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Barney S. Heath
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MEMORANDUM

DATE: October 6, 2017

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

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Rachel Blatt, Long Range Planner

RE: **#140-14 Zoning amendment for lodging house ordinance**
ALD. CROSSLEY AND HESS-MAHAN requesting to amend Chapter 30, City of Newton Zoning Ordinances, to include a "lodging house" ordinance to promulgate rules requiring annual fire, safety and health inspections and licensing of buildings providing single room occupancy and/or congregate living arrangements.

MEETING DATE: October 11, 2017

CC: Donnalyn Khan, City Solicitor
John Lojek, ISD Commissioner
Deborah Youngblood, Health Commissioner
David MacDonald, Chief of Police
Bruce Proia, Fire Chief
Planning and Development Board

A lodging house is a traditional housing form that caters to single individuals living in a quasi-group setting. This housing arrangement was once very common. In the 1880s it was estimated that 50% of Americans had either lived in a lodging house or been a host of one.¹ Lodging houses have persisted, though in smaller numbers, and interest in living in lodging houses is growing again. Newton has had lodging houses since before it had zoning. A few of these historic ones continue to serve as affordable housing in Newton.

¹ During, Alan (2012). "Rooming Houses: History's Affordable Quarters." Accessed 3/7/17 at <http://www.sightline.org/2012/11/14/rooming-houses-historys-affordable-quarters/>. Data quoted from Groth, Paul (1994), *Downtown Living Downtown: The History of Residential Hotels in the United States*. University of California Press.

New lodging houses can also be established today. Lodging houses are an allowed use by Special Permit in all multifamily districts of the city. Lodging houses are defined, but no standards for the structure or operational requirements are included in the City's zoning or other ordinances.

For both the historic and any new lodging houses, Newton also currently requires a \$50 annual license fee to operate a lodging house. No license requirements exist to specify how a lodging house operator should be running their facility, and no ordinance specifies what reviews should be conducted prior to issuing a person a license to operate a lodging house.

Since spring 2017, the Planning Department, Law Department, and the Zoning and Planning Committee of the City Council have been discussing lodging houses and developing a proposed set of standards by which to regulate not only the formation of a lodging house but also the continued operation of a lodging house. Since regulating lodging houses involves numerous city departments, this proposal has been crafted with input from all four departments who have a role in ensuring the health, safety, and welfare of lodging houses: Inspectional Services, Health and Human Services, Police, and Fire.

The proposals are modeled after the Lodging House Regulations developed by Brookline, widely recognized as the most robust in the region. While this was the model, the proposals for Newton are tailored more closely to the traditional lodging house form, and do not cover other forms of accommodation like hotels or dorms, as Brookline's ordinance does.

TWO ORDINANCE SECTIONS – MULTIPLE COMMITTEE DISCUSSIONS

Before diving into the proposals, please note that the lodging house regulations proposed are **embedded in two separate sections of the City Ordinances and refer to each other**. Public comments regarding the proposed amendments to Chapter 30 – the Zoning Ordinance are being taken in a public hearing at the **Zoning and Planning Committee on Wednesday October 11, 2017**. Proposed amendments to Chapter 17 – Licensing and Permits Generally, will be discussed at a joint meeting of the **Programs and Services Committee and the Public Safety and Transportation Committee on Wednesday October 18, 2017**. License fees and fines are to be discussed at the **Finance Committee, date to be determined**.

By state statute, licensing of lodging houses can only be done by the Licensing Board. At the time this memo was written, the **Licensing Board** has not yet had the opportunity to discuss the licensing proposal. This draft is presented to both the Licensing Board and the joint City Council committees tasked with reviewing the proposed language for their mid-October meetings. **The Licensing Board has a regular meeting on October 17th**. Staff encourages members from the Licensing Board to attend the Council discussion and vice versa so that there is exchange of information between the Legislature and the implementing body.

This memo focuses strictly on the zoning amendments to Chapter 30. A separate memo summarizing the proposed Chapter 17 amendments is attached here for reference, understanding that it is principally addressed to the committees meeting on October 18th and the Licensing Board who has their next regular meeting on October 17th (see Attachment C).

Additionally, please note that prior to taking up either set of proposed amendments at the full Council, the City Council must first vote on whether to **accept Massachusetts General Law c. 140 §22A**. This section would allow for Efficiency-Single Room Occupancy facilities within lodging houses, further described below.

BACKGROUND ON LODGING HOUSES & FAQs

- **Is a lodging house the same thing as a rooming house? How about a boarding house?**
 - These phrases all mean the same thing – a place designed for four or more independent residents sharing common cooking and bath facilities. Historically a boarding house offered meals where rooming houses did not. Lodging house has come to be the preferred modern term and is the term used by the state

- **What is the difference between a lodging house and a group of roommates/association of persons sharing a house?**
 - In a lodging house, the lodger rents a rooming unit – typically a bedroom, perhaps including a seating area. The tenant has access to, but not responsibility for, shared cooking and bath facilities with others in the house. They rent their rooming unit directly from the lodging house operator, who maintains the common areas including the kitchen and bath. The lodger has keyed access to both the house and the rooming unit. The rooming unit is their ‘home.’

In contrast, in an association of persons or a roommate situation, all are jointly tenants in the house. They are collectively responsible for common spaces and the landlord is not responsible for housekeeping. There is keyed access to the house only. The entire house inclusive of shared common areas is their ‘home.’

- **Why is regulating lodging houses a priority for the City of Newton?**
 - The Police, Fire, Health, and Inspectional Services Departments acknowledge that typically illegal lodging houses are discovered because of a 911 call. Often Boarding Houses are operated with violations to the state sanitary and fire codes and there are life safety concerns about how these facilities are run. The concern is not just for whether these facilities are safely constructed with proper egress stairs, sprinklers, etc., but also how they are operated - are managers ensuring that doors are not blocked, that hotplates are not being used in bedrooms, that trash is properly disposed of, and the like. Fires have occurred in a few illegal boarding houses in recent years, leading to a concern for the safety of Newtonians living in these arrangements.

- **Why are lodging houses regulated through both the Zoning Ordinance and the Licensing Ordinance?**
 - Most of the problems in lodging houses arise from poor operations – e.g. blocked egress routes, electrical systems used beyond capacity, noise complaints, etc. Licensing follows the operators while zoning follows the property.

The proposed Zoning amendments maintain the requirement that Lodging Houses receive a Special Permit from the Council first, and then a license for the operator after that.

- The Zoning Ordinance covers the development of a new lodging house – where a new lodging house can be established, and what standards are required from the building and property.
- The Licensing Ordinance covers issues of operation – who is allowed to operate a lodging house, what training they are required to have, and what responsibilities they are expected to take on.

Approval through the zoning process establishes that a lodging house is an approved use of a piece of property

Approval through the licensing process gives a person or organization the authority to operate a lodging house

Zoning approval by Special Permit follows the property in perpetuity

License approval follows an operator and lasts just one year

• **What departments have been involved? What will their roles be going forward?**

- The Planning and Community Development Department, Law Department, Inspectional Services, Police, Fire, and Health and Human Services have all been involved in developing this proposal.
- Future Roles:

Planning and Community Development

- Assist in developing licensee certification and application forms
- Zoning reviews & Special Permit process
- Possible CDBG support for rehab projects (applicability still being researched)
- Report to Licensing Board as applicable

Inspectional Services (ISD)

- Lead annual team inspection
- Lead annual licensee certification
- Report to Licensing Board on result of annual inspection
- Code and zoning enforcement

Health and Human Services (HHS)

- Participate in annual team inspection
- Participate in annual certification
- Support Licensing Board in administering the licensing process
- Perform reference checks on licensees and agents

Fire

- Participate in annual team inspection
- Participate in annual certification
- Code enforcement
- Evacuation plan and electrical use policy review
- Review quarterly fire drill reports

Police

- Participate in annual certification
- On-call support for annual inspections
- Report to Licensing Board on responses in the past year that are of concern to the licensee application

Treasury

- Report to Licensing Board whether or not taxes and charges are up to date

Resident supervising agents will be required to provide contact information to ISD, HHS, Fire, and Police and shall respond to calls from these departments in a timely manner.

PROPOSED ZONING AMENDMENTS

Now, and in the proposed, lodging houses require a Special Permit in all zones where they are allowed. The proposed Zoning amendments do four things:

1. Update the definitions
2. Set standards for the property, particularly around parking
3. Allow Lodging Houses as a use above the ground floor in business and mixed use districts
4. Incorporates “Single-room Occupancy Dwelling, Single-person occupancy dwelling” into the Lodging House category

1. Definition Updates: The definition updates mirror the same definitions as in the Lodging House Licensing Ordinance and relate the City’s definition more closely with the definition of a lodging house in the state statute. Facilities that are regulated by the State Health Department are treated separately from lodging houses even if they have similar characteristics – e.g. group homes, convalescent homes, etc. The proposed definition of Lodging House makes this clear. In addition to updating the Lodging House definition, the proposal adds definitions for the subcomponents of a lodging house – Rooming Units (spaces to be leased) and Efficiency Single Room Occupancy Units, E-SROs, which are rooming units that include highly regulated mini-kitchens.

2. Standards: Section 6.2.7 is proposed to be expanded to include an intent statement and development standards requiring licensing, limiting signage, requiring consistency with the character of the neighborhood, and parking standards.

The minimum parking requirement is proposed at 1 stall per 3 rooming units, with a maximum of 6 stalls. The maximum is recommended to ensure that the parking lots are consistent in scale with other residential parking areas. Lodging houses in close proximity to transit may seek a reduction as low as 0 spaces per rooming unit. The intention here is to incentivize the locating of any new lodging houses near transit facilities. The target population for lodging houses is low income individuals for whom rent in a traditional apartment is burdensome. The US Housing and Urban Development Department guidelines say that housing cost burdened households are those spending more than 30% of their income on housing or more than 45% of their income on housing and transportation combined. Providing access to transit rather than personal vehicles is highly encouraged to help residents in lodging houses reduce their need for the expense of a personal vehicle.

3. Allow by Special Permit in business and mixed use zones: The Zoning Ordinance allows residential uses above the ground floor in BU1, BU2, BU3, BU4, MU1, MU2, MU3, and MU4 districts. The proposed amendment specifically allows lodging houses above ground floors in these same zones by Special Permit in each case.

4. Incorporate “SRO” use into the Lodging House Use: The Lodging House License is set up to allow for rooming units to be Efficiency Single Room Occupancy units with their own cooking facilities, with rigorous standards for construction and operation. The current Single Room Occupancy (SRO) use is allowed by Special Permit only in the MU3 district. There is no definition associated with this allowed use or any standards. As such it is the Planning Department’s recommendation that this use listed in Sections 4.4.1 and 6.2.14 be removed and subsumed by the Lodging House Ordinance.

Facilities offering E-SROs, are required by the proposed license to meet code requirements for new construction of a facility for transient residence – even if the project is in an existing structure (including requirement for a sprinkler system). Each E-SRO must have more than one means of egress directly from the unit, and may include only a limited set of cooking facilities. This approach is consistent with the regulations of the state and the regulations in Brookline.

ATTACHMENTS

Attachment A: Proposed Chapter 30 Zoning Amendments – Redline Version

Attachment B: Proposed Chapter 30 Zoning Amendments – Clean Page Version

Attachment C: Memo to Programs & Services, Public Safety & Transportation, and the Licensing Board

Sec. 3.4. Allowed Uses

3.4.1. Residential Districts Allowed Uses

Residential Districts									Definition/ Listed Standards
	SR1	SR2	SR3	MR1	MR2	MR3	MR4		
Residential Uses									
Single-family, detached	P	P	P	P	P	P	P		Sec. 6.2.1
Two-family, detached	--	--	--	P	P	P	P		Sec. 6.2.2
Single-family, attached	SP	SP	SP	SP	SP	SP	SP		Sec. 6.2.3
Multi-family dwelling	--	--	--	--	SP	SP	SP		Sec. 6.2.4
Association of persons in a common dwelling	SP	SP	SP	SP	SP	SP	SP		Sec. 6.2.6
Lodging Boarding house	--	--	--	SP	SP	SP	SP		Sec. 6.2.7
Congregate living facility	SP	SP	SP	SP	SP	SP	SP		Sec. 6.2.8
Dormitory (5-20 persons)	SP	SP	SP	SP	SP	SP	SP		Sec. 6.2.9
Dormitory (20+ persons)	L	L	L	L	L	L	L		Sec. 6.2.9
Cluster development for open space preservation	SP	SP	SP	SP	SP	SP	SP		Sec. 6.2.12
Residential care facility	--	--	--	--	--	SP	SP		Sec. 6.2.13
Civic/Institutional Uses									
Cemetery, private	SP	SP	SP	SP	SP	SP	SP		Sec. 6.3.1
Club, clubhouse	SP	SP	SP	SP	SP	SP	SP		Sec. 6.3.2
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L		Sec. 6.3.4
Hospital	SP	SP	SP	SP	SP	SP	SP		Sec. 6.3.7
Library, museum or similar institution	SP	SP	SP	SP	SP	SP	SP		Sec. 6.3.8
Nonprofit institution	--	--	--	SP	SP	SP	SP		Sec. 6.3.9
Public use	L	L	L	L	L	L	L		Sec. 6.2.10
Religious institution	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	SP		Sec. 6.3.13
School or other educational purposes, non-profit	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		Sec. 6.3.14
Scientific research and development activities, accessory	SP	SP	SP	SP	SP	SP	SP		Sec. 6.7.4
Commercial Uses									
Funeral home	--	--	--	--	SP	SP	--		Sec. 6.4.15
Radio or television transmission station or structure	SP	SP	SP	SP	SP	SP	SP		Sec. 6.4.27
Industrial Uses									
Wireless communication equipment	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP		Sec. 6.9
Open Space Uses									
Agriculture on a parcel of 5 or more acres	P	P	P	P	P	P	P		Sec. 6.6.1
Agriculture on a parcel under 5 acres	SP	SP	SP	SP	SP	SP	SP		Sec. 6.6.1
Resource extraction	SP	SP	SP	SP	SP	SP	SP		Sec. 6.6.4
Riding school, stock farm	SP	SP	SP	SP	SP	SP	SP		Sec. 6.6.5

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

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	P	P	P	P	P	P	P	P	P	--	--	Sec. 6.2.11
Lodging House, above ground floor	SP	SP	SP	SP	--	SP	SP	SP	SP	--	--	Sec. 6.2.7
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	P	P	P	P	P	P	P	P	P	P	P	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	P	P	P	P	P	P	P	P	P	P	P	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

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

5.1.4. Number of Parking Stalls

A. The minimum number of parking stalls to be supplied for each type of building or land use shall be in accordance with the following requirements. Where the computation results in a fractional number, the fraction shall be counted as one stall.

Use	Parking Stalls Required	Allowed by Special Permit
Residential		
Single-family dwelling, Two-family dwelling	2 per unit	
Accessory apartment	1 per unit	
Association of persons	1 per adult occupant in unit	
Single-family attached dwelling, Multi-family dwelling	2 per unit	1.25 per unit, except multi-family housing for low-income or elderly persons built under state or federal housing programs: 1 per 2 units in a low income unit plus 1 per 4 elderly units
Lodging House Boarding house, rooming house, lodging house, tourist house, congregate living facility	1 per 3 Rooming Units; max. of 6 1 per sleeping room plus 1 per 3 employees	0 per Rooming Unit for Lodging Houses within 1/2 mile of rail transit (Green Line or Commuter Rail) or within 1/4 mile of MBTA Bus Service.
Convalescent or rest home or other institution devoted to the board, care or treatment of humans	1 per every 4 beds plus 1 per every 3 employees	
Elderly housing with services facility, residential care facility, elderly congregate living facility	1 per every 2 dwelling units 1 per every 4 nursing beds plus 1 per 3 employees	.25 per dwelling unit where adequate transportation services are available
Civic/Institutional		
Dormitory	1 per 5 occupants	
Religious Institutions	1 per 3 seats, permanent or otherwise; 1 per 3 employees; plus 1 per 45 sf used for meeting function purposes when such space is customarily used concurrently with the seating space	
School serving children under 14 years of age	1 per employee not residing on premises	
Commercial		
Bank	1 per 300 sf plus 1 per every 3 employees	
Family child care home, large family child care home, day care center	1 per employee not residing on premises plus 1 per every 5 children	
Funeral home	1 per 40 sf; 30 spaces min.	
Health club, similar establishment	1 per 150 sf plus 1 per every 3 employees	
Hospital, sanitarium	1 per every 3 beds plus 1 per every 3 employees	
Hotel, motel	1 per sleeping room plus 1 per every 3 employees	

6.2.4. Multi-Family

A. Defined.

1. **Multi-Family.** See Sec. 1.5.1
2. **Residential Use, Above Ground Floor [reserved]**
3. **Residential Use, Ground Floor [reserved]**

B. Standards.

1. **In the Business 1 through Business 4, Mixed Use 2, and Mixed Use 4 Districts.** Multi-family residential is an allowed use in upper stories of a building containing allowed commercial uses on the ground floor.
2. **In the Multi-Residence 4 District.** A special permit is required, subject to the following conditions:
 - a. **Business Services.** Where deemed necessary by the Board of Aldermen because of the number of residents to be accommodated on the lot or tract, business facilities for the individual convenience of the residents, such as barbershops, beauty parlors, tailors, shoe repair shops and similar personal services, newsstands, drugstores, food shops, dining rooms and similar retail uses, medical and related professional services, gasoline selling and service stations and parking lots and similar services may be conducted within a multi-family dwelling except that dining rooms with related facilities may be conducted within a building attached to and made an integral part of a multi-family dwelling but shall not exceed 2 percent of the gross floor area of all buildings containing dwelling units; provided, that there shall be no entrance to such a place of business except from the inside of the building, except for gasoline selling and service stations and parking lots; there shall be no signs or advertising matter pertaining to such business services outside of any building and no illuminated signs in the windows of the business facilities, and the gross floor area of the business services including dining rooms and related facilities shall not exceed 5 percent of the gross floor area of all buildings containing dwelling units;

- b. No building shall be closer to any other building on the lot or tract than a distance equal to the sum of their heights nor in any case closer than 50 feet. The Board of Aldermen may permit buildings to be erected closer to each other in cases where by reason of the location or size of the buildings on such lot or tract and the relationship of one building to another, there is assurance of adequate light, air and privacy, and the approval of the site plans by the Board of Aldermen shall constitute the granting of such permission.

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

6.2.5. Assisted Living, Nursing Home

A. Defined. [reserved]

6.2.6. Association of Persons in a Common Dwelling

- A. **Defined.** A group of 5 or more persons 18 years of age or older, who are unrelated by blood, marriage or adoption living together in a common dwelling.

(Ord. No. T-57, 11/20/89)

6.2.7. ~~Boarding House, Rooming House, Lodging House~~

- A. **Intent. Lodging House is an allowed residential use for independent living with shared facilities. The lodging house use is intended to:**
 1. **Diversify housing choices in Newton while respecting the residential character and scale of existing neighborhoods;**
 2. **Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;**
 3. **Lodging houses are encouraged to locate near transit to further provide lodgers access to transportation services.**
- B. **Defined.** ~~A Lodging House is A~~any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers ~~(defined as a person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit).~~ Includes

rooming house, boarding lodging house. It shall not include convalescent, nursing, or rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels.

C. Standards.

1. All lodging houses shall be licensed at all times of operation.
2. Signage for lodging houses shall be consistent with Section 5.2.7. Signs in Residence Districts or Section 5.2.8. Signs in Commercial Districts as appropriate; exceptions to the maximum size shall not be granted by Special Permit.
3. In residential districts, all lodging houses shall be consistent with the character of the neighborhood.
4. **Parking.**
 - a. The number of parking stalls shall be consistent with Section 5.1.4.
 - b. No lodging house may provide more than 6 parking spaces on a lot.
 - c. Lodging houses located within 1/2 mile of rail transit (Green Line or Commuter Rail), or within 1/4 mile of an MBTA Bus stop, may reduce the number of parking spaces to 0.
 - d. All parking areas shall be screened from any adjacent residences and from the public way.

D. Process.

1. All lodging houses created by a change of use shall require design review by the Urban Design Commission. Report of the Urban Design Commission shall be submitted to the City Council.

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

6.2.8. Congregate Living Facility

- A. Defined.** An association of persons living together in a shared living environment which integrates shelter and service needs of elderly, functionally impaired or functionally isolated persons who are otherwise in good health and can maintain a semi-independent lifestyle and who do not require constant supervision

or intensive health care as provided by an institution. Each resident may have a separate bedroom, living room, kitchen, dining area or bathroom, or may share living, dining, and bathroom facilities with other persons. Such facility shall be deemed an association of persons living together in a single dwelling and not a lodging house.

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

6.2.9. Dormitory

- A. Defined.** A building owned or controlled directly or indirectly by a religious or educational non-profit institution (excepting a nonprofit hospital) providing sleeping quarters for 5 or more unrelated persons.
- B. Standards.** In all residence districts, the construction, alteration, enlargement, extension or reconstruction of a building or structure as, and the use of a building, structure or land for, a dormitory providing sleeping quarters for 20 or more persons must meet the following conditions:
1. **Building location.** A dormitory shall not be closer to any other building on the same lot than 50 feet.
 2. **Courts.**
 - a. An inner court shall have a minimum dimension at least equal to twice the average height of the surrounding walls and shall have an opening at ground level with a minimum height of 18 feet and a minimum width of 18 feet to permit access to service and emergency vehicles.
 - b. An outer court shall be open to the full extent of its width at least equal to 1.5 times the average height of the surrounding walls and a depth no greater than its width.
 - c. The area of any court which exceeds 15 percent of the "Minimum Open Area" required shall not be included in the calculation of that minimum open area.

- C. Site Plan Review.** Dormitories are subject to the Site Plan Review procedures in Sec. 7.4.

(Rev. Ords. 1973 §24-18; Ord. No. S-260, 08/03/87; Ord. No. S-322, 07/11/88)

6.2.10. Elderly Housing with Services

- A. **Defined.** Elderly housing with services, including residential care facilities, assisted living facilities and congregate care facilities.
- B. **Standards.** In the business districts, the Board of Aldermen may grant a special permit for elderly housing with services with a lot area of no less than 400 square feet per dwelling unit.

(Ord. No. T-183, 11/04/91)

6.2.11. Live/Work Space

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

6.2.12. Cluster Development for Open Space Preservation

- A. **Defined.** [reserved]
- B. **Standards.** See Sec. 3.3.1

6.2.13. Residential Care Facility

- A. **Defined.** A residential care facility shall consist in part of independent dwelling units, and shall contain a combination of central cooking and dining facilities, recreation facilities and shall provide to all its residents, specified medical services, which medical services shall include, but are not limited to, nursing and dietary assistance, together with the availability on the premises of full-time nursing care in a licensed care facility, provided that at least 1 occupant of each dwelling unit shall be at least 65 years of age or older.

B. Standards.

1. **In the Multi-Residence 3 District.** A special permit is required, subject to the following conditions:
 - a. The ratio of gross floor area devoted to residential purposes to lot area shall not exceed 0.67. Such gross residential floor area shall include hallways, stairwells, utility rooms and other similar areas which are directly accessory to independent dwelling units. Such gross residential floor area shall not include garage, library, activity, office, medical care, eating, assembly or other special supportive areas;
 - b. The Board of Aldermen may establish a limitation upon the maximum number of

persons to be permitted per dwelling unit; and the Board of Aldermen may establish a minimum staff requirement for the residential care facility, provided, however, that the Board of Aldermen may, if circumstances warrant, grant a special permit, for construction of a residential care facility with a lesser lot area per dwelling unit, a lesser number of parking spaces per dwelling unit, a greater gross floor area or a greater gross residential floor area ratio, but in no case:

- i. With less than 850 square feet of lot area per dwelling unit;
- ii. With a gross floor area ratio of more than 2.0;
- iii. With a gross residential floor area ratio of more than 1.34;
- iv. With less than 0.25 parking spaces per dwelling unit.

(Ord. No. 31, 12/02/74; Ord. No. R-14, 07/09/79; Ord. No. V-307, 06/19/00)

~~6.2.14. Single-Room Occupancy Dwelling, Single-Person Occupancy Dwelling~~

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

6.2.10. Elderly Housing with Services

- A. **Defined.** Elderly housing with services, including residential care facilities, assisted living facilities and congregate care facilities.
- B. **Standards.** In the business districts, the Board of Aldermen may grant a special permit for elderly housing with services with a lot area of no less than 400 square feet per dwelling unit.

(Ord. No. T-183, 11/04/91)

6.2.11. Live/Work Space

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

6.2.12. Cluster Development for Open Space Preservation

- A. **Defined.** [reserved]
- B. **Standards.** See Sec. 3.3.1

6.2.13. Residential Care Facility

- A. **Defined.** A residential care facility shall consist in part of independent dwelling units, and shall contain a combination of central cooking and dining facilities, recreation facilities and shall provide to all its residents, specified medical services, which medical services shall include, but are not limited to, nursing and dietary assistance, together with the availability on the premises of full-time nursing care in a licensed care facility, provided that at least 1 occupant of each dwelling unit shall be at least 65 years of age or older.

B. Standards.

1. **In the Multi-Residence 3 District.** A special permit is required, subject to the following conditions:
 - a. The ratio of gross floor area devoted to residential purposes to lot area shall not exceed 0.67. Such gross residential floor area shall include hallways, stairwells, utility rooms and other similar areas which are directly accessory to independent dwelling units. Such gross residential floor area shall not include garage, library, activity, office, medical care, eating, assembly or other special supportive areas;
 - b. The Board of Aldermen may establish a limitation upon the maximum number of

persons to be permitted per dwelling unit; and the Board of Aldermen may establish a minimum staff requirement for the residential care facility, provided, however, that the Board of Aldermen may, if circumstances warrant, grant a special permit, for construction of a residential care facility with a lesser lot area per dwelling unit, a lesser number of parking spaces per dwelling unit, a greater gross floor area or a greater gross residential floor area ratio, but in no case:

- i. With less than 850 square feet of lot area per dwelling unit;
- ii. With a gross floor area ratio of more than 2.0;
- iii. With a gross residential floor area ratio of more than 1.34;
- iv. With less than 0.25 parking spaces per dwelling unit.

(Ord. No. 31, 12/02/74; Ord. No. R-14, 07/09/79; Ord. No. V-307, 06/19/00)

~~6.2.14. Single-Room Occupancy Dwelling, Single-Person Occupancy Dwelling~~

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

Sec. 8.3. Defined Terms

A

Accessory Apartment: See [Sec. 3.4.3](#)

Accessory Purpose: As applied to buildings or structures, a use in conjunction with an existing building on the same or an adjoining lot.

Accessory Sign: See Sign, accessory.

Adult Entertainment Uses: See [Sec. 6.10.1](#)

Agriculture: See [Sec. 6.6.1](#)

Animal Service: See [Sec. 6.4.1](#)

Apartment House: See Dwelling, multifamily

Assembly or Fabrication of Materials Manufactured Off Premise: See [Sec. 6.5.1](#)

Assisted Living: See [Sec. 6.2.5](#)

Association of Persons: A group of 5 or more persons 18 years of age or older, who are unrelated by blood, marriage or adoption; provided that an association of persons as defined in this [Sec. 8.3.](#) shall not be deemed to constitute a “family” within the meaning of this Chapter.

Attached Dwelling: See Dwelling, single-family attached.

Attached, Single-Family: See Dwelling, single-family attached.

Attic: The space in a building between the ceiling joists of the top full story and the roof rafters.

B

Bakery, Retail: See [Sec. 6.4.3](#)

Bakery, Wholesale: See [Sec. 6.5.2](#)

Bank: See [Sec. 6.4.4](#)

Basement: See [Sec. 1.5.4](#)

Bike Rental: See [Sec. 6.4.8](#)

Boarder: See Lodger.

Boarding House: See [Sec. 6.2.7](#)

Bottling Works: See [Sec. 6.5.4](#)

Bowling Alley: See [Sec. 6.4.5](#)

Build Factor: A mathematical formula which limits the irregularity of the lot shape. See [Sec. 1.5.6](#)

Building: A structure, including alterations, enlargements, and extensions, built, erected, or framed of any combination of materials having a roof, whether portable or fixed, designed or intended for the shelter of persons, animals, or the storage of property.

Building Materials Sales Yard: See [Sec. 6.5.5](#)

Building, Nonconforming: A building which does not conform in whole or in part to the use or construction regulations of the district in which the building is located.

Business Establishment: Each separate place of business whether or not consisting of one or more buildings or a part of a building or vacant land.

Business Services: See [Sec. 6.4.7](#)

C

Car Sharing Service: See [Sec. 6.4.8](#)

Car Rental: See [Sec. 6.4.8](#)

Car Wash: See [Sec. 6.4.9](#)

Carport: A one-story roofed structure permanently open on at least three sides and designed for or used for occupancy by a motor vehicle. For the purposes of this Chapter, a one-story port-cochere meets the definition of a carport.

Cemetery: See [Sec. 6.3.1](#)

Club, Clubhouse: See [Sec. 6.3.2](#)

Cluster Development for Open Space Preservation: See [Sec. 6.2.12](#)

Commercial Vehicle Parking: See [Sec. 6.7.2](#)

Community Use Space: See [Sec. 6.3.3](#)

Congregate Living Facility: See [Sec. 6.2.8](#)

Convalescent: See [Sec. 6.3.7](#)

Corner Lot: See [Sec. 1.5.2](#)

Country Club Facilities: See [Sec. 6.4.10](#)

D

Day Care Center: See [Sec. 6.3.4](#)

Detached, Single-Family: See [Sec. 6.2.1](#)

Detached, Two-Family: See [Sec. 6.2.2](#)

Development Parcel: The real property on which a planned multi-use business development or a mixed-use development (including any appurtenant easement areas benefiting a mixed-use development) is located in connection with a special permit under [Sec. 4.1.4](#) or [Sec. 4.2.4](#).

Dormer: See [Sec. 1.5.4](#)

Dormitory: See [Sec. 6.2.9](#)

Drive-in Business: See [Sec. 6.4.11](#)

Driveway: An area on a lot which is designed or used to provide for the passage of motor vehicles to and from a street or way.

Dry Cleaning or Laundry, Retail: See [Sec. 6.4.12](#)

Dwelling: A building or structure used for human habitation.

Dwelling, Single-Family Attached: See [Sec. 1.5.1](#)

Dwelling, Multifamily: See [Sec. 1.5.1](#)

Dwelling, Two-Family: See [Sec. 1.5.1](#)

Dwelling Unit: See [Sec. 1.5.1](#)

E

Enhanced Single Room Occupancy (E-SRO): Any Rooming Unit in a Lodging House that provides cooking facilities within the rooming unit. See Chapter 17 of the City Ordinances - Sec.17-138.

Elderly Housing with Services: See [Sec. 6.2.10](#).

Electric Car Charging Station: See [Sec. 6.4.8](#).

F

Family Child Care Home: See [Sec. 6.3.4](#).

Family Child Care Home, Large: See [Sec. 6.3.4](#)

Fast Food Establishment: See [Sec. 6.4.13](#)

Feed and Seed Store: See [Sec. 6.5.7](#)

Flat Roof: See Roof, Flat.

Floor Area Ratio: See [Sec. 1.5.5](#)

Floor Area, Gross: See [Sec. 1.5.5](#)

Floor Area, Ground: See [Sec. 1.5.5](#)

Food Processing, Wholesale: See [Sec. 6.5.8](#)

Funeral Home: See [Sec. 6.4.15](#)

G

Garage, Greenhouse, Maintenance or Storage Facility: See [Sec. 6.7.3](#)

Government Offices or Services: See [Sec. 6.3.5](#)

Grade Plane, Average: See [Sec. 1.5.4](#)

Gross floor Area: See [Sec. 1.5.5](#)

Ground Floor Area: See [Sec. 1.5.5](#)

H

Habitable space: See Space, habitable.

Hall: See [Sec. 6.3.15](#)

Health club: See [Sec. 6.4.16](#)

Height: See [Sec. 1.5.4](#)

Height, contextual: See [Sec. 1.5.4](#)

Heliport: See [Sec. 6.7.3](#)

Home business: See [Sec. 6.7.3](#)

Hospital: See [Sec. 6.3.7](#)

Hotel: See [Sec. 6.4.17](#)

I

Indoor Recreation Facility: See [Sec. 6.6.2](#)

Institution, Single-Use: A religious or nonprofit educational use having no more than one principal building and less than 50,000 square feet of lot area.

Institution, Multi-Use: A religious or nonprofit educational use having one or more buildings and at least 50,000 square feet of lot area.

Interior Lot: See Lot, interior.

J

[reserved]

K

Keno: See [Sec. 6.10.2](#)

L

Laboratory and Research Facility, No Recombinant DNA: See [Sec. 6.5.9](#)

Landing: A level area at the top of a staircase or between one flight of stairs and another.

Laundry, Cleaning and Dyeing Establishment: See [Sec. 6.5.10](#)

Library: See [Sec. 6.3.8](#)

Listed Standards: Rules and regulations for land uses otherwise allowed by right.

Live/Work Space: See [Sec. 6.2.11](#)

Lodger: A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit

Lodging House: Any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers. Includes rooming house, boarding house. It shall not include convalescent, nursing, or rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels. See Chapter 17 of the City Ordinances - Sec.17-138.

Lot, Corner: See Corner Lot.

Lodging Establishment: See [Sec. 6.4.17](#)

Lot Coverage: See [Sec. 1.5.2](#)

Lot, Interior: Any lot or part of a lot other than a corner lot.

Lot Line: See [Sec. 1.5.2](#)

M

Maneuvering Aisle: A maneuvering space which serves a row or rows of parking stalls.

Manufacturing: See [Sec. 6.5.11](#)

Mass Below First Story: See [Sec. 1.5.5](#)

Mixed-Use Residential Building: A building occupied by both residential and nonresidential uses.

Molding, Shaping or Assembly from Prepared Materials (Including Repairs): See [Sec. 6.5.12](#)

Multi-Family Dwelling: See [Sec. 6.2.4](#)

Museum: See [Sec. 6.3.8](#)

N

Nonconforming Building: See Building, nonconforming.

Nonconforming Use: See Use, nonconforming.

Nonprofit Institution: See [Sec. 6.3.8](#)

Nursing Home: See [Sec. 6.2.5](#)

O

Occupy/Occupancy: When used in connection with accessory apartments, this term shall mean physical presence and residency on the subject premises except for short periods of temporary absence.

Office: See [Sec. 6.4.20](#)

Office of a Contractor, Builder, Electrician or Plumber or Similar Enterprises: See [Sec. 6.4.21](#)

Open-Air Business: See [Sec. 6.4.22](#)

Open Space, Beneficial: Areas not covered by buildings or structures that are available for active or passive recreation, which shall include, but are not limited to: landscaped areas, including space located on top of a structure, gardens, playgrounds, walkways, plazas, patios, terraces and other hardscaped areas, and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, (ii) surface parking facilities or associated pedestrian circulation, (iii) areas that are accessory to a single housing unit, or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public.

Open Space, Usable: All the lot area not covered by buildings and/or structures, roadways, drives, surface parking area or paved surfaces other than walks. The area devoted to lawns, landscaping, exterior tennis courts, patios, in-ground swimming pools and non-structural recreational amenities shall be included as usable open space. The area covered by roof overhangs of up to 2 feet shall be included in the calculation of open space.

Outdoor Recreational Activities: See [Sec. 6.6.3](#)

P

Paint Store: See [Sec. 6.5.12](#)

Parking Facility: A building, structure, lot or part of a lot where off-street parking is provided or permitted. See [Sec. 6.4.24](#)

Parking Lot: A parking facility where off-street parking of vehicles is permitted other than as an accessory use.

Parking Stall: An area, exclusive of inventory storage space, display space, maneuvering aisles or other maneuvering space, adequate for parking a motor vehicle.

Personal Service: See [Sec. 6.4.25](#)

Place of Amusement: See [Sec. 6.4.26](#)

Porch: A roofed structure with sides not more than 60 percent enclosed by impermeable walls, attached to and accessible from the primary structure, and not heated or air conditioned. A porch may share no more than two exterior walls with the residential structure. Railings or solid walls on the projecting facades of the porch may be no higher than 36 inches as measured from the finished porch floor; the remainder of these facades may be open to the elements or enclosed by mesh, glass, or similar material.

Porch, Enclosed: A porch enclosed for any portion of the year by any non-permeable material such as glass or a similar material.

Porch, Unenclosed: A porch that at all times is either enclosed by permeable materials such as mesh or similar material or is unenclosed by any material.

Printing, Publishing and Reproduction Establishments: See [Sec. 6.5.13](#)

Public Use: See [Sec. 6.3.10](#)

Q

[reserved]

R

Radio, Television or Telephone Transmission Station: See [Sec. 6.4.27](#)

Rear Setback Line: A line equidistant from the rear lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected.

In the case of a corner lot, the rear lot line shall be the lot line opposite the street on which the main entrance is located.

Recreational Trailer or Vehicle: A vehicular, portable unit which exceeds 18 feet in length, 7 feet in height or 7 feet in width and which is designed and principally used for travel, camping or recreational use, including, but not limited to, a travel trailer, pick-up camper, motorized camper, tent trailer, boat or boat trailer.

Registered Marijuana Dispensaries: See [Sec. 6.10.3](#)

Residential Care Facility: See [Sec. 6.2.13](#)

Resource Extraction: See [Sec. 6.6.4](#)

Rest Home: See [Sec. 6.3.7](#)

Restaurant: See [Sec. 6.4.29](#)

Retail Sales: See [Sec. 6.4.30](#)

Retaining Wall: See [Sec. 5.4.2](#)

Riding School: See [Sec. 6.6.5](#)

Roof, Flat: A roof with a pitch of less than 1:12.

Roof, Sloped: A roof with a pitch of 1:12 or greater, typically having gables at both ends.

Roomer: The same as “Lodger”.

Rooming House: The same as “Lodging house”.

Rooming Unit: The room or group of rooms rented to an individual or household for use as living and sleeping quarters. See Chapter 17 of the City Ordinances - Sec.17-138.

S

Sanitarium: See [Sec. 6.3.7](#)

School or Other Educational Purposes: See [Sec. 6.3.14](#)

Scientific Research and Development Activities: See [Sec. 6.7.4](#)

Service Establishment: See [Sec. 6.4.31](#)

Setback Line: See [Sec. 1.5.3](#)

Shipbuilding, Small Boat Building, Yards for Storage and Repair: See [Sec. 6.5.3](#)

Side Setback Line: A line equidistant from the side lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected.

Sign: See [Sec. 5.2](#)

Sign Painting Shop: See [Sec. 6.5.14](#)

Single Person Occupancy Dwelling: See [Sec. 6.2.14](#)

Single Room Occupancy Dwelling: See [Sec. 6.2.14](#)

Single-Family Attached: See [Sec. 1.5.1](#)

Single-Family Detached: See [Sec. 1.5.1](#)

Sloped Roof: See [Roof, Sloped](#).

Space, habitable: Gross floor area in a building structure used for living, sleeping, eating or cooking purposes, including closets and hallways.

Sports Stadium: A building or structure containing tiered seating facilities for more than 200 spectators at sporting events.

Stable: See [Sec. 6.4.32](#)

Stairs: A set of steps leading from one floor of a building to another, typically inside the building.

Steps: A flat surface, especially one in a series, on which to place one's foot when moving from one level to another.

Stock Farm: See [Sec. 6.6.5](#)

Storage Building: See [Sec. 6.5.5](#)

Storage, Outdoor: See [Sec. 6.4.23](#)

Story: See [Sec. 1.5.4](#)

Street: A public way or a way opened and dedicated to the public use which has not become a public way, or a toll road open to public travel, including its approaches and toll houses or booths.

Street Level: The level of a building the floor of which is nearest to the grade of the adjacent sidewalk.

Structure: Any construction, erection, assemblage or other combination of materials at a fixed location upon the land, such as, but not limited to, a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, platform, retaining wall or systems of walls whose above-grade height exceeds 4 feet, tennis court or swimming pool.

T

Telecommunications and Data Storage Facility: See [Sec. 6.5.15](#)

Theatre: See [Sec. 6.3.15](#)

Trash or Yard Waste, Collection, Storage, Transfer-Haul or Composting: See [Sec. 6.5.16](#)

Two-Family Detached: See [Sec. 6.2.2](#)

Two-Family Dwelling: See Dwelling, two-family.

U

Use: Any purpose for which land, buildings or structures are arranged or designed, or for which said land, building or structure is occupied or maintained.

Use, Nonconforming: A use which does not conform to the use regulations of the district in which such use exists or might be introduced.

V

Vehicle Repair Shop: See [Sec. 6.4.34](#)

Vehicle Sales and Service Facility: See [Sec. 6.4.35](#)

Vehicle Storage: See [Sec. 6.5.17](#)

Veterinary Hospital: See [Sec. 6.4.36](#)

W

Watchman or Caretaker: See [Sec. 6.7.5](#)

Wireless Communication Equipment: See [Sec. 6.9](#)

Wholesale Distribution Plant: See [Sec. 6.5.19](#)

X

[reserved]

Y

Yard of a Contractor or Builder for Office and Storage of Vehicles and Materials: See [6.5.6](#)

Z

[reserved]

(Rev. Ords. 1973 § 24-1; Ord. No. 202, 03/21/77; Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-57, 11-20-89; Ord. No. T-114, 11/19/90; Ord. No. T-273, 06/07/93; Ord. No. V-91, 09/16/96; Ord. No. V-92, 10/21/96; Ord. No. V-122, 07/14/97; Ord. No. V-233, 04/05/99; Ord. No. W-20, 11/06/00; Ord. No. Z-16, 12/17/07; Ord. No. Z-45, 03/16/09; Ord. No. Z-77, 02/22/11; Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-32, 10/21/13)

Sec. 3.4. Allowed Uses

3.4.1. Residential Districts Allowed Uses

Residential Districts	SR1	SR2	SR3	MR1	MR2	MR3	MR4	Definition/ Listed Standards
Residential Uses								
Single-family, detached	P	P	P	P	P	P	P	Sec. 6.2.1
Two-family, detached	--	--	--	P	P	P	P	Sec. 6.2.2
Single-family, attached	SP	SP	SP	SP	SP	SP	SP	Sec. 6.2.3
Multi-family dwelling	--	--	--	--	SP	SP	SP	Sec. 6.2.4
Association of persons in a common dwelling	SP	SP	SP	SP	SP	SP	SP	Sec. 6.2.6
Lodging house	--	--	--	SP	SP	SP	SP	Sec. 6.2.7
Congregate living facility	SP	SP	SP	SP	SP	SP	SP	Sec. 6.2.8
Dormitory (5-20 persons)	SP	SP	SP	SP	SP	SP	SP	Sec. 6.2.9
Dormitory (20+ persons)	L	L	L	L	L	L	L	Sec. 6.2.9
Cluster development for open space preservation	SP	SP	SP	SP	SP	SP	SP	Sec. 6.2.12
Residential care facility	--	--	--	--	--	SP	SP	Sec. 6.2.13
Civic/Institutional Uses								
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.1
Club, clubhouse	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.2
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	Sec. 6.3.4
Hospital	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.7
Library, museum or similar institution	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.8
Nonprofit institution	--	--	--	SP	SP	SP	SP	Sec. 6.3.9
Public use	L	L	L	L	L	L	L	Sec. 6.2.10
Religious institution	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	SP	Sec. 6.3.13
School or other educational purposes, non-profit	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	Sec. 6.3.14
Scientific research and development activities, accessory	SP	SP	SP	SP	SP	SP	SP	Sec. 6.7.4
Commercial Uses								
Funeral home	--	--	--	--	SP	SP	--	Sec. 6.4.15
Radio or television transmission station or structure	SP	SP	SP	SP	SP	SP	SP	Sec. 6.4.27
Industrial Uses								
Wireless communication equipment	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	Sec. 6.9
Open Space Uses								
Agriculture on a parcel of 5 or more acres	P	P	P	P	P	P	P	Sec. 6.6.1
Agriculture on a parcel under 5 acres	SP	SP	SP	SP	SP	SP	SP	Sec. 6.6.1
Resource extraction	SP	SP	SP	SP	SP	SP	SP	Sec. 6.6.4
Riding school, stock farm	SP	SP	SP	SP	SP	SP	SP	Sec. 6.6.5

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

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	P	P	P	P	P	P	P	P	P	--	--	Sec. 6.2.11
Lodging House, above ground floor	SP	SP	SP	SP	--	SP	SP	SP	SP	--	--	Sec. 6.2.7
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	P	P	P	P	P	P	P	P	P	P	P	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	P	P	P	P	P	P	P	P	P	P	P	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

5.1.4. Number of Parking Stalls

A. The minimum number of parking stalls to be supplied for each type of building or land use shall be in accordance with the following requirements. Where the computation results in a fractional number, the fraction shall be counted as one stall.

Use	Parking Stalls Required	Allowed by Special Permit
Residential		
Single-family dwelling, Two-family dwelling	2 per unit	
Accessory apartment	1 per unit	
Association of persons	1 per adult occupant in unit	
Single-family attached dwelling, Multi-family dwelling	2 per unit	1.25 per unit, except multi-family housing for low-income or elderly persons built under state or federal housing programs: 1 per 2 units in a low income unit plus 1 per 4 elderly units
Lodging House	1 per 3 Rooming Units; max. of 6	0 per Rooming Unit for Lodging Houses within 1/2 mile of rail transit (Green Line or Commuter Rail) or within 1/4 mile of MBTA Bus Service.
Convalescent or rest home or other institution devoted to the board, care or treatment of humans	1 per every 4 beds plus 1 per every 3 employees	
Elderly housing with services facility, residential care facility, elderly congregate living facility	1 per every 2 dwelling units 1 per every 4 nursing beds plus 1 per 3 employees	.25 per dwelling unit where adequate transportation services are available
Civic/Institutional		
Dormitory	1 per 5 occupants	
Religious Institutions	1 per 3 seats, permanent or otherwise; 1 per 3 employees; plus 1 per 45 sf used for meeting function purposes when such space is customarily used concurrently with the seating space	
School serving children under 14 years of age	1 per employee not residing on premises	
Commercial		
Bank	1 per 300 sf plus 1 per every 3 employees	
Family child care home, large family child care home, day care center	1 per employee not residing on premises plus 1 per every 5 children	
Funeral home	1 per 40 sf; 30 spaces min.	
Health club, similar establishment	1 per 150 sf plus 1 per every 3 employees	
Hospital, sanitarium	1 per every 3 beds plus 1 per every 3 employees	
Hotel, motel	1 per sleeping room plus 1 per every 3 employees	

6.2.4. Multi-Family

A. Defined.

1. **Multi-Family.** See Sec. 1.5.1
2. **Residential Use, Above Ground Floor [reserved]**
3. **Residential Use, Ground Floor [reserved]**

B. Standards.

1. **In the Business 1 through Business 4, Mixed Use 2, and Mixed Use 4 Districts.** Multi-family residential is an allowed use in upper stories of a building containing allowed commercial uses on the ground floor.

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

2. **In the Multi-Residence 4 District.** A special permit is required, subject to the following conditions:

- a. **Business Services.** Where deemed necessary by the Board of Aldermen because of the number of residents to be accommodated on the lot or tract, business facilities for the individual convenience of the residents, such as barbershops, beauty parlors, tailors, shoe repair shops and similar personal services, newsstands, drugstores, food shops, dining rooms and similar retail uses, medical and related professional services, gasoline selling and service stations and parking lots and similar services may be conducted within a multi-family dwelling except that dining rooms with related facilities may be conducted within a building attached to and made an integral part of a multi-family dwelling but shall not exceed 2 percent of the gross floor area of all buildings containing dwelling units; provided, that there shall be no entrance to such a place of business except from the inside of the building, except for gasoline selling and service stations and parking lots; there shall be no signs or advertising matter pertaining to such business services outside of any building and no illuminated signs in the windows of the business facilities, and the gross floor area of the business services including dining rooms and related facilities shall not exceed 5 percent of the gross floor area of all buildings containing dwelling units;

- b. No building shall be closer to any other building on the lot or tract than a distance equal to the sum of their heights nor in any case closer than 50 feet. The Board of Aldermen may permit buildings to be erected closer to each other in cases where by reason of the location or size of the buildings on such lot or tract and the relationship of one building to another, there is assurance of adequate light, air and privacy, and the approval of the site plans by the Board of Aldermen shall constitute the granting of such permission.

6.2.5. Assisted Living, Nursing Home

A. Defined. [reserved]

6.2.6. Association of Persons in a Common Dwelling

- A. **Defined.** A group of 5 or more persons 18 years of age or older, who are unrelated by blood, marriage or adoption living together in a common dwelling.

(Ord. No. T-57, 11/20/89)

6.2.7. Lodging House

- A. **Intent.** Lodging House is an allowed residential use for independent living with shared facilities. The lodging house use is intended to:
 1. Diversify housing choices in Newton while respecting the residential character and scale of existing neighborhoods;
 2. Provide a non-subsidized form of housing that is generally less expensive than similar rental units in multi-family buildings;
 3. Lodging houses are encouraged to locate near transit to further provide lodgers access to transportation services.
- B. **Defined.** A Lodging House is Any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers. Includes rooming house, boarding house. It shall not include convalescent, nursing, or rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels.

C. Standards.

1. All lodging houses shall be licensed at all times of operation.
2. Signage for lodging houses shall be consistent with Section 5.2.7. Signs in Residence Districts or Section 5.2.8. Signs in Commercial Districts as appropriate; exceptions to the maximum size shall not be granted by Special Permit.
3. In residential districts, all lodging houses shall be consistent with the character of the neighborhood.
4. **Parking.**
 - a. The number of parking stalls shall be consistent with Section 5.1.4.
 - b. No lodging house may provide more than 6 parking spaces on a lot.
 - c. Lodging houses located within 1/2 mile of rail transit (Green Line or Commuter Rail), or within 1/4 mile of an MBTA Bus stop, may reduce the number of parking spaces to 0.
 - d. All parking areas shall be screened from any adjacent residences and from the public way.

D. Process.

1. All lodging houses created by a change of use shall require design review by the Urban Design Commission. Report of the Urban Design Commission shall be submitted to the City Council.

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

6.2.8. Congregate Living Facility

- A. Defined.** An association of persons living together in a shared living environment which integrates shelter and service needs of elderly, functionally impaired or functionally isolated persons who are otherwise in good health and can maintain a semi-independent lifestyle and who do not require constant supervision or intensive health care as provided by an institution. Each resident may have a separate bedroom, living room, kitchen, dining area or bathroom, or may share living, dining, and bathroom facilities with

other persons. Such facility shall be deemed an association of persons living together in a single dwelling and not a lodging house.

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

6.2.9. Dormitory

- A. Defined.** A building owned or controlled directly or indirectly by a religious or educational non-profit institution (excepting a nonprofit hospital) providing sleeping quarters for 5 or more unrelated persons.
- B. Standards.** In all residence districts, the construction, alteration, enlargement, extension or reconstruction of a building or structure as, and the use of a building, structure or land for, a dormitory providing sleeping quarters for 20 or more persons must meet the following conditions:
1. **Building location.** A dormitory shall not be closer to any other building on the same lot than 50 feet.
 2. **Courts.**
 - a. An inner court shall have a minimum dimension at least equal to twice the average height of the surrounding walls and shall have an opening at ground level with a minimum height of 18 feet and a minimum width of 18 feet to permit access to service and emergency vehicles.
 - b. An outer court shall be open to the full extent of its width at least equal to 1.5 times the average height of the surrounding walls and a depth no greater than its width.
 - c. The area of any court which exceeds 15 percent of the "Minimum Open Area" required shall not be included in the calculation of that minimum open area.

- C. Site Plan Review.** Dormitories are subject to the Site Plan Review procedures in Sec. 7.4.

(Rev. Ords. 1973 §24-18; Ord. No. S-260, 08/03/87; Ord. No. S-322, 07/11/88)

6.2.10. Elderly Housing with Services

- A. Defined.** Elderly housing with services, including residential care facilities, assisted living facilities and congregate care facilities.

B. Standards. In the business districts, the Board of Aldermen may grant a special permit for elderly housing with services with a lot area of no less than 400 square feet per dwelling unit.

(Ord. No. T-183, 11/04/91)

6.2.11. Live/Work Space

A. Defined. [reserved]

6.2.12. Cluster Development for Open Space Preservation

A. Defined. [reserved]

B. Standards. See Sec. 3.3.1

6.2.13. Residential Care Facility

A. Defined. A residential care facility shall consist in part of independent dwelling units, and shall contain a combination of central cooking and dining facilities, recreation facilities and shall provide to all its residents, specified medical services, which medical services shall include, but are not limited to, nursing and dietary assistance, together with the availability on the premises of full-time nursing care in a licensed care facility, provided that at least 1 occupant of each dwelling unit shall be at least 65 years of age or older.

B. Standards.

1. **In the Multi-Residence 3 District.** A special permit is required, subject to the following conditions:
 - a. The ratio of gross floor area devoted to residential purposes to lot area shall not exceed 0.67. Such gross residential floor area shall include hallways, stairwells, utility rooms and other similar areas which are directly accessory to independent dwelling units. Such gross residential floor area shall not include garage, library, activity, office, medical care, eating, assembly or other special supportive areas;
 - b. The Board of Aldermen may establish a limitation upon the maximum number of persons to be permitted per dwelling unit; and the Board of Aldermen may establish a minimum staff requirement for the residential care facility, provided, however, that the Board of Aldermen may, if circumstances

warrant, grant a special permit, for construction of a residential care facility with a lesser lot area per dwelling unit, a lesser number of parking spaces per dwelling unit, a greater gross floor area or a greater gross residential floor area ratio, but in no case:

- i. With less than 850 square feet of lot area per dwelling unit;
- ii. With a gross floor area ratio of more than 2.0;
- iii. With a gross residential floor area ratio of more than 1.34;
- iv. With less than 0.25 parking spaces per dwelling unit.

(Ord. No. 31, 12/02/74; Ord. No. R-14, 07/09/79; Ord. No. V-307, 06/19/00)

Sec. 8.3. Defined Terms

A

Accessory Apartment: See [Sec. 3.4.3](#)

Accessory Purpose: As applied to buildings or structures, a use in conjunction with an existing building on the same or an adjoining lot.

Accessory Sign: See Sign, accessory.

Adult Entertainment Uses: See [Sec. 6.10.1](#)

Agriculture: See [Sec. 6.6.1](#)

Animal Service: See [Sec. 6.4.1](#)

Apartment House: See Dwelling, multifamily

Assembly or Fabrication of Materials Manufactured Off Premise: See [Sec. 6.5.1](#)

Assisted Living: See [Sec. 6.2.5](#)

Association of Persons: A group of 5 or more persons 18 years of age or older, who are unrelated by blood, marriage or adoption; provided that an association of persons as defined in this [Sec. 8.3.](#) shall not be deemed to constitute a “family” within the meaning of this Chapter.

Attached Dwelling: See Dwelling, single-family attached.

Attached, Single-Family: See Dwelling, single-family attached.

Attic: The space in a building between the ceiling joists of the top full story and the roof rafters.

B

Bakery, Retail: See [Sec. 6.4.3](#)

Bakery, Wholesale: See [Sec. 6.5.2](#)

Bank: See [Sec. 6.4.4](#)

Basement: See [Sec. 1.5.4](#)

Bike Rental: See [Sec. 6.4.8](#)

Boarder: See Lodger.

Boarding House: See [Sec. 6.2.7](#)

Bottling Works: See [Sec. 6.5.4](#)

Bowling Alley: See [Sec. 6.4.5](#)

Build Factor: A mathematical formula which limits the irregularity of the lot shape. See [Sec. 1.5.6](#)

Building: A structure, including alterations, enlargements, and extensions, built, erected, or framed of any combination of materials having a roof, whether portable or fixed, designed or intended for the shelter of persons, animals, or the storage of property.

Building Materials Sales Yard: See [Sec. 6.5.5](#)

Building, Nonconforming: A building which does not conform in whole or in part to the use or construction regulations of the district in which the building is located.

Business Establishment: Each separate place of business whether or not consisting of one or more buildings or a part of a building or vacant land.

Business Services: See [Sec. 6.4.7](#)

C

Car Sharing Service: See [Sec. 6.4.8](#)

Car Rental: See [Sec. 6.4.8](#)

Car Wash: See [Sec. 6.4.9](#)

Carport: A one-story roofed structure permanently open on at least three sides and designed for or used for occupancy by a motor vehicle. For the purposes of this Chapter, a one-story port-cochere meets the definition of a carport.

Cemetery: See [Sec. 6.3.1](#)

Club, Clubhouse: See [Sec. 6.3.2](#)

Cluster Development for Open Space Preservation: See [Sec. 6.2.12](#)

Commercial Vehicle Parking: See [Sec. 6.7.2](#)

Community Use Space: See [Sec. 6.3.3](#)

Congregate Living Facility: See [Sec. 6.2.8](#)

Convalescent: See [Sec. 6.3.7](#)

Corner Lot: See [Sec. 1.5.2](#)

Country Club Facilities: See [Sec. 6.4.10](#)

D

Day Care Center: See [Sec. 6.3.4](#)

Detached, Single-Family: See [Sec. 6.2.1](#)

Detached, Two-Family: See [Sec. 6.2.2](#)

Development Parcel: The real property on which a planned multi-use business development or a mixed-use development (including any appurtenant easement areas benefiting a mixed-use development) is located in connection with a special permit under [Sec. 4.1.4](#) or [Sec. 4.2.4](#).

Dormer: See [Sec. 1.5.4](#)

Dormitory: See [Sec. 6.2.9](#)

Drive-in Business: See [Sec. 6.4.11](#)

Driveway: An area on a lot which is designed or used to provide for the passage of motor vehicles to and from a street or way.

Dry Cleaning or Laundry, Retail: See [Sec. 6.4.12](#)

Dwelling: A building or structure used for human habitation.

Dwelling, Single-Family Attached: See [Sec. 1.5.1](#)

Dwelling, Multifamily: See [Sec. 1.5.1](#)

Dwelling, Two-Family: See [Sec. 1.5.1](#)

Dwelling Unit: See [Sec. 1.5.1](#)

E

Enhanced Single Room Occupancy (E-SRO): Any Rooming Unit in a Lodging House that provides cooking facilities within the rooming unit. See Chapter 17 of the City Ordinances - Sec. 17-138.

Elderly Housing with Services: See [Sec. 6.2.10](#).

Electric Car Charging Station: See [Sec. 6.4.8](#).

F

Family Child Care Home: See [Sec. 6.3.4](#).

Family Child Care Home, Large: See [Sec. 6.3.4](#)

Fast Food Establishment: See [Sec. 6.4.13](#)

Feed and Seed Store: See [Sec. 6.5.7](#)

Flat Roof: See Roof, Flat.

Floor Area Ratio: See [Sec. 1.5.5](#)

Floor Area, Gross: See [Sec. 1.5.5](#)

Floor Area, Ground: See [Sec. 1.5.5](#)

Food Processing, Wholesale: See [Sec. 6.5.8](#)

Funeral Home: See [Sec. 6.4.15](#)

G

Garage, Greenhouse, Maintenance or Storage Facility: See [Sec. 6.7.3](#)

Government Offices or Services: See [Sec. 6.3.5](#)

Grade Plane, Average: See [Sec. 1.5.4](#)

Gross floor Area: See [Sec. 1.5.5](#)

Ground Floor Area: See [Sec. 1.5.5](#)

H

Habitable space: See Space, habitable.

Hall: See [Sec. 6.3.15](#)

Health club: See [Sec. 6.4.16](#)

Height: See [Sec. 1.5.4](#)

Height, contextual: See [Sec. 1.5.4](#)

Heliport: See [Sec. 6.7.3](#)

Home business: See [Sec. 6.7.3](#)

Hospital: See [Sec. 6.3.7](#)

Hotel: See [Sec. 6.4.17](#)

I

Indoor Recreation Facility: See [Sec. 6.6.2](#)

Institution, Single-Use: A religious or nonprofit educational use having no more than one principal building and less than 50,000 square feet of lot area.

Institution, Multi-Use: A religious or nonprofit educational use having one or more buildings and at least 50,000 square feet of lot area.

Interior Lot: See Lot, interior.

J

[reserved]

K

Keno: See [Sec. 6.10.2](#)

L

Laboratory and Research Facility, No Recombinant DNA: See [Sec. 6.5.9](#)

Landing: A level area at the top of a staircase or between one flight of stairs and another.

Laundry, Cleaning and Dyeing Establishment: See [Sec. 6.5.10](#)

Library: See [Sec. 6.3.8](#)

Listed Standards: Rules and regulations for land uses otherwise allowed by right.

Live/Work Space: See [Sec. 6.2.11](#)

Lodger: A person who occupies space for living and sleeping purposes without separate cooking facilities, paying rent, which may include an allowance for meals; and who is not a member of the housekeeping unit

Lodging House: Any dwelling designed, occupied, or intended for occupancy by 4 or more lodgers. Includes rooming house, boarding house. It shall not include convalescent, nursing, or rest homes; group homes; dormitories of charitable, educational, or philanthropic institutions; or apartments or hotels. See Chapter 17 of the City Ordinances - Sec.17-138.

Lot, Corner: See Corner Lot.

Lodging Establishment: See [Sec. 6.4.17](#)

Lot Coverage: See [Sec. 1.5.2](#)

Lot, Interior: Any lot or part of a lot other than a corner lot.

Lot Line: See [Sec. 1.5.2](#)

M

Maneuvering Aisle: A maneuvering space which serves a row or rows of parking stalls.

Manufacturing: See [Sec. 6.5.11](#)

Mass Below First Story: See [Sec. 1.5.5](#)

Mixed-Use Residential Building: A building occupied by both residential and nonresidential uses.

Molding, Shaping or Assembly from Prepared Materials (Including Repairs): See [Sec. 6.5.12](#)

Multi-Family Dwelling: See [Sec. 6.2.4](#)

Museum: See [Sec. 6.3.8](#)

N

Nonconforming Building: See Building, nonconforming.

Nonconforming Use: See Use, nonconforming.

Nonprofit Institution: See [Sec. 6.3.8](#)

Nursing Home: See [Sec. 6.2.5](#)

O

Occupy/Occupancy: When used in connection with accessory apartments, this term shall mean physical presence and residency on the subject premises except for short periods of temporary absence.

Office: See [Sec. 6.4.20](#)

Office of a Contractor, Builder, Electrician or Plumber or Similar Enterprises: See [Sec. 6.4.21](#)

Open-Air Business: See [Sec. 6.4.22](#)

Open Space, Beneficial: Areas not covered by buildings or structures that are available for active or passive recreation, which shall include, but are not limited to: landscaped areas, including space located on top of a structure, gardens, playgrounds, walkways, plazas, patios, terraces and other hardscaped areas, and recreational areas, and shall not include: (i) portions of walkways intended primarily for circulation, i.e., that do not incorporate landscape features, sculpture or artwork, public benches, bicycle racks, kiosks or other public amenities, (ii) surface parking facilities or associated pedestrian circulation, (iii) areas that are accessory to a single housing unit, or (iv) areas that are accessory to a single commercial unit, and controlled by the tenant thereof, and not made available to the general public.

Open Space, Usable: All the lot area not covered by buildings and/or structures, roadways, drives, surface parking area or paved surfaces other than walks. The area devoted to lawns, landscaping, exterior tennis courts, patios, in-ground swimming pools and non-structural recreational amenities shall be included as usable open space. The area covered by roof overhangs of up to 2 feet shall be included in the calculation of open space.

Outdoor Recreational Activities: See [Sec. 6.6.3](#)

P

Paint Store: See [Sec. 6.5.12](#)

Parking Facility: A building, structure, lot or part of a lot where off-street parking is provided or permitted. See [Sec. 6.4.24](#)

Parking Lot: A parking facility where off-street parking of vehicles is permitted other than as an accessory use.

Parking Stall: An area, exclusive of inventory storage space, display space, maneuvering aisles or other maneuvering space, adequate for parking a motor vehicle.

Personal Service: See [Sec. 6.4.25](#)

Place of Amusement: See [Sec. 6.4.26](#)

Porch: A roofed structure with sides not more than 60 percent enclosed by impermeable walls, attached to and accessible from the primary structure, and not heated or air conditioned. A porch may share no more than two exterior walls with the residential structure. Railings or solid walls on the projecting facades of the porch may be no higher than 36 inches as measured from the finished porch floor; the remainder of these facades may be open to the elements or enclosed by mesh, glass, or similar material.

Porch, Enclosed: A porch enclosed for any portion of the year by any non-permeable material such as glass or a similar material.

Porch, Unenclosed: A porch that at all times is either enclosed by permeable materials such as mesh or similar material or is unenclosed by any material.

Printing, Publishing and Reproduction Establishments: See [Sec. 6.5.13](#)

Public Use: See [Sec. 6.3.10](#)

Q

[reserved]

R

Radio, Television or Telephone Transmission Station: See [Sec. 6.4.27](#)

Rear Setback Line: A line equidistant from the rear lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected.

In the case of a corner lot, the rear lot line shall be the lot line opposite the street on which the main entrance is located.

Recreational Trailer or Vehicle: A vehicular, portable unit which exceeds 18 feet in length, 7 feet in height or 7 feet in width and which is designed and principally used for travel, camping or recreational use, including, but not limited to, a travel trailer, pick-up camper, motorized camper, tent trailer, boat or boat trailer.

Registered Marijuana Dispensaries: See [Sec. 6.10.3](#)

Residential Care Facility: See [Sec. 6.2.13](#)

Resource Extraction: See [Sec. 6.6.4](#)

Rest Home: See [Sec. 6.3.7](#)

Restaurant: See [Sec. 6.4.29](#)

Retail Sales: See [Sec. 6.4.30](#)

Retaining Wall: See [Sec. 5.4.2](#)

Riding School: See [Sec. 6.6.5](#)

Roof, Flat: A roof with a pitch of less than 1:12.

Roof, Sloped: A roof with a pitch of 1:12 or greater, typically having gables at both ends.

Roomer: The same as “Lodger”.

Rooming House: The same as “Lodging house”.

Rooming Unit: The room or group of rooms rented to an individual or household for use as living and sleeping quarters. See Chapter 17 of the City Ordinances - Sec.17-138.

S

Sanitarium: See [Sec. 6.3.7](#)

School or Other Educational Purposes: See [Sec. 6.3.14](#)

Scientific Research and Development Activities: See [Sec. 6.7.4](#)

Service Establishment: See [Sec. 6.4.31](#)

Setback Line: See [Sec. 1.5.3](#)

Shipbuilding, Small Boat Building, Yards for Storage and Repair: See [Sec. 6.5.3](#)

Side Setback Line: A line equidistant from the side lot line which establishes the nearest point to the lot line at which the nearest point of a structure may be erected.

Sign: See [Sec. 5.2](#)

Sign Painting Shop: See [Sec. 6.5.14](#)

Single Person Occupancy Dwelling: See [Sec. 6.2.14](#)

Single Room Occupancy Dwelling: See [Sec. 6.2.14](#)

Single-Family Attached: See [Sec. 1.5.1](#)

Single-Family Detached: See [Sec. 1.5.1](#)

Sloped Roof: See Roof, Sloped.

Space, habitable: Gross floor area in a building structure used for living, sleeping, eating or cooking purposes, including closets and hallways.

Sports Stadium: A building or structure containing tiered seating facilities for more than 200 spectators at sporting events.

Stable: See [Sec. 6.4.32](#)

Stairs: A set of steps leading from one floor of a building to another, typically inside the building.

Steps: A flat surface, especially one in a series, on which to place one's foot when moving from one level to another.

Stock Farm: See [Sec. 6.6.5](#)

Storage Building: See [Sec. 6.5.5](#)

Storage, Outdoor: See [Sec. 6.4.23](#)

Story: See [Sec. 1.5.4](#)

Street: A public way or a way opened and dedicated to the public use which has not become a public way, or a toll road open to public travel, including its approaches and toll houses or booths.

Street Level: The level of a building the floor of which is nearest to the grade of the adjacent sidewalk.

Structure: Any construction, erection, assemblage or other combination of materials at a fixed location upon the land, such as, but not limited to, a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, platform, retaining wall or systems of walls whose above-grade height exceeds 4 feet, tennis court or swimming pool.

T

Telecommunications and Data Storage Facility: See [Sec. 6.5.15](#)

Theatre: See [Sec. 6.3.15](#)

Trash or Yard Waste, Collection, Storage, Transfer-Haul or Composting: See [Sec. 6.5.16](#)

Two-Family Detached: See [Sec. 6.2.2](#)

Two-Family Dwelling: See Dwelling, two-family.

U

Use: Any purpose for which land, buildings or structures are arranged or designed, or for which said land, building or structure is occupied or maintained.

Use, Nonconforming: A use which does not conform to the use regulations of the district in which such use exists or might be introduced.

V

Vehicle Repair Shop: See [Sec. 6.4.34](#)

Vehicle Sales and Service Facility: See [Sec. 6.4.35](#)

Vehicle Storage: See [Sec. 6.5.17](#)

Veterinary Hospital: See [Sec. 6.4.36](#)

W

Watchman or Caretaker: See [Sec. 6.7.5](#)

Wireless Communication Equipment: See [Sec. 6.9](#)

Wholesale Distribution Plant: See [Sec. 6.5.19](#)

X

[reserved]

Y

Yard of a Contractor or Builder for Office and Storage of Vehicles and Materials: See [6.5.6](#)

Z

[reserved]

(Rev. Ords. 1973 § 24-1; Ord. No. 202, 03/21/77; Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-57, 11-20-89; Ord. No. T-114, 11/19/90; Ord. No. T-273, 06/07/93; Ord. No. V-91, 09/16/96; Ord. No. V-92, 10/21/96; Ord. No. V-122, 07/14/97; Ord. No. V-233, 04/05/99; Ord. No. W-20, 11/06/00; Ord. No. Z-16, 12/17/07; Ord. No. Z-45, 03/16/09; Ord. No. Z-77, 02/22/11; Ord. No. Z-108, 04/17/12; Ord. No. A-4, 10/01/12; Ord. No. A-32, 10/21/13)



Setti D. Warren
Mayor

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Barney S. Heath
Director

MEMORANDUM

DATE: October 6, 2017

TO: Councilor Rice, Chairman
Members of the Programs and Services Committee

Councilor Ciccone, Chairman
Members of the Public Safety & Transportation Committee

Members of the Licensing Board

FROM: Barney S. Heath, Director of Planning and Development
James Freas, Deputy Director of Planning and Development
Rachel Blatt, Long Range Planner

RE: **#140-14 (2) Amend ordinances to add licensing requirements and criteria for lodging houses**
ZONING & PLANNING COMMITTEE requesting to amend Chapter 17, City of Newton Ordinances, to establish licensing requirements and criteria for lodging houses.

MEETING DATE: October 18, 2017

CC: Donnalyn Khan, City Solicitor
John Lojek, ISD Commissioner
Deborah Youngblood, Health Commissioner
David MacDonald, Chief of Police
Bruce Proia, Fire Chief
Planning and Development Board

A lodging house is a traditional housing form that caters to single individuals living in a quasi-group setting. This housing arrangement was once very common. In the 1880s it was estimated that 50% of Americans had either lived in a lodging house or been a host of one.¹ Lodging houses have persisted,

¹ During, Alan (2012). "Rooming Houses: History's Affordable Quarters." Accessed 3/7/17 at <http://www.sightline.org/2012/11/14/rooming-houses-historys-affordable-quarters/>. Data quoted from Groth, Paul (1994), *Downtown Living Downtown: The History of Residential Hotels in the United States*. University of California Press.

though in smaller numbers, and interest in living in lodging houses is growing again. Newton has had lodging houses since before it had zoning. A few of these historic ones continue to serve as affordable housing in Newton.

New lodging houses can also be established today. Lodging houses are an allowed use by Special Permit in all multifamily districts of the city. Lodging houses are defined, but no standards for the structure or operational requirements are included in the City's zoning or other ordinances.

For both the historic and any new lodging houses, Newton also currently requires a \$50 annual license fee to operate a lodging house. No license requirements exist to specify how a lodging house operator should be running their facility, and no ordinance specifies what reviews should be conducted prior to issuing a person a license to operate a lodging house.

Since spring 2017, the Planning Department, Law Department, and the Zoning and Planning Committee of the City Council have been discussing lodging houses and developing a proposed set of standards by which to regulate not only the formation of a lodging house but also the continued operation of a lodging house. Since regulating lodging houses involves numerous city departments, this proposal has been crafted with input from all four departments who have a role in ensuring the health, safety, and welfare of lodging houses: Inspectional Services, Health and Human Services, Police, and Fire. At this time a full draft is now available for consideration of the Council Committees and the Licensing Board, who by state statute, would be charged with bringing these regulations into effect.

The proposals are modeled after the Lodging House Regulations developed by Brookline, widely recognized as the most robust in the region. While this was the model, the proposals for Newton are tailored more closely to the traditional lodging house form, and do not cover other forms of accommodation like hotels or dorms, as Brookline's ordinance does.

TWO ORDINANCE SECTIONS – MULTIPLE COMMITTEE DISCUSSIONS

Before diving into the proposals, please note that the lodging house regulations proposed are **embedded in two separate sections of the City Ordinances and refer to each other**. Public comments regarding the proposed amendments to Chapter 30 – the Zoning Ordinance are being taken in a public hearing at the **Zoning and Planning Committee on Wednesday October 11, 2017**. Proposed amendments to Chapter 17 – Licensing and Permits Generally, will be discussed at a joint meeting of the **Programs and Services Committee and the Public Safety and Transportation Committee on Wednesday October 18, 2017**. License fees and fines are to be discussed at the **Finance Committee, date to be determined**.

By state statute, licensing of lodging houses can only be done by the Licensing Board. At the time this memo was written, the **Licensing Board** has not yet had the opportunity to discuss the licensing proposal. This draft is presented to both the Licensing Board and the joint City Council committees tasked with reviewing the proposed language for their mid-October meetings. **The Licensing Board has a regular meeting on October 17th**. Staff encourages members from the Licensing Board to attend the Council discussion and vice versa so that there is exchange of information between the Legislature and the implementing body.

This memo focuses strictly on the proposed licensing amendments to Chapter 17. A separate memo summarizing the proposed Chapter 30 zoning amendments is attached here for reference, understanding that it is principally addressed to the Zoning and Planning Committee public hearing on October 11th (see Attachment C). At the end of the memo is background information on lodging houses and why the two sets of ordinance amendments are proposed.

Additionally, please note that prior to taking up either set of proposed amendments at the full Council, the City Council must first vote on whether to **accept Massachusetts General Law c. 140 §22A**. This section would allow for Efficiency-Single Room Occupancy facilities within lodging houses, further described below.

BACKGROUND ON LODGING HOUSES & FAQs

- **Is a lodging house the same thing as a rooming house? How about a boarding house?**
 - These phrases all mean the same thing – a place designed for four or more independent residents sharing common cooking and bath facilities. Historically a boarding house offered meals where rooming houses did not. Lodging house has come to be the preferred modern term and is the term used in the state statutes.
- **What is the difference between a lodging house and a group of roommates/association of persons sharing a house?**
 - In a lodging house, the lodger rents a rooming unit – typically a bedroom, perhaps including a seating area. The tenant has access to, but not responsibility for, shared cooking and bath facilities with others in the house. They rent their rooming unit directly from the lodging house operator, who maintains the common areas including the kitchen and bath. The tenant has keyed access to both the house and the rooming unit. The rooming unit is their ‘home.’

In contrast, in an association of persons or a roommate situation, all are jointly tenants in the house. They are collectively responsible for common spaces and the landlord is not responsible for housekeeping. There is keyed access to the house only. The entire house inclusive of shared common areas is their ‘home.’
- **Why is regulating lodging houses a priority for the City of Newton?**
 - The Police, Fire, Health, and Inspectional Services Departments acknowledge that typically illegal lodging houses are discovered because of a 911 call. Often Boarding Houses are operated with violations to the state sanitary and fire codes and there are life safety concerns about how these facilities are run. The concern is not just for whether these facilities are safely constructed with proper egress stairs, sprinklers, etc., but also how they are operated - are managers ensuring that doors are not blocked, that hotplates are not being used in bedrooms, that trash is properly disposed of, and the like. Fires have occurred in a few illegal boarding houses in recent years, leading to a concern for the safety of Newtonians living in these arrangements.

• **Why are lodging houses regulated through both the Zoning Ordinance and the Licensing Ordinance?**

- Most of the problems in lodging houses arise from poor operations – e.g. blocked egress routes, electrical systems used beyond capacity, noise complaints, etc. Licensing follows the operators while zoning follows the property.

The proposed Zoning amendments maintain the requirement that Lodging Houses receive a Special Permit from the Council first, and then a license for the operator after that.

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| <ul style="list-style-type: none"> ○ The Zoning Ordinance covers the development of a new lodging house – where a new lodging house can be established, and what standards are required from the building and property. | <ul style="list-style-type: none"> ○ The Licensing Ordinance covers issues of operation – who is allowed to operate a lodging house, what training they are required to have, and what responsibilities they are expected to take on. |
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Approval through the zoning process establishes that a lodging house is an approved use of a piece of property

Approval through the licensing process gives a person or organization the authority to operate a lodging house

Zoning approval by Special Permit stays with the property in perpetuity

License approval follows an operator and lasts just one year

• **What departments have been involved? What will their roles be going forward?**

- The Planning and Community Development Department, Law Department, Inspectional Services, Police, Fire, and Health and Human Services have all been involved in developing this proposal.

○ Future Roles:

Planning and Community Development

- Assist in developing licensee certification and application forms
- Zoning reviews & Special Permit process
- Possible CDBG support for rehab projects (applicability still being researched)
- Report to Licensing Board as applicable

Inspectional Services (ISD)

- Lead annual team inspection
- Lead annual licensee certification
- Report to Licensing Board on result of annual inspection
- Code and zoning enforcement

Health and Human Services (HHS)

- Participate in annual team inspection
- Participate in annual certification
- Support Licensing Board in administering the licensing process
- Perform reference checks on licensees and agents

Fire

- Participate in annual team inspection
- Participate in annual certification
- Code enforcement
- Evacuation plan and electrical use policy review
- Review quarterly fire drill reports

Police

Treasury

- Participate in annual certification
- On-call support for annual inspections
- Report to Licensing Board on responses in the past year that are of concern to the licensee application
- Report to Licensing Board whether or not taxes and charges are up to date

Resident supervising agents will be required to provide contact information to ISD, HHS, Fire, and Police and shall respond to calls from these departments in a timely manner.

PROPOSED LICENSING AMENDMENTS

The Lodging House Licensing Amendments to Chapter 17 are attached for consideration and discussion. By state statute the Licenses for Lodging Houses in a City with a Licensing Board, must be granted by that body. From discussions with staff that support the Licensing Board, it is understood that the Board would like to see clear standards for them to implement. Staff anticipates that most of the work in reviewing the licensing will fall to the inspecting departments (ISD, HHS, and Fire) with the support of the Planning Department, Police Department, Treasury Department, and City Clerk's Office. As the property will first require a Special Permit before a License can be granted, any new lodging house, will have already been vetted in a public hearing before it goes before the Licensing Board.

- **Division 1: Generally**
 - Includes pertinent definitions and requirements for the facilities that are to be licensed
- **Division 2: Licenses**
 - This section covers requirements for the operator's license and is broken into four sections:
 - Requirements for operators looking to be licensed
 - Outline of the operator's responsibilities relative to residents
 - Outline of the operator's responsibilities relative to property maintenance
 - License application and renewal requirements
- **Fees** for the license and the inspections are listed in separate sections of Chapter 17
 - License fees max out at \$50 per state limits
 - Interdepartmental Inspection Fee is initially proposed at \$400. This is consistent with the fee charged in Brookline and covers an estimated 5 hours of inspection/reporting work for an average rate of \$80/hr. For comparison a police detail costs \$55/hr.
 - 2 hours of the ISD Periodic Inspector's time (the lead inspecting staff person)
 - 1.5 hours of a HHS inspector's time (1 hr inspection, 0.5 for reporting)
 - 1.5 hours of a Fire inspector's time (1 hr inspection, 0.5 for reporting)

Lodging House Facility Requirements

Generally, Lodging Houses do not offer fully private units, but instead offer private quarters with shared cooking and bathing facilities. The Lodging House Licensing Ordinance allows for two types of rooming facilities that someone could rent within a lodging house.

- The typical arrangement is for a **Rooming Unit**, with private sleeping and living space, and shared kitchen and bath facilities. In this arrangement the resident could expect to have a full kitchen in the house at their disposal and a bathroom on the same floor as their room. The Rooming unit would have a keyed lock, and inside would be at a minimum sleeping space and clothing storage space. The resident would not be allowed any cooking appliances but may be allowed a small fridge and non-cooking appliances like a coffee maker.
- The second option would be to rent an **Enhanced Single Room Occupancy Unit (E-SRO)**. This unit would have the same features as a standard rooming unit, but would additionally have its own mini-kitchen inside the room. Because of this added fire risk, E-SROs would be required to meet new construction standards for transient use (R-1 Occupancy) and would need to have 2 means of egress from the room. The resident would still have access to a shared kitchen and shared bath.

In a case where a Lodging House offered E-SROs with their own private bathrooms, these would be considered ‘full functioning units’ in the eyes of the City’s Inclusionary Zoning Ordinance and a percentage of them would need to be deed restricted as affordable housing units.

Requirements for Operators

Unlike the Special Permit which is granted to the property, the License is granted to a particular operator. In all cases the property owner is considered the Licensee who will hold primary legal responsibility for the premises and its operation. It is expected that in many cases, the Licensee will designate an Agent to carry out their responsibilities. Both Licensees and Agents will need to get Licenses from the Licensing Board.

The Licensee or an Agent will need to act as the **Resident Supervisor**. The “Resident Agent” will be responsible for holding the master key to resident rooms, and ensuring day-to-day operations of the facility. We researched if the resident agents could be subject to background checks, understanding this to be desirable. However, the City is not currently set up to do background checks for licensees of any kind. Understanding that changing that is a project in its own right, the interdepartmental staff team working on this has amended the lodging house license application requirements to include a resume and professional references to better understand the character of applicants, in lieu of a background check.

The resident agent has a number of responsibilities, but one of the most important, is that they will be the **central point of contact for the City**. The resident agent will be required to give a mobile contact number to the Police, Fire, HHS, and ISD staff and to respond within one hour for emergencies and 24 hours with respect to all other issues.

Licensees and all agents (resident or otherwise) will be required to be certified as well. A **Certification Program** will be run by Police, Fire, HHS, and ISD once a year and for anyone starting more than 90 days from the next certification training, they will be required to complete a written preliminary certification at the beginning of their duties.

Operator’s Responsibilities relative to Residents

Residents play an important role in keeping the lodging house safe, and it is the responsibility of the operator to ensure their residents know how to do this. The primary goals are to ensure that the

Lodging House is not overcrowded and that residents are maintaining safe and clean rooms and facilities.

To **prevent overcrowding**, licensees and agents are responsible for keeping track of their residents and residents' guests, with signed **resident agreements**, resident and guest **registries**, and a published **guest policy**.

To **ensure safety**, licensees are responsible for setting '**house rules**' that cover a number of topics as well as setting a Fire Department approved **Electrical Use Policy**. The licensees are responsible for ensuring that residents are made aware of these policies as well as how to get in touch with the resident agent in the case of maintenance issue or an emergency.

Operator's Responsibilities relative to Property Maintenance and Management

One of the primary property maintenance issues is **ensuring that proper egress** is available to residents in case of a fire. Licensees and agents are responsible for ensuring egress routes are clear, well-marked, and well-advertised. They are responsible for holding quarterly **Evacuation Drills** and documenting the drills for the Fire Department to review.

Beyond this, the Licensees are responsible for ensuring that the property is generally in a good state of repair and maintenance.

License application and Renewal Requirements and Procedures

The last section of the Licensing Ordinance covers the details of the minimal requirements for license applications and renewal procedures. This section lists the required annual interdepartmental inspections and staff reports to support the Licensing Board in making their decisions regarding applications.

In addition to the Special Permit public hearing for a newly established Lodging House, it is proposed that there will also be **public hearings for each new Licensee or Agent**. An important note is that the Board shall not deny a license based on "general grounds of adverse impact on the neighborhood." It is understood that the proper venue for such a discussion is at the City Council Special Permit hearing. This said, should there be "specific ground" of adverse impact resulting from poor management of the property by a licensee or agent, then such a license may be denied.

The draft Licensing Ordinance additionally outlines **penalties for egregious violations**. While the Licensing Board may deny or suspend a license for just cause in any circumstance, the ordinance outlines situations which are considered worthy of immediate fines and if multiple fines are warranted in quick succession, then the immediate denial of a license renewal.

ATTACHMENTS

Attachment A: Proposed Chapter 17 Licensing Amendments – Redline Version

Attachment B: Proposed Chapter 17 Licensing Amendments – Clean Page Version

Attachment C: Memo to Zoning and Planning