3	3
Floor Area Ratio**			
Floor Area Ratio (max)	0.2	0.5	0.5

* Building and structure height may be increased by one story for every 150 feet of distance from streets and abutting properties, but not to exceed 6 stories or 60 feet.

** Floor area ratio may be increased by 0.1 for each additional 10 percent of the lot area that is devoted to usable open space up to a maximum floor area ratio of 1.0.

(Ord. No. S-260, 08/03/87; Ord. No. S-287, 12/07/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.1.8. Dormitory: On Own Lot



	SR1	SR2	SR3
Lot Dimensions			
(A) Lot Area (min)	25,000 sf	15,000 sf	10,000 sf
(B) Lot Coverage (max) **	18%	18%	18%
(C) Usable Open Space (min) **	50%	50%	50%
Principal Building Setbacks			
(D) Front (min)*	60'	50'	40'
(E) Side (min)	40'	30'	30'
(F) Rear (min)	40'	30'	30'
OR			
Where greater: (bldg ht + bldg length + bldg width)/3			

* See [Sec. 1.5.3](#) for setback averaging requirement.

** When a dormitory is developed in conjunction with a non-profit use the lot coverage and open space requirements of [Sec. 3.1.7](#) shall apply.

	SR1	SR2	SR3
Building Height*			
Flat/Sloped Roof (max)	36'	36'	36'
(G) Stories (max)	3	3	3
Floor Area Ratio**			
Floor Area Ratio (max)	0.2	0.5	0.5

* Building and structure height may be increased by one story for every 150 feet of distance from streets and abutting properties, but not to exceed 6 stories or 60 feet.

** Floor area ratio may be increased by 0.1 for each additional 10 percent of the lot area that is devoted to usable open space up to a maximum floor area ratio of 1.0.

(Ord. No. S-260, 08/03/87; Ord. No. S-287, 12/07/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

Sec. 3.2. Multi-Residence Districts

3.2.1. District Intent

[reserved]

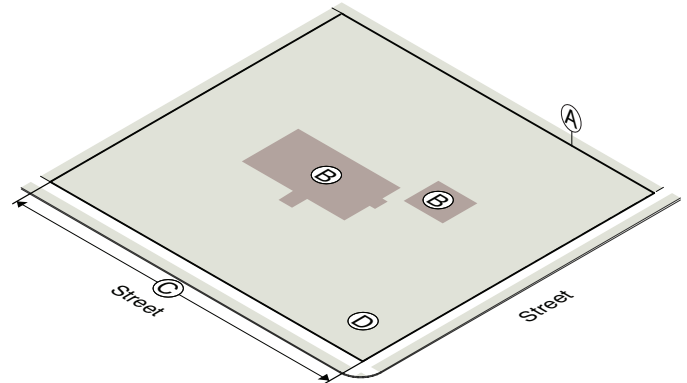
3.2.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in [Sec. 3.2](#) apply to all buildings, structures and uses in each of the listed districts.
2. Lots created before December 7, 1953 (referred to as 'Before 12/7/1953') use a different set of density and dimensional standards than lots created on or after December 7, 1953 (referred to as 'On or After 12/7/1953'), as shown in the tables in [Sec. 3.2.3](#).
3. Where a density or dimensional control is not set forth in this [Sec. 3.2](#) for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the Board of Aldermen.
4. Where a lot does not meet these standards it is nonconforming (see [Sec. 7.8](#)).

(Ord. No. S-260, 08/03/87)

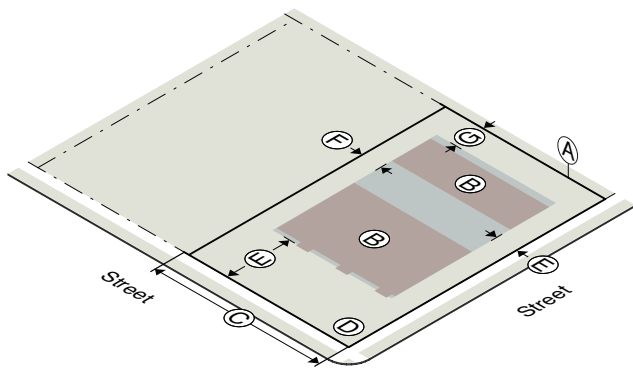
3.2.3. Single-Family Detached or Two-Family Detached



	MR1	MR2	MR3	MR4
Lot Dimensions (On or After 12/7/1953)				
(A) Lot Area (min)	10,000 sf	10,000 sf	10,000 sf	10,000 sf
Lot Area Per Unit (min)	5,000 sf	5,000 sf	5,000 sf	5,000 sf
(B) Lot Coverage (max)	30%	30%	30%	30%
(C) Frontage (min)	80'	80'	80'	80'
(D) Usable Open Space (min)	50%	50%	50%	50%
Lot Dimensions (Before 12/7/1953)				
(A) Lot Area (min)	7,000 sf	7,000 sf	7,000 sf	--
Lot Area Per Unit (min)	3,500 sf	3,500 sf	3,500 sf	--
(B) Lot Coverage (max)	30%	30%	30%	--
(C) Frontage (min)	70'	70'	70'	--
(D) Open Space (min)	50%	50%	50%	--

-- Not Applicable

3.2.4. Single-Family Attached Dwelling



	MR1, 2	MR3
Site Dimensions *		
Ⓐ Lot Area (min)	15,000 sf	15,000 sf
Lot Area Per Unit (min)	4,000 sf	4,000 sf
Ⓑ Lot Coverage (max)	25%	25%
Ⓒ Frontage (min)	80'	80'
Ⓓ Usable Open Space (min)	50%	50%
Principal Building Setbacks *		
Ⓔ Front (min)**	25'	25'
Ⓕ Side (min)	25'	10'
Ⓖ Rear (min)	25'	15'

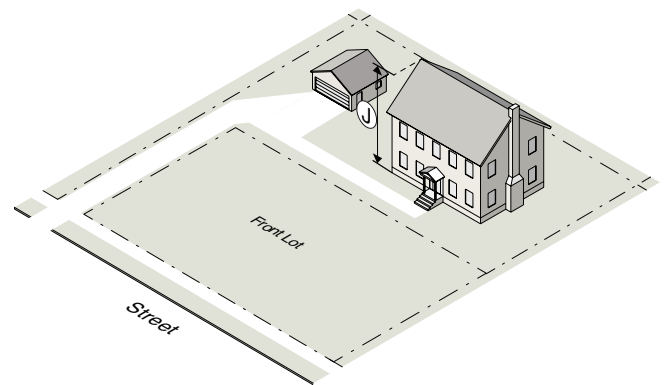
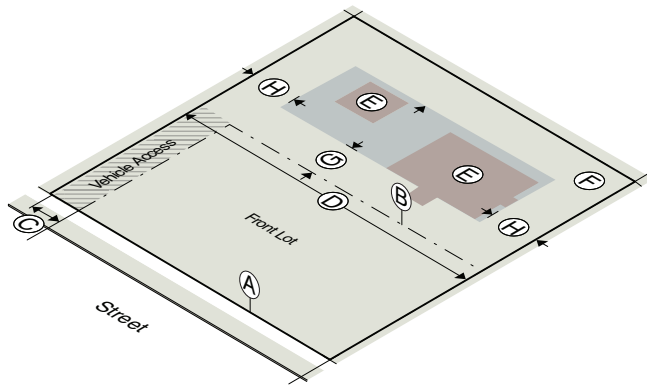
	MR1, 2	MR3
Principal Building Height		
Sloped Roof (max)	36'	36'
Flat Roof (max)	30'	30'
Ⓗ Stories (max)	2.5	2.5
Ⓗ Stories by special permit (max)	3	3

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

* In particular instances, the Board of Aldermen may grant exceptions to the dimensional standards of this Sec. 3.2.4 if it is determined that literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety, or protection of environmental features.

** See Sec. 1.5.3 for setback averaging requirement.

3.2.5. Two-Family Detached Rear Lot



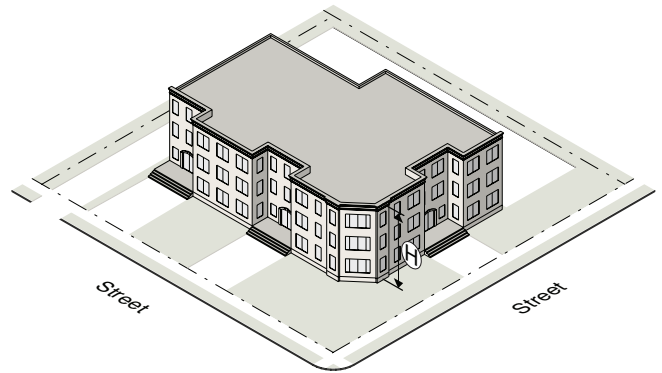
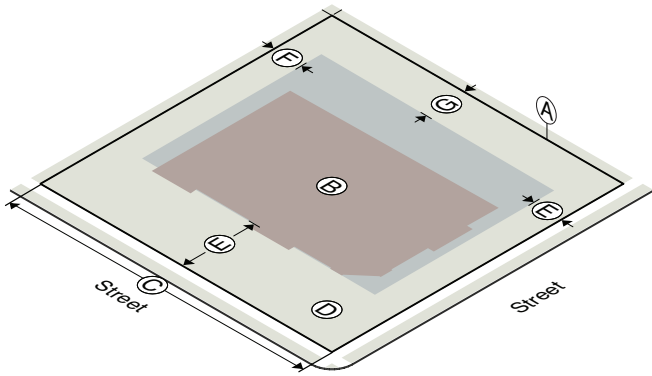
	MR1	MR2	MR3	MR4
Lot Dimensions				
Ⓐ Lot Area, Front Lot plus Rear Lot (min)	22,000 sf	22,000 sf	22,000 sf	22,000 sf
Ⓑ Lot Area (min)	12,000 sf	12,000 sf	12,000 sf	12,000 sf
Ⓒ Vehicle Access (min)	20'	20'	20'	20'
Ⓓ Frontage (min)	80'	80'	80'	80'
Ⓔ Lot Coverage (max)	25%	25%	25%	25%
Ⓕ Usable Open Space (min)	50%	50%	50%	50%
Principal Building Setbacks				
Ⓖ Front (min)	30'	25'	25'	25'
Ⓗ Side (min)	15'	15'	12'	15'
Ⓘ Rear (min)	23'	23'	23'	23'
Alternate Side Building Separation				
Side Separation (min)	30'	30'	24'	30'
Distance to Side Lot Line (min)	10'	10'	8'	10'
Rear Separation (min)	46'	46'	46'	46'
Distance to Rear Lot Line (min)	15'	15'	15'	15'

	MR1	MR2	MR3	MR3
Building Height				
Sloped Roof (max)	36'	36'	36'	36'
Flat Roof (max)	30'	30'	30'	30'
Ⓙ Stories (max)	2.5	2.5	2.5	2.5
Floor Area Ratio				
Floor Area Ratio (max)	0.28	0.28	0.28	0.28

For additional requirements, see [Sec. 3.2.12.](#)

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.2.6. Multi-Family Dwelling



	MR2	MR3	MR4
Lot Dimensions			
Ⓐ Lot Area (min)	10,000 sf	10,000 sf	3 ac
Lot Area Per Unit (min)	3,000 sf	1,200 sf	1,000 sf
Ⓑ Lot Coverage (max)	30%	45%	20%
Ⓒ Frontage (min)	80'	80'	--
Ⓓ Usable Open Space (min)	50%	30%	30%
Principal Building Setbacks			
Ⓔ Front (min)*	25'	15'	50'
Ⓕ Side (min)	7.5'	½ bldg ht	50'
Ⓖ Rear (min)	15'	½ bldg ht	50'

-- Not Applicable

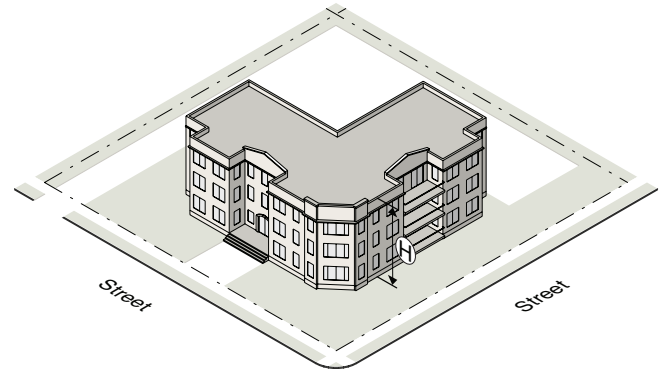
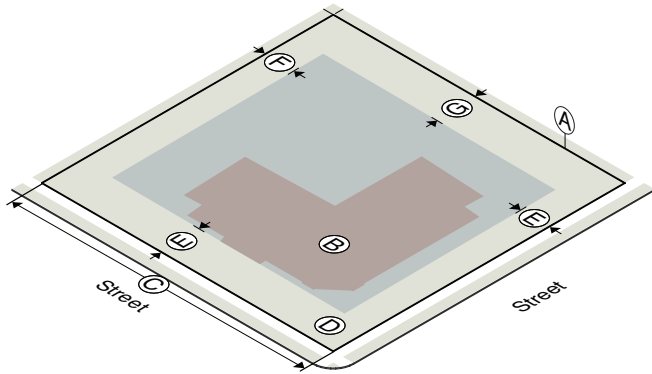
* See Sec. 1.5.3 for setback averaging requirement.

	MR2	MR3	MR4
Building Height			
Sloped Roof (max)	36'	42'*	--
Flat Roof (max)	30'	36'*	--
Ⓗ Stories (max)	3	3	3

* Allow by special permit in the Multi-Residence 3 district, a maximum building height of 48 feet and a maximum number of 4 stories, provided that there is a minimum lot size of 10 acres; the distance from any streets abutting the lot to such multi-family dwelling structure is no less than 150 feet, and the distance between such structure and abutting properties is no less than 75 feet; and the front, side, and rear setbacks for the lot are 50 feet from the lot line.

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.2.7. Residential Care Facility



	MR3	MR4
Lot Dimensions		
(A) Lot Area (min)	10,000 sf	3 ac
Lot Area Per Unit (min)	1,200 sf	1,200 sf
(B) Lot Coverage (max)	45%	45%
(C) Frontage (min)	80'	--
(D) Usable Open Space (min)	30%	30%
Principal Building Setbacks		
(E) Front (min)*	15'	15'
(F) Side (min)	1/3 bldg ht	1/3 bldg ht
(G) Rear (min)	1/2 bldg ht	1/2 bldg ht

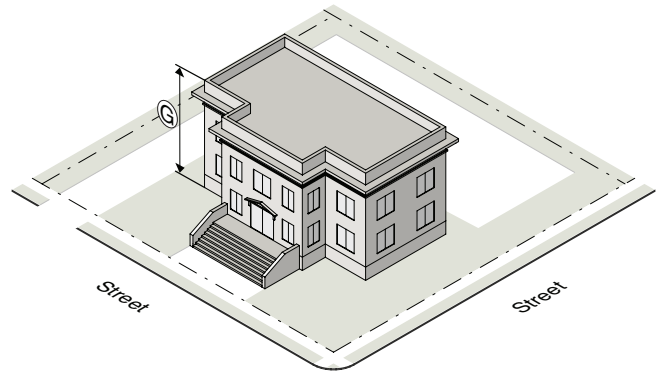
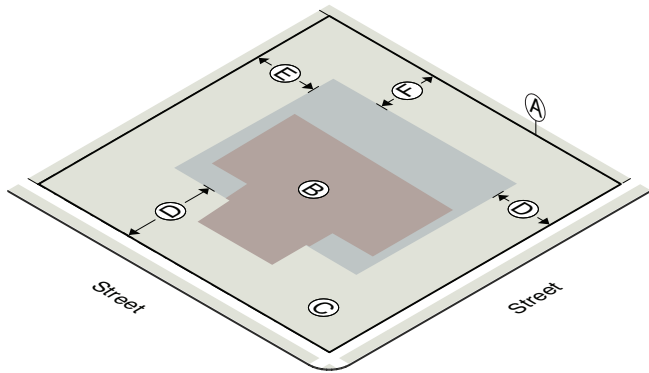
-- Not Applicable

	MR3	MR4
Building Height		
Sloped Roof (max)	42'	42'
Flat Roof (max)	36'	36'
(H) Stories (max)	3	3

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

* See Sec. 1.5.3 for setback averaging requirement.

3.2.8. Single-Use Institution



	MR1	MR2	MR3, 4
Lot Dimensions			
Ⓐ Lot Area (min)	10,000 sf	10,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	30%	30%	30%
Ⓒ Usable Open Space (min)	50%	50%	50%
Principal Building Setbacks			
Ⓓ Front (min)*	30'	25'	15'
Ⓔ Side (min)	10'	10'	7.5'
Ⓕ Rear (min)	15'	15'	15'

* See [Sec. 1.5.3](#) for setback averaging requirement.

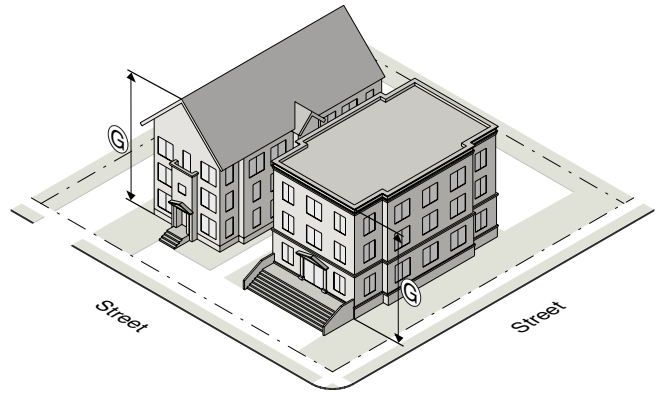
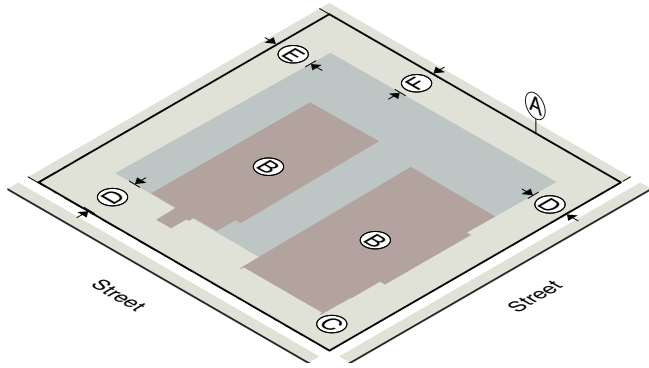
	MR1	MR2	MR3, 4
Building Height*			
Flat/Sloped Roof (max)	36'	36'	36'
Ⓖ Stories (max)	3	3	3
Floor Area Ratio**			
Floor Area Ratio (max)	0.5	0.75	1.0

* Building and structure height may be increased by one story for every 150 feet of distance from streets and abutting properties, but not to exceed 6 stories or 60 feet.

** Floor area ratio may be increased by 0.1 for each additional 10 percent of the lot area that is devoted to usable open space up to a maximum floor area ratio of 1.0.

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.2.9. Multi-Use Institution: With or Without Dormitory



	MR1	MR2	MR3	MR4
Lot Dimensions				
(A) Lot Area (min)	20,000 sf	20,000 sf	20,000 sf	20,000 sf
(B) Lot Coverage (max)	30%	30%	30%	45%
(C) Usable Open Space (min)	30%	30%	30%	30%
Principal Building Setbacks				
(D) Front (min)*	40'	30'	25'	25'
(E) Side (min)	30'	25'	25'	25'
(F) Rear (min)	30'	25'	25'	25'

* See [Sec. 1.5.3](#) for setback averaging requirement.

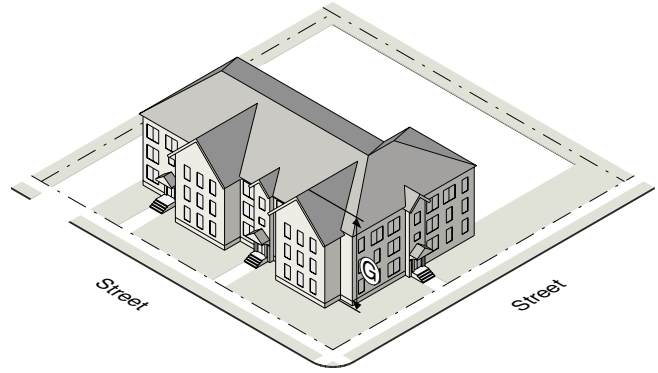
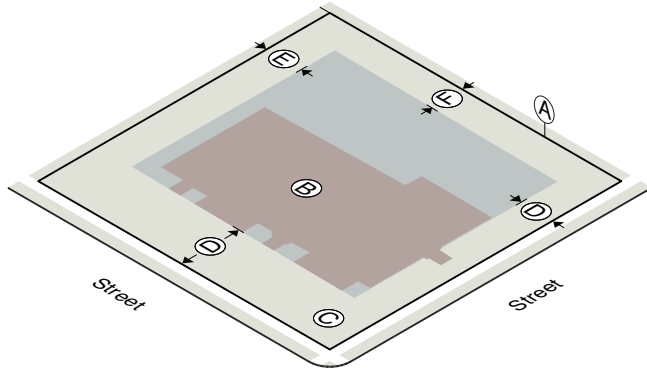
	MR1	MR2	MR3	MR4
Building Height *				
Flat/Sloped Roof (max)	36'	36'	36'	36'
(G) Stories (max)	3	3	3	3
Floor Area Ratio **				
Floor Area Ratio (max)	0.5	0.75	1.0	1.0

* Building and structure height may be increased by one story for every 150 feet of distance from streets and abutting properties, but not to exceed 6 stories or 60 feet.

** Floor area ratio may be increased by 0.1 for each additional 10 percent of the lot area that is devoted to usable open space up to a maximum floor area ratio of 1.0.

(Ord. No. S-260, 08/03/87; Ord. No. S-287, 12/07/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.2.10. Dormitory: On Own Lot



	MR1	MR2	MR3	MR4
Lot Dimensions				
Ⓐ Lot Area (min)	10,000 sf	10,000 sf	10,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	18%	25%	30%	30%
Ⓒ Usable Open Space (min)	45%	40%	40%	40%
Principal Building Setbacks				
Ⓓ Front (min)*	40'	40'	25'	25'
Ⓔ Side (min)	30'	25'	25'	25'
Ⓕ Rear (min)	30'	25'	25'	25'

* See [Sec. 1.5.3](#) for setback averaging requirement.

	MR1	MR2	MR3	MR4
Building Height*				
Flat/Sloped Roof (max)	36'	36'	36'	36'
Ⓒ Stories (max)	3	3	3	3
Floor Area Ratio**				
Floor Area Ratio (max)	0.5	0.75	1.0	1.0

* Building and structure height may be increased by one story for every 150 feet of distance from streets and abutting properties, but not to exceed 6 stories or 60 feet.

** Floor area ratio may be increased by 0.1 for each additional 10 percent of the lot area that is devoted to usable open space up to a maximum floor area ratio of 1.0.

(Ord. No. S-260, 08/03/87; Ord. No. S-287, 12/07/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

3.4.2. Accessory Uses Allowed

- A. By Right in All Single Residence Districts.** Such accessory purposes as are proper and usual with detached single-family dwellings or detached two-family dwellings, including but not limited to:
1. Housing of resident domestic employees;
 2. Renting of rooms for not more than 3 lodgers;
 3. Parking or storage of recreational trailers or vehicles, provided that if not parked or stored within a garage or other enclosed structure, such trailer or vehicle shall not be parked or stored within the area between any front line of the principal building and the street line, or stored within the side or rear setback, and further provided that such trailer or vehicle may be parked in the side or rear setback for a period not to exceed 7 days;
 4. Parking or storing of not more than 1 commercial vehicle per lot, subject to Sec. 6.7.23;
 5. Home businesses subject to Sec. 6.7.3; and
 6. Internal accessory apartments in single residence districts, subject to Sec. 6.7.1.
- B. ~~By Right in All Multi-Residence Districts. Such accessory purposes as are proper and usual with detached two-family dwellings.~~**

C. By Special Permit in All Residence Districts.

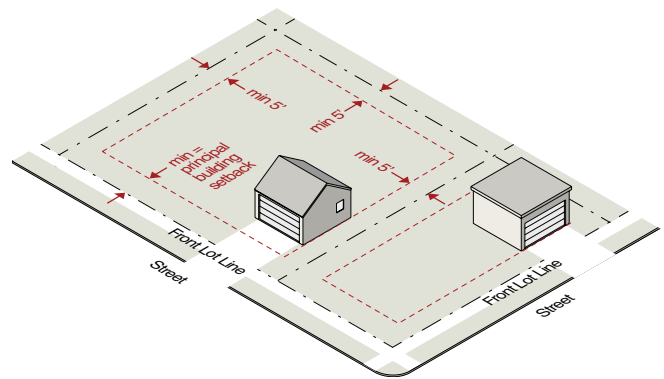
The text of section 3.4.2.C is in effect until April 1, 2017. After that date refer to section 3.4.4.

1. A private garage with provision for more than 3 automobiles, or a private garage of more than 700 square feet in area, or more than 1 private garage per single-family dwelling;
2. Internal and detached accessory apartments subject to provisions of Sec. 6.7.1;
3. Home businesses subject to the provisions of Sec. 6.7.3; and
4. Accessory purposes as are proper and usual with the preceding special permit uses and are not injurious to a neighborhood as a place for single-family residences.

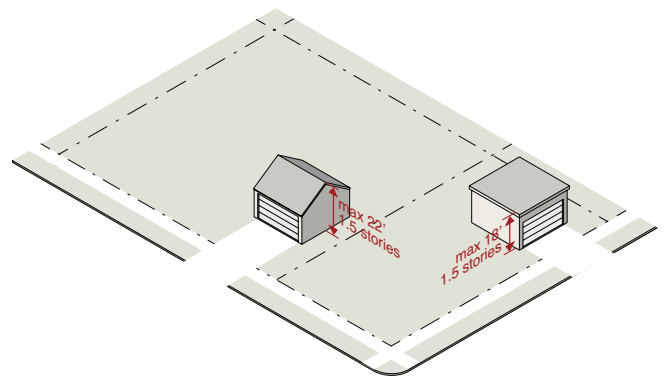
(Ord. No. S-260, 08/03/87; Ord.No. S-322, 07/11/88; Ord. No. T-114, 11/19/90; Ord. No. V-274, 12/06/99; Ord. No. A-78, 06/20/16)

3.4.3. Accessory Buildings

- A.** Except as provided in Sec. 6.9, accessory buildings shall conform to the following requirements:
1. An accessory building shall be no nearer to any side or rear lot line than 5 feet, and no nearer to any front lot line than the distance prescribed for the principal building.



2. An accessory building with a sloping roof shall have a maximum height of 22 feet. An accessory building with a flat roof shall have a maximum height of 18 feet. An accessory building shall have no more than 1½ stories.



3. The ground floor area of an accessory building shall not exceed 700 square feet.

The text of section 3.4.3.A.4 is in effect until April 1, 2017. After that date refer to section 3.4.4.

4. If the accessory building is a garage, unless a special permit is granted, for each dwelling unit there shall be:

Sec. 4.2. Mixed Use Districts

4.2.1. District Intent

- A. **Mixed Use 1 and 2 District.** [Reserved]
- B. **Mixed Use 3/Transit-Oriented Development.** The purpose of the Mixed-Use 3/Transit-Oriented district is to allow the development of a mixed-use center on a parcel of no less than 9 acres near the terminus of a mass transit rail line, an interstate highway, a scenic road, and the Charles River, commonly referred to as the Riverside MBTA station, pursuant to the City's Comprehensive Plan, particularly the mixed-use centers and economic development elements. This district shall encourage comprehensive design within the site and with its surroundings, integrate complementary uses, provide enhancements to public infrastructure, provide beneficial open spaces, protect neighborhoods from impacts of development, allow sufficient density to make development economically feasible, foster use of alternative modes of transportation, and create a vibrant destination where people can live, work and play.
- C. **Mixed Use 4 District.** The purposes of the Mixed Use 4 district are to:
 1. Allow the development of buildings and uses appropriate to Newton's village commercial centers and aligned with the vision of the City's Comprehensive Plan.
 2. Encourage development that fosters compact, pedestrian-oriented villages with a diverse mix of residences, shops, offices, institutions, and opportunities for entertainment.
 3. Allow sufficient density and intensity of uses to promote a lively pedestrian environment, public transit, and variety of businesses that serve the needs of the community.
 4. Expand the diversity of housing options available in the City.
 5. Promote the health and well-being of residents by encouraging physical activity, use of alternative modes of transportation, and creating a sense of place and community.

(Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-6, 10/01/12)

4.2.2. Dimensional Standards

A. Applicability.

1. The density and dimensional controls in Sec. 4.2.2 and Sec. 4.2.3 apply to all buildings, structures and uses in each of the listed districts.
2. Where more than one dwelling unit is provided on a lot in certain Mixed Use districts, the following residential density control shall apply:

Mixed Use District	MU1	MU2	MU3/TOD	MU4
Lot Area Per Unit (min)	10,000sf	10,000sf	1,200 sf	1,000 sf

3. Where a density or dimensional control is not set forth in the following tables for a use granted by special permit, the most restrictive density or dimensional control applicable to such use in any district where the use is allowed as of right shall be applicable, unless otherwise required in the special permit by the Board of Aldermen.

B. Approval Process.

1. **Special Permit Required.** A special permit is required for any development in a mixed use district of 20,000 square feet or more.
2. **Site Plan Review Required.** A site plan is required for any development in a mixed use district that ranges from 10,000 to 19,999 square feet of new gross floor area. After August 3, 1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings, structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.
3. **Stories.** A special permit is required based on stories according to the following table:

Stories	MU1	MU2	MU3/TOD	MU4
2 stories	P	P	PNA	P
3 stories	P	SP	SPNA	--
3 stories, mixed use residential	NA	NA	SPNA	P
4 stories or more	SP	SP	SPNA	SP
5 stories, mixed use residential	NA	NA	SPNA	SP

P = Allowed by Right

SP = Special Permit by Board of Alderman Required

-- Not Allowed **NA = Not Applicable**

(Ord. No S-260, 08/03/87; Ord. No. A-73, 04/04/16)

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Residential Uses												
Single-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.1
Two-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.2
Residential use, above ground floor	L	L	L	L	--	SP	L/SP	P	P	--	--	Sec. 6.2.4
Residential use, ground floor	SP	SP	SP	SP	--	SP	SP	P	SP	--	--	Sec. 6.2.4
Assisted living, nursing home	--	--	--	--	--	--	--	SP	SP	--	--	Sec. 6.2.5
Elderly housing with services	SP	SP	SP	SP	--	--	--	--	--	--	--	Sec. 6.2.10
Live/work space	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	--	<u>P</u>	<u>P</u>	P	P	--	--	Sec. 6.2.11
Single-room occupancy dwelling, single-person occupancy dwelling	--	--	--	--	--	--	--	SP	--	--	--	Sec. 6.2.14
Civic/Institutional Uses												
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.1
Club, clubhouse	P	P	P	P	--	--	P	--	SP	--	P	Sec. 6.3.2
Community use space	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	P	<u>P</u>	<u>P</u>	Sec. 6.3.3
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.4
Government offices or services	--	--	--	--	--	--	--	P	P	--	--	Sec. 6.3.5
Heliport	--	--	--	--	SP	--	--	--	--	SP	SP	Sec. 6.3.6
Hospital	SP	SP	SP	SP	SP	--	--	--	--	--	--	Sec. 6.3.7
Library, museum or similar institution	P	P	P	P	SP	--	P	P	P	--	P	Sec. 6.3.8
Public use	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.10
Rail/bus station	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	P	<u>P</u>	<u>P</u>	<u>P</u>	Sec. 6.3.11
Religious institution	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.12
Sanitarium, convalescent or rest home, other like institution	SP	SP	SP	SP	SP	--	SP	--	--	--	--	Sec. 6.3.13
School or other educational purposes, non-profit	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.14
School or other educational purposes, for-profit	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.14
Theatre, hall	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.3.15
Commercial Uses												
Animal service, excluding overnight boarding	--	--	--	--	--	SP	SP	--	SP	--	--	Sec. 6.4.1
ATM, standalone	SP	SP	SP	SP	SP	SP	SP	P	SP	SP	SP	Sec. 6.4.2

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Board of Aldermen Required -- Not Allowed

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Bank, <u>up to 5,000 square feet</u>	P	P	P	P	--	SP	P	SP	P	--	P	Sec. 6.4.4
<u>Bank, over 5,000 square feet</u>	P	P	P	P	--	SP	SP	SP	SP	--	P	
Bowling alley	--	P	--	--	--	--	--	--	--	--	P	Sec. 6.4.5
Business incubator	P	P	P	P	--	P	P	P	--	P	P	Sec. 6.4.6
Business services	--	--	--	--	--	SP	P	--	--	--	--	Sec. 6.4.7
Car-sharing service, car rental, bike rental, electric car-charging station	P	P	P	P	P	P	P	P	P	--	P	Sec. 6.4.8
Car wash	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.4.9
Drive-in business	SP	SP	SP	SP	--	--	--	--	--	--	SP	Sec. 6.4.11
Dry cleaning or laundry, retail	P	P	P	P	--	SP	P	P	P	--	--	Sec. 6.4.12
Fast food establishment	--	SP	--	--	--	--	--	--	--	--	SP	Sec. 6.4.13
Fuel establishment	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.14
Funeral home	SP	SP	SP	SP	--	--	SP	--	--	--	--	Sec. 6.4.15
Health club, above or below ground floor	P	P	--	P	--	P	P	P	SP	P	P	Sec. 6.4.16
Health club, ground floor	P	P	--	P	--	SP	SP	SP	SP	P	P	Sec. 6.4.16
Hotel or lodging establishment	SP	SP	SP	SP	SP	--	SP	SP	SP	--	--	Sec. 6.4.17
Job printing, up to 3,000 square feet (area used for work and storage)	P	P	P	P	--	--	P	--	--	P	--	Sec. 6.4.18
Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	Sec. 6.4.18
Kennel	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.4.19
Office	P	P	P	P	P	P	P	L	PL/SP	P	P	Sec. 6.4.20
Office of a contractor, builder, electrician or plumber or similar enterprises	--	L	--	--	--	--	--	--	--	--	L	Sec. 6.4.21
Open-air business	SP	SP	SP	SP	--	--	--	--	SP	--	SP	Sec. 6.4.22
Outdoor storage	--	SP	--	--	--	--	--	--	--	--	--	Sec. 6.4.23
Parking facility, accessory, single level	P	P	P	P	--	--	P	--	P	P	P/SP	Sec. 6.4.24
Parking facility, non-accessory, single level	SP	SP	SP	SP	--	--	SP	--	SP	SP	SP	Sec. 6.4.24
Parking facility, accessory, multi-level	SP	SP	SP	SP	--	--	--	--	P	SP	SP	Sec. 6.4.24
Parking facility, non-accessory, multi-level	SP	SP	SP	SP	--	--	--	--	SP	SP	SP	Sec. 6.4.24
<u>Parking facility, public</u>	--	--	--	--	--	--	--	P	P	--	SP	Sec. 6.4.24
Personal service, up to 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.25
Personal service, over 5,000 square feet	P	P	P	P	--	--	P	SP	SP	--	P	Sec. 6.4.25

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Board of Aldermen Required -- Not Allowed

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Place of amusement, indoor or outdoor	--	SP	--	--	--	--	--	SP	SP	--	SP	Sec. 6.4.26
Radio or television broadcasting studio	SP	SP	SP	SP	SP	--	SP	--	--	L	--	Sec. 6.4.27
Radio, or television transmission station	--	--	--	--	SP	SP	--	--	--	SP	--	Sec. 6.4.27
Research and development	--	--	--	--	--	--	--	P	--	--	--	Sec. 6.4.28
Restaurant	L/ SP	L/ SP	L/ SP	L/ SP	--	SP	P/ SP	P/ SP	P/ SP	--	L/ SP	Sec. 6.4.29
Retail sales, under 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.30
Retail sales, over 5,000 square feet	P	P	P	P	--	SP	P	SP	SP	--	P	Sec. 6.4.30
Service establishment, up to 5,000 sq. feet	P	P	P	P	--	SP	P	--	P	--	--	Sec. 6.4.31
Service establishment, over 5,000 sq. feet	P	P	P	P	--	SP	P	--	SP	--	--	Sec. 6.4.31
Stable, public	--	--	--	--	--	--	--	--	--	--	SP	Sec. 6.4.32
Taxidermist	--	--	--	--	--	--	--	--	--	--	P	Sec. 6.4.33
Vehicle repair shop, minor	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.34
Vehicle repair shop, major	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.34
Vehicles sales and service facility, indoor	--	SP	--	--	--	SP	SP	--	--	SP	--	Sec. 6.4.35
Vehicles sales and service facility, outdoor	--	SP	--	--	--	SP	--	--	--	SP	--	Sec. 6.4.35
Veterinary hospital	--	SP	--	--	--	SP	SP	--	SP	P	P	Sec. 6.4.36
Industrial Uses												
Assembly or fabrication of materials manufactured off premise	--	--	--	--	--	P	SP	--	--	P	--	Sec. 6.5.1
Bakery, wholesale	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.2
Boat building, storage and repair	--	--	--	--	--	--	--	--	--	L	P	Sec. 6.5.3
Bottling works (except for alcoholic beverages)	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.4
Building materials sales yard and storage building	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.5
Contractor's yard	--	--	--	--	--	--	--	--	--	P	--	Sec. 6.5.6
Feed and seed store	--	--	--	--	--	--	--	--	--	SP	P	Sec. 6.5.7
Food processing, wholesale	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.8
Laboratory and research facility, no recombinant DNA	SP	SP	SP	SP	SP	P	P	SP	P	P	P	Sec. 6.5.9
Laboratory and research facility, recombinant DNA	--	--	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.5.9
Laundry, cleaning & dyeing establishment	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.10
Manufacturing	--	--	--	--	--	L	--	--	--	P	P	Sec. 6.5.11
Manufacturing, molding, shaping or assembly from prepared materials (including repairs)	--	--	--	--	--	--	--	--	--	P	P	Sec. 6.5.11
P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Board of Aldermen Required -- Not Allowed												

Use	Parking Stalls Required	Allowed by Special Permit
Medical office, not on or abutting hospital property	1 per 200 sf plus 1 per 3 every employees in any lab or pharmacy in bldg	
Office, professional building	1 per 250 sf up to 20,000 sf; 1 per 333 sf over 20,000 sf	
Outdoor or open-air sales space, drive-in establishments, open-air retail business, amusements and other similar uses	1 per 600 sf	
<u>Personal Service</u>	<u>1 per 300 sf plus</u> <u>1 per 3 every employees</u>	
Post Office	1 per 300 sf plus 1 per 3 every employees	
Radio or television transmission station	1 per 2,500 sf plus 1 per every 4 employees	
Restaurant, food or beverage establishment (for sidewalk cafe, see 12-70)	1 per 3 patron seats, permanent or otherwise plus 1 per 3 employees	
Restaurant, food or beverage establishment in a hotel, motel	1 per 90 sf plus 1 per every 6 employees	
Retail store, showroom	1 per 300 sf plus 1 per 3 employees	
Service establishment	1 per 300 sf plus 1 per 3 employees	
Theaters, halls, clubs, auditoriums and other places of amusement or assembly, not in a hotel, motel	1 per 3 seats, permanent or otherwise plus 1 per every 3 employees plus 1 per 45 sf used for meeting functions	
Theaters, halls, clubs, auditoriums and other places of amusement or assembly in a hotel, motel	1 per 12 seats plus 1 per every 3 employees plus .25 per 45 sf used for meeting functions	
Industrial		
Manufacturing	1 per 1,000 sf plus 1 per 4 employees	
Research, laboratory	1 per 1,000 sf plus 1 per 4 employees	
Storage warehouse or business	1 per 2,500 sf plus 1 per 4 employees	
Telecommunications and data storage facility	1 per 2,500 sf plus 1 per 4 employees	
Wholesale business	1 per 1,000 sf plus 1 per 4 employees	

in a business or manufacturing district; provided that no part of such parking facility is further than 150 feet from the boundary line of a business or manufacturing district and provided that the parking facility is within 500 feet of the lot on which the principal use is located. Such permission shall be given only if the facility for which a permit is requested is to be used solely for the parking of passenger vehicles accessory to a use lawfully established in said business or manufacturing district. Such parking facilities are not to be used for sales, repair work or servicing of any kind, and no advertising sign or material is to be located on such lots.

- D. An outdoor parking facility shall be graded and surfaced to accommodate motor vehicles during all weather conditions.

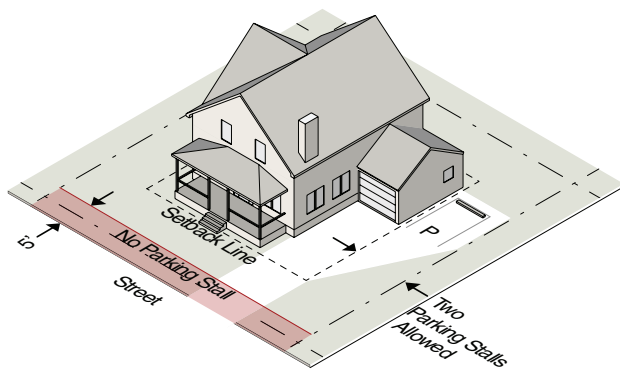
(Ord. No. 202, 03/21/77; Ord. No. S-260, 08/03/87)

(Ord. No. 202, 03/21/77; Ord. No. 284, 06/19/78; Ord. No. S-260, 08/03/87)

5.1.7. Design of Parking Facilities Containing 5 Stalls or Less

A parking facility containing 5 stalls or less shall comply with the following requirements:

- A. No parking stall shall be located within any required setback distances from a street and side lot lines, except that, in conjunction with a single- or two-family dwelling, 2 parking stalls per dwelling unit may be located within required side lot line setback and sideline distances, and 1 may be located within a street setback distance. However, in no case shall a parking stall be set back less than 5 feet from the street.



- B. The minimum dimensions of a parking stall shall be as follows:
 1. Stall width shall be at least 9 feet; and
 2. Stall depth shall be at least 19 feet for all angle parking, and 21 feet for parallel parking.
- C. The entrance and exit drives shall be a minimum of 12 feet wide and a maximum of 20 feet wide.

5.2.8. Signs in Commercial Districts

No sign shall be erected or maintained in a business, limited manufacturing, manufacturing, and mixed use district, except as provided in [Sec. 5.2.6](#) and this [Sec. 5.2.8](#):

Type	Number per business establishment	Area per Sign (max)	Notes
Principal sign	1 total per establishment	3 sf per linear foot of building wall frontage OR 100 sf, whichever is less	In particular instances, due to the nature of the use of the premises, the architecture of the building, or its location with reference to the street, the total allowable sign area may be divided between two wall signs which together constitute the principal wall sign.
Principal sign: Business on a corner lot	2 total per establishment	3 sf per linear foot of building wall OR 100 sf, whichever is less	Frontage on the second street must be at least 75 percent of frontage on first street
Secondary sign	1 per building, entrance or frontage on a street or parking area; 2 max	1 sf per linear foot of building wall OR 50 sf, whichever is less	May not be erected on the same wall as a principal sign.
Directory sign	1 total per building entrance	1 sf per occupant or tenant	Indicating the occupants or tenants of the building to which the sign is affixed
Directory sign: building with 2nd entrance	1 per entrance	1 sf per occupant or tenant	The second entrance must have frontage on a street or parking lot. Such signs shall not be deemed nonaccessory directory signs.
Marquee sign	1 per theater		
Awning sign	--	Up to 20% of awning area	
Window sign	--	Up to 25% of window area through which they are visible	
Gas station sign	1 consolidated display	20 sf (aggregate)	Product identification signs (tires, oil...)
Directional sign		3 sf	For the direction of persons or vehicles, indicating "entrance," "exit," "parking," or the like

-- Not Applicable

Sec. 6.1. Use Determination

- A. Interpretations by the Commissioner of Inspectional Services.** The Commissioner of Inspectional Services is responsible for determining all uses. If a proposed use is not listed, but is similar or accessory to a listed use, the Commissioner of Inspectional Services may consider the proposed use part of the listed use. When determining whether a proposed use is similar to a listed use, the Commissioner of Inspectional Services will consider the following criteria:
1. The actual or projected characteristics of the proposed use;
 2. The relative amount of lot area or floor area and equipment devoted to the proposed use;
 3. Relative amounts of sales;
 4. The customer type;
 5. The relative number of employees;
 6. Hours of operation;
 7. Building and lot arrangement;
 8. Types of vehicles used and their parking requirements;
 9. The number of vehicle trips generated;
 10. Signs;
 11. How the proposed use is advertised;
 12. The likely impact on surrounding properties; and
 13. Whether the activity is likely to be found independent of the other activities on the lot.
- B. Uses Not Specifically Listed.** A use not specifically listed is prohibited unless the Commissioner of Inspectional Services determines the use to be part of a listed use as described in paragraph A. above.
- C. Commissioner of Inspectional Services Action.** Following a determination by the Commissioner of Inspectional Services, a written record shall be kept by the Planning and Development Department.

Sec. 6.2. Residential Uses

6.2.1. Single-Family Detached

- A. Defined.** See [Sec. 1.5.1](#)
- B. Standards.** ~~In the Business 1, Business 2, Business 3 and Business 4 districts, a single dwelling unit in existence as of January 1, 2000, is allowed to continue, but only on a lot abutted on 2 or more sides by lots in residence districts and subject to the density and dimensional controls for the abutting residentially-zoned lots.~~ [\[reserved\]](#).

6.2.2. Two-Family Detached

- A. Defined.** See [Sec. 1.5.1](#)
- B. Standards.** ~~In the Business 1, Business 2, Business 3 and Business 4 districts, a dwelling with 2 units in existence as of January 1, 2000, is allowed to continue, but only on a lot abutted on 2 or more sides by lots in residence districts and subject to the density and dimensional controls for the abutting residentially-zoned lots.~~ [\[reserved\]](#).

6.2.3. Single-Family Attached

- A. Defined.** See [Sec. 1.5.1](#)
- B. Standards.**
1. **Single Residence Districts.** No building may be located within 25 feet of any property boundary line.
 2. **Multi-Residence Districts.** No parking space shall be located within 20 feet of a boundary line and no driveway shall be located within 10 feet of a side or rear lot line. [In particular instances the City Council may, in accordance with Section 7.3, grant exceptions to Sec. 6.2.3.B.2 if it is determined that literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety or protection of environmental features.](#)

(Ord. No. S-260, 08/03/87)

(Rev. Ords. 1973 §24-1; Ord. No. S-260, 08/03/87)

6.3.7. Hospital

A. **Defined.** [reserved]

6.3.8. Library, Museum or Similar Institution

A. **Defined.** [reserved]

6.3.9. Nonprofit Institution

A. **Defined.** An institution or organization organized and operated for welfare and philanthropic purposes and serving the general welfare of the City.

(Ord. No. S-260, 08/03/87)

6.3.10. Public Use

A. **Defined.** Land, structures and buildings used or designed, arranged or constructed for 1 or more of the following purposes:

1. Public streets and highways;
2. Commons;
3. Public gardens;
4. Parks and conservation areas;
5. Playgrounds;
6. Public parking lots;
7. Railroads;
8. Waterworks reservations;
9. Public purposes;
10. Publicly-owned cemeteries;
11. Other uses similar or accessory to those listed above.

B. **Standards.**

1. Public uses shall be subject only to site plan review and shall not be subject to dimensional, parking or any otherwise applicable zoning requirement. Where the City of Newton is the owner, the building must be constructed in accordance with Revised Ordinances, Chapter 5, Section 5-58.

2. In Open Space Districts, recreational uses shall not permit the operation of motorized recreational vehicles (other than golf carts) such as automobiles used for races of any sort, dirt bikes, motorcycles, snowmobiles, dune buggies or motor boats, nor shall sports stadiums be permitted as either a principal or accessory use. Includes accessory purposes as are proper and usual, provided that buildings or structures do not exceed 700 square feet in gross floor area or provided seating facilities, whether permanent or temporary, are not in excess of 20 seats.

(Ord. No. Z-108, 04/17/12)

6.3.11. Rail/Bus Station

A. **Defined.** [reserved]

6.3.12. Religious Institution

A. **Defined.** A church, synagogue, house of worship, or other uses for religious purposes, or a non-profit educational corporation, and such accessory uses that are proper and usual, on land owned or leased by a religious sect or denomination.

B. **Standards.**

1. **Administrative Site Plan Review.** In all districts, the construction, alteration, enlargement, reconstruction, use or change of use for a religious institution shall be subject to the dimensional regulations of the respective zoning district and the parking regulations of Article 5, and is subject to the Administrative Site Plan Review procedure in Sec. 7.25. For purposes of this section "Alteration" shall mean those modifications which produce an increased parking demand pursuant to the requirements in Article 5.
2. **Special Permit Required.**
 - a. A special permit is required for the construction, alteration, enlargement, reconstruction, use or change of use for a religious institution that cannot meet the parking regulations in Article 5.
 - b. Any accessory use not considered a proper and usual accessory to a religious institution requires a special permit.

(Ord. No. S-287, 12/07/87)

(Ord. No. S-260, 08/03/87)

6.4.16. Health Club

- A. **Defined.** A commercial establishment which as its primary purpose provides facilities for individual physical health activities, such as aerobic exercise, running and jogging, use of exercise equipment, saunas, showers, massage rooms and lockers. Such establishments are operated as a business even if open only to members and their guests on a membership basis and not to the public at large paying a daily admission fee.

(Ord. No. X-10, 03/18/02)

6.4.17. Hotel or Lodging Establishment

- A. **Defined.** A building or several buildings containing 6 or more sleeping rooms for guests, other than a dormitory, lodging house or apartment house.
- B. **Standards.**
 - 1. In a Business 5 district, in addition to the density and dimensional controls set forth in Sec. 4.1.3, the lot or tract of land shall have a minimum area of 2 acres and 25 percent of the lot or tract of land shall be in landscaped area.

(Ord. No. S-260, 08/03/87)

6.4.18. Job Printing

- A. **Defined.** [reserved]

6.4.19. Kennel

- A. **Defined.** [reserved]

6.4.20. Office

- A. **Defined.** Offices for professional, business, or medical purposes, excluding the retail sale of tangible personal property from a stock of goods on the premises.

(Ord. No. S-260, 08/03/87)

6.4.21. Office of a Contractor, Builder, Electrician, Plumber or Similar Enterprises

- A. **Defined.** Office of a contractor, builder, electrician, plumber or similar enterprises, together with such storage buildings as are necessarily appurtenant thereto.

- B. **Standards.** No outside storage is permitted and no more than 40 percent of the total gross floor area may be used for storage.

(Ord. No. S-260, 08/03/87)

6.4.22. Open-Air Business

- A. **Defined.** A business conducted outdoors, without any primary structures.

6.4.23. Outdoor Storage

- A. **Defined.** Areas for outside storage, display and sale of goods and materials.
- B. **Standards.** No lighting shall be allowed except such as is necessary for the safety and protection of the public and prospective purchasers and such reasonable display lighting as the Board of Aldermen shall approve by special permit.

(Ord. No. S-260, 08/03/87)

6.4.24. Parking Facility

- A. **Defined.**
 - 1. Single Level [reserved]
 - 2. Multi-Level [reserved]
 - 3. Accessory [reserved]
 - 4. Non-Accessory [reserved]
 - 5. Public [reserved]

6.4.25. Personal Service

- A. **Defined.** Personal services, including but not limited to barbershop, salon, tailor, cobbler, personal trainer or fitness studio, and laundry, and or dry cleaning drop off.

(Ord. No. Z-108, 04/17/12)

6.4.26. Place of Amusement, Indoor and Outdoor

- A. **Defined.** [reserved]

6.4.27. Radio or Television Transmission Station

- A. **Defined.** [reserved]

Sec. 7.3. Special Permit Review

7.3.1. Application

A. Whenever a special permit is required under the provisions of this Chapter a written application for a special permit, on forms provided by the City Clerk and accompanied by plans prepared as provided in Sec. 7.4.3 shall be submitted in accordance with the procedures of this Sec. 7.3 and the Rules and Orders of the Board of Aldermen pertaining to special permit and site plan approval applications to the City Clerk, who shall transmit such application to the Board of Aldermen and the Department of Planning and Development. Whenever an application for a special permit is required under the provisions of this Chapter, site plan approval in accordance with Sec. 7.4 shall also be required and an application for such approval shall be filed concurrently with the application for special permit.

B. **Contents of the Application.** Each application for a special permit shall be accompanied by a site plan submission prepared in accordance with the provisions of Sec. 7.4.4.

1. The applicant shall also submit a 3D computer-generated model, including such details as necessary to show the relationship of the project to its surroundings. The level of detail included in the model shall be at the discretion of the Director of Planning and Development. The architect of record shall certify that the model is an accurate representation of the proposed design. For any commercial or multi-family development with a gross floor area of 20,000 square feet or more, a model shall be provided as follows:

- a. For a proposed development containing a gross floor area of 20,000 to 50,000 square feet, the model shall show the proposed development, all abutting properties and abutters to such abutting properties; for a proposed development containing a gross floor area 50,001 to 100,000 square feet, the model shall show the proposed development and all properties within 500 feet from the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater; or
- b. For a proposed development containing a gross floor area in excess of 100,000 square

feet, the model shall show the proposed development and all properties within 1,000 feet of the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater. The model shall be provided to the City in a file format acceptable to the Director of Planning and Development, in consultation with the Clerk of the Board of Aldermen, the City Solicitor, and the Chief Information Officer.

C. As part of an application for special permit, an applicant must comply with the Rules and Orders of the Board of Aldermen pertaining to special permit and site plan approval.

(Ord. No. S-260, 08/03/87; Ord. No. A-6, 10/01/12; Or. No. A-73, 04/04/16)

7.3.2. Review

A. The Board of Aldermen or a committee of the Board of Aldermen shall hold a public hearing within 65 days of the filing of an application for special permit.

B. Notice of such public hearing shall be provided as required by M.G.L. Chapter 40A, Section 11.

C. The Board of Aldermen shall act upon any application for special permit not later than 90 days following the the public hearing.

D. The application for special permit shall be deemed approved if the Board of Aldermen fails to act upon the application not later than 90 days following the public hearing.

E. Any approval of an application for special permit shall lapse not later than ~~1 year~~ 3 years from the grant of such approval unless a substantial use of such special permit or construction required by such special permit has begun. The Board of Aldermen may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the Board of Aldermen or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the special permit for more than 2 years from the date of the grant of the special permit.

F. The Newton Biosafety Committee shall serve as an advisory body to the Board of Aldermen with

regard to any application for a special permit. The Newton Biosafety Committee shall be consulted by the Board of Aldermen for its recommendations on the siting of any institution intending to conduct recombinant DNA research or technology, which recommendations shall be in writing and shall be submitted within such time as the Board of Aldermen shall specify to assure said board's ability to act within the time periods set forth in this Sec. 7.3.

(Ord. No. S-260, 08/03/87; Ord. No. V-9, 02/21/95; Ord. No. A-6, 10/01/12)

7.3.3. Grant of Permit

- A. A special permit from the Board of Aldermen for any purpose for which a permit is required under this Chapter shall be granted only by 2/3 vote of all the Board of Aldermen.
- B. The Board of Aldermen may grant a special permit when, in its judgment, the public convenience and welfare will be served, and subject to such conditions, safeguards and limitations as it may impose.
- C. The Board of Aldermen shall not approve any application for a special permit unless it finds, in its judgment, that the use of the site will be in harmony with the conditions, safeguards and limitations of this Sec. 7.3, and that the application meets all the following criteria:
 - 1. The specific site is an appropriate location for such use, structure;
 - 2. The use as developed and operated will not adversely affect the neighborhood;
 - 3. There will be no nuisance or serious hazard to vehicles or pedestrians;
 - 4. Access to the site over streets is appropriate for the types and numbers of vehicles involved; and
 - 5. In cases involving construction of building or structures or additions to existing buildings or structures, if those proposed buildings or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy.

- D. The Board of Aldermen shall not approve any application for a special permit unless it finds that said application complies in all respects with the requirements of this Chapter. In approving a special permit, the Board of Aldermen may attach such conditions, limitations, and safeguards as it deems necessary to protect or benefit the neighborhood, the zoning district and the City. Such conditions may include, but are not limited to, the following:
 - 1. Requirement of front, side or rear yards greater than the minimum required by this Chapter;
 - 2. Limitation of the number of occupants, size, method of time of operation, or extent of facilities; and
 - 3. Requirement of off-street parking or other features beyond the minimum required by this, or any other applicable Chapter.

(Ord. No. S-260, 08/03/87; Ord. No. Y-17, 05/21/07)

7.3.4. Special Requirements for Rear Lots in Residential Zoning

- A. Creation of rear lots in residential districts requires a special permit. The rear lot development density and dimensional controls in Secs. 3.1.45 and 3.1.10 for Single Residence districts, and 3.2.5 and 3.2.12 for Multi Residence districts, respectively, shall apply to the proposed rear lot and the remainder of the original lot shall be subject to the density and dimensional controls of the underlying district ~~unless~~ waivers from ~~either of~~ such controls are granted by the Board of Aldermen.
 - 1. The provisions of Sec. 7.8.4 shall not apply to the creation of rear lots under this Sec. 7.3.4.
 - 2. **Additional Application Requirements.** In addition to the information required in Sec. 7.3.1, there shall be submitted architectural plans for all proposed residential buildings and structures, a landscape plan, site plan, and an area plan showing distances from proposed buildings or structures to existing residential buildings and structures on the original lot and all abutting lots, along with information on the heights and number of stories of these existing buildings or structures. All plans must be prepared, stamped and signed, as appropriate, by an architect, landscape architect, professional engineer or registered land surveyor.

Sec. 7.6. Variances

7.6.1. Applicability

- A. Variance applications shall be heard by the Zoning Board of Appeals as provided in M.G.L. Chapter 40A, Sections 10 and 15, as at the time in effect. The Zoning Board of Appeals may grant, upon appeal or application in cases where a particular use is sought for which no permit is required with respect to particular land or structures, a variance from the terms of this Chapter.
- B. A variance may be granted where it is determined that owing to circumstances relating to soil conditions, shape or topography of such land or structures, and that such circumstances especially affect such land or structures, but do not affect generally the zoning district in which it is located.
- C. A variance may only be granted where a literal enforcement of the provisions of this Chapter would involve substantial hardship, financial or otherwise, to the applicant or appellant.
- D. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Chapter, but not otherwise.

(Ord. No. 284, 06/19/78)

7.6.2. Hearing Required

The Zoning Board of Appeals shall hold a hearing on any variance application transmitted to it by the City Clerk within 65 days from the transmittal to the Zoning Board of Appeals. The Zoning Board of Appeals shall hold a hearing upon any appeal or other matter referred to it in the manner provided in, and after notice given as required by, M.G.L. Chapter 40A, Section 11, as at the time in effect.

(Rev. Ords. 1973 § 24-30; Ord. No. 284, 06/19/78)

7.6.3. Notice

The Zoning Board of Appeals shall cause notice of such hearing to be published and sent to parties in interest as provided by Section 11 of M.G.L. Chapter 40A, and by the rules of the Zoning Board of Appeals.

(Ord. No. 284, 06/19/78)

7.6.4. Conditions, Safeguards and Limitations

In exercising its powers, the Zoning Board of Appeals may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant or any owner.

(Ord. No. 284, 06/19/78)

7.6.5. Lapse

If the rights authorized by a variance are not exercised within 1 year of the date of the grant of such variance or within such a lesser period as the Zoning Board of Appeals may determine, they shall lapse, and may be re-~~establi~~established only after notice and a new hearing pursuant to this Sec. 7.6.

(Ord. No. 284, 06/19/78)

7.6.6. Vote

The concurring vote of 4 members of the Zoning Board of Appeals shall be necessary to reverse any order or decision of the Commissioner of Inspectional Services, or to decide in favor of the appellant for a permit on any matter upon which it is required to pass under this Chapter.

(Ord. No. 284, 06/19/78)

7.6.7. Re-Application

No application which has been unfavorably and finally acted upon by the Zoning Board of Appeals shall be favorably acted upon within 2 years after the date of such final unfavorable action unless the following criteria are met:

- A. At least 4 members of the Zoning Board of Appeals must find specific and material changes in the conditions upon which the previous unfavorable action was based, and must describe such findings in the record of its proceedings;
- B. All but 1 member of the Planning Board consents; and
- C. Notice is given to parties in interest as to the time and place of the proceedings when the question of such consent will be considered.

(Ord. No. 284, 06/19/78)

- c. Has on it a single- or two-family dwelling that was constructed in compliance with a building permit and received a certificate of occupancy on or before December 22, 2011.

(Rev. Ords. 1973; Ord. No. 284, 06/19/78; Ord. No. 303, 11/20/78; Ord. No. S-275, 02/05/87; Ord. No. T-115, 11/19/90; Ord. No. W-49, 07/09/01; Ord. No. A-24, 06/03/13)

7.8.2. Nonconforming Buildings, Structures, or Uses

A. Special Permit Not Required.

1. A special permit is not required from the Board of Aldermen for nonconforming buildings or structures in the following cases:
 - a. Alteration, reconstruction, extension or structural change to a single- or two-family residential structure which does not increase the nonconforming nature of the structure, and no such increase shall be deemed to have occurred solely because the lot area or the lot frontage, or both, are nonconforming, and no such increase shall be deemed to have occurred solely because the lot area per unit is nonconforming unless the number of units increases;
 - b. Alteration, reconstruction, structural change, but not an extension or enlargement of a nonconforming building or structure for a use permitted as of right, in a Business, Mixed Use, Manufacturing or Limited Manufacturing district;
 - c. Additional outdoor sidewalk seats permitted under Revised Ordinances Chapter 12, Section 12-70 shall not be considered an increase in the nonconformity nor constitute an extension of use of a lawful nonconforming restaurant in any district; and
 - d. Alteration, reconstruction, extension or structural change to a nonconforming non-residential building or structure, which does not increase the nonconforming dimensional nature of said building or structure, for conversion of the building or structure to a use permitted as of right in any residential district.

- e. A special permit is not required from the Board of Aldermen for change in use to a use permitted as of right, in a Business, Mixed Use, Manufacturing or Limited Manufacturing district.

B. De Minimis Relief.

1. Regardless of whether there are increases in the nonconforming nature of a structure, the Board of Aldermen deems that the following changes to lawfully nonconforming structures are *de minimis* and that these changes are not substantially more detrimental to the neighborhood pursuant to M.G.L. Chapter 40A, Section 6. The following alterations, enlargements, reconstruction or extensions to a lawful nonconforming building or structure used for residential purposes may be allowed in accordance with the procedures set forth below; provided that:
 - a. Relief is limited to that portion or portions of the building or structure which is presently dimensionally nonconforming;
 - b. The resulting changes on the nonconforming side will be no closer than 5 feet to the side or rear property line;
 - c. The resulting distance to the nearest residence at the side where the proposed construction will take place is equal to or greater than the sum of the required setbacks of the 2 adjacent lots;
 - d. The resulting construction will meet all building and fire safety codes; and
 - e. The *de minimis* relief provided in this paragraph shall not apply to buildings in which the nonconformity is due solely to FAR requirements, nor shall it be used to increase the FAR beyond that shown in Sec. 3.1.
2. In accordance with paragraph ~~a~~Sec. 7.8.2.B.1, the following *de minimis* alterations are allowed:
 - a. Dormers that do not extend above the height of the existing roof peak and do not add more than 400 square feet of floor area;
 - b. Decks or deck additions or porches less than 200 square feet in size;