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1.4.4. Validity

Nothing in this Chapter shall be construed as establishing regulations or restrictions which are not uniform for each class or kind of buildings, structures, or land, and for each class or kind of use in each district.

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

1.4.5. Effect of Invalidity

If it is determined by a court of competent jurisdiction that any provision of this Chapter is invalid as applying to any particular land, building or structure by reason of such land, building or structure having been placed in an excessively restrictive district, such land, building or structure shall thereby be zoned in the next least restrictive district created by this Chapter.

(Rev. Ords. 1973 §24-33)

Sec. 1.5. Rules of Measurement

1.5.1. Building Types

- A. **Single-Family, Detached.** A building ~~or structure~~ that contains only one dwelling unit. Accessory apartments shall not be considered a separate dwelling unit for the purposes of this section.

Proposed Edits to Sec. 1.5.1.B - Option 1. See also additional standards proposed in Sec. 3.4.4.F for this option.

- B. **Two-Family, Detached.** A building that contains 2 dwelling units and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire maximum height of one or both units, including garages, and/or is divided horizontally so that one dwelling unit is above another. Accessory apartments shall not be considered a separate dwelling unit for the purposes of this section.

Proposed Edits to Sec. 1.5.1.B - Option 2.

- B. **Two-Family, Detached.** A building that contains 2 dwelling units ~~and is either divided vertically so that the dwelling units are side by side but separated by a shared wall extending the entire maximum height of one or both units, and/or is divided horizontally so that one dwelling unit is above another.~~ Accessory apartments shall not be considered a separate dwelling unit for the purposes of this section.

- C. **Single-Family, Attached.** A building or structure that either:
1. Contains 3 or more dwelling units, attached to one another at the ground level and each having a separate primary and secondary access at ground level; or
 2. A grouping of principal buildings containing more than two units in total. ~~Contains 2 dwelling units and is not a two-family detached dwelling.~~
- D. **Multi-Family.** A building ~~or structure~~ containing 3 or more dwelling units: primarily accessed through a common building entrance.
- E. **Dwelling Unit.** One or more rooms forming a habitable unit for 1 family, with facilities used or intended to be used, in whole or in part, for living, sleeping, cooking, eating and sanitation.

1.5.2. Lot

- A. Lot Line.** A division line between adjoining properties, including the division line between individual lots established by a plan filed in the registry of deeds, except that the line between land of the Commonwealth used as an aqueduct or land formerly an aqueduct now owned by the City and adjoining land shall not be termed a lot line.
- B. Lot Area.** Lot area is the horizontal area included within the rear, side and front lot lines. Lot area does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use.
- C. Lot Area Per Unit.** The minimum lot area required for each residential dwelling unit on the lot.
- D. Lot Coverage.** The percentage of the lot area which is covered by buildings, including accessory buildings, and structures with roofs, except in the following cases:
1. The area covered by roof overhangs of up to 2 feet shall not be included in the calculation of lot coverage; and
 2. The lot coverage requirements contained in Sec. 3.1 shall not apply to the erection or construction of a private garage in connection with or accessory to a building which was in existence on December 27, 1922, and designed or used as a single- or two-family residence.
- E. Lot Frontage.** The required lot frontage shall be measured on the street line, except in the following cases:
1. In the case of a lot on a street, the line of which has a curve with a radius of less than 200 feet, the required lot frontage shall be measured along the setback line;
 2. In the case of a lot on a street and a public footway, the required lot frontage may be measured along the public footway following approval of a special permit by the City Council; and
 3. In the case of corner lots, the frontage when measured on the street line shall run to the point of intersection of the 2 street lines.
- F. Lot, Corner.** A lot fronting on 2 intersecting streets which form an interior angle of 120 degrees or less; or a lot located on a bend in a street where the street bends so as to form an interior angle of 120 degrees or less; or a lot on a curve in a street or on a curve at the intersection of 2 streets where 2 lines tangent to the street line at the intersection of each side of the lot with the street line form, if prolonged towards the curve, an interior angle of 120 degrees or less. Only that part of a lot contiguous to a corner, bend or curve, and having an area not in excess of 10,000 square feet, and a maximum length on either street, except in case of a bend or curve, of not more than 150 feet, shall be deemed a corner lot. The provisions of this paragraph shall apply to a lot fronting on an open space dedicated to the public use in the same manner as to a lot fronting on a street.

G. Rear Lots.

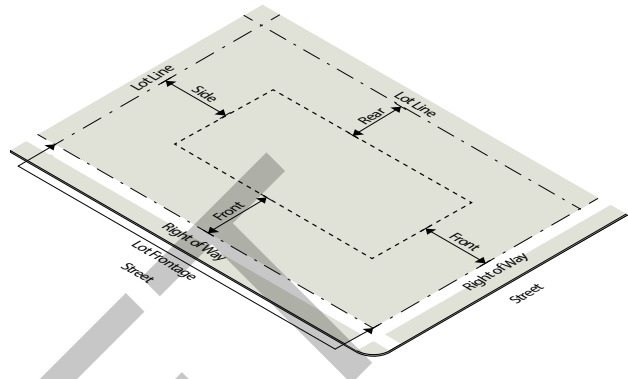
1. A rear lot is defined as a parcel of land not fronting or abutting a street, which does not have the required minimum frontage directly on a street, and which has limited access to a street by either:
 - a. A “flag pole” or “pan-handle” shaped portion of the lot,
 - b. An easement over an adjoining lot possessing frontage directly on the street, or
 - c. A private right-of-way as shown or described in plans or deeds duly recorded with the Registry of Deeds for the Southern District of Middlesex County.

2. Where the City Council issues a special permit, a rear lot may satisfy the minimum frontage requirement for the zoning district in which it is located by measuring lot frontage along the rear line of the lot or lots in front of it.

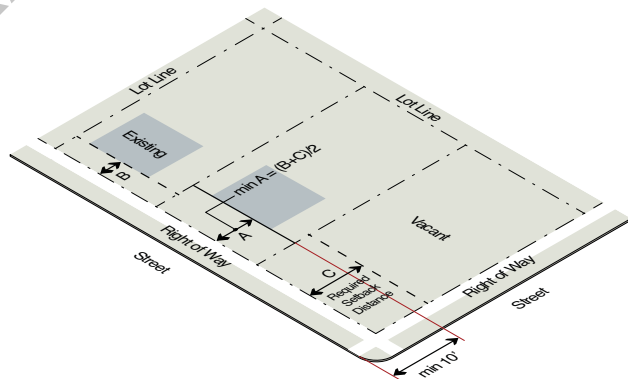
(Rev. Ords. 1973 §24-1; Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/07; Ord. No. T-173, 09/16/91; Ord. No. V-92, 10/21/96; Ord. No. X-123, 12/06/04)

1.5.3. Setback

- A. **Defined.** A line equidistant from the lot line which establishes the nearest point to the lot line at which the nearest point of a **principal building 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.

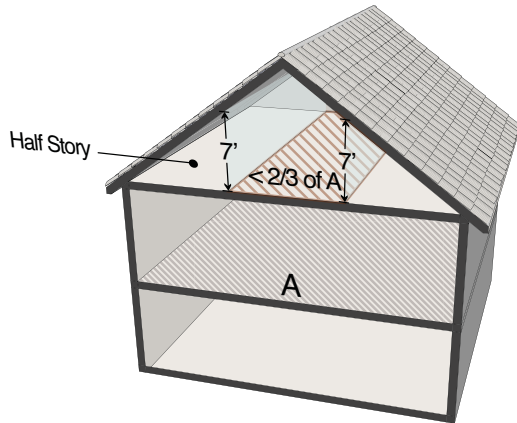


- B. No building need be set back more than the average of the setbacks of the buildings on the nearest lot on either side, a vacant lot or a lot occupied by a building set back more than the required distance for its district to be counted as though occupied by a building set back such required distance. Averaging applies only to the front setback. In no case shall any part of a building in a residence district extend nearer the street line than 10 feet.



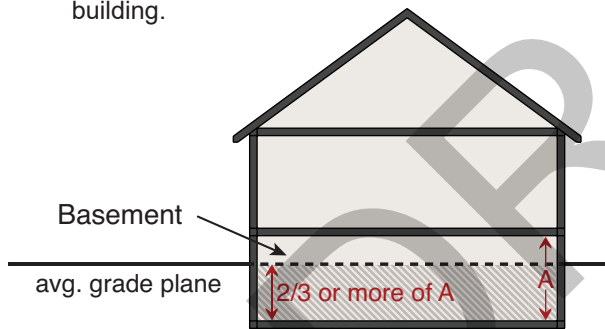
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- C. **Story, Half.** A story directly under a sloping roof where the area with a ceiling height of 7 feet or greater is less than 2/3 of the area of the story next below.

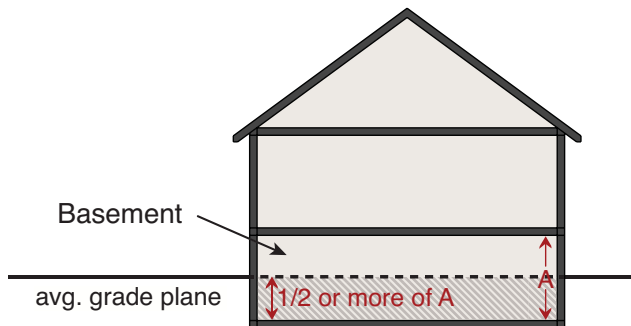


D. **Basement.**

- Any story in a building used for any purpose other than a single- or two-family residential use, in which 2/3 or more of the distance between the floor and the ceiling next above it is below the average grade plane adjacent to the building.



- In the case of single- and two-family residential uses, any story in a building in which 1/2 or more of the distance between the floor and the ceiling next above it is below the average grade plane adjacent to the building.



- E. **Grade.** In cases where the walls of the building are more than five (5) feet from the nearest street line, the grade shall mean the mean elevation of the ground adjoining said wall; and in all other cases, the mean elevation of the nearest sidewalk.

- F. **Grade Plane Average.** A horizontal reference plane for a building as a whole representing the average of finished grade elevations around the perimeter of a building, as determined by the length-weighted mean formula below. All walls of length greater than 6 feet shall be included in segments of consistent grade or slope.

$$\sum = \frac{(e1 + e2) / 2 \times L}{P}$$

Where:

- ∑ sums the weighted average grades of all segments;
- Segments less than 6 feet in length are not included as separate segments;
- e1 and e2 are the elevations of the finished ground level at the respective ends of each segment, determined as the lowest point at each end of the segment within 6 feet of the foundation or the lot line, whichever is closer;
- L is the corresponding horizontal length of the segment; and
- P is total horizontal length of all segments.

Sec. 2.3. Allowed Uses

2.3.1. Principal Uses Allowed

Public Use and Open Space/Recreational Districts	PU	OS/R	Definition/ Listed Standards
Residential Uses			
<i>None</i>	--	--	--
Civic/Institutional Uses			
Cemetery, private	SP	P	Sec. 6.3.1
Family child care home, large family child care home, day care center	L	L	Sec. 6.3.4
Library, museum, similar institution	L	--	Sec. 6.3.8
Public use	L	L	Sec. 6.3.10
Religious institution	L	L	Sec. 6.3.12
School or other educational purposes, non-profit	L	L	Sec. 6.3.14
School or other educational purposes, for-profit	SP	SP	Sec. 6.3.14
Scientific research and development activities, accessory	SP	SP	Sec. 6.7.4
Commercial Uses			
Country club facilities	--	SP	Sec. 6.4.10
Indoor recreation facility, private	--	SP	Sec. 6.6.2
Industrial Uses			
<i>Wireless communication equipment</i>	SP	SP	Sec. 6.9
Open Space Uses			
Agriculture, on a parcel of 5 or more acres	P	P	Sec. 6.6.1
Agriculture, on a parcel under 5 acres	SP	P	Sec. 6.6.1
Outdoor recreational activities, private	--	L	Sec. 6.6.3
Resource extraction	SP	SP	Sec. 6.6.4

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed

The Commissioner of Inspectional Services is responsible for determining all uses. If a proposed use is not listed, but is similar or accessory to a listed use, the Commissioner of Inspectional Services may consider the proposed use part of the listed use.

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 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									
Bed & Breakfast	SP	SP	SP	SP	SP	--	--		Sec. 6.4.5
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 City Council Required -- Not Allowed

The Commissioner of Inspectional Services is responsible for determining all uses. If a proposed use is not listed, but is similar or accessory to a listed use, the Commissioner of Inspectional Services may consider the proposed use part of the listed use.

3.4.4. Garage Design Standards

A. Applicability

Garage Design Standards apply in all Residence Districts

B. Definitions

1. **Garage.** An attached or detached **building structure**, or portion of a **building structure**, that is able to be accessed by an automobile or is used or intended to be used primarily for the storage or parking of 1 or more automobiles. A detached Garage is an Accessory Building (See Sec. 3.4.3).
2. **Front Facing Garage.** A Garage with a Garage Door or Doors facing the Primary Front Lot Line at an angle between 0 and 59 degrees perpendicular to the Primary Front Lot Line. The angle shall be measured between the Garage Door or Doors and a line parallel to the Primary Front Lot Line at the midpoint of the Primary Front Lot Line. If there is a curve at the midpoint, the angle shall be measured between the Garage Door or Doors and a line tangent to the curve at the midpoint of the Primary Front Lot Line.
3. **Side Facing Garage.** A Garage with a Garage Door or Doors facing the Primary Front Lot Line at an angle between 60 and 90 degrees. The angle shall be measured between the Garage Door or Doors and a line parallel to the Primary Front Lot Line at the midpoint of the Primary Front Lot Line. If there is a curve at the midpoint, the angle shall be measured between the Garage Door or Doors and a line tangent to the curve at the midpoint of the Primary Front Lot Line
4. **Garage Door.** The door to a Garage that provides access for an automobile. Garage door width is measured from the inside face of the door jambs.
 - a. Single Garage Doors are Garage Doors used for a single automobile to access a Garage.
 - b. Double Garage Doors are Garage Doors used for 2 automobiles to access a Garage side-by-side.

5. **Garage Wall.** Any wall enclosing a Garage including that wall containing the Garage entrance.

6. **Front Elevation.** The exterior wall of a principal building oriented in whole or in part toward the Primary Front Lot Line. The Front Elevation does not include any exterior wall of a building more than 10 feet behind the frontmost exterior wall oriented in whole or in part toward the Primary Front Lot Line.

7. **Primary Front Lot Line.** The lot line abutting a street or right of way. Where there are multiple lot lines abutting streets or rights of way, the Primary Front Lot Line shall be the one the main entrance faces. Where there are multiple lot lines abutting streets or rights of way and the main entrance does not face a street or right of way, the Primary Front Lot Line shall be determined by the Commissioner of Inspectional Services or their designee.

8. **Fenestration.** The openings in a Garage Wall facing the Primary Front Lot Line, including windows and doors. Fenestration is measured from the inside face of the jambs on any window or door trim.

C. Standards for Front Facing Garages

1. The sum of the width of all Garage Doors on a Front Facing Garage may be up to the following:
 - a. 45% of the total width of the Front Elevation, when a Front Facing Garage includes only Single Garage Doors.
 - b. 40% of the total width of the Front Elevation, when a Front Facing Garage includes a Double Garage Door only, or both a Double Garage Door and a Single Garage Door.
2. A Single Garage Door may be up to 9 feet wide.
3. A Double Garage Door may be up to 16 feet wide.

D. Standards for Side Facing Garages

1. A Side Facing Garage may be located in front of the Front Elevation, but not within the front setback, if it meets the following:
 - a. A minimum of 10% Fenestration on the Garage Wall facing the Primary Front Lot Line as measured from the exterior.
2. A Single Garage Door may be up to 9 feet wide.
3. A Double Garage Door may be up to 16 feet wide.

E. Standards for Single-Family, Detached residential buildings ~~with one unit~~

1. There may be no more than 700 square feet in total Garage area on a lot providing for no more than 3 automobiles. A lot may contain no more than one attached Garage and one detached Garage.

F. Additional Standards for Two-Family, Detached residential buildings ~~with two units~~

1. Parking spaces in Garages are counted toward the minimum number of accessory parking spaces required by Sec. 5.1.4. Garages may be attached or detached.
 - a. For each residential unit, there shall be no more than 500 square feet in total Garage area, no more than one Garage and each Garage shall provide for no more than 2 automobiles.;~~and~~
 - b. There must be space that meets the requirements to be eligible for Habitable Space above each Garage if the Garages share a Garage Wall; except*
 - c. 1 and 1 ½ story buildings are exempt from Section 3.4.4.F.1.2.*

**Note: The proposed edits to Sec. 3.4.4.F.1.b and 3.4.4.F.1.c would only apply if Option 1 for the proposed edits to the definition of "Two-Family, Detached" is approved*

H. By Special Permit

1. For Single-Family, Detached residential buildings ~~with one unit~~: a Garage with provision for more than 3 automobiles, or a second attached or detached Garage, or a Garage of more than 700 square feet in area, or more than 2 Garages.
2. For residential buildings: the Front Elevation may include those portions of the exterior wall oriented in whole or in part toward the Primary Front Lot Line that are more than 10 feet behind the frontmost exterior wall.

(Ord. No. A-78, 06/20/16; Ord. No. A-84, 06/20/16; Ord. No. A-95, 12/05/16; Ord. No. A-105, 03/06/17; Ord. No. B-6, 03-19-18)

3.4.5. Accessory Apartments

See Sec. 6.7.1

3.4.6. Temporary Uses Allowed

[reserved]

G. Exemptions

Proposed Edits to Sec. 3.4.4.G - Option 1

1. A detached or attached Front Facing Garage that is set back more than 10 feet from the Front Elevation is exempt from the standards for Front Facing Garages (Sec. 3.4.4.C).
2. A detached or attached Side Facing Garage that is located 10 feet or more behind the Front Elevation and is not on a corner lot, is exempt from the standards for Side Facing Garages (Sec. 3.4.4.D).
3. Garages located on Rear Lots are exempt from the standards for Front Facing Garages (Sec. 3.4.4.C) and standards for Side Facing Garages (Sec. 3.4.4.D).

Proposed Edits to Sec. 3.4.4.G - Option 2

1. A detached or attached Front Facing Garage that is set back more than 10 feet from the Front Elevation is exempt from the standards for Front Facing Garages (Sec. 3.4.4.C).
2. A detached or attached Side Facing Garage that is set back from the Front Elevation, and is not on a corner lot, is exempt from the standards for Side Facing Garages (Sec. 3.4.4.D).
3. Garages located on Rear Lots are exempt from the standards for Front Facing Garages (Sec. 3.4.4.C) and standards for Side Facing Garages (Sec. 3.4.4.D).

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Telecommunications and data storage facility	--	--	--	--	--	SP	--	--	--	--	SP	Sec. 6.5.15
Trash or yard waste, collection, storage, transfer-haul or composting	--	--	--	--	--	--	--	--	--	--	--	Sec. 6.5.16
Vehicle storage	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.5.17
Wholesale business or storage facility	--	L	--	--	--	SP	--	--	--	L	L	Sec. 6.5.18
Wholesale distribution plant	--	--	--	--	--	--	--	--	--	--	P	Sec. 6.5.19
Wireless communication equipment	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	P/L/SP	Sec. 6.9
Manufacturing, uses not allowed by right	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.5.11
Open Space Uses												
Agriculture, on a parcel of 5 or more acres	P	P	P	P	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	SP	SP	SP	SP	Sec. 6.6.1
Resource extraction	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.6.4
Restricted Uses												
Adult business	--	--	--	--	--	SP	--	--	--	--	SP	Sec. 6.10.1
Keno	SP	SP	SP	SP	--	SP	SP	SP	--	--	--	Sec. 6.10.2
Registered marijuana dispensary	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Craft Marijuana Cooperative	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Independent Testing Laboratory	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Cultivator	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Product Manufacturing	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Marijuana Research Facility	--	--	--	--	--	--	--	--	--	SP	SP	Sec. 6.10.3
Marijuana Retailer	--	SP	--	SP	SP	SP	--	--	--	--	--	Sec. 6.10.3
Marijuana Transporter	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
Microbusiness	--	--	--	--	--	--	--	--	--	SP	--	Sec. 6.10.3
P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by City Council Required -- Not Allowed												

See [Sec. 7.8.4](#), Substandard Commercial Lots.

(Ord. No A-72, 04/04/16; Ord. No A-73, 04/04/16; Ord. No. A-99, 01/17/17; Ord. No. A-113, 06-19-17; Ord. No. B-5, 03-19-18; Ord. No. B-16, 12-03-18)

The Commissioner of Inspectional Services is responsible for determining all uses. If a proposed use is not listed, but is similar or accessory to a listed use, the Commissioner of Inspectional Services may consider the proposed use part of the listed use.

Article 5. Development Standards

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Sec. 5.13. Sustainable Development Design

5.13.1. Intent and Purpose

The intent of this section is to reduce the use of energy, water, and other natural resources in Newton's building stock and minimize adverse environmental impacts from buildings and development in both construction and long-term operation by:

- A. **Increasing the use of renewable energy sources for electricity, transportation, heat/cooling, and hot water**
- B. **Increasing the use of efficient electricity technology for transportation and buildings**
- C. **Increasing the number of buildings built to Passive House, net zero, or similar standards.**
- D. **Minimizing the environmental impacts of construction materials and methods, including waste reduction.**

5.13.2. Definitions

- A. **Green Commissioning.** The process of verifying and documenting that a building and all of its systems and assemblies are installed, tested, operated, and maintained to meet specified levels of environmentally sustainable performance in accordance with the provisions of Section 5.132 of this Zoning Ordinance.
- B. **Green Commissioning Agent.** An entity or person with documented experience on at least 2 building projects with a scope of work similar to the proposed project extending from early design phase through at least 10 months of occupancy.
- C. **Green Building Professional.** A professional who holds a credential from a Green Building Rating Program indicating advanced knowledge and experience in environmentally sustainable development in general as well as specific Green Building Rating Systems or otherwise possesses comparable experience in environmentally sustainable development. In instances where a Green Building Rating Program that does not offer such a credential is being applied to meet the provisions of Section 5.132, the designated Green Building Professional must have demonstrated experience as a project architect or engineer, or

as a consultant providing third-party review, on at least 3 projects that have been certified using the applicable Green Building Rating Program.

- D. **Green Building Project.** Any development project that meets the provisions of Section 5.13.42-3.
- E. **Green Building Rating Program.** A collection of activities and services directed by an organization to promote environmentally sustainable development and to recognize projects that achieve defined environmentally sustainable development objectives, including the establishment and oversight of one or more Green Building Rating Systems.
- F. **Green Building Rating System.** A specific set of design standards for environmentally sustainable performance established under the auspices of a Green Building Rating Program against which a project or building design may be evaluated.

5.13.3. Application of the Sustainable Development Requirements

- A. **These sustainable development requirements apply to any proposed development in any zoning district that includes the construction or substantial reconstruction of one or more buildings totaling 20,000 sf or more of gross floor area that also requires issuance of a special permit under any provision of this Zoning Ordinance.**
- B. **No Segmentation.** The zoning provisions of this Section apply to projects at one site or two or more adjoining sites in common ownership or under common control within a period of five years from the first date of application for any special permit for construction on the lot or lots, or for the 12 months immediately preceding the date of application for any special permit. An applicant for development may not segment or divide or subdivide or establish surrogate or subsidiary entities to avoid the requirements of Section 5.132. Where the City Council determines that this provision has been violated, a special permit will be denied. However, nothing in Section 5.132 prohibits the phased development of a property.

5.13.4. Sustainable Development Requirements

- A. A green building project must be designed to meet the standards of one of the authorized green building rating systems identified in Section 5.132.5 according to the requirements listed below.
 - 1. **LEED Green Building Rating Program.** A green building project being designed according to the LEED Green Building Rating Program must be designed to achieve a minimum 'Silver' level standard. Projects of greater than 50,000 sf of gross floor area must be designed to meet a minimum 'Gold' level standard. Certification by the LEED Green Building Rating Program is not required.
 - 2. **Passive House Green Building Rating Program.** A green building project being designed according to the Passive House Green Building Rating program must be designed to achieve certification. Certification by the Passive House Green Building Rating Program is required.
 - 3. **Enterprise Green Communities Green Building Rating System.** A green building project being designed according to the Enterprise Green Communities Green Building Rating program must be designed to achieve the minimum criteria for certification. Certification by the Enterprise Green Communities Green Building Rating Program is not required.
- B. **Electric Vehicle Charging Stations.** A green building project must provide that a minimum of 10% of parking spaces have access to electric vehicle charging stations up to a maximum of 40 spaces. An additional 10% of parking spaces must be electric vehicle charging station ready, meaning that electrical systems and conduit are prepared to expand the number of charging stations as demand increases. This Section 5.132.4.B only applies to new or rebuilt parking facilities; those projects using existing parking lots are exempt.
- C. **Solar Panels.** [reserved]
- D. **Embodied Carbon** [reserved]

- E. Electrification of heating/cooling and residential cooking, domestic water heating, and laundry [reserved]

5.13.5. Authorized Green Building Rating Programs

- A. Any of the following green building rating programs may be used to meet the requirements of this Section 5.132.
 - 1. The Leadership in Energy and Environmental Design ("LEED") Green Building Rating Program developed and overseen by the United States Green Building Council;
 - 2. The Passive House Green Building Rating Program developed and overseen by either Passive House Institute US, Inc. or the Passive House Institute; or
 - 3. The Enterprise Green Communities Green Building Rating Program developed and overseen by Enterprise Community Partners, Inc.
- B. **Applicability of Rating Systems.**
 - 1. If a green building rating program offers different green building rating systems, a green building project must use the system that is most directly applicable to the project or building type, as determined by the Planning Director.
 - 2. The green building rating system must address the design and construction of buildings, not building operations or neighborhood development.
 - 3. A green building project must use the most current version of the applicable green building rating system at the time of the special permit application.
 - 4. The green building rating system, including the applicable version, must be specified at the time of special permit application.

5.13.6. Sustainable Development Review Procedures

- A. **Special Permit Submittal Requirements.** The following must be submitted with the special permit application:

1. **Rating System Checklist.** A document enumerating the criteria set forth in the applicable green building rating system and indicating which technical and design requirements will be met in the green building project design and the resulting rating level of the green building project.
 2. **Rating System Narrative.** A written description of the technical and design elements of the green building project that will be utilized to achieve compliance with the applicable green building rating system.
 3. **Energy Narrative.** A written description of the energy efficiency, renewable energy, and other technical and design elements of the green building project that serve to minimize energy use, make use of renewable energy sources, and otherwise demonstrate how close the project is to achieving net zero energy use status. This narrative should include descriptions of building envelope performance, anticipated energy loads, site planning, mechanical systems and on-site and off-site renewable energy systems. The narrative must also describe how the building could be made to achieve net zero status in the future.
 4. **Credentials.** A document demonstrating the credentials of the green building project's designated green building professional, which must include a credential from the green building rating program indicating advanced knowledge in the specific green building rating system being applied to the green building project.
 5. **Affidavit.** An affidavit signed by the green building professional stating that he/she has reviewed all relevant documents and that to the best of their knowledge, the documents provided indicate that the green building project is being designed to achieve the requirements of this Section 5.132.
- B. Building Permit Submittal Requirements.** When applying for a building permit for a Green Building Project, the documentation listed in Section 5.12.6.A above, updated from any previous version to reflect the current Green Building Project design, and

the additional documentation listed below must be submitted to the Department of Planning and Development.

1. **Credentials of the Green Building Project's Green Commissioning Agent.**
2. **For a Green Building Project using the Passive House Green Building Rating Program, the following set of documents is required:**
 - a. Credentials of the Passive House rater/verifier who will perform testing and verification and letter of intent stating he/she has been hired to complete the on-site verification process;
 - b. Credentials of the Certified Passive House Consultant who has provided design, planning, or consulting services;
- C. Certificate of Occupancy Submittal Requirements.** When applying for a temporary certificate of occupancy for a Green Building Project, the documentation listed in Sections 5.12.6.A and 5.12.6.B above, updated from any previous version to reflect the current Green Building Project design, must be submitted to the Department of Planning and Development. The additional documentation listed below must be submitted prior to issuance of a final certificate of occupancy.
 1. **An affidavit signed by the Green Commissioning Agent, certifying that the pre-construction commissioning process requirements of the applicable Green Building Rating Program have been met and that the post-construction commissioning process requirements of this Section were included in the scope of work and will be met, including a schedule of when each commissioning requirement was or will be met.**
 2. **For Green Building Projects using the Passive House Green Building Rating Program, the final testing and verification report completed by the Passive House rater/verifier.**
 3. **Credentials of the Green Building Project's accredited Green Building Professional and an affidavit signed by that professional stating that he/she has reviewed all relevant documents and that to the best of his/her knowledge, the**

documents provided indicate that the Green Building Project was built to achieve the requirements of Section 5.12.

5.13.7. Exceptions

A special permit may be granted to allow for exceptions to this Section 5.13~~2~~ if an applicant can demonstrate that the same or better environmental outcomes can be achieved through a different approach or project design. An exception may also be granted where literal compliance is impracticable due to the nature of the use or that such exceptions would be in the public interest.

(Ord. No. B-49, 12-02-19)

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a master list of accessory apartments shall be kept, and with the Assessing Department;

9. When ownership of the property changes, the new property owner shall notify the Commissioner of Inspectional Services within 30 days, at which time the Commissioner of Inspectional Services shall conduct a determination of compliance with this Section 6.7.1 and with 780 CMR; and
10. The property owner shall file with the Commissioner of Inspectional Services a sworn certification attesting to continued compliance with the requirements of this Section 6.7.1 and all applicable public safety codes. Such certification shall be filed annually on the first business day of January or upon transfer to a new owner as provided above, and the property may be subject to inspection.

D. Rules for Internal Accessory Apartments

1. An internal accessory apartment is allowed by right as a use accessory to a Single-Family, Detached building and a Two-Family, Detached building.
2. An Internal Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,000 square feet or 33 percent of the total Habitable Space in the principal dwelling, as defined in Sec. 8.3, whichever is less. The City Council may grant a special permit for a larger Internal Accessory Apartment up to 1,200 square feet or 40 % of the total Habitable Space, whichever is less.
 - a. The total Habitable Space is the sum of the Habitable Space of the accessory unit and the principal unit with which it is associated.
3. Exterior alterations are permitted provided they are in keeping with the architectural integrity of the structure, and the look, character and scale of the surrounding neighborhood as viewed from the street, including, but not limited to, the following considerations:
 - a. The exterior finish material should be the same or visually consistent in type, size, and placement, as the exterior finish material of the remainder of the building;

- b. The roof pitch should be consistent with the predominant roof pitch of the remainder of the building;
- c. Trim should be consistent in type, size, and location as the trim used on the remainder of the building;
- d. Windows should be consistent with those of the remainder of the building in proportion and orientation;
- e. Exterior staircases should be designed to minimize visual intrusion and be complementary to the existing building;
- f. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of the above criteria. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C)(4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.

4. Only one entrance may be located on the facade of the building facing a street unless the building had additional street-facing entrances before the accessory apartment was created, except by special permit.

E. Rules for Detached Accessory Apartments.

1. Except as provided below, a Detached Accessory Apartment may be allowed by special permit from the City Council as a use accessory to a Single Family, Detached building or a Two-Family, Detached building.

2. A Detached Accessory Apartment shall be a minimum of 250 square feet and a maximum of 1,200 square feet or 40% of the total Habitable Space of the principal dwelling, whichever is less. The City Council may grant a special permit for a larger Detached Accessory Apartment up to 1,500 square feet.

a. The total Habitable Space is the sum of the Habitable Space of the accessory unit and the principal unit with which it is associated.

3. Exterior alterations to an existing accessory structure or the creation of a new accessory structure are permitted provided they are in keeping with the architectural integrity of the existing structure and/or the principal dwelling on the lot and the residential character of the neighborhood. The exterior finish material should be the same or visually compatible in type, size, and placement, as the exterior finish material of the principal dwelling unit on the site. The Commissioner of Inspectional Services, or the City Council in the case of a special permit, shall seek advice and counsel from the Director of Planning and Development and/or the Urban Design Commission where there is a question in the application of this requirement. Where a building is determined to be of historic significance and therefore subject to the procedures required under Section 22-50(C)

(4) of the City of Newton ordinances, or where a building is located within a local historic district and therefore subject to the procedures required under Sections 22-40 through 44 of the City of Newton ordinances, any decisions of the Newton Historical Commission, or the local Historic District Commission, shall take precedence over the criteria and procedures set forth above, but may be guided by them in addition to their own criteria and procedures.

4. The Detached Accessory Apartment must meet the separation requirements from the principal dwelling unit on the subject lot in compliance with Sec. 3.4.3.A.2, be at least 6 feet from the principal dwelling unit on the site.

5. The Detached Accessory Apartment must meet the setback requirements of the principal dwelling unit, as well as floor area and other applicable dimensional controls, except by special permit.

6. Except as required above, a Detached Accessory Apartment is subject to the dimensional requirements of Section 3.4.3,

Accessory Buildings. For the purposes of this section, the Commissioner of ISD may determine which lot line is the front on corner lots.

7. Historic Carriage Houses and Other Historic Accessory Buildings. Under the following conditions, a Detached Accessory Apartment in an historic accessory building located outside of an historic district, may be allowed by right without requiring a special permit, and only subject to the rules in this subsection E.7.

a. The proposed Detached Accessory Apartment will be located in a historic carriage house building or other historic accessory building such as an auto house, garage, stable, machine shop, or barn. To qualify under this subsection E.7, the structure must qualify and be deemed as "historically significant" under Section 22-50 of the City of Newton Ordinances, The Demolition Review Ordinance, as determined by the Director of Planning and Development and the Chair of the Newton Historical Commission;

b. The proposed Detached Accessory Apartment will be greater than 15 feet from an existing residential dwelling on an abutting property, except by special permit; and

c. Any exterior alteration of the building to permit the creation of the Detached Accessory Apartment will preserve the historic character and integrity of the building. Exterior alterations shall be subject to the jurisdiction of the Newton Historical Commission.

F. **Invalidity Clause.** If it shall be determined by a court of competent jurisdiction that any provision or requirement of Sec. 6.7.1 is invalid as applied for any reason, then Sec. 6.7.1 shall be declared null and void in its entirety.

(Ord. No. T-114, 11/19/90; Ord. No. T-247, 10/05/92; Ord. No. T-306, 11/01/93; Ord. No. Z-95, 10/03/11; Ord. No. A-43, 06/02/14; Ord. No. A-55, 01/20/15; Ord. No. A-106, 04/03/17)

when called in such other manner as the Zoning Board of Appeals shall determine in its rules. Such Chairman, or in the Chairman's absence the Acting Chairman, may administer oaths, summon witnesses and call for the production of papers. All hearings of the Zoning Board of Appeals shall be open to the public.

(Rev. Ords. 1973 §24-30; Ord. No. 284, 06/19/78; Ord. No. T-8, 01/17/89; Ord. No. T-116, 12/03/90)

Sec. 7.2. Amendments

- A. The City Council may, from time to time, change this Chapter by amendment, addition or repeal, but only in the manner provided in M.G.L. Chapter 40A, Section 5 as of the time in effect. Under the provisions of M.G.L. Chapter 40A, Section 5, the Zoning and Planning Committee is hereby designated a committee for the purpose of holding public hearings on the matter of repealing or modifying provisions of this Chapter in the absence of a contrary designation by the City Council.
- B. Any person making application to the City Council for a change in this Chapter shall pay to the City Clerk at the time of filing such application fee prescribed by Revised Ordinances Chapter 17, Article II, Section 17-3, as amended.

(Rev. Ords. 1973 §24-31; Ord. No. 284, 06/19/78)

Sec. 7.3. Special Permit Review

7.3.1. Application

- A. Whenever a special permit is required under the provisions of this Chapter a written application for a special permit, on forms provided by the City Clerk and accompanied by plans prepared as provided in Sec. 7.4.3 shall be submitted in accordance with the procedures of this Sec. 7.3 and the Rules and Orders of the City Council pertaining to special permit and site plan approval applications to the City Clerk, who shall transmit such application to the City Council and the Department of Planning and Development. Whenever an application for a special permit is required under the provisions of this Chapter, site plan approval in accordance with Sec. 7.4 shall also be required and an application for such approval shall be filed concurrently with the application for special permit.
- B. Contents of the Application. Each application for a special permit shall be accompanied by a site plan submission prepared in accordance with the provisions of Sec. 7.4.4.
 1. The applicant shall also submit a 3D computer-generated model; or rendered perspective drawings including such details as necessary to show the relationship of the project to its surroundings. The level of detail included in the model or drawings shall be at the discretion of the Director of Planning and Development. The architect of record shall certify that the model or drawings are is an accurate representation of the proposed design. For any commercial or multi-family development with a gross floor area of 20,000 square feet or more, a model or drawings shall be provided as follows:
 - a. For a proposed development containing a gross floor area of 20,000 to 50,000 square feet, the model or drawings shall show the proposed development, all abutting properties and abutters to such abutting properties; for a proposed development containing a gross floor area 50,001 to 100,000 square feet, the model or drawings shall show the proposed development and all properties within 500 feet from the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater; or
 - b. For a proposed development containing a gross floor area in excess of 100,000 square

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

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

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

7.3.2. Review

- A. The City Council or a committee of the City Council shall hold a public hearing within 65 days of the filing of an application for special permit.
- B. Notice of such public hearing shall be provided as required by M.G.L. Chapter 40A, Section 11.
- C. The City Council shall act upon any application for special permit not later than 90 days following the the public hearing.
- D. The application for special permit shall be deemed approved if the City Council fails to act upon the application not later than 90 days following the public hearing.
- E. Any approval of an application for special permit shall lapse not later than 1 year from the grant of such approval unless a substantial use of such special permit or construction required by such special permit has begun. The City Council may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the City Council or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the special permit for more than 3 years from the date of the grant of the special permit.
- F. The Newton Biosafety Committee shall serve as an advisory body to the City Council with regard to any

application for a special permit for a research and development facility.

(Ord. No. S-260, 08/03/87; Ord. No. V-9, 02/21/95; Ord. No. A-6, 10/01/12; Ord. No. A-99, 01/17/17; Ord. No. A-109, 05/15/17; Ord. No. A-113, 06-19-17)

7.3.3. Grant of Permit

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