

ZONING

CHAPTER 255

CITY

OF

HVERHILL

November 10, 2020

HAVERHILL ZONING BY-LAW

TABLE OF CONTENTS

	<u>Page</u>
SECTION 1.0 PURPOSE AND AUTHORITY	1
1.1 TITLE	1
1.2 PURPOSE	1
1.3 AUTHORITY	1
1.4 INTERPRETATION AND APPLICATION	1
1.5 APPLICABILITY	1
1.6 AMENDMENT	1
1.6.1 Map Amendment	1
1.6.2 Other Amendments	2
1.7 SEVERABILITY	2
SECTION 2.0 DISTRICTS	3
2.1 ESTABLISHMENT	3
2.1.1 General	3
2.1.2 Special Districts	3
2.2 ZONING MAP	3
2.2.1 Certain Map Abbreviations	4
2.2.2 Changes to Map	4
2.2.3 Boundaries of Districts	4
2.3 LOT SPLIT BY DISTRICT BOUNDARY LINE	5
SECTION 3.0 USE REGULATIONS	6
3.1 PRINCIPAL USES	6
3.1.1 Applicability of Use Regulations	6
3.1.2 Uses Subject to Other Regulations	6
3.1.3 Table of Use and Parking Regulations; Key	6
3.2 ACCESSORY USES AND STRUCTURES	6
3.2.1 General	6
3.2.2 Nonresidential Accessory Uses	6
3.2.3 Residential Accessory Uses	7

3.3	HOME OCCUPATIONS	7
3.3.1	Home Occupation - As Of Right	7
3.3.2	Home Occupation - By Special Permit	8
SECTION 4.0 DIMENSIONAL REGULATIONS		9
4.1	GENERAL	9
4.1.1	Applicability of Dimensional Regulations	9
4.1.2	Table of Dimensional and Density Regulations	9
4.2	SPECIAL REGULATOINS	9
4.2.1	Fences	9
4.2.2	Reduction of Lot Area	9
4.2.3	Separation of Lots	9
4.2.4	Appurtenances Projecting into Yards	9
4.2.5	Exceptions to Height Requirements	9
4.2.6	Corner Clearance	10
4.3	FACADES	10
4.3.1	Single and Two Family Structures	10
4.3.2	RU and RH Districts	10
4.4	ACCESSORY STRUCTURES	10
4.4.1	Detached Accessory Buildings	10
4.4.2	Agricultural Buildings	10
4.4.3	Attached Accessory Buildings	10
4.4.4	Accessory Swimming Pools	10
SECTION 5.0 NONCONFORMING USES AND STRUCTURES		11
5.1	APPLICABILITY	11
5.1.1	Commencement of Construction or Operation	11
5.2	NONCONFORMING USES	11
5.2.1	Permissible Changes	11
5.3	NONCONFORMING STRUCTURES	11
5.3.1	Permissible Changes	11
5.4	VARIANCE REQUIRED	12
5.5	NONCONFORMING SINGLE AND TWO FAMILY RESIDENTIAL STRUCTURES	12
5.5.1	Structure Located on Lot with Insufficient Area	12
5.5.2	Structure Located on Lot with Insufficient Frontage	12
5.5.3	Structure Encroaching in Required Yard	12
5.6	ABANDONMENT OR NON-USE	12

5.7	RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION	12
5.7.1	Two Years	13
5.7.2	Same Footprint and Volume	13
5.7.3	Different Footprint or Volume	13
5.8	REVERSION TO NONCONFORMITY	13
5.9	SUBSTANDARD LOTS	13
5.10	EMINENT DOMAIN	13
	SECTION 6.0 GENERAL REGULATIONS	14
6.1	OFF-STREET PARKING AND LOADING REGULATIONS	14
6.1.1	Applicability	14
6.1.2	Parking Spaces for Persons with Disabilities	14
6.1.3	Parking Code	14
6.1.4	Off-Street Parking Area Design Requirements	15
6.1.5	Off-Street Loading Requirements	17
6.1.6	Off-Street Loading Space Design	18
6.1.7	Existing Spaces	18
6.1.8	Computation of Spaces	18
6.1.9	Combined Facilities	18
6.1.10	Continued Dedication	18
6.1.11	Location of Parking and Loading Spaces	18
6.1.12	Parking and Loading Space Standards	19
6.1.13	Queue Spaces	19
6.1.14	Common Driveways	20
6.1.15	Special Permit	20
6.2	SIGNS	20
6.2.1	Compliance Required	20
6.2.2	Types of Signs	20
6.2.3	Illumination of Signs in All Districts	21
6.2.4	Temporary Signs	21
6.2.5	Exempt Signs	22
6.2.6	Prohibited Signs	23
6.2.7	Signs Permitted in Any R or S District	23
6.2.8	Signs Permitted in Any C District	24
6.2.9	Signs Permitted in Any I District	26
6.2.10	Nonaccessory Signs	27
6.2.11	Special Permit	27
6.3	PERFORMANCE STANDARDS FOR NONRESIDENTIAL AND MIXED USED DEVELOPMENT	28
6.3.1	Purpose	28
6.3.2	Procedures; Rules and Regulations	29
6.3.3	Standards	29
	A. Lighting	29
	B. Noise	30
	C. Landscaping	30
	D. Stormwater Management	33

E.	Site Development Standards	34
F.	Pedestrian and Vehicular Access; Traffic Management	36
G.	Aesthetics	39
H.	Utilities; Security; Emergency Systems	39
I.	Other General Standards	40
6.3.4	Exemptions	41
6.3.5	Waiver of Standards	41
6.3.6	Enforcement	41
SECTION 7.0 SPECIAL REGULATIONS		42
7.1	PROFESSIONAL OFFICE USE AND FUNERAL HOMES	42
7.1.1	General	42
7.1.2	Eligibility	42
7.2	EARTH REMOVAL	42
7.2.1	General	42
7.2.2	Application for Special Permit	42
7.2.3	Operating Standards	43
7.2.4	Loam	44
7.2.5	Special Permit Criteria	44
7.2.6	Penalty	44
7.2.7	Restoration Standards	45
7.2.8	Performance Guarantee	45
7.2.9	Agents	46
7.3	AUTOMOBILE SERVICE STATIONS	46
7.3.1	Location	46
7.4	FENCING OF WATER STORAGE FACILITIES	46
7.4.1	General	46
7.4.2	Enforcement	46
7.5	WIRELESS SERVICE FACILITIES	46
7.5.1	Purpose	46
7.5.2	Use Regulations	47
7.5.3	Location	47
7.5.4	Dimensional Requirements	48
7.5.5	Design Standards	49
7.5.6	Lighting and Signage	50
7.5.7	Historic Buildings	50
7.5.8	Scenic Landscapes and Vistas	50
7.5.9	Environmental Standards	51
7.5.10	Safety Standards	51
7.5.11	Application Procedures	51
7.5.12	Sight Lines; Photographs	53
7.5.13	Design Filing Requirements	54
7.5.14	Noise Filing Requirements	55
7.5.15	Radiofrequency Radiation (RFR) Filing Requirements	55
7.5.16	Federal Environmental Filing Requirements	56
7.5.17	Waiver	56

7.5.18	Technical Expert	56
7.5.19	Colocation	56
7.5.20	Modifications	57
7.5.21	Monitoring and Maintenance; Violations and Penalties	58
7.5.22	Abandonment or Discontinuation of Use; Violations and Penalties	58
7.5.23	Reconstruction or Replacement of Existing Towers and Monopoles	59
7.5.24	Performance Guarantees	59
7.5.25	Term of Special Permit; Renewal	60
7.6	COIN OPERATED MACHINES	60
7.6.1	General	60
7.7	ACCESS REGULATIONS	60
7.7.1	Access from R District	60
7.7.2	Access from I or C District	61
7.8	SOLAR ENERGY SYSTEMS	61
7.8.1	Purpose	61
7.8.2	Definitions	61
7.8.3	Applicability	61
7.8.4	General Requirements for All Large-Scale Ground-Mounted Solar Energy Systems	61
7.8.5	Review	62
7.8.6	Dimensional Requirements	64
7.8.7	Design and Performance Standards	65
7.8.8	Safety and Environmental Standards	66
7.8.9	Monitoring, Maintenance and Reporting	66
7.8.10	Abandonment or Decommissioning	67
7.8.11	Special Permit Criteria for the Large-Scale Ground-Mounted Solar Energy Systems	67
7.8.12	Review for Medium-Scale Ground-Mounted, Roof-Mounted, and Municipal Solar Energy Systems	67
7.8.13	Mandatory Inclusion of Roof-Mounted Solar Energy System	67
7.8.14	Solar Energy System Assessment	68
7.8.15	Exemptions	68
7.9	ADULT USES	68
7.9.1	Purpose	68
7.9.2	Authority	68
7.9.3	Applicability	69
7.9.4	Location	69
7.9.5	Conditions	69
SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS		70
8.1	ACCESSORY APARTMENTS	70
8.1.1	General	70
8.1.2	Eligibility	70

8.2	MULTIFAMILY DWELLING UNITS WITHIN THE RH, RU, CC, CM AND CG DISTRICTS	70
	8.2.1 General	70
	8.2.2 Eligibility	70
8.3	[Reserved]	71
8.4	FLEXIBLE DEVELOPMENT	71
	8.4.1 Purpose	71
	8.4.2 Applicability	72
	8.4.3 Procedures	72
	8.4.4 Design Process	72
	8.4.5 Modification of Lot Requirements	73
	8.4.6 Basic Maximum Number of Dwelling Units	73
	8.4.7 Density Bonus	73
	8.4.8 Types of Buildings	73
	8.4.9 Roads	74
	8.4.10 Parking	74
	8.4.11 Water and Sewer	74
	8.4.12 Trash Removal	74
	8.4.13 Contiguous Open Space	74
	8.4.14 Ownership of the Contiguous Open Space	74
	8.4.15 Buffer Areas	75
	8.4.16 Stormwater Management	75
	8.4.17 Homeowners or Condominium Association	75
	8.4.18 Waiver	75
	8.4.19 Decision	76
	8.4.20 Relation to Other Requirements	76
8.5	PLANNED DEVELOPMENT (PD) DISTRICT	76
	8.5.1 Purpose and Intent	76
	8.5.2 Types	76
	8.5.3 Procedures	76
	8.5.4 Lapse	77
	8.5.5 Submission Requirements for a PD Rezoning Ordinance	77
	8.5.6 Administrative Requirements	81
	8.5.7 Criteria for Approval	81
	8.5.8 Changes in a Site Development and Use Plan	82
8.6	SOBER HOMES	82
	8.6.1 Purpose	82
	8.6.2 Definitions	82
	8.6.3 Registration Required	82
	8.6.4 Registration Application	83
	8.6.5 Registration Issuance	84
	8.6.6 Parking Plan	84

SECTION 9.0	SPECIAL DISTRICTS	85
9.1	FLOODPLAIN OVERLAY DISTRICT (FPOD)	85
9.1.1	Overlay District	85
9.1.2	Applicability	85
9.1.3	Existing Structures	86
9.1.4	Floodway	86
9.1.5	Base Flood Elevation and Floodway Data	86
9.1.6	Use Regulations	87
9.1.7	Zone AE	87
9.1.8	Subdivisions	87
9.1.9	Notification of Watercourse Alteration	87
9.1.10	Permitted Uses	88
9.2	WATER SUPPLY PROTECTION DISTRICT (WSPD)	88
9.2.1	Purpose	88
9.2.2	Overlay District	89
9.2.3	Delineation of WSPD	89
9.2.4	Definitions	89
9.2.5	Permitted Uses	89
9.2.6	Prohibited Uses	90
9.2.7	Uses Permitted by Special Permit	92
9.2.8	Application	93
9.2.9	Design and Performance Standards	94
9.2.10	Special Permit Procedures	96
9.2.11	Criteria for Approval by the SPGA	96
9.2.12	Technical Assistance	96
9.2.13	Reimbursement of Costs	97
9.2.14	Violations	97
9.3	WATERFRONT DISTRICT (WD)	97
9.3.1	Purpose	97
9.3.2	Boundaries	99
9.3.3	Definitions	99
9.3.4	Establishment of Sub-Zones	99
9.3.5	Design Guidelines	100
9.3.6	Use Restrictions	101
9.3.7	Prohibited Uses	104
9.3.8	Exemptions	105
9.3.9	Special Permit Criteria	105
9.3.10	Preferred Projects by Sub-Zone	106
9.3.11	Density Regulations	107
9.3.12	Density Bonuses	107
9.3.13	Dimensional Regulations	108
9.3.14	Signs	109
9.3.15	Parking Requirements	110
9.3.16	Reduction in the Parking Requirement	113
9.3.17	Shared Parking in Sub-Zone E	114
9.4	MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD)	114
9.4.1	Establishment	114
9.4.2	Purpose	114

9.4.3	Definitions	114
9.4.4	Location	114
9.4.5	Application	115
9.4.6	Procedures	116
9.4.7	Special Permit Conditions on RMDs	116
9.4.8	Exemption from RMD Special Permit Requirement	117
9.4.9	Prohibition Against Nuisances	117
9.5	MERRIMACK STREET GATEWAY RENAISSANCE OVERLAY DISTRICT (MSGROD)	117
9.5.1	Purpose	117
9.5.2	Definitions	118
9.5.3	Overlay District	118
9.5.4	Applicability	119
9.5.5	Permitted Uses	119
9.5.6	Prohibited Uses	120
9.5.7	Project Phasing	121
9.5.8	Dimensional Regulations	121
9.5.9	Density Requirements	122
9.5.10	Parking Requirements	122
9.5.11	General Design Standards	123
9.5.12	Application for Plan Approval	124
9.5.13	Procedures	126
9.5.14	Decision	127
9.5.15	Change in Plan After Approval by PAA	128
9.5.16	Enforcement and Appeal	128
9.5.17	Freeze During Process; Effectiveness and Validity of Plan Approval	129
9.5.18	Tax and Other Incentives for Priority Projects	130
9.6	CAMPUS AREA DEVELOPMENT DISTRICTS	130
9.6.1	Applicability	130
9.6.2	Tract Area and Ownership Requirements	131
9.6.3	Dimensional, Parking and Loading Requirements	131
9.6.4	Uses	132
9.6.5	Open Space	132
9.6.6	Public Water and Sewer	133
9.6.7	Subdivision Review	133
9.6.8	Clerk of the Works	133
9.6.9	Street Signage	133
9.6.10	Street Lighting	133
9.6.11	Design Criteria	133
9.6.12	Landscaping	133
9.6.13	Procedures	134
9.7	LICENSED MARIJUANA ESTABLISHMENT OVERLAY ZONE (LMEOZ)	134
9.7.1	Purpose	134
9.7.2	Definitions	134
9.7.3	Applicability	134
9.7.4	Designated Locations of Marijuana Establishments	135
9.7.5	Designated Number of Marijuana Establishments	135
9.7.6	Special Permit Required	135
9.7.7	Development Review Required as Part of Special Permit Application	136
9.7.8	General Requirements	136

9.7.9	Design Requirements	137
9.7.10	Filing Requirements	138
9.7.11	Discontinuance of Use	139
9.7.12	No City Liability; Indemnification	139
9.7.13	Annual Inspection	139
9.7.14	Other Laws Remain Applicable	139
9.8	DOWNTOWN SMART GROWTH OVERLAY DISTRICT (DSGOD)	140
9.8.1	Purpose	140
9.8.2	Definitions	141
9.8.3	Overlay District	141
9.8.4	Applicability of DSGOD	141
9.8.5	Permitted Uses	141
9.8.6	Project Phasing	142
9.8.7	Housing and Housing Affordability	142
9.8.8	Density	146
9.8.9	Parking Requirements	146
9.8.10	General Design Standards	148
9.8.11	Subzone Design Standards	148
9.8.12	Application for Plan Approval	150
9.8.13	Procedures	152
9.8.14	Decision	153
9.8.15	Change in Plans After Approval by PAA	154
9.8.16	Enforcement and Appeal	154
9.8.17	Severability	154
	SECTION 10.0 ADMINISTRATION AND ENFORCEMENT	155
10.1	BUILDING COMMISSIONER	155
10.1.1	Permit Required	155
10.1.2	Exemptions	155
10.1.3	Other Approvals Required	155
10.1.4	Development Review	156
10.1.5	Certificate of Use and Occupancy	156
10.1.6	Permit and Application Fees	157
10.1.7	Enforcement	157
10.1.8	Penalties	157
10.2	BOARD OF APPEALS	157
10.2.1	Establishment	157
10.2.2	Powers	157
10.2.3	Procedures	158
10.2.4	Conditions	158
10.2.5	Regulations	158
10.2.6	Fees	158
10.3	PLANNING BOARD	158
10.3.1	Establishment	158
10.3.2	Powers	158
10.3.3	Rules and Regulations	158
10.3.4	Fees	158

10.4	SPECIAL PERMITS	158
10.4.1	Special Permit Granting Authority (SPGA)	158
10.4.2	Criteria	159
10.4.3	Procedures	159
10.4.4	Conditions	159
10.4.5	Plans	159
10.4.6	Lapse	159
10.4.7	Regulations	159
10.4.8	Fees	160
10.5	REPETITIVE PETITIONS	160
10.5.1	General	160
10.5.2	Fee	160
10.6	CLERK OF THE WORKS	160
10.6.1	Applicability	160
10.6.2	Duties	160
10.6.3	Notice	161
10.6.4	Payment	161
10.6.5	Release	161
10.6.6	Deposit	161
10.6.7	Acknowledgement	161
10.6.8	Suspension	161
10.7	REQUEST FOR REASONABLE ACCOMMODATION	161
10.7.1	Purpose	161
10.7.2	Request	162
10.7.3	Zoning Board of Appeals	162
10.7.4	Information	162
10.7.5	ZBA Procedures	162
10.7.6	Decision	163
10.7.7	Appeal	163
10.7.8	File	163
10.7.9	Other Laws	163
10.7.10	Effective Date	163
10.8	SITE PLAN REVIEW FOR DOVER AMENDMENT USES	163
10.8.1	Purpose	163
10.8.2	Site Plan Review Required	163
10.8.3	Scope of Site Plan Review	164
10.8.4	Required Information	164
10.8.5	Site Plan; Contents	164
10.8.6	Decision	165
10.8.7	Appeal	166
SECTION 11.0	DEFINITIONS	167
APPENDIX A	Table 1: Table of Use and Parking Regulations	A-1
APPENDIX B	Table 2: Table of Dimensional and Density Regulations	B-1

HAVERHILL ZONING ORDINANCE

SECTION 1.0 PURPOSE AND AUTHORITY

1.1 TITLE. The ordinance codified in this title, enacted pursuant to and under the authority of M.G.L. c. 40A, as amended, shall be known and may be cited as the “Haverhill Zoning Ordinance” or “this Ordinance”.

1.2 PURPOSE. This Ordinance is enacted to promote the general welfare of the City of Haverhill, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the City, and to increase the amenities of the City, all as authorized by, but not limited by, the provisions of the Zoning Act, M.G.L. c. 40A, as amended, and Section 2A of 1975 Mass. Acts 808.

1.3 AUTHORITY. This Ordinance is enacted in accordance with the provisions of the General Laws, Chapter 40A, any and all amendments thereto, and by the Home Rule Amendment, Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.4 INTERPRETATION AND APPLICATION. The provisions of this Ordinance shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals or the general welfare of the City of Haverhill, Massachusetts, and except for the Zoning Ordinance adopted by the City Council on June 12, 1956, and all subsequent amendments thereto, the provisions of this Ordinance are not intended to repeal, amend, abrogate, annul or in any way impair or interfere with any lawfully adopted ordinance, covenants, regulations or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

1.5 APPLICABILITY. Except as herein provided, or as specifically exempted by the Zoning Act, the provisions of this Ordinance shall apply to the erection, construction, reconstruction, alteration or use of buildings, structures or use of land. Except as herein provided, any existing conforming use, structure or lot shall not by any action become nonconforming, and any existing nonconforming use, structure or lot shall not become further nonconforming.

1.6 AMENDMENT.

1.6.1 Map Amendment. A petition to amend the Zoning District Boundary Map shall require the filing of a fee as set by the City Council sufficient to cover the costs of advertising the City Council and Planning Board public hearings and processing the petition. The required fee is to be paid to the City Clerk at the time of filing. All petitions for such action filed with the City Clerk

shall be accompanied by a reproducible plan (and 16 copies) and a report including a metes and bounds description of said property. A petition to amend the Zoning Ordinance shall be accompanied by a report and filing fee as set by the City Council as above noted. All plans and reports shall be the sole responsibility of the petitioner. Amendments filed by the City of Haverhill municipal government shall be exempt from the fee. All amendments shall also be filed by electronic file with the City Clerk and the Planning Board.

1.6.2 Other Amendments. Amendments of this Ordinance may be initiated by submission to the City Council of a proposed ordinance amendment by the City Council, the Board of Appeals, the Planning Board, an owner of land which is to be affected by the amendment, by petition of ten (10) registered voters of the City or by the Merrimack Valley Planning Commission. The City Council shall, within 14 days of receipt of the amendment, submit it to the Planning Board for public hearing. The City Council shall hold a public hearing on the proposed amendment within 65 days after the amendment is submitted to the Planning Board by the Council.

1.7 SEVERABILITY. The invalidity, unconstitutionality or illegality of any provision of this Ordinance chapter or boundary shown on the Zoning Map shall not have any effect upon the validity, constitutionality or legality of any other provision or boundary.

SECTION 2.0 DISTRICTS

2.1 ESTABLISHMENT.

2.1.1 General. For the purpose of this Ordinance, the City of Haverhill is hereby divided into zoning districts to be designated as follows:

RESIDENTIAL

Special Rural	RS
Rural Density	RR
Low Density	RL
Medium Density	RM
High Density	RH
Urban Density	RU

COMMERCIAL

Neighborhood	CN
Highway	CH
General	CG
Central	CC
Medical Services	CM

BUSINESS

Business Park	BP
General	IG
Office Park	OP

2.1.2 Special Districts. The following special districts are also hereby established and described in Section 9.0 of this Ordinance:

Flood Plain Overlay District	FPOD
Watershed Protection Overlay District	WPOD
Downtown Smart Growth Overlay District	DSGOD
Merrimack Street Overlay District	MSOD
Campus Development District	CDD
Waterfront District	WD

2.2 ZONING MAP. The location and boundaries of the zoning districts are hereby established as shown on a map entitled "Zoning with Watershed & Index Map," dated 2017, prepared by the City's Engineering Department," as may be amended, which accompanies and is hereby declared to be a part of this Chapter. The authenticity of the Zoning Map shall be identified by the signature of the City Clerk and the imprinted Seal of the City.

2.2.1 Certain Map Abbreviations. The abbreviation "PL" means property line (lot line) as lawfully recorded and in effect at the effective date of this Ordinance. The abbreviation "CL" means center line and "CI" means center of intersection.

2.2.2 Changes to Map.

1. Any change in the location of boundaries of a zoning district hereafter made through the amendments of this chapter shall be indicated by the alteration of such map, and the map thus altered is declared to be part of the chapter thus amended. The Zoning Map shall be drawn at a scale of one inch to 1,200 feet with ink on stable material. The Planning Board and the City Council shall, prior to their hearing on any amendment to this chapter where there is a change to the Map, cause notice of such hearing to be published and sent to parties of interest pursuant to Section 1.6.

2. In order to maintain the up-to-date Zoning Map, the following procedures shall be followed. The Zoning Map shall be the original Mylar which shall be placed in the vault under the custody of the City Clerk, and the official copy of which shall be located in the office of the Building Commissioner. Upon passage of a zoning amendment affecting district boundaries, the City Engineer, at the direction of the Building Commissioner, shall make permanent changes to the original reproducible Zoning Map Mylar and provide copies of the corrected map to the Building Commissioner, City Clerk, City Engineer, City Council office and Planning Department. The date of all changes and the authority for such changes shall be noted on the map, and copies provided to each of the cited offices.

2.2.3 Boundaries of Districts. Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

1. Where a boundary is indicated as a street, alley, railroad, watercourse or other body of water, it shall be construed to be the center line or middle thereof, or where such boundary approximates a City boundary, then to the limits of the City boundary.

2. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse or other body of water, it shall be construed to be parallel to the center line thereof and at such distance from such center line as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

3. Where a dimensioned boundary coincides within 20 feet or less with a lot line, the boundary shall be construed to be the lot line.

4. Where a boundary is indicated as intersecting the center line of a street, railroad, watercourse or other water body, and unless it is otherwise indicated, it shall be construed to intersect at right angles to the tangent to the curve at the point of intersection.

2.3 LOT SPLIT BY DISTRICT BOUNDARY LINE. Where a district boundary line divides a lot of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion by special permit from the City Council.

SECTION 3.0 USE REGULATIONS

3.1 PRINCIPAL USES.

3.1.1 Applicability of Use Regulations. Except as provided in the Zoning Act or in this Ordinance, no building, structure or land shall be used except for the purposes permitted in the district as described in this Section. Any use not listed shall be construed to be prohibited.

3.1.2 Uses Subject to Other Regulations. Uses permitted by right or by permit shall be subject, in addition to these use regulations, to all other provisions of this Ordinance.

3.1.3 Table of Use and Parking Regulations; Key. In Appendix A, Table 1: Table of Use and Parking Regulations, the uses permitted by right in the district shall be designated by "Y". Those uses that may be permitted by special permit from the Planning Board in the district shall be designated by "PB". Those uses that may be permitted by special permit from the Zoning Board of Appeals in the district shall be designated by "BA". Those uses that may be permitted by special permit from the City Council in the district shall be designated by "CC". Uses not allowed shall be designated as "N". The Table of Use and Parking Regulations, as referenced and included as Appendix A, is declared to be a part of this Ordinance.

3.2 ACCESSORY USES AND STRUCTURES.

3.2.1 General. An accessory use shall be permitted only on the same lot as the building or use to which it is accessory, except as otherwise provided herein. When an accessory use may also be considered a principal use, it shall be treated as if it is an accessory use for the purposes of this provision.

3.2.2 Nonresidential Accessory Uses. The following nonresidential accessory uses are permitted as set forth in Table 1:

1. *Temporary Construction Trailers.* A trailer or mobile home shall be allowed as per Table 1 for each contractor or subcontractor for temporary use on a construction site, provided that it is removed from the site within 30 days after completion of said construction. A nonregistered trailer truck or truck body, with or without wheels, shall not be used in any zone as accessory storage for nonemergency use for more than 90 days, except on an active construction site.
2. *Trailer, automobile, or boat.* Accessory storage of one trailer, one unregistered automobile and/or one boat shall be allowed as per Table 1.
3. *Accessory Scientific Uses.* Any accessory activities necessary in connection with scientific research or scientific development or related productions as per Table 1.
4. *PODS or Membrane Structures.* The use of not more than two (2) PODs or membrane structures for up to six consecutive months at a residential or nonresidential

location is permitted. The use of more than two PODS or membrane structures or the use of a POD or membrane structure for more than six months shall require the issuance of a special permit by the City Council.

3.2.3 Residential Accessory Uses. The following provisions shall apply to residential accessory uses and structures in the Residential Districts:

1. *Boarders in Single-Family Dwelling.* The renting of rooms and/or furnishing of board to three or fewer persons in a single-family dwelling by the owner who is the occupant thereof shall be a permitted accessory use as per Table 1.

2. *Prohibited Accessory Uses.* In the Residential Districts, the following accessory uses are prohibited:

- a. Kennels.
- b. Contractor's yard for the storage of building materials or equipment.
- c. The storage or keeping of commercial landscaping equipment, materials, supplies, or piles.
- d. Commercial auto repair or service.

3. *Family Day Care Homes.* Small family day care homes are allowed in all districts except CM as of right. Large family day care homes are allowed in all districts except CM upon the issuance of a special permit by the Board of Appeals.

4. *Adult Day Care Homes.* Adult day care homes are allowed in all districts as an accessory use only upon the issuance of a special permit by the Board of Appeals.

5. *Temporary Mobile Home.* A mobile home occupied by the owner and occupier of a residence which has been destroyed by fire or other natural holocaust placed on the site of such residence to be resided in for a period not to exceed 12 months while the residence is being rebuilt. The mobile home shall be subject to the provisions of the State Sanitary Code.

3.3 HOME OCCUPATIONS.

3.3.1 Home Occupation - As Of Right. One (1) home occupation may be allowed on any premises as of right, provided that the home occupation:

1. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. is clearly incidental and secondary to the use of the premises for residential purposes;

3. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
4. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
5. does not exhibit any exterior indication of its presence or any variation from residential appearance;
6. does not produce any customer, pupil, or client trips to the occupation site and has no nonresident employees;
7. is registered as a business with the City Clerk.

3.3.2 Home Occupation - By Special Permit. One or more home occupations may be allowed on any premises by special permit issued by the Board of Appeals, provided that:

1. the home occupation complies with the pertinent provisions of Section 3.3.1, above;
2. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than three additional employees;
3. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 6.2;
4. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall expire upon the transfer of the property, and the new owner shall require a new special permit.

SECTION 4.0 DIMENSIONAL REGULATIONS

4.1 GENERAL.

4.1.1 Applicability of Dimensional Regulations. The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, maximum number of stories, maximum building area, maximum floor area ratio and minimum open space shall be as specified in this Section.

4.1.2 Table of Dimensional and Density Regulations. These requirements are set forth in Table 2: Table of Dimensional and Density Regulations, subject to the further provisions of this Section. Table 2, as referenced and included as Appendix B, plus attached notes, is declared to be a part of this chapter.

4.2 SPECIAL REGULATIONS.

4.2.1 Fences. A fence, wall or other enclosure is not regulated except as provided in Table 2.

4.2.2 Reduction of Lot Area. The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this Ordinance, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this Ordinance if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.

1. This provision shall not apply when a portion of a lot is taken or conveyed for a public purpose.

4.2.3 Separation of Lots. Lots shall not be so separated or transferred in ownership so as not to comply with the provisions of this Ordinance.

4.2.4 Appurtenances Projecting into Yards. Projecting eaves, chimneys, bay window, balconies, open fire escapes and like projections which do not project more than three feet, and unenclosed steps, unroofed porches and the like which do not project more than six feet beyond the line of the foundation wall and which are not over four feet above the average level of the adjoining ground, may extend into the minimum yard otherwise required for the district in which the structure is built.

4.2.5 Exceptions to Height Requirements. The provisions of this Ordinance governing the height of buildings and structures in all districts shall not apply to chimneys, water towers, air conditioning equipment, elevator bulkheads, skylights, ventilators and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy; nor to domes, towers, or spires above buildings if such features are not used for human occupancy; nor to wireless or broadcasting towers.

4.2.6 Corner Clearance. In any district, no structure, fence or sign shall be, constructed and no vegetation shall be planted or, maintained in the plane above curb level so as to interfere with traffic visibility across a corner within that part of the lot which is within a triangle formed by the street lines and a third line joining points on the street lot lines twenty-five feet from their intersection.

4.3 FACADES.

4.3.1 Single and Two Family Structures. Unless specifically exempted by the Building Commissioner because of exceptional architectural design and/or site considerations, new single and two family structures shall be designed so that the principal facade, i.e., that facade containing the principal entrance (front door), shall be basically parallel to the front lot line.

4.3.2 RU and RH Districts. Once a principal facade has been established for any structure or building, whether existing or new, the area between such facade and the adjacent street or public approach to the structure or building shall not be built upon or used for an unattached building or structure in excess of 10 feet in height. This shall apply to the RU and RH Zoning areas only.

4.4 ACCESSORY STRUCTURES.

4.4.1 Detached Accessory Buildings. In all Residential and Commercial Districts, a detached accessory building shall conform to the following provisions: it shall not occupy more than 25% of the area of the rear yard; it shall not be less than 20 feet from the front street line, nor less than five feet from any other lot line or from any principal building; and it shall not exceed 20 feet in height.

4.4.2 Agricultural Buildings. In the RR and RS Districts, an agricultural building, such as a barn, shall be not less than 25 feet from the side lot line.

4.4.3 Attached Accessory Buildings. In all Residential and Commercial Districts, an accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side and rear yard requirements applicable to the principal building.

4.4.4 Accessory Swimming Pools. In any district, an accessory swimming pool shall conform to the following provisions: it shall not be located in the required front yard; it shall not be less than five feet from any rear or side lot line; and it shall not exceed a height of six feet.

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

5.1 APPLICABILITY. This Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. c. 40A, s. 5 at which this Ordinance, or any relevant part thereof, was adopted, but shall apply to any change or substantial extension of such use, to a building permit or special permit issued after the first notice or said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use in a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or a structural change to a single or two family residential structure does not increase the nonconforming nature of said structure. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

5.1.1 Commencement of Construction or Operation. Construction or operations under a building permit or special permit shall conform to any subsequent amendments to this Ordinance unless the use or construction is commenced within a period of not more than twelve months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

5.2 NONCONFORMING USES. The Board of Appeals may grant a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

5.2.1 Permissible Changes. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, less detrimental, nonconforming use.

5.3 NONCONFORMING STRUCTURES. The Board of Appeals may grant a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.3.1 Permissible Changes. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed;

2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

5.4 VARIANCE REQUIRED. Except as provided in Section 5.5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

5.5 NONCONFORMING SINGLE AND TWO FAMILY RESIDENTIAL STRUCTURES. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure as long as such addition does not increase the habitable floor area of the original structure by more than one hundred percent (100%):

5.5.1 Structure Located on Lot with Insufficient Area. Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements,

5.5.2 Structure Located on Lot with Insufficient Frontage. Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.

5.5.3 Structure Encroaching in Required Yard. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.6 ABANDONMENT OR NON-USE. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law; provided, however, that such use or structure may be restored to its protected status by special permit from the City Council.

5.7 RECONSTRUCTION AFTER CATASTROPHE OR DEMOLITION. Any nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

5.7.1 Two Years. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.

5.7.2 Same Footprint and Volume. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, and shall be only as great in gross floor area as the original nonconforming structure.

5.7.3 Different Footprint or Volume. In the event that the proposed reconstruction would (a) cause the structure to exceed the gross floor area of the original nonconforming structure or (b) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

5.8 REVERSION TO NONCONFORMITY. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

5.9 SUBSTANDARD LOTS. When a prior lawful nonconforming structure is located on a lot which does not meet current dimensional requirements, such lot shall not be changed, unless the change does not result in exacerbation of an existing nonconformity or a new nonconformity.

5.10 EMINENT DOMAIN. When a lot is changed by eminent domain so as to become deficient in area, frontage, building setback, or lot coverage, any structure located thereupon shall be considered a nonconforming structure subject to the rules of this Section 5.0.

SECTION 6.0 GENERAL REGULATIONS

6.1 OFF-STREET PARKING AND LOADING REGULATIONS.

6.1.1. Applicability. Off-street parking and loading spaces shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use or any change in an existing use in accordance with Table 1: Table of Use and Parking Regulations and the requirements contained therein.

1. *Exception.* Some or all of the parking requirements shall be waived for any properties fronting upon either the northerly or southerly side of either the Merrimack Street, Washington Square and/or Washington Street right-of-way as bounded in total, easterly by Main Street and westerly by Railroad Square.

6.1.2 Parking Spaces for Persons with Disabilities. Parking spaces for persons with disabilities shall be provided in accordance with the Massachusetts Architectural Barrier Board Rules and Regulations.

6.1.3 Parking Code. The requirements in the following Table 3: Parking Code Regulations shall be as set forth in Table 1: Table of Use and Parking Regulations. See Section 9.0 for parking requirements in special districts.

PARKING CODE REGULATIONS

Parking Code (PC)	Requirements
A	1.0 spaces per dwelling unit with 1 bedroom; 1.5 spaces per dwelling unit with 2 bedrooms; 2.0 spaces per dwelling unit with 3 bedrooms or more
B	1 space for each 100 square feet of gross floor area
C	1 space for each 200 square feet of gross floor area
D	1 space for each 250 square feet of gross floor area
E	1 space for each 500 square feet of gross floor area
F	1 space for each 600 square feet of gross floor area
G	1 space for each 800 square feet of gross floor area
H	1 space for each 4 seats at design capacity
I	2 per classroom in an elementary school; 3 per classroom in middle and junior high school; 4 per classroom, plus 1 space for every 4 seats of the total seating capacity of the auditorium or gymnasium, whichever has the largest capacity, in a senior high school

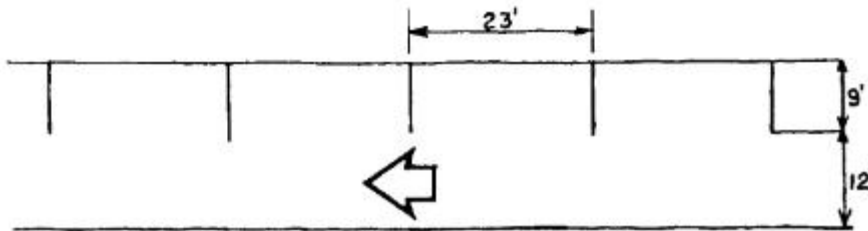
**Parking
Code
(PC)**

Requirements

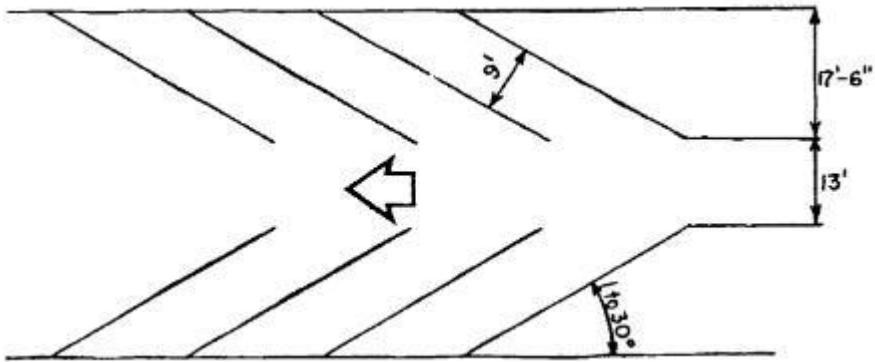
J	1 space per unit
K	1 space per unit; 2 spaces for unit with 3 or more bedrooms
L	1 space per residence, plus 1 space per room for rent
M	1 space per resident
O	1 space per 1,600 square feet gross floor area
Q	1 space per bed at design capacity
R	1.25 spaces per bed at design capacity
S	1 space per 200 square feet of selling area, indoor and outdoor
T	10 spaces, plus requirement F
U	1 space per every 2 machines
V	1 space per every 3 seats
W	B, plus 10 spaces
X	4 spaces per alley
Y	at least 20 lineup spaces for each ticket window
Z	1 space for each 1/2 acre of yard area

6.1.4 Off-Street Parking Area Design Requirements. Off-street parking areas shall be designed to comply with one or a combination of the following minimum standards.

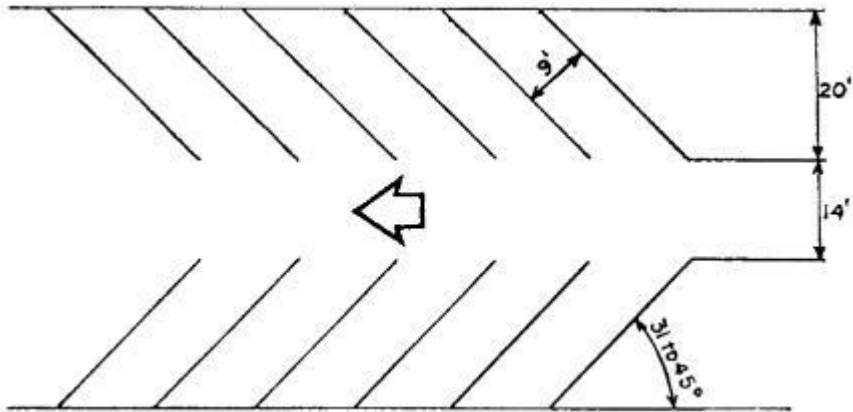
1. Parallel parking.



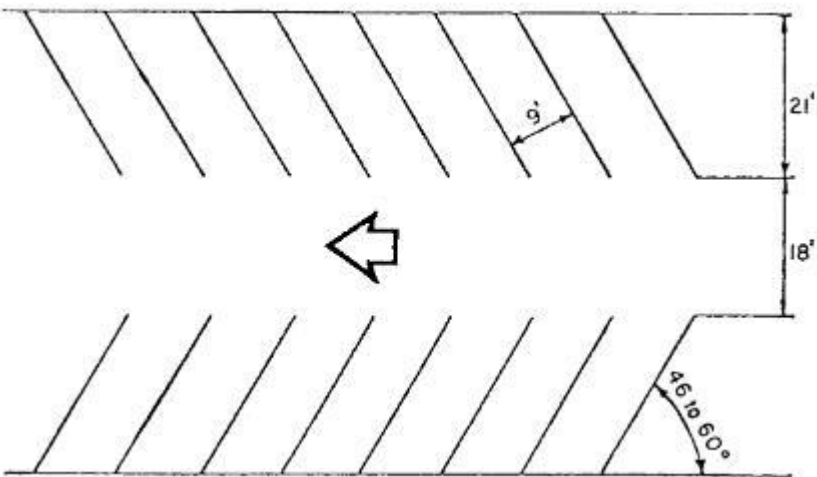
2. One- to thirty-degree angle parking.



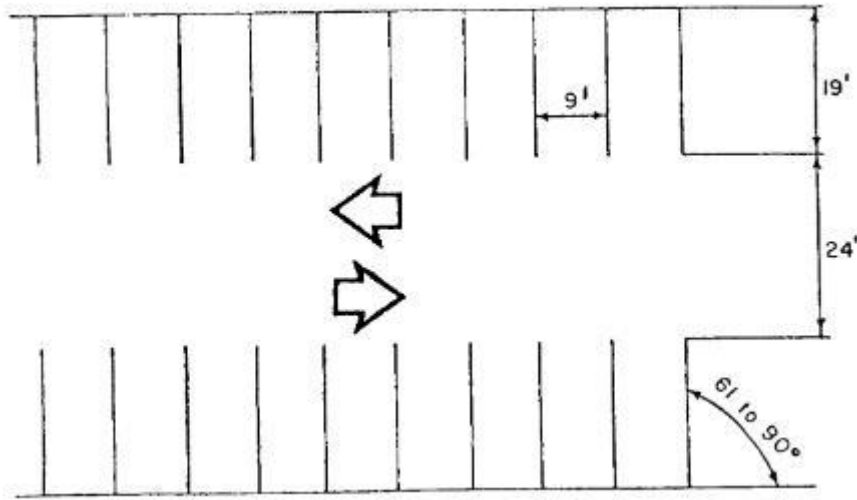
3. Thirty-one- to forty-five-degree angle parking.



4. Forty-six- to sixty-degree angle parking.



5. Sixty-one- to ninety-degree angle parking.



6.1.5 Off-Street Loading Requirements. For every building hereafter erected for retail and service commercial, and wholesale, transportation and industrial, and community facility use, as specified in Table 1: Table of Use and Parking Regulations, and for every such use hereinafter established in an existing building or area, the following Off-Street Loading Regulations in Table 4 shall prevail:

LOADING REGULATIONS

----- Loading Spaces Required -----

Building Gross Floor Area (square feet)	Retail and Service Commercial, Wholesale, Transportation and Industrial	Community Facility
0 to 3,000	1	0
3,001 to 25,000	2	0
25,001 to 50,000	3	1
50,001 to 75,000	4	2
75,001 to 100,000	5	2
over 100,000	5, plus 1 space for each 50,000 square feet or fraction thereof over 100,000 square feet	2, plus 1 for each 100,000 square feet or fraction thereof over 100,000 square feet

6.1.6 Off-Street Loading Space Design. The first off-street loading and unloading space herein required for a building shall be at least 12 feet in width, 35 feet in length and have a minimum vertical clearance of 14 feet. All additional required spaces shall be at least 12 feet in width, 55 feet in length and have a minimum vertical clearance of 14 feet.

6.1.7 Existing Spaces. Parking or loading spaces being maintained in any district in connection with any existing use on the effective date of this chapter shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the foregoing tables, provided that this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables, and further provided that this provision will not be applied when such space is acquired for public purposes.

6.1.8 Computation of Spaces. When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction over 0.5 shall require one space.

6.1.9 Combined Facilities. Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, subject to approval by the Building Commissioner, where it is evident that such facilities will continue to be available for the several buildings or uses and the total number provided is consistent with the combined requirement of the respective uses.

6.1.10 Continued Dedication. Required off-street parking or loading spaces which after development are later designated as, and accepted by the City for, off-street parking or loading purposes shall continue to serve the uses or structures to meet these requirements so long as said use or structure remains.

6.1.11 Location of Parking and Loading Spaces.

1. Required off-street parking and loading spaces shall be provided on the same lot as the principal use they are required to serve or, when practical difficulties as determined by the Board prevent their establishment upon the same lot, they shall be established no further than 300 feet from the premises to which they are appurtenant.
2. No off-street parking space for a use permitted in any C or I District shall be allowed in any R or S District except within 100 feet of and with driveway access from such C or I District and when screened as required herein and only when permitted by the Board.
3. For residential uses (one-, two- or three-family), parking in the front yard shall be allowed only in the driveway or in a backup strip adjacent to the driveway. Any paved areas including the driveway shall not cover more than 50% of the front yard.
4. For nonresidential uses, a fifteen-foot-wide landscaped strip shall be provided between the parking area and the street right-of-way except in a CC District and a CM District where a minimum of an eight-foot-wide landscaped strip shall be provided.

6.1.12 Parking and Loading Space Standards. All parking and loading areas containing over five spaces, including automotive and drive-in establishments of all types, shall be either contained within structures, or subject to the following:

1. The parking area and access driveways thereto shall be surfaced with bituminous or cement concrete material and shall be graded and drained so as to dispose of all surface water accumulation.
2. A substantial bumper of masonry, steel, granite or heavy timber, or a concrete curb or berm curb which is backed, shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks and screening materials.
3. Any fixture used to illuminate any area shall be so arranged as to direct the light away from the street and away from adjoining premises used for residential purposes.
4. There shall not be any vehicle repair or gasoline or oil service facilities or any repair made to any motor vehicles except on a lot occupied by a permitted automotive use. Any gasoline or oil facilities shall be at least 25 feet from any lot line.
5. There shall not be any storage of materials or equipment or display of merchandise within required parking area except as part of approved building operations or by approval of the proper authority.
6. Parking shall not be located within the required front yard area in any R or S District and must be set back from the front property line at least five feet in any CN District and 20 feet in any CH or BP District.
7. Parking and loading spaces other than those required for single- and two-family dwellings shall be so arranged as not to permit backing of automobiles onto any street.
8. Any portion of any entrance or exit driveway shall not be closer than 50 feet to the curbline of an intersecting street.
9. Any two driveways leading to or from a street to or from a single lot shall not be within 30 feet of each other at their intersections with the front lot line.
10. Any entrance or exit driveway shall not exceed 30 feet in width at its intersection with the front lot line.
11. Back to back parking spaces are not allowed for the service of multifamily dwellings.

6.1.13 Queue Spaces. All vehicle queue spaces shall be at least 9 feet wide and 18 feet long and may be arranged end to end, and located off the street.

6.1.14 Common Driveways. No driveway shall be used to provide access to more than two residential dwellings. Any driveway used to provide access to more than one residential dwelling shall not exceed 200 feet in length.

6.1.15. Special Permit. Any requirement of this Section 6.1 may be waived by the grant of a special permit from the SPGA when such waiver shall not result in substantial detriment. If the use does not require a special permit, the Zoning Board of Appeals shall serve as the SPGA.

6.2 SIGNS.

6.2.1 Compliance Required. All signs shall comply with the regulations for the erection and construction of signs contained in the Building Code, Fire Prevention Code and Electrical Code of the City of Haverhill and other applicable City regulations. Signs shall be permitted in accordance and must comply with both the following general regulations applying to all signs in all districts and the specific regulations applying to the respective districts.

6.2.2 Types of Signs.

1. *Wall Sign.* A wall sign shall be attached parallel to the building wall; it shall not project horizontally more than 15 inches from that wall; and it shall not extend above the roofline or beyond the sides of the building.
2. *Projecting Signs.* A projecting sign shall be attached to the wall of the building; it shall not project horizontally more than six feet from the building but no closer than two feet to a curblin or, if no curb exists, from the roadway edge; it shall have a minimum clearance of nine feet above a public sidewalk and 16 feet above any road, driveway or alley; and it shall not extend above the roofline nor more than 24 feet above the ground, sidewalk, road, driveway or alley, whichever is the lesser. When a projecting sign is closer than 12 feet to a corner of the building, its projection shall be no more than a distance equal to 1/2 the horizontal distance from the sign to that corner.
3. *Freestanding Signs.* A freestanding sign shall be constructed in the following manner:
 - a. In the event a front yard is required in any district, a freestanding sign shall be set back from the front property line at least 1/2 the required distance of the front yard setback. A sign shall not extend, project or overhang into the required sign setback.
 - b. In the event no front yard is required in a district, a sign may be erected which projects or extends over the front lot line, provided that it shall not project horizontally more than six feet from the front lot line but no closer than two feet from a curblin or, if no curb exists, from the roadway edge, and shall have a minimum clearance of nine feet above a public sidewalk and 16 feet above any road, driveway or alley.

- c. No sign shall be placed or erected, project or extend or overhang within an area required by this chapter or act of the Board for screening purposes.
- d. No freestanding sign unless otherwise specified shall exceed a height of 24 feet.
- e. The requirements contained herein shall not be interpreted so as to prevent a freestanding sign which is divided into individual signs or segments, provided that the individual signs or segments are mounted on the same or a single structure or support, and the total surface area of all such signs does not exceed the maximum area permitted in the respective district.

6.2.3 Illumination of Signs in All Districts.

- 1. The light from any illuminated sign shall be so shaded or directed that the light intensity or brightness shall not be objectionable to surrounding areas.
- 2. No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color. Beacon lights are not permitted.
- 3. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- 4. Neither the direct nor reflected light from light sources shall create a traffic hazard to the operation of motor vehicles on public roads.
- 5. No exposed reflective-type bulbs and no strobe light or incandescent lamp shall be used on the exterior surface of any sign.

6.2.4 Temporary Signs. The following signs shall be permitted anywhere within the City but in no circumstance for more than six months. The sign shall not be illuminated and shall not require a permit:

- 1. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum sign area of 16 square feet for each firm. The signs shall be confined to the site of the construction and shall be removed within 14 days of the beginning of the intended use of the project and/or completion of the construction project. One such sign for each firm involved with the construction may be placed facing each street frontage.

2. Real estate signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet. Such signs shall be removed within 14 days of the sale, rental or lease.
3. Nonprofit or governmental signs advertising community event may be installed 14 days in advance of the event and shall be removed within 4 days after the event, not to exceed a size of 12 square feet.
4. Political campaign signs announcing the candidates seeking public political office and other data pertinent thereto, up to a maximum total sign area of 64 square feet per candidate or ballot issue for each property. These signs shall be confined within private property.
5. Show window signs in a display of merchandise when incorporated with such a display. They need not be related in content with the display. However, the total sign area shall not exceed 25% of the window area through which they are viewed.

6.2.5 Exempt Signs. The following types of signs are exempted from all the provisions of this chapter, except for construction and safety regulations and the following requirements:

1. Public signs of a noncommercial nature and in the public interest erected by, or on the order of, a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, street signs, memorial plaques, signs of historical interest, signs designating a public project, public school, or improvement program and the like.
2. Institutional signs setting forth the name or any simple announcement for any public institution located entirely within the premises of that institution, up to a maximum sign area of 24 square feet. Such signs may be illuminated in accordance with the regulations contained herein. If building-mounted, these signs shall not project above the roofline. If ground-mounted, the sign shall not exceed a height of six feet above ground level.
3. Integral signs, names of buildings, dates of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent-type construction and made an integral part of the structure.
4. Private traffic direction signs directing traffic movement onto a premise or within a premise, not exceeding a maximum sign area of five square feet for each sign. Illumination of these signs shall be as permitted herein. Horizontal direction signs on and flush with the paved surface areas are exempt from these standards.
5. Shipping and receiving space signs, provided that they do not exceed a surface area of four square feet.

6. Signs on vehicles of any kind are exempt.
7. Holiday decorations of any kind are exempt.
8. Fraternal or service organizations. Nonaccessory signs which identify fraternal societies or service organizations within the City of Haverhill, provided that such signs shall not exceed a sign surface area of eight square feet. Such a sign may be illuminated in accordance with the regulations contained herein.
9. Political campaign headquarters' signs, provided that the headquarters are located within any C or I District, and the campaign signs are located within a building housing such headquarters.

6.2.6 Prohibited Signs. Prohibited signs are signs which:

1. Contain or are an imitation of an official traffic sign or signal or contain the words "stop", "go slow", "caution", "danger", "warning" or similar words.
2. Are of a size, location, movement, content, color or manner of illumination which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal.
3. Move or rotate in any manner or have a major moving part.
4. Contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similarly moving devices. These devices, when not part of any sign, are similarly prohibited unless they are utilized to announce the opening of a new business and in which case they must be removed 60 days after such opening.
5. May swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment, except as otherwise specified herein.
6. A sign located on and/or attached to the roof of any building or top of a canopy shall not be permitted.

6.2.7 Signs Permitted in Any R or S District.

1. *Accessory.* Signs shall be limited to only the accessory type.
2. *Wall, Projecting or Freestanding.* One sign, either a wall, projecting or freestanding type, shall be permitted, provided that it does not project or extend beyond a point which lies 10 feet within any side or front lot line, and further provided that no freestanding sign shall be higher than six feet.

3. *Professional Identification.* One professional or medical building accessory sign, provided that such a sign shall not exceed 7.5 square feet on any one face and not more than 15 square feet in total surface area and one professional nameplate for each professional practitioner, provided that it does not exceed an area of 12 square inches and is mounted flush with the wall or door.

4. *Occupancy Identification.* One accessory sign for each dwelling unit, provided that such a sign shall not exceed two square feet in surface area and shall not be used other than for identifying the occupancy.

5. *Apartment Identification.* One sign may be erected to identify a multifamily development of 10 or more units, provided that it shall not exceed 10 square feet in surface area.

6. *Community Facility Identification.* One accessory sign for each funeral establishment, hospital, church, other place of public assembly, community facility or public utility use, provided that it shall not exceed 10 square feet in surface area.

6.2.8 Signs Permitted in Any C District. Signs may include both accessory and nonaccessory type as follows.

1. *Wall Signs (Accessory).* One wall sign for each building frontage of each establishment shall be permitted. Such wall sign shall not exceed a maximum area of 40 square feet per building frontage in any CN District, or a maximum sign area of 120 square feet per building frontage in a CG District, or a maximum sign area of 120 square feet per building frontage in any CH District.

2. *Projecting or Freestanding Signs (Accessory).* One sign per lot frontage, either projecting or freestanding, may be erected within any C District unless otherwise specified. (See "Shopping Center Signs".) Where frontage is on more than one street, only the sign computed with the frontage of that street shall serve that street.

a. *Projecting signs (Accessory).* A total sign area of one square foot for each linear foot of respective individual store or establishment frontage shall be permitted, not to exceed a maximum sign area of 40 square feet per building frontage in any CN District, a maximum sign area of 80 square feet per building frontage in any CG District or a maximum sign area of 120 square feet per building frontage in any CH District. A single-faced sign shall not exceed 1/2 the allowable sign area for the respective district.

b. *Freestanding signs (Accessory).* A total sign area of one square foot for each linear foot of lot frontage shall be permitted, not to exceed a maximum sign area of 80 square feet per lot frontage in a CN District, a maximum sign area of 120 square feet per lot frontage in any CG District or a maximum sign area of 160 square feet per lot frontage in any CH District. A freestanding sign placed at

the intersection of two or more public roads or so placed as to serve two or more such roads simultaneously shall be no larger than one square foot for each linear foot of the longest lot frontage served by the sign or the maximum sign area for the district in which the sign is located, whichever is the smaller. No two separate freestanding signs on any one lot shall be closer together than 300 feet, measured as the direct distance between them. A single-faced sign shall not exceed 1/2 the allowable sign area for the respective district.

c. Freestanding signs (Temporary Sidewalk). A total sign area on the face of the sign of nine square feet shall be permitted. The City Council delegates its permit-granting authority hereunder to the Building Commissioner for permits for signs under this Section. The Building Commissioner shall not grant a permit for a sign which by size and location unduly obstructs pedestrian or vehicular traffic (including line-of-sight for vehicular traffic). The Building Commissioner shall place conditions on the permit to assure that the sign is properly anchored and that it is placed only during reasonable business hours. No such permit shall be issued without the applicant indemnifying the City of Haverhill from any and all claims arising out of the maintenance of such a sign as set forth herein. Such a sign may be maintained entirely in a public way adjacent to the building frontage from the building which it services.

3. *Shopping Center Signs.*

a. Shopping center indication. A multiple-use identification sign stating the name of the center and/or the tenants shall be permitted for a shopping center containing more than an aggregate of 1,000 feet of frontage, based on the following requirements: If the center has frontage on more than one arterial or similarly classified public road in excess of 200 feet, one multiple-use identification sign may be allowed for each such frontage, its size computed individually for the frontage it serves, but shall not exceed a sign area of one square foot for each linear foot of lot frontage or a maximum of 400 square feet, whichever is less. A single-faced sign shall not exceed 1/2 the allowable sign area. A multiple-use identification sign placed at the intersection of two or more arterial or similar public roads or so placed as to serve two or more such roads simultaneously shall be not larger than one square foot for each linear foot of the longest frontage served by the sign or 400 square feet, whichever is the smaller. No two separate multiple-use identification signs shall be closer together than 1,000 feet, measured as the direct distance between them. If a single frontage is greater than 1,000 feet, one additional multiple-use identification sign shall be permitted to serve that frontage, provided that it shall not exceed a maximum sign area of 400 square feet and shall not be located closer than 1,000 feet to any other multiple-use identification sign, measured as the direct distance between them. The height of a multiple-use identification sign shall not exceed 24 feet from grade at the base of the sign, and no part of the sign shall extend beyond a point which lies 10 feet within any lot line.

b. Shopping center wall signs. Each commercial establishment within a shopping center shall be permitted a wall sign according to the requirements of this Section, except that frontage shall be computed as the building frontage along a pedestrian way. An individual shop may have more than one pedestrian way frontage for the purposes of this Section.

4. *Freestanding Signs*. Freestanding or ground-supported signs for individual commercial establishments shall not be permitted.

5. *Projecting Signs*. Projecting signs for individual establishments shall not be permitted.

6. *Canopy Signs*. An identity sign for each establishment within a shopping center may be attached or mounted on the lower or bottom side of a canopy, erected to protect the pedestrian shopper, provided that it does not project more than 12 inches from the bottom of the canopy and the bottom of the sign shall not be less than eight feet above the sidewalk, the face of the sign is perpendicular to the pedestrian way, the sign shall not project beyond the vertical face of the canopy and the sign shall not exceed a total area of four square feet.

6.2.9 Signs Permitted in Any I District. Signs may include both accessory and nonaccessory types as follows.

1. *Wall Signs (Accessory)*.

a. One wall sign for each lot frontage shall be allowed. Where frontage is on more than one street, only the sign computed with the frontage of that street shall face or be visible from that street.

b. A total sign area of one square foot for each linear foot of building frontage shall be permitted, not to exceed a maximum sign area of 80 square feet per building frontage in any IG or BP District.

2. *Projecting or Freestanding signs (Accessory)*. One sign per lot frontage, either projecting or freestanding, may be erected within any I District. Where frontage is on more than one street, only the sign computed with the frontage of that street shall serve that street.

3. *Projecting Signs (Accessory)*. A total sign area of one square foot for each linear foot of building frontage shall be permitted, not to exceed a maximum sign area of 80 square feet per building frontage in any IG or BP District.

4. *Freestanding Signs (Accessory).*

- a. A total sign area of one square foot for each linear foot of lot frontage shall be permitted, not to exceed a maximum sign area of 80 square feet per lot frontage in any IG or BP District.
- b. A freestanding sign placed at the intersection of two or more public roads, or so placed as to serve two or more such roads simultaneously, shall be no larger than one square foot for each linear foot of the longest lot frontage served by the sign or a maximum sign area for the district in which the sign is located, whichever is the smaller.
- c. No two separate freestanding signs on any one lot shall be closer together than 400 feet, measured as a direct distance between them.

6.2.10 Nonaccessory Signs. Nonaccessory signs shall be subject to the regulations of M.G.L. c. 93, §§ 29 through 33, as amended, and to the following requirements:

1. Nonaccessory signs may be allowed, by special permit of the Board, to be erected and/or maintained within a CH, CG, IP or BP District.
2. Nonaccessory signs shall comply with the general provisions of this Section; provided, however, that no such sign, unless affixed to a building, shall be located within 1/2 the building setback of the district in which it is located, except under no circumstance is the sign to project beyond any property line.
3. Nonaccessory signs permitted herein shall be placed so as to be visible from the right-of-way of interstate, federal and/or state highways only. Any such nonaccessory sign shall not be closer than 500 feet to any other nonaccessory sign facing or visible from the same right-of-way, measured as the direct distance between signs.
4. Signs along such highways shall not exceed a sign surface area of 600 square feet, provided further that a single-faced sign shall not exceed a sign surface area of 300 square feet.
5. The requirements contained in this Section shall not be interpreted so as to prevent the construction of a nonaccessory sign that is back-to-back with another such sign or of a V-type construction; provided, however, that any such sign facing in any one direction shall not exceed a total surface area of 300 square feet.

6.2.11. Special Permit. Any requirement of this Section 6.2 may be waived by the grant of a special permit from the SPGA, provided that such waiver shall not result in substantial detriment. If the use does not require a special permit, the Zoning Board of Appeals shall serve as the SPGA.

6.3 PERFORMANCE STANDARDS FOR NONRESIDENTIAL AND MIXED USE DEVELOPMENT.

6.3.1 Purpose. The following performance standards have been adopted in order to control the size, scale, and impacts of larger multifamily, nonresidential, or mixed use developments.

1. *Lighting.* The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall (i) reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the City; (ii) conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity, and (iii) preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

2. *Noise.* The proposed development shall comply with the provisions of Chapter 182 of the Haverhill Code.

3. *Landscaping and Screening.* The proposed development shall maximize and retain open space, and shall be integrated into the natural landscape, shall minimize adverse environmental impacts to such features as wetlands, floodplains, and water resource protection recharge areas and shall minimize tree, vegetation, and soil removal, and grade change. Proposed landscaping shall require native and drought-tolerant species and prohibit invasive or nonnative plants.

4. *Stormwater Management.* The proposed development shall include adequate provisions or measures to prevent pollution of surface or groundwater, minimize erosion and sedimentation, prevent changes in groundwater levels, increased run-off, and potential for flooding, and minimize adverse impacts to neighboring properties by flooding from excessive run-off.

5. *Site Development Standards.* To the extent practicable, the proposed development shall be located to preserve and enhance the natural features of the site, to avoid disturbances of environmentally sensitive areas, to minimize adverse impacts of development on adjoining properties, to minimize the alteration of the natural features of the site and to preserve and enhance scenic points, historic buildings and places and similar community assets which add value and attractiveness to the subdivision and the Town.

6. *Pedestrian and Vehicular Access; Traffic Management.* The proposed development and/or redevelopment shall be designed with a forecast for the next five years from the time of application to (i) minimize hazards to public health and safety as a result of traffic; (ii) provide safe access and circulation on the site for expected vehicles, pedestrians, and emergency vehicles; (iii) provide off-site traffic mitigation, where required, to offset the impact of the development; (iv) reduce the traffic impacts of the proposed development on the area and the Town by incorporating traffic management

devices; and (v) minimize the impact on scenic roads, historic districts, natural resources, and community character. The Development shall not degrade safety for pedestrians, bicyclists, motor vehicle occupants, or property.

7. *Aesthetics.* The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural and built environment in the area and the surrounding neighborhood.

8. *Utilities; Security; Emergency Systems.* The proposed development shall be adequately served by public or private utilities, security systems, and emergency systems.

9. *Other General Standards.* The proposed Development will not cause a public or private nuisance.

6.3.2 Procedures; Rules and Regulations. Applicants for special permits or Development Review pursuant to Section 10.1.4 for multifamily, nonresidential, or mixed uses shall comply with these Performance Standards. "Nonresidential, multifamily, or mixed use" shall mean a project with more than 10,000 square feet of gross floor area or more than 10 dwelling units. The SPGA may adopt rules and regulations for administration of these Performance Standards. The SPGA may require the establishment of an escrow account, pursuant to M.G.L. c. 44, s. 53G, to cover all or part of the cost of the technical review required by the project, including services provided by, but not limited to, attorneys, traffic engineers, landscape architects, civil engineers, fiscal analysts, and other professionals.

6.3.3 Standards. The following standards shall apply to applications for special permits or for Development Review pursuant to Section 10.1.4 for a multifamily, nonresidential, or mixed use:

A. Lighting.

1. **Shielding.** All outdoor light fixtures shall be shielded so as to meet the goals of this Section.
2. **Light Trespass.** Direct glare or overspill from a light source is to be confined within the property boundaries. Lights shall not escape unshielded into the night sky.
3. **Light Intensity.** Outdoor lighting shall be designed to provide the minimum intensity needed at any particular time.
4. **Illuminated Surfaces.** Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light. Parking area lighting shall be reduced or eliminated outside business hours. The SPGA may require an electrical configuration for parking lots which support shut off for specific unused areas to reduce the glare from lighting.

5. Searchlights. The operation of laser shows or searchlights for advertising purposes is prohibited, provided however, that same may be authorized for a period of not more than fourteen days by special permit issued by the City Council.

6. Indoor Lighting. Indoor light sources will not be projected outside in a manner to defeat the intent of this Ordinance.

7. Sodium Vapor or Metal Halide Lighting. No outdoor light fixtures using sodium vapor or metal halide lamp or lamps shall be allowed unless specifically authorized by the City Council by special permit.

8. Outdoor Signs. Outdoor light fixtures used to illuminate an outdoor sign shall be mounted on top of the sign structure or otherwise restricted to prevent up-light and light trespass.

9. Flickering and Flashing Lights. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.

10. Height of Fixtures.

a. Wall Mounted Fixtures. Luminaires attached to a building for area lighting shall be mounted no higher than fifteen (15) feet above grade;

b. Pole Mounted Fixtures. Pole mounted exterior lighting fixture types shall be mounted no higher than 20 feet above grade.

11. Hours of Operation. Except as may be deemed appropriate for site safety or security, all external lighting, including lighting accessory to authorized signs, shall be extinguished one half hour after the facility is closed for the business day. Such lighting may be timed to resume one half hour prior to the arrival of the first employee on the premises.

B. Noise. The proposed development shall comply with the provisions of Chapter 182 of the Haverhill Code and 310 CMR 7.10 of the Department of Environmental Protection's regulations.

C. Landscaping.

1. Street Buffer Strip. Except for a required sidewalk, a landscaped buffer strip at least twenty (20) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium height shrubs, evergreens and shade trees having a minimum four inches in caliper measured four feet from ground level planted at least every thirty (30) feet along the road frontage. Evergreens and shade trees shall be at least eight feet in height at time of planting. At all street or driveway

intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present an obstruction to sight lines.

2. Screening and Buffer Area in I or C Districts. A screening and buffer area shall be required in any I or C District which adjoin or abut an R or S District at the side or rear of the property. This screening must consist of any one of, or some combination of, the following:

a. A solid fence or wall not less than six feet in height.

b. Evergreen shrubbery placed in two rows, with at least three feet between rows. There shall be at least three feet from the center line of the row adjacent to the lot line and said lot line. There shall be at least three feet from the center line of the row furthest from the lot line and the nearest paved area or building. The plants in each row shall be no more than four feet apart, and the plants in one row shall be staggered in relation to the plants in the other row. All plant materials shall be at least three feet in height at the time of planting and shall be maintained at maturity between five and six feet in height.

c. Shrubby shall be selected from the species set forth in the Development Review Rules and Regulations.

d. Trees (or large-scale shrubs) placed in two rows, with at least 10 feet between rows. There shall be at least six feet from the center line of the row adjacent to the lot line and said lot line. There shall be at least six feet from the center line of the row furthest from the lot line and the nearest paved area or building. The plants in each row shall be no more than 20 feet apart, and the plants in one row shall be staggered in relation to the plants in the other row. At least 1/2 of the selected trees for screening purposes under this method shall be of an evergreen variety. Such trees shall be at least three feet in height if of the evergreen variety or two-inch caliper if of the deciduous variety at the time of planting. Trees (or large-scale shrubs) shall be selected from the species set forth in the Development Review Rules and Regulations.

e. The screening required by this Section shall be set back 15 feet from each front lot line. The required screening, whether fencing or plant materials, shall be maintained in good condition.

f. The use of existing plant material and/or natural topography or any other method of screening entirely different from or in combination with the above may be utilized, provided that written approval of same is obtained from both the City of Haverhill's Director of Natural Resources and Director of Planning and Development.

3. Large Parking Areas. Parking areas containing over 20 spaces shall have at least one shade tree per ten (10) parking spaces, such tree to be a minimum of 2½ inches in diameter and located either in the parking area or within 10 feet of it. At least 5% of the interior of the parking area shall be maintained with landscaping, including trees, in landscape islands or plots of at least nine (9) feet in width with no more than 20 parking spaces between each island or plot. Trees shall be located to provide visual relief from sun and wind interruption within the parking area and assure safe patterns of internal pedestrian and vehicular traffic. Other traffic calming measures such as crosswalks, bikelanes, rumble-strips and landscape islands may be required as necessary.

4. Fencing. Fencing may be allowed in lieu or in conjunction with plantings. Design and height of such fencing, with accompanying landscaping, shall be subject to the approval of the SPGA or Development Review.

5. Retaining Walls. Retaining walls shall be constructed to a maximum height of six (6) feet. If site conditions require elevation changes of greater than six (6) feet, retaining walls shall be terraced and landscaped. Retaining walls facing residential districts shall be solid fieldstone or fieldstone veneer or other similar material. Unless used within the Industrial Districts, vertical cast in place concrete or concrete blocks shall not be permitted.

6. Berms. The SPGA or Development Review may require a berm or berms in appropriate circumstances to promote the goals of this Section.

7. Unsightly Uses and Areas. Exposed storage areas, refuse disposal facilities, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings.

8. Maintenance. All landscaping features, structures and areas shall be properly maintained. Dead shrubs or trees shall be replaced within one growing season as a condition of approval.

9. Preservation of Natural Vegetation and Provision of Street Trees. Initial development of any parcel or lot shall include the provision of street trees, landscaping and preservation of natural vegetation in the following manner:

- a. Street trees selected from those deciduous types listed in the Development Review Rules and Regulations shall be planted a maximum of 50 feet on center and three feet from the front property line (and within the property and with proper allowance for utility lines and driveways).

b. Exclusive of the street trees noted above, each lot or parcel developed shall include the installation of trees selected from and as stipulated in such Regulations in the following ratio:

1. Single-family and two-family homes on lots less than 15,000 square feet: two trees per lot.
2. Single-family and two-family homes on lots of 15,000 square feet or more: four trees per lot.
3. Multifamily development: 15 trees per acre.
4. Commercial or industrial development: one tree per every 20 parking spaces, to be distributed within such parking areas and protected from vehicular damage.

c. The developer of any lot or parcel is encouraged to preserve existing vegetation and, therefore, may fulfill the above requirements by maintaining and preserving existing tree growth that is consistent with the above specifications.

D. Stormwater Management.

1. Consistency with the Massachusetts Stormwater Management Policy. All development shall comply with the DEP's Stormwater Management Policy (including Phase III Stormwater requirements), to ensure that the rate of surface water run-off from the site shall not be increased after construction.
2. Dry Wells. Dry wells shall be used only where other methods are unfeasible and shall require oil, grease, and sediment traps to facilitate removal of contaminants.
3. Conservation Commission. Where applicable, no special permit shall be issued unless a report shall have been received from the Conservation Commission or the SPGA or Development Review that the storm drainage system is consistent with DEP Stormwater Management Policy and that there is sufficient storm drainage capacity to meet the flow demands of the proposed development on-site, and where applicable, without causing surge in those storm drainage lines which serve the project and are consistent with the standards of the City.
4. Temporary Measures. During the construction phase, temporary diversions, berms, grassed waterways, special culverts, shoulder dikes or such other mechanical measures as may be necessary may be required by the SPGA or Development Review to intercept and divert surface water runoff. Runoff flow shall not be routed through areas of protected vegetation or revegetated slopes and other areas. Temporary runoff from erosion and sedimentation controls shall be directed according to BMPs, such as vegetated swales. Retaining walls may be required where side slopes are steeper than a ratio of 3:1.

5. Erosion and Sedimentation Control. Erosion and sedimentation controls shall be constructed in accordance with the DEP Stormwater Guidance manual. Topsoil and loam storage areas shall be subject to these standards.

a. Erosion control measures shall include the use of erosion control matting, mulches and/or temporary or permanent cover crops. Mulch areas damaged from heavy rainfalls, severe storms and construction activity shall be repaired immediately.

b. Erosion control matting or mulch shall be anchored where plantings are on areas subject to mulch removal by wind or water flows or where side slopes are steeper than 3:1 or exceed 10 feet in height. During the months of October through March when seeding and sodding may be impractical, anchored mulch may be applied at the SPGA's or Development Review's discretion.

c. The mouths of all catch basins shall be fitted with filter fabric during the entire construction process to minimize siltation or such basins shall be designed as temporary siltation basins with provisions made for final cleaning.

d. During construction, the applicant shall be required to conduct weekly inspections of all erosion and sedimentation control measures on the site to ensure that they are properly functioning as well as to conduct inspections after severe storm events.

E. Site Development Standards.

1. Land Disturbance. Site/building design shall preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage on the site.

2. Replication. Clearing of vegetation and alteration of topography shall be replicated with native vegetation planted in disturbed areas as needed to enhance or restore wildlife habitat.

3. Clearing for Utility Trenching. Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees.

4. Site Design.

a. Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape.

b. Building sites shall be directed away from the crest of hills, and foundations shall be constructed to reflect the natural terrain.

c. Sites shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site, and to maintain contiguous forested areas.

5. Preservation of Existing Vegetation. Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees.

a. Understory vegetation beneath the dripline of preserved trees shall be retained in an undisturbed state.

b. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.

6. Limit of Clearing. Development envelopes for structures, driveways, wastewater disposal, lawn areas and utility work shall be designated to limit clearing and grading.

a. In order to minimize the clearing and grading on a site associated with construction activities such as parking of construction vehicles, offices/trailers, stockpiling of equipment/materials, such activities may be limited to areas already planned for permanent structures.

b. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers.

7. Finished Grade. Finished grades should be limited to no greater than a 3:1 slope, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. The design of grade changes at the base of existing large trees shall be subject to the approval of the SPGA or Development Review.

8. Phasing of Development. The SPGA or Development Review may limit the extent of a site exposed at any one time through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.

9. Revegetation. Proper revegetation techniques shall be employed during construction using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within 7 (seven) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.

10. Topsoil. A minimum of 6" of topsoil shall be placed on all disturbed surfaces which are proposed to be planted.

11. Irrigation. The SPGA or Development Review may require that water for the purpose of irrigation shall be provided by an onsite well, after consultation with the Water Department.

F. Pedestrian and Vehicular Access; Traffic Management.

1. Access. To the extent feasible, access to nonresidential uses and structures shall be provided via one of the following (i) access via a common driveway serving adjacent lots or premises; (ii) access via an existing side street; (iii) access via a cul-de-sac or loop road shared by adjacent lots or premises.

a. Access via roadways abutting residential districts shall be avoided where possible.

b. Access and egress to a development with frontage on more than one street shall be in a manner that causes the least impact to the surrounding neighborhoods as determined by the SPGA or Development Review.

2. Driveways. Each development shall be served by an adequate driveway.

a. The SPGA or Development Review may, in certain circumstances, allow additional driveways as a condition of approval where the access is shared or the project has frontage on two separate streets.

b. All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.

3. Curb Cuts. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width unless waived by the SPGA or Development Review for industrial truck traffic. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

4. Interior Circulation. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bikeways, and vehicular traffic.
5. Transportation Plan Approval. The proposed development may be subject to Transportation Plan approval by the SPGA or Development Review. The Transportation Plan shall consist of the following information:
 - a. A plan showing the proposed parking, loading, and traffic circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.
 - b. A traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts. For proposed development in excess of 25,000 gross square feet, the required traffic study shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice", latest edition. The SPGA or Board shall approve the geographic scope and content of the study. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.
 - c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.
 - d. For proposed development in excess of 25,000 gross square feet, the applicant shall submit a Traffic Management Component (TMC) as part of the Transportation Plan. The TMC shall provide information on the number of expected person trips to and from the site, broken down by various travel modes (e.g., single occupancy vehicle, carpool, walk, bicycle, commuter rail, shuttle bus, etc.). The TMC shall also incorporate one or more of the following techniques to reduce the number of single occupancy vehicle trips by employees coming to and departing from the proposed use:
 1. Establishment of or contribution to a Traffic Management Association (TMA) within the region, which shall provide shuffle services for employees and other services as may be appropriate;
 2. Employee carpools or vanpools sponsored by the employer or the TMA;
 3. Subsidized commuter rail passes, provided by the employer, and sold on the site or offered through payroll deduction;
 4. Monetary incentives to employees who do not use a parking space;

5. On-site shower facilities and/or bicycle racks for employees who do not drive to work;

6. Other techniques as may be deemed appropriate by the SPGA or Development Review or its traffic consultant.

6. Level of Service (LOS) Maintenance or Improvement.

a. If the proposed project will result in an intersection level of service below a rating of LOS D, or result in a roadway volume to capacity rating greater than 1.0, the applicant may be required to provide detailed plans (including reconstruction concepts), that when implemented would result, to the extent feasible, in an intersection level of service rating of D or better.

b. If the proposed project will result in a reduction in level-of-service of one letter grade or an increase of 10 seconds of delay to a signalized or unsignalized intersection, the applicant may be required to provide detailed plans that when implemented would result, to the extent feasible, in a return to existing conditions.

8. Dangerous Intersections. The SPGA or Development Review may require mitigation for any net increase in traffic volumes of 10% or more at an intersection that has an accident history of more than 5 accidents in the last three years for which data is available.

9. Sight Distance. Acceptable sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe-stopping sight distances.

10. Mitigation. Development Review may require as a condition of any site plan approval or special permit, respectively, off-site improvements to mitigate the impact of the proposed development. Such improvements include intersection widening and traffic signals or the components of the TMC. All road and intersection improvements proposed as part of development and redevelopment shall be consistent with local plans.

11. Pedestrian and Bicycle Safety. Pedestrian and bicycle circulation, and the amenities required thereof, on and off site, shall be in accordance with the following requirements:

a. All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by Development Review.

b. Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries.

c. All road and intersection widening and new traffic signals or modification of existing traffic signals required as part of a Development or Redevelopment shall include appropriate bicycle and pedestrian accommodation.

d. Development Review may require proposed development and redevelopment to provide sufficient rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use.

e. Sidewalks, crosswalks, walkways, bikeracks or other pedestrian access shall be provided to allow access to adjacent properties and between individual businesses within a development.

f. If the property abuts a public bikeway/ right-of-way, a paved access route to the bikeway may be required.

12. Location of Parking Areas. Where feasible, Development Review may require parking areas to be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The SPGA or Development Review may require alternative studies of parking lot layouts. Except where physical constraints, site configuration, or safety considerations preclude strict compliance, all parking must be accessible by driveways to the parking lots of adjacent nonresidential uses and land zoned for nonresidential uses.

13. Traffic Calming Features. Traffic calming measures such as crosswalks, bikelanes, rumble strips and landscaped islands may be required.

G. Aesthetics.

1. Compatibility with Neighborhood. The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural and built environment in the area and the surrounding neighborhood, with consideration to be given to the following:

a. harmony in scale, bulk, massing, and density;

b. consistency with the goals and objectives of the Master Plan and with any other plan that has been adopted by the City.

H. Utilities; Security; Emergency Systems.

1. Wastewater Treatment and Disposal. The SPGA or Development Review may require a report from the Board of Health confirming that the proposed site development

provides for wastewater treatment and or disposal in a manner that is consistent with regulations of the Commonwealth of Massachusetts and the Board of Health.

2. Water. There shall be sufficient water capacity to meet the flow demands of the proposed use without causing municipal water flow characteristics off-site to fall below the standards adopted by the City.
3. Site Security. There shall be a certification by the Police Chief that the petitioner has provided a written plan for site security, which plan has been approved by the Police Chief.
4. Underground. All electrical, cable and telecommunications services shall be installed underground.
5. Fire Alarm System. There shall be sufficient municipal fire alarm system capacity to meet the operating requirements of the proposed site development and use under applicable codes, regulations, and statutes enforce by the Fire Chief.

I. Other General Standards.

1. Any use permitted by right, special permit and/or variance in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid, refuse or wastes; conditions conducive to the breeding of insects, rodents or other substance, conditions or element in an amount as to affect adversely the surrounding environment. All operations shall be conducted in such a manner so as to comply with the laws of the Commonwealth of Massachusetts regulating air pollution.

The following standards shall apply.

2. Emissions. Emissions shall be completely and effectively confined within the building or so regulated as to prevent any nuisance, hazard or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
3. Flammables. All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety devices against fire and explosion and adequate firefighting and fire-suppression devices and equipment.
4. Radioactivity. No activities shall be permitted that emit dangerous radioactivity.
5. Electrical Disturbance. No electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.

6. Discharge. No discharge other than that approved by the Haverhill Health Department or other proper authority, at any point, into a private sewage system, stream, the ground or a municipal sewage disposal system of any material in such a way or of such a nature or temperature as can contaminate any running stream, water supply or standing body of water or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.

7. Vibration. No vibration which is discernible to the human sense of feeling for three minutes or more in any hour between 7:00 a.m. and 7:00 p.m., or for 30 seconds or more in any one hour between 7:00 p.m. and 7:00 a.m. shall be permitted. No vibration at any time shall produce an acceleration of more than zero point one gravity or shall result in any combination of amplitudes and frequencies beyond the safe range of Table 7, United States Bureau of Mines Bulletin No. 442.

6.3.4 Exemptions. The following are exempt from these standards:

1. Emergency Response. Emergency responses performed by a private entity or a public agency and fire or burglar alarms.
2. Municipal Uses and Structures. All municipal uses and structures, including schools;
3. Events. Parades, fairs or outdoor entertainment between the hours of 7:00 a.m. and 11:00 p.m. only provided that a permit for such activity has been granted by the City Council and that said permit is for not more than ten (10) days.

6.3.5 Waiver of Standards. The SPGA may, in the course of granting a special permit for nonresidential, multifamily or mixed used development, waive any of these performance standards where such waiver is not inconsistent with public health and safety, and where such waiver does not derogate from the purposes of this Section because the proposed development will adequately serve the goals and objectives set forth in Section 6.3.1, hereof. When a project is subject only to Development Review, the City department with jurisdiction may recommend a waiver to the Building Commissioner if permitted by law.

6.3.6 Enforcement. The SPGA or Development Review may ensure compliance with these performance standards at the application stage by requiring evidence of probable compliance, whether by example of similar facilities or by engineering analysis, verified by technical peer review. In addition, the SPGA or Development Review may require a monitoring program post-permit issuance for compliance purposes for a time period as may be specified in the special permit or certificate of occupancy.

SECTION 7.0 SPECIAL REGULATIONS

7.1 PROFESSIONAL OFFICE USE AND FUNERAL HOMES.

7.1.1 General. Professional offices or funeral homes may be allowed by special permit in the districts specified in Table 1: Table of Use and Parking Regulations, provided that the following conditions are adhered to.

7.1.2 Eligibility. The following standards shall apply.

1. The use will occupy a structure that existed at the time of passage of this chapter.
2. There shall be no exterior alterations that would serve to change the character of the structure or the neighborhood.
3. All other restrictions relating to the respective use and district (i.e., parking, signs, etc.) shall be complied with.
4. All parking areas shall be effectively screened from abutting and facing residential properties by either a four-foot solid fence or a dense planting of evergreen plant materials that are at least three feet in height at the time of planting. The applicant must indicate on his plan, submitted with his application, the type and size of screening material.

7.2 EARTH REMOVAL.

7.2.1 General. The removal of sand, gravel, minerals or other earth materials from any site in the City of Haverhill except that which is clearly incidental to the construction of a structure shall be allowed only after a special permit therefor has been granted by the Zoning Board of Appeals.

1. Removal of earth materials clearly incidental to the construction of a structure and indicated on plans submitted for a building permit shall be permitted by the Building Commissioner.

7.2.2 Application for Special Permit. An applicant for a special permit for the removal of sand, gravel, minerals or other earth materials must submit the following information concerning the proposed site of the removal operation with the application to the Board of Appeals:

1. Existing topography based on a current survey showing five-foot contour intervals. Elevations should be related to United States Geological Survey datum (mean sea level).
2. A log of soil borings certified by a registered professional engineer taken to the depth of the maximum high-water table. At least one boring must be taken on each acre

proposed to be excavated under the permit and the location of such borings shown on the existing topographical map.

3. A topographical map showing final grades at five-foot contour intervals, depth of the maximum high-water table and drainage facilities after restoration of the site.
4. All maps of the site must indicate all property lines, roadways, bodies of water or public easements within 250 feet of the boundaries of the property on which the proposed removal site is to be located.

7.2.3 Operating Standards. All special permits to remove sand, gravel, minerals or other earth materials from a site granted by the Board of Appeals shall conform to the following minimum operating standards:

1. No excavation shall be closer than 150 feet to an existing public or private roadway, and no excavation shall be closer than 100 feet to other lot lines. Natural vegetation shall be left and maintained on the undisturbed land for screening and noise-reduction purposes.
2. No excavation shall be closer than 100 feet to the banks of a natural stream or other body of water.
3. No material shall be removed closer than six feet to the maximum high-water table.
4. No area shall be excavated so as to allow the accumulation of freestanding water. Permanent drainage shall be provided in accordance with good conservation practices.
5. All topsoil and subsoil shall be stripped from the active removal area and stockpiled for use in restoring the area after the removal operation has ceased.
6. Exclusive of accessways which shall not exceed 30 feet in width, no more than five acres of land shall be stripped of topsoil and subsoil and/or used for removal of sand, gravel, minerals or other earth materials at any one time.
7. All accessways leading to existing roadways shall be periodically treated with oil to reduce dust and mud except where such accessways are located on watersheds of municipal reservoirs or their tributaries.
8. Any structure erected on the premises for use by personnel or storage of equipment shall be located at least 150 feet from any existing roadway and at least 100 feet from any lot line, and any temporary structure will be removed no later than 60 days after the expiration of the permit. Any structure containing lavatory facilities or any other facility which produces wastewater shall have the facilities engineered in accordance with public health rules and be approved by the Board of Health. All structures must have the approval of the Building Commissioner prior to their erection.

9. Operating hours shall be only between 7:00 a.m. and 5:00 p.m., Monday through Friday. Vehicles may enter and leave prescribed premises only within such hours.

10. The Board of Appeals, City Council, Department of Health, Building Commissioner, Conservation Commission or any duly appointed agent of the aforesaid shall be free to inspect the premises at any time during operating hours.

11. In addition to the operating standards noted above the Board of Appeals may stipulate such other operating standards as it feels are in the best interests of public welfare.

7.2.4 Loam. Notwithstanding any other provision of this chapter, no loam shall be removed from any site in the City and be carried away to a site or locus outside the confines of the City limits.

7.2.5 Special Permit Criteria. The Zoning Board of Appeals shall consider, in addition to the factors set forth in Section 10.5, the following:

1. Method of removal;
2. Days and time of working;
3. Type of machinery to be used;
4. Limitation of area for excavation;
5. Clearance of brush;
6. Elimination of dust and soil erosion;
7. Impact on watershed areas, water table protection and drainage;
8. Placing and size of culverts, contour grading and conditioning of the land after operations are completed;
9. Planting of area to suitable cover, disposition of topsoil, and reestablishing of ground levels and grades.

7.2.6 Penalty. Any person, firm, corporation or other entity who violates the provisions of this Section shall be subject to a fine of \$500 per truckload of loam that is so removed. In addition thereto, to the extent permissible by applicable law, any such person, firm, corporation or entity shall be subject to suspension for up to one year of any and all licenses or permits issued to it by the City, said suspension to be imposed by the authority that issued such license or permit; and

provided, further, that only licenses or permits that pertain to construction-related activities shall be subject to suspension hereunder.

7.2.7 Restoration Standards. All special permits to remove sand, gravel, minerals or other earth materials granted by the Board of Appeals shall contain but not be limited to the following standards for restoring the area after removal of sand, gravel, minerals or other earth material:

1. Within 60 days after the termination date of a permit or renewal permit, ground levels and grades shall be established as shown on the approved topographical plan (reference 1, 3).
2. No area shall be left with a slope steeper than 2:1.
3. All debris, stumps, boulders or other unsightly material shall be removed from the site and disposed of in a location approved by the Board of Health or buried, only if approved by the Board of Health, on the premises in a whole so that the surface of the debris, stumps, boulders or other unsightly material is two feet below the level of the surrounding area, and that two feet filled with soil and compacted. Trees, stumps and other organic material may be chipped and used to supplement existing topsoil in meeting the minimum restoration standards described herein.
4. Retained subsoil, topsoil and wood chips shall be respread over the disturbed area to a minimum depth of six inches. This soil shall be treated with three tons of lime per acre and 1,000 pounds of 10-10-10 fertilizer per acre and seeded with grass or legume mixture prescribed by the Essex Soil Conservation District. Fingerling fir or other approved trees shall be planted over the entire area 12 feet on center. The planted area shall be protected from erosion during the establishment period using good conservation practices.
5. Upon completion of the operation, the land shall be left so that natural drainage leaves the property at the original natural drainage points and so that the area of drainage to any one point is not increased.

7.2.8 Performance Guarantee. Special permits to remove sand, gravel, minerals or other earth materials from a site granted by the Board of Appeals shall run for a period not to exceed two years from the date the permit is granted. The operator must apply not less than 90 days prior to the termination date of an existing permit for a new permit, submitting similar information with his renewal request as was required for his original permit. If no renewal request is received by the Board of Appeals 90 days prior to the termination date of an existing permit or if the renewal request is not granted, the operator must cease the removal operation by the termination date of his existing permit and proceed to restore the area of operation in accordance with the standards set forth in his permit. Renewal permits shall run for a period not to exceed two years.

1. Before an applicant may remove sand, gravel, minerals or other earth materials from a site under a permit granted by the Board of Appeals for that purpose, there must be in

effect a performance bond with the City Treasurer of not less than \$3,000 per acre to be excavated under the permit. The bond may not be terminated unless 30 days' written notice of intent to terminate has been given to the City Treasurer and to the Board of Appeals and Conservation Commission and the Board of Appeals has voted to release such bond.

7.2.9 Agents. The Building Commissioner, Board of Health and Conservation Commission or their duly appointed agents shall be the inspecting agencies for the City of Haverhill.

7.3 AUTOMOBILE SERVICE STATIONS.

7.3.1 Location. With the exception of Interstate Route 495, no automobile service station shall be built within a five-hundred-foot radius of the property line of an already existing automobile service station. On Interstate Route 495, no automobile service station shall be built within 500 feet of the property line of an already existing automobile service station on the same side of the highway.

7.4 FENCING OF WATER STORAGE FACILITIES.

7.4.1 General. Within multifamily residential development and single-family residential uses requiring Planning Board approval, any natural water body, any altered natural water body and/or any existing or proposed man-made temporary and/or permanent storage facilities of stormwater runoff known as and serving as detention basins, retention ponds and/or runoff delay areas shall have chain link fencing at least four feet in height completely enclosing said storage facilities at the top of the grade, when required by the Planning Board.

7.4.2 Enforcement. The Building Commissioner shall enforce the provisions of this Section and shall provide written notice to anyone in violation. A fine of \$100 per day shall be levied against any person in violation, beginning 30 days from the date the notice is issued. The Conservation Commission Officer shall notify the Building Inspector of any possible violations.

7.5 WIRELESS SERVICE FACILITIES.

7.5.1 Purpose. It is the express purpose of this Section to minimize the visual and environmental impacts, as well as any potential deleterious impact on property value, of wireless service facilities upon properties located within the City or adjacent thereto. No wireless service facility shall be placed, constructed or modified within the City without first obtaining development review approval or a special permit from the Special Permit Granting Authority (SPGA), as provided herein. The Board of Appeals shall be the SPGA for the issuance of a special permit to allow the placement, construction and modification of wireless service facilities within the City. This Section is intended to be used in conjunction with other regulations adopted by the City, and other zoning and general ordinances designed to encourage appropriate land use, environmental protection, preservation of the rural character and the provision of adequate infrastructure development in Haverhill.

1. The regulation of wireless service facilities is consistent with the purpose of this Ordinance and planning efforts at the local government level to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of the natural resources of Haverhill, enhancement of open space areas and respect for Haverhill's rural character.

7.5.2 Use Regulations. A wireless service facility shall require a building permit in all cases and may be permitted as follows:

1. The carrier must demonstrate that the facility is necessary in order to provide adequate service to the public.
2. A wireless service facility may locate as of right on any preexisting structure or telephone pole, existing guyed tower, lattice tower, monopole or electric utility transmission tower for which a special permit has been issued under this Section, provided that the new facility shall first obtain review approval from the Board of Appeals and, provided further, that any new facility shall not exceed the terms and conditions of the special permit in effect for the existing facility on which it is to be located.
3. No other wireless service facility shall be located in the City except upon issuance of a special permit in accordance with this Section. Such a facility may be located in any zoning district in the City, provided that the proposed facility satisfies all of the requirements set forth herein.

7.5.3 Location. Applicants seeking approval for wireless service facilities shall comply with the following:

1. If feasible, wireless service facilities shall be located on preexisting structures, including but not limited to buildings or structures, preexistent telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of preexistent telephone and electric utility structures as sites for one or more wireless service facilities. The applicant shall have the burden of proving that there are no feasible preexistent structures upon which to locate.
2. If the applicant demonstrates to the satisfaction of the SPGA that it is not feasible to locate on a preexistent structure, wireless service facilities shall be camouflaged to the greatest extent possible, including, but not limited to, use of compatible building materials and colors, screening, landscaping, with natural and/or artificial plantings, and placement within trees.
3. The applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application for a building permit and/or special permit.

7.5.4 Dimensional Requirements. Wireless service facilities shall comply with the following requirements:

1. Height, general. Regardless of the type of mount, wireless service facilities shall be no higher than 10 feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a wireless service facility shall not exceed by more than 10 feet the height limitations of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.
2. Height, ground-mounted facilities. Ground-mounted wireless service facilities shall not project higher than 10 feet above the average building height or, if there are no buildings within 300 feet, these facilities shall not project higher than 10 feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may exist or may be planted on site.
3. Height, side- and roof-mounted facilities. Side- and roof-mounted wireless service facilities shall not project more than 10 feet above the height of an existing building or structure nor project more than 10 feet above the height limit of the zoning district within which the facility is located. Wireless service facilities may locate on a building that is legally nonconforming with the respect to height, provided that the facilities do not project above the existing building height.
4. Height, preexistent structures (utility). New antennas located on any of the following structures existing on the effective date of this Section shall be exempt from the height restrictions of this Section provided that there is no increase in height of the existing structure as a result of the installation of a wireless service facility: water towers, guyed towers, lattice towers, fire towers and monopoles.
5. Setbacks. All wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:
 - a. In order to ensure public safety, the minimum distance from the base of any ground-mounted wireless service facility to any property line shall be two times the height of the facility/mount, including any antennas or other appurtenances. This setback is considered the "fall zone". A minimum setback of 600 feet shall be required for all wireless devices, antenna and their mounting structures, whether attached to a new or existing structure, as measured from the adjacent

property line of properties which are either zoned for, or contain, residential and or educational uses of any types.

b. In the event that a preexistent structure is proposed as a mount for a wireless service facility, the setback provisions of the zoning district shall apply. In the case of the preexistent nonconforming structures, wireless service facilities and their equipment shelters shall not increase any nonconformity.

7.5.5 Design Standards.

1. Camouflage by existing buildings or structures.

a. When a wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind preexistent architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

b. Wireless service facilities which are side-mounted shall blend with the preexistent building's architecture and, if over five square feet, shall be shielded with material which is consistent with the design features and materials of the building.

2. Camouflage by vegetation. If wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted wireless service facilities shall provide year-round vertical evergreen vegetated buffer of 50 feet, or 75% of the overall height of the structure, in all directions. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. Vegetation should be natural in appearance and consistent with surroundings.

3. Color.

a. Wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

b. To the extent that any wireless service facilities extend above the height of the vegetation immediately surrounding it, they must be painted in a light gray or light blue hue which blends with sky and clouds.

4. Equipment shelters. Equipment shelters for wireless service facilities shall be designed consistent with one of the following design standards:

- a. Equipment shelters must be located in underground vaults; or
- b. Designed consistent with traditional materials, color and design of the area; or
- c. Camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence acceptable to the permitting authority.

7.5.6 Lighting and Signage.

1. Wireless service facilities shall be lit only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.
2. Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No tower or other facility shall contain any signs or other devices for the purpose of advertisement. All signs shall comply with the requirements of Section 6.2.
3. All ground-mounted wireless service facilities shall be surrounded by a security barrier and shall be protected against unauthorized climbing or other access by the public.

7.5.7 Historic Buildings.

1. Any wireless service facilities located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
2. Any alteration made to a historic structure to accommodate a wireless service facility shall be fully reversible.
3. Wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
4. The Historic District Commissions established pursuant to Chapter 54 of this Code must review all appropriate facilities within their jurisdictions.

7.5.8 Scenic Landscapes and Vistas.

1. No facility shall be located within 300 feet of any public way now or in the future designated as a scenic road. If the facility is located farther than 300 feet from the scenic road, the height regulations described elsewhere in this Section shall apply.

2. Wireless service facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. As required herein regarding camouflage, above, all ground-mounted wireless service facilities that are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.

7.5.9 Environmental Standards.

1. Wireless services facilities shall not be located in wetland resource areas. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized. All Conservation Commission regulations and procedures must be followed.

2. No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on site. Applicant must comply with all federal, state and local regulations governing hazardous materials.

3. Stormwater runoff as a result of the wireless facility shall be contained on site and comply with the DEP stormwater management regulations as applicable.

4. Ground-mounted equipment for wireless service facilities shall not generate acoustic noise in excess of 50 dB at the security barrier.

5. Roof-mounted or side-mounted equipment for wireless service facilities shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

7.5.10 Safety Standards.

1. Radiofrequency radiation (RFR) standards. All equipment proposed for a wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation ("FCC Guidelines") or any other applicable FCC guidelines and regulations.

2. Structural integrity. The applicant shall provide certification by a structural engineer that the wireless service facility is structurally sound for the proposed facility.

7.5.11 Application Procedures. The Special Permit Granting Authority (SPGA) for wireless service facilities shall be the Board of Appeals. The following shall be included with an application for a special permit for all wireless service facilities:

1. General filing requirements:

- a. Name, address and telephone number of applicant and any coapplicants as well as any agents for the applicant or coapplicants. A twenty-four-hour emergency telephone contact number shall be included for use during construction as well as operation of the wireless communication facility.
- b. Coapplicants may include the landowner of the subject property, licensed carriers and tenants for the wireless service facility.
- c. Every application for a wireless service facility special permit shall include at least one licensed carrier and the owner of the land as an applicant or a coapplicant.
- d. Original signatures are required for the applicant and all coapplicants applying for the special permit. If an agent represents the applicant or coapplicant, an original signature authorizing the agent to represent the applicant and/or coapplicant is required. Photo reproductions of signatures will not be accepted. All other filing requirements in this Ordinance and the rules and regulations of the SPGA, as applicable, must be complied with.

2. Location filing requirements:

- a. Identify the subject property by including the name of the nearest road or roads, street address, and Assessor's Map and Parcel number of subject property.
- b. Identify the zoning district designation for the subject parcel. Submit a copy of City Zoning Map with parcel identified.
- c. A locus map at a scale of one inch equals 1,500 feet showing the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- d. A map showing the other preexistent and approved wireless service facilities in Haverhill and outside Haverhill within one mile of its boundary.
- e. GPS all equivalent system locating by latitude and longitude wireless service facilities.

3. Siting filing requirements. A plan at one inch equals 40 feet prepared by a registered professional engineer in the Commonwealth of Massachusetts showing the following:

- a. Property lines for the subject property.
- b. Property lines of all properties within 300 feet of the proposed location.

- c. Tree cover on the subject property and all properties directly abutting the subject property, by dominant species and average height.
- d. Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all properties adjacent to the subject property.
- e. Proposed location of antenna, mount and equipment shelter(s).
- f. Proposed security barrier, indicating type and extent as well as point of controlled entry.
- g. Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wireless service facility.
- h. Distances, at grade, from the proposed wireless service facility to each building on the vicinity plan.
- i. Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
- j. All proposed changes to the preexistent property, including grading, vegetation removal and temporary or permanent roads and driveways.
- k. Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the wireless service facility.
- l. Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from the Section 7.4.12.
- m. Location of all wetlands on the subject property and within 100 feet of the proposed facility as approved by the Conservation Commission.

7.5.12 Sight Lines; Photographs.

- 1. Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet to the highest point (visible point) of the wireless service facility. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet scale. The profiles shall show all intervening trees and buildings. In the event there is only one (or more) residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public roads, if any.

2. Preexistent (before condition) photographs. Each sight line shall be illustrated by one four-inch-by-six-inch color photograph of what can currently be seen from any public road and any residential building within 300 feet.
3. Proposed (after condition) photographs. Each of the preexistent condition photographs shall have the proposed wireless service facility superimposed on it to show what will be seen from public roads and residential buildings if the proposed wireless service facility is built.
4. Siting elevations or views at-grade from the north, south, east and west for a fifty-foot radius around the proposed wireless service facility plus from all preexistent public and private roads that serve the subject property. Elevations shall be at either scale of 1/4 inch equals one foot or 1/8 inch equals one foot and show the following:
 - a. Antennas, mounts and equipment shelter(s), with total elevation dimensions and average ground level (AGL) of the highest point. All future proposed antennas, mounts and equipment shelters if any must be shown in order to be included in the special permit.
 - b. Security barrier. If the security barrier will block views of the wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
 - c. Any and all structures on the subject property.
 - d. Preexistent trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
 - e. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours AMSL.

7.5.13 Design Filing Requirements.

1. Equipment brochures for the proposed wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
2. Materials of the proposed wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum stained wood, painted fiberglass, alloys, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
3. Colors of the proposed wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antenna mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

4. Dimensions of the wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.

5. Appearance shown by at least two photographic superimpositions of the wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables, as well as cable runs, and security barrier, if any, for the total height, width and breadth.

6. Landscape plan including preexistent trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.

7. During the public hearing process the applicant shall schedule with the Board of Appeals a balloon or crane test at the proposed site, at the expense of the applicant, to illustrate the height of the proposed facility.

8. If lighting on the site is required by the FAA, the applicant shall submit a manufacturer's computer generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and 25 feet beyond property lines. The printout shall indicate the locations and types of luminaries proposed.

7.5.14 Noise Filing Requirements. The applicant shall provide a statement listing the preexistent and maximum future projected measurements of noise from the proposed wireless service facilities, measured in decibels Ldn (common logarithmic scale, accounting for greater sensitivity at night), for the following:

1. Preexistent or ambient: the measures of preexistent noise.
2. Preexistent plus proposed wireless service facilities: maximum estimate of noise from the proposed wireless service facility plus the preexistent noise environment.
3. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet DEP requirements and Section 6.3.

7.5.15 Radiofrequency Radiation (RFR) Filing Requirements.

1. All telecommunications facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies, power levels and standards, including FCC radio frequency emissions standards. The applicant shall provide certification demonstrating that the maximum allowable frequencies; power levels will not be exceeded. Certifications shall include technical specifications, a written explanation of those specifications, and, if necessary, field verification. The permit granting authority may condition any special permit granted under this Section upon a periodic submittal of certification of compliance with said standards.

2. In order to determine compliance with applicable FCC regulations, the applicant shall provide a statement listing the preexistent and maximum future projected measurements of RFR from the proposed wireless service facility, including all collocators, for the following situations:

- a. Preexistent or ambient: the measurement of preexistent RFR.
- b. Preexistent plus proposed wireless service facilities: maximum estimate of RFR from the proposed wireless service facility plus the preexistent RFR environment.
- c. Certification, signed by an engineer, stating that RFR measurements are accurate and meet FCC guidelines as specified in the radiofrequency radiation standards of this Section.
- d. Applicant must submit a copy of the letter from the Massachusetts Department of Public Health approving the site for this facility as required by 105 CMR 122.000 requires that the Department of Public Health approve all sites for wireless facilities with respect to emissions.

7.5.16 Federal Environmental Filing Requirements.

1. At the time of application filing, an environmental assessment (EA) that meets FCC requirements shall be submitted to the City for each wireless service facility site that requires such an EA to be submitted to the FCC.
2. The applicant shall list location, type and amount (including radiation trace elements) of any materials proposed for use within the wireless service facility that are considered hazardous by the federal, state or local government.

7.5.17 Waiver. The SPGA may waive one or more of the application filing requirements of this Section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

7.5.18 Technical Expert. The SPGA may retain a technical expert at any time to provide for a professional review and to insure compliance with the technical requirements of this Section, with the cost of such a technical expert to be borne by the applicant.

7.5.19 Colocation. Licensed carriers shall share wireless service facilities and sites where feasible and appropriate, thereby reducing the number of wireless service facilities that are standalone facilities. All applicants for a special permit for a wireless service facility shall demonstrate a good faith effort to collocate with other carriers. Such good faith effort includes:

1. A survey of all preexistent structures that may be feasible sites for collocating wireless service facilities;
2. Contact with all other licensed carriers for commercial mobile radio services operating in the Commonwealth of Massachusetts; and
3. Sharing information necessary to determine if collocation is feasible under the design configuration most accommodating to collocation.
4. An applicant shall demonstrate to the Board of Appeals that it has made a good faith effort to collocate its facility upon an existing facility. The City may deny a special permit to an applicant who has not demonstrated a good faith effort to provide for collocation.
5. If the applicant does intend to collocate or to permit collocation, the City shall request drawings and studies that show the final appearance and operation of the wireless service facility at full buildout.
6. If the SPGA approves collocation for a wireless service facility site, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit. This allows a carrier to "pre-permit" a site for additional facilities so that they will not have to apply for another special permit later.
7. In order to determine compliance with all applicable FCC regulations, estimates of RFR emissions will be required for all facilities, including proposed and future facilities both for the applicant and all collocators.

7.5.20 Modifications. A modification of a wireless service facility may be considered equivalent to an application for a new wireless service facility and will require a special permit when the following events apply:

1. The applicant and/or coapplicant want to add any equipment or additional height not specified in the original design filing.
2. The applicant and/or coapplicant want to alter the terms of the special permit by changing the wireless service facility in one or more of the following ways:
 - a. Change in the number of facilities permitted on the site;
 - b. Change in technology used for the wireless service facility.

7.5.21 Monitoring and Maintenance; Violations and Penalties.

1. After the facility is in operation, the applicant shall submit to the SPGA, within 90 days of beginning operations and at annual intervals from the date of issuance of the special permit, preexistent and current RFR measurements. Such measurements shall be signed and certified by an RF engineer, stating that RFR measurements are accurate and are in compliance or why the measurements fail to comply with all applicable FCC Guidelines as specified herein, regarding RFR filing requirements of this Section. The measurements shall be submitted for both the applicant and all collocators.
2. After the wireless service facility is in operation the applicant shall submit to the SPGA; within 90 days of the issuance of the special permit and at annual intervals from the date of issuance of the special permit, preexistent and current measurements of acoustic noise from the wireless service facility. Such measurements shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the standards of Chapter 182, Noise, of this Code.
3. The applicant and coapplicant or their successor in interest shall maintain the wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer and landscaping.
4. Failure to provide the information required in this Section shall result in a fine of not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.

7.5.22 Abandonment or Discontinuation of Use; Violations and Penalties.

1. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless service facility, such carrier will notify the City by certified US mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the wireless service facility shall be considered abandoned upon discontinuation of operations.
2. Upon abandonment or discontinuation of use, the carrier shall physically remove the wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - a. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - b. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

c. Restoring the location of the wireless service facility to its natural condition, except that any landscaping and grading shall remain the after-condition.

3. As a condition of any special permit for the placement, construction or modification of a wireless service facility, a carrier shall place into escrow a sum of money to cover the costs of removing the facility from the subject property. Said amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. Said funds shall be held by an independent escrow agent to be appointed by the carrier and the SPGA. The carrier shall authorize and, as necessary, shall obtain the authorization of the owner of the property to allow the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued. In the event the posted amount does not cover the cost of demolition and/or removal the City may place a lien upon the property covering the difference in cost.

4. A facility shall be deemed to be abandoned or discontinued if it has not been used for the purpose for which it was originally constructed for a period of six months or more. Once abandonment or discontinuance has occurred, the carrier shall remove the facility from the subject property within 90 days. In the event that the carrier fails to remove the facility, the City shall give notice to the carrier and the independent escrow agent that the facility shall be removed by the escrow agent forthwith and the escrow agent, after affording written notice seven days in advance to the carrier, shall remove the facility.

5. Failure to follow the provisions of this Section shall result in a fine of not more than \$300 for each offense. Each day that such violation continues shall constitute a separate offense.

7.5.23 Reconstruction or Replacement of Existing Towers and Monopoles. Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Section may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the SPGA finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the City than the preexistent nonconforming structure. In making such a determination, the SPGA shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for collocation, improvements in public safety, and/or reduction in visual and environmental impacts.

7.5.24 Performance Guarantees.

1. Insurance in a reasonable amount determined and approved by the SPGA after consultation at the expense of the applicant with one or more insurance companies shall be in force to cover damage from the structure, damage from transmissions and other site liabilities. Annual proof of said insurance must be filed with the SPGA.

2. Funds, sufficient in the opinion of the SPGA to cover annual maintenance of the facility, shall be placed into escrow and shall be held by the independent escrow agent who shall be authorized to expend the funds for the maintenance of the facility on terms to be agreed upon by the carrier and the SPGA as a condition of approval of the special permit.

3. Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American National Standards Institute shall be filed with the SPGA by the special permit holder.

7.5.25 Term of Special Permit; Renewal. A special permit issued for any wireless service facility shall be valid for three years. The special permit may be renewed under the same criteria as the original special permit, provided that the application for renewal of the special permit is made prior to the expiration date of the original or any renewed special permit. Additional measures governing the administration of the special permit are found in Section 10.0 of this Ordinance.

7.6 COIN OPERATED MACHINES.

7.6.1 General. Over three coin-operated machines, as defined in Chapter 104 of the Code, in any establishment other than bars, clubs and bowling alleys and skating rinks, constitute an amusement arcade (under the general category of amusement facility) allowed only in CH, CG, IG, and BP. Zones throughout the City (except for the central business district as defined below where arcades shall not be allowed) which requires a special permit from the Board of Appeals. The sale and/or consumption of alcoholic beverages shall be prohibited in all amusement arcades. For the purpose of this Section, the central business district is defined as that area enclosed by the following boundaries: Starting at the point of intersection of Mill Street and Ginty Boulevard southerly along the projected center line of Mill Street to the Merrimack River floodwall; thence westerly along the floodwall to its intersection with the B & M railway line; thence northerly along the railway line to its intersection with the projected center line of Granite Street; thence northeasterly along the center lines of Granite Street and Locust Street to Walnut Street; thence southwesterly along the center line of Walnut Street to Bailey Boulevard; thence easterly along the center lines of Bailey Boulevard and Ginty Boulevard to the point of origin.

7.7 ACCESS REGULATIONS.

7.7.1. Access from R District. Access from any R Zoning District to an existing roadway which must pass through or into any other R Zoning District or through any C or I District is permitted.

7.7.2 Access from I or C District.

1. Access from any I or C Zoning District to an existing roadway which must pass through or into any other I or C Zoning District is permitted.
2. Access from any I or C Zoning District to an existing roadway which must pass through an R or S Zoning District may be permitted by a special permit issued by the Board of Appeals.

7.8 SOLAR ENERGY SYSTEMS.

7.8.1 Purpose. The purpose of this Section is to regulate and restrict the creation of new Solar Energy Systems, particularly Large-Scale Ground-Mounted Solar Energy Systems and Roof-Mounted Solar Energy Systems, by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

7.8.2 Definitions. See "Solar Energy Systems" in Section 11.0.

7.8.3 Applicability. This Section applies to all types of Solar Energy Systems.

1. Large-Scale Ground-Mounted Solar Energy Systems are allowed in any district, except the Waterfront District (in which they are prohibited), upon the grant of a special permit from the City Council (the "SPGA").
2. Medium-Scale Ground-Mounted Solar Energy Systems are allowed in any district, except the Waterfront District (in which they are prohibited), subject to Development Review and approval under Section 10.1.4 and the other requirements of this Section.
3. Large-Scale and Medium Scale Roof-Mounted Solar Energy Systems are allowed as of right in all districts. Such Solar Energy Systems require Development Review and approval as per Section 10.1.4.
4. Solar Energy Systems owned, operated by, or developed for and on behalf of the City are allowed as-of-right in all districts subject to Development Review and approval under Section 10.1.4 and the other requirements of this Section.
5. Small-Scale Roof-Mounted Solar Energy Systems which are an accessory to an existing residential use do not need to comply with this Section, but require a building permit and must comply with the other provisions of this Ordinance as may be applicable.

7.8.4 General Requirements for All Large-Scale Ground-Mounted Solar Energy Systems. The following requirements shall apply to all such Solar Energy Systems.

1. *Compliance with Laws, Ordinances and Regulations.* The construction and operation of all Large-Scale Ground-Mounted Solar Energy Systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar installation shall be constructed in accordance with the State Building Code.

2. *Building Permit and Building Inspection.* No Large-Scale Ground-Mounted Solar Energy System shall be constructed, installed or modified as provided in this Section without first obtaining a building permit.

3. *Fees.* The application for a building permit for a Large-Scale Ground-Mounted Solar energy System must be accompanied by the fee required for a Building Permit and Special Permit.

7.8.5 Review. All (a) Large-Scale and Medium Scale Ground-Mounted Solar Energy Systems, (b) Large-Scale and Medium-Scale Roof Mounted Solar Energy Systems, and (c) Solar Energy Systems owned, operated by, or developed for and on behalf of the City (hereinafter, the “Regulated Solar Energy Systems”), shall submit the information contained in this Section 7.8.5. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts. The project applicant shall provide the following documents in addition to or in coordination with those required for Development Plan approval per Section 10.1.4.

1. *Plan.* The Plan must include the following:

- a. Property lines and physical features, including roads and topography, for the project site;
- b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures including their height;
- c. Locations of wetlands, Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP);
- d. Locations of Floodplains or inundation areas for moderate or high hazard dams;
- e. Locations of Priority Heritage Landscapes and local or National Historic Districts;

- f. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate;
- g. Blueprints or drawings of the Regulated Solar Energy System signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
- h. One or three line electrical diagram detailing the Regulated Solar Energy System, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- i. Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.;
- j. Name, address, and contact information for proposed system installer;
- k. Name, address, phone number and signature of the project applicant, as well as all co-applicants or property owners, if any;
- l. The name, contact information and signature of any agents representing the project applicant;
- m. Fire protection measures;
- n. Storm drainage, including means of ultimate disposal and calculations;
- o. Existing trees 10” caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening. Every abutting property shall be visually screened from the project through any one or combination of the following location, distance, plantings, existing vegetation and fencing. Said screening is not required to exceed eight (8) feet in height and the Applicant shall demonstrate that the proposal provides visual screening;
- p. Certified list of abutters.

2. *Site Control.* The project applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed Regulated Solar Energy System.

3. *Operation and Maintenance Plan.* The project applicant shall submit a plan for the operation and maintenance of the Regulated Solar Energy System, which shall include measures for maintaining safe access to the Regulated Solar Energy System, stormwater

management consistent with City's and DEP's Stormwater Regulations and vegetation controls, as well as general procedures for operational maintenance of the Regulated Solar Energy System.

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

5. *Insurance.* The project applicant shall provide proof of liability insurance.

6. *Financial Surety.* Applicants proposing s Regulated Solar Energy System shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the Regulated Solar Energy System and remediate the landscape, in an amount and form determined to be reasonable by the Planning Director, but in no event to exceed more than 125 percent (125%) of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project applicant and the City. Such surety will not be required for municipal Regulated Solar Energy System. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

7. *Utility Notification.* o Regulated Solar Energy System shall be constructed until evidence has been given to the Planning Director that the utility company that operates the electrical grid where the System is to be located has been informed of the Regulated Solar Energy System's owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

7.8.6 Dimensional Requirements.

1. *Setbacks.* For Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy Systems, front, side and rear setbacks shall be as follows.

a. Front yard. The front yard depth shall be at least 100 feet.

b. Side yard. Each side yard shall have a depth of at least 75 feet; provided, however, that where the lot abuts a Residential district, the side yard shall not be less than 100 feet.

c. Rear yard. The rear yard depth shall not be less than 75 feet; provided, however, that where the lot abuts a Residential district, the rear yard shall not be less than 100 feet.

2. *Appurtenant Structures.* All appurtenant structures Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy System shall be subject to reasonable

conditions concerning the bulk and height of structures, lot area, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

7.8.7 Design and Performance Standards.

1. *Lighting.* Lighting of Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy Systems shall be consistent with local, state and federal law. Lighting of other parts of the System, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties. Lighting of such Systems shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. *Signage.* Signs on Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy Systems shall comply with this Zoning Ordinance. A sign shall be required to identify the owner and provide a 24-hour emergency contact phone number. Such Systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar installation.
3. *Utility Connections.* Electrical transformers or other utility interconnections shall be constructed as required by the utility provider and may be above ground only if necessary. Reasonable efforts shall be made to place all utility connections from the Solar Energy System underground (if feasible), depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.
4. *Roads.* Access roads shall be constructed to a minimum width of 22 feet and paved or compacted to provide suitable access for fire, police, and emergency vehicles. Such roads shall be designed to minimize removal of stone walls or street trees and minimize impacts to environmental or historic resources. Such roads shall be maintained and cleared throughout the year.
5. *Control of Vegetation.* Herbicides may not be used to control vegetation at the For Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy Systems. Mowing or the use of pervious pavers or geotextile materials underneath the solar array is a possible alternative.
6. *Hazardous Materials.* Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to Mass DEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar equipment then

impervious containment areas capable of controlling any release to the environment and to prevent potential contamination of groundwater are required.

7.8.8 Safety and Environmental Standards.

1. *Emergency Services.* The Regulated Solar Energy System owner or operator shall provide a copy of the project summary, electrical schematic, and Plan to the Fire Chief, DPW, and Emergency Management Director. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan including the training of any municipal first responders. All means of shutting down the For Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy Systems, For Large-Scale, Medium-Scale, and Municipal Ground-Mounted Solar Energy Systems, Regulated Solar Energy System shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of such System.

2. *Land Clearing, Soil Erosion and Habitat Impacts.* Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Regulated Solar Energy System or otherwise prescribed by applicable laws, regulations, and ordinances.

7.8.9 Monitoring, Maintenance and Reporting.

1. *Solar Installation Conditions.* The Regulated Solar Energy System owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining such System and any access road(s).

2. *Modifications.* All material modifications to a Regulated Solar Energy System made after issuance of the required building permit shall require approval by the SPGA and/or Development Review team.

3. *Annual Reporting.* The owner or operator of the Regulated Solar Energy System shall submit an Annual Report demonstrating and certifying compliance with the Operation and Maintenance Plan required herein and the requirements of this Section and approved per Section 10.1.4, including control of vegetation, noise standards, and adequacy of road access. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by such System. The report shall be submitted to the City Council, Planning Director, Fire Chief, Emergency Management Director, Building Commissioner, Board of Health and Conservation Commission (if a Wetlands Permit was issued) no later than 45 days after the end of the calendar year.

7.8.10 Abandonment or Decommissioning.

1. *Removal Requirements.* Any Regulated Solar Energy System which has reached the end of its useful life or has been abandoned (see Subsection 2, below) shall be removed. The owner or operator shall physically remove such System no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Planning Director by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all Regulated Solar Energy System structures, equipment, security barriers and transmission lines from the site;
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. Approval per Section 10.1.4 may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. *Abandonment.* Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a Regulated Solar Energy System shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Director. If the owner or operator of the Regulated Solar Energy System fails to remove the installation in accordance with the requirements of this Section within 180 days of abandonment or the proposed date of decommissioning, the City may enter the property and physically remove such System at the owner's expense.

3. *Financial Surety.* Applicants shall submit documentation of financial surety that satisfies this Section.

7.8.11 Special Permit Criteria for the Large-Scale Ground-Mounted Solar Energy

Systems. In addition to any other criteria set forth in this Ordinance for the grant of a special permit, the SPGA shall consider whether he grant of a special permit for a Large-Scale Ground-Mounted Solar Energy System will promote the highest and best use of the subject property, taking into account the characteristics of the subject property, including past land uses, possible presence of hazardous materials, and other development limitations.

7.8.12. Review for Medium-Scale Ground-Mounted, Roof-Mounted, and Municipal Solar Energy Systems. Approval per Section 10.1.4 may impose reasonable conditions consistent with the applicable standards set forth herein for the such Solar Energy Systems.

7.8.13 Mandatory Inclusion of Roof-Mounted Solar Energy System. Any proposed development requiring a special permit or Development Plan review and approval under Section 10.1.4 which will be greater than or equal to ten thousand (10,000) gross square feet or contain

ten (10) or more residential dwelling units shall include a plan showing a Roof-Mounted Solar Energy System that is equivalent to a minimum of 50% of the Solar-Ready Zone of all buildings. In cases where a site includes an uncovered parking structure the structure shall also have a solar energy system installed to cover a minimum of 90% of its top level.

7.8.14 Solar Energy System Assessment. Such proposed developments shall provide a Solar Energy System Assessment. Such assessment shall include, at a minimum:

1. An analysis for Roof-Mounted Solar Energy System(s) for the site detailing layout and annual production.
2. Identification of the maximum feasible Solar-Ready Zone of all structures and potential ground-mounted canopies.
3. An initial Solar Energy System Assessment shall be submitted with the required application for a Development Plan approval under Section 10.1.4.

7.8.15 Exemptions. A development project will not be required to install a Roof-Mounted Solar Energy System when there is no Solar-Ready Zone, or the Solar-Ready Zone is shaded for more than 50 percent of daylight hours annually, or for building conversions with insufficient structural load capacity.

7.9 ADULT USES.

7.9.1 Purpose. It is the purpose of this Section governing Adult Uses to address and mitigate the secondary effects of Adult Uses and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the City, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the City. All of said secondary impacts are adverse to the health, safety and general welfare of the City and its inhabitants.

1. The provisions of this Section have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this Section to restrict or deny access by adults to Adult Uses or to sexually oriented matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

7.9.2 Authority. This Section is enacted pursuant to M.G.L. Chapter 40A and pursuant to the Massachusetts Constitution to serve the compelling City interests of limiting the location of and preventing the clustering and concentration of certain Adult Uses for the reasons set forth, above.

7.9.3 Applicability. An Adult Use may be permitted as set forth in the Table of Use Regulations by special permit by the Board of Appeals provided a written determination is issued by said board that the special permit decision criteria of Section 10.5 have been met.

7.9.4 Location.

1. Adult Uses may not be located less than 500 feet from any Residential District or 1,000 feet from another Adult Use.
2. Such Use shall not be permitted along primary access ways into the City along Washington Street, Groveland Street, Lincoln Avenue, Water Street, Main Street, Broadway, North Broadway, River Street, Kenoza Avenue, Monument Square, and Hilldale Avenue.
3. Such Use shall not be permitted within the CBD and only allowed by special permit from the City Council in the CG and IG Districts.

7.9.5 Conditions.

1. In no instance shall the Board of Appeals issue a special permit to any person convicted or violating M.G.L. c. 119, s. 63 or M.G.L. c. 272, s. 28.
2. No pictures, publications, electronic media, or other implements, items, or advertising that fall within the definition of adult merchandise shall be displayed in store windows or be visible from areas used by the general public.
3. No one under age 21 shall be admitted to any Adult Use.

SECTION 8.0 SPECIAL RESIDENTIAL REGULATIONS

8.1 ACCESSORY APARTMENTS.

8.1.1 General. In Residential Districts, one apartment, consisting of separate living quarters in the principal building, may be constructed in a single-family dwelling, upon grant of a special permit.

8.1.2 Eligibility. In order for the Board of Appeals to grant a special permit, the following conditions must be met in addition to other special permit requirements. These conditions may not be waived through use of a variance.

1. The building must retain its characteristically single-family appearance.
2. A separate main entrance may not be constructed, facing the lot frontage.
3. The apartment shall not exceed 1,200 square feet or 30% of the living space (square feet) of the size of the existing structure, whichever is less.
4. The conversion must occur entirely within the existing footprint of the building.
5. The single-family home must be owner-occupied with no separate electric or heating services provided to the accessory apartment.
6. The Board of Health must certify that any existing potable water and sanitary waste disposal system is adequate to support a second living unit.

8.2 MULTIFAMILY DWELLING UNITS WITHIN THE RH, RU, CC, CM AND CG DISTRICTS.

8.2.1 General. Multifamily dwelling units may be permitted within the specified zones by special permit, provided that the following conditions are met.

8.2.2 Eligibility. The proposed development must conform to the respective requirements of Section 4.0, Table 2: Table of Dimensional and Density Regulations.

1. The development shall be served by both public water and sewerage systems.
2. The maximum continuous length of any building facade in any one direction shall not exceed 200 feet, and for attached dwellings (townhouses or row house), the minimum number of units in a row shall be three and a maximum of 10 units (but not to exceed 200 feet). There shall be a minimum of 40 feet between buildings or townhouse rows.

3. The plan and the roadway and respective utility improvements in the tract shall be subject to the definitive plan and performance guaranty requirements of the Rules and Regulations Governing the Subdivision of Land in the City of Haverhill, Massachusetts.

4. The services of a consultant to act as a Clerk of the Works, directly responsible to the City Engineer, to assure that proper construction practices are implemented according to any standards or procedures set forth by the City Council as a condition for the issuance of the required special permit and according to the subdivision plans and specifications approved by the Planning Board, shall be required, upon the written recommendation of the City Engineer, for any multifamily development where new roadway and/or utility systems are required. Said Clerk shall be selected and reimbursed as outlined within Section 10.7.

5. The developer shall install street identification signs on all rights-of-way and drives within the development. Said signs shall be in place upon completion of final paving of each respective way or drive.

6. The developer shall install streetlighting on all rights-of-way and drives within the development. The lighting shall be in place prior to paving of each respective way or drive.

8.3 [Reserved]

8.4 FLEXIBLE DEVELOPMENT.

8.4.1 Purpose. The purpose of this Section, Flexible Development, is to:

1. Encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
2. Preserve historical and archeological resources; to protect the natural environment, including the City's varied landscapes and water resources;
3. Protect the value of real property;
4. Promote more sensitive siting of buildings and better overall site planning;
5. Perpetuate the appearance of the City's traditional New England landscape;
6. Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
7. Offer an alternative to standard subdivision development; and
8. Promote the development of housing for persons over the age of fifty five.

8.4.2 Applicability. In accordance with the following provisions, a Flexible Development project may be created, whether a subdivision or not, from any parcel or set of contiguous parcels held in common ownership with not less than three (3) acres and located entirely within the following districts: RS, RR, RL, RM, and CN.

8.4.3 Procedures. Flexible Development may be authorized upon the issuance of a special permit by the City Council (SPGA). Applicants for Flexible Development shall file with the SPGA thirty (30) copies of the following:

1. A development plan conforming to the requirements for a preliminary plan as set forth in the Subdivision Rules and Regulations of the Planning Board.
2. Where wetland delineation is in doubt or dispute, the SPGA may require appropriate documentation.
3. Data on proposed wastewater disposal, which shall be referred to a consulting engineer for review and recommendation.
4. The SPGA may also require as part of the development plan any additional information necessary to make the determinations and assessments cited herein.

8.4.4 Design Process. Each development plan shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the SPGA that this Design Process was considered in determining the layout of proposed streets, houselots, and contiguous open space.

1. *Understanding the Site.* The first step is to inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.
2. *Evaluating Site Context.* The second step is to evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.
3. *Designating the Contiguous Open Space.* The third step is to identify the contiguous open space to be preserved on the site. Such open space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood open space networks.
4. *Location of Development Areas.* The fourth step is to locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared

amenities, so as to reflect an integrated community, with emphasis on consistency with the City's historical development patterns.

5. *Lot Lines.* The final step is simply to draw in the lot lines (if applicable).

8.4.5 Modification of Lot Requirements. The SPGA encourages applicants for Flexible Development to modify lot size, shape, and other dimensional requirements for lots within a Flexible Development, subject to the following limitations:

1. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the Flexible Development; provided, however, that the SPGA may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.
2. At least 50% of the required side and rear yards in the district shall be maintained in the Flexible Development.

8.4.6 Basic Maximum Number of Dwelling Units. The Basic Maximum Number of dwelling units allowed in a Flexible Development shall not exceed the number of lots which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

8.4.7 Density Bonus. The SPGA may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the Flexible Development shall not, in the aggregate, exceed forty percent (40%) of the Basic Maximum Number. All dwelling units awarded as a density bonus shall be two bedroom units. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:

1. For each additional ten percent (10%) of the site over the open space required below and set aside as contiguous open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 20% of the Basic Maximum Number.
2. Where the Planning Board determines that the applicant has offered significant amenities to the City, including but not limited to infrastructure improvements, equipment, or technical assistance, a bonus of up to 20% of the Basic Maximum Number may be awarded.

8.4.8 Types of Buildings. The Flexible Development may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than six (6) dwelling units. The architecture of all multifamily buildings shall be residential in character, particularly providing gabled roofs, predominantly wood siding, an

articulated footprint and varied facades. Residential structures shall be oriented toward the street serving the premises and not the required parking area.

8.4.9 Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the City where the roadway is or may be ultimately intended for dedication and acceptance by the City. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

8.4.10 Parking. Each dwelling with one or two bedrooms shall be served by 1 parking space. Each dwelling with three bedrooms shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation.

8.4.11 Water and Sewer. A development may be served by private or public water or sewer/wastewater disposal systems.

8.4.12 Trash Removal. Trash removal in a Flexible Development shall be private.

8.4.13 Contiguous Open Space. A minimum of 20% of the parcel shown on the development plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to the City or its Conservation Commission, shall be subject to a recorded restriction enforceable by the City, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

1. The percentage of the contiguous open space which is wetlands shall not normally exceed the percentage of the tract which is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes set forth in Section 1.0, above. In no case shall the percentage of contiguous open space which is wetlands exceed fifty percent (50%) of the tract.
2. The contiguous open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.
3. The contiguous open space shall remain unbuilt upon, provided that the SPGA may permit some of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths.
4. Underground utilities to serve the Flexible Development site may be located within the contiguous open space.

8.4.14 Ownership of the Contiguous Open Space. The contiguous open space shall, at the SPGA's election, be conveyed to:

1. The City or its Conservation Commission;
2. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
3. A corporation or trust owned jointly or in common by the owners of lots within the Flexible Development. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the City to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the City an easement for this purpose. In such event, the City shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the City may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the SPGA for approval, and shall thereafter be recorded.

8.4.15 Buffer Areas. A buffer area of 25 feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The SPGA may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least 10 feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the City for conservation or recreation purposes; or (iii) the SPGA determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

8.4.16 Stormwater Management. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Rules and Regulations of the Planning Board.

8.4.17 Homeowners or Condominium Association. The applicant shall submit documents to the City Council creating a homeowners or condominium association to manage the affairs of the Flexible Development after construction. Such documents shall be approved as to form by the City Solicitor. The association shall be funded by the applicant as determined by the City Council in the grant of any special permit.

8.4.18 Waiver. The City Council may waive any requirement of this Section 8.4 when the grant of said waiver(s) will not result in substantial detriment to the neighborhood and the proposed development meets the goals of Section 8.4.1.

8.4.19 Decision. The SPGA may approve, approve with conditions, or deny an application for a Flexible Development after determining whether the Flexible Development better promotes the purposes of Section 8.5.1 of this Ordinance than would a conventional subdivision development of the same locus.

8.4.20 Relation to Other Requirements. The submittals and permits of this Section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Ordinance.

8.5 PLANNED DEVELOPMENT (PD) DISTRICT.

8.5.1 Purpose and Intent. The Planned Development (PD) District is intended to:

1. Permit an entity to propose, and for City Council vote, a development proposal that specifies a mixture of commercial, industrial, residential, open space or other uses and the site development requirements to be used for a specific site.
2. Permit some flexibility in the development of individual tracts of land by required and predetermined standards.
3. Permit the use of development standards tailored to a specific site and more detailed than those for the standard zoning districts.
4. Permit the City to evaluate the potential impacts of a proposed development and to authorize the Council, as the Special Permit Granting Authority (SPGA), to require that the development of the site substantially conforms to site development standards approved as part of the rezoning to PD District and intended to mitigate or compensate for the potential impacts.

8.5.2 Types. There are two types of Planned Development Districts:

1. *Planned Commercial Development District (PCD).* Primarily Commercial, Industrial and other Nonresidential uses alone or in combination.
2. *Planned Residential Development District (PRD).* Primarily Residential uses alone or in combination with Nonresidential uses.

8.5.3 Procedures. A Planned Development District requires an amendment to this Zoning Ordinance. The PD District does not have any minimum lot size and there is no minimum lot area required to seek a rezoning to the PD District. Applicants for a PD District shall observe the following procedures in order to promote review of the proposed amendment and to facilitate public-private cooperation in the establishment of the PD District.

1. *Pre-Application Review.* Applicants are strongly encouraged to schedule a pre-application review with the Planning Department. Pre-application review should

precede the preparation of detailed plans or specifications. For the Pre-Application Review, an applicant will submit a project description that describes the uses to be proposed and the benefits to the City from those uses.

2. *Ordinance Submission.* The applicant shall submit a proposed amendment to this Ordinance for the PD District rezoning in consultation with the Planning Board and the Ward Councilor. The proposed amendment shall contain the requirements set forth in Section 8.5.5. The finalized amendment shall be presented to the City Council for approval of the proposed PDD. The Planning Department shall prepare the text of the proposed amendment and locate the new district on the Zoning Map.

3. *Statutory Requirements.* The zoning amendment shall thereafter be processed in accordance with M.G.L. c. 40A, s. 5 and Section 1.6 of this Ordinance.

8.5.4 Lapse. The development and uses approved in a rezoning to PD District must be commenced by obtaining a PD Special Permit as required in Section 8.6.6 within two (2) years. Until such time as the required PD Special Permit is granted and recorded by the property owner, or if a PD Special Permit is not obtained within two (2) years, the development of the property shall be governed by the provisions presently in effect in the zoning district for which the land was zoned immediately prior to its inclusion in the PD District.

8.5.5 Submission Requirements for a PD Rezoning Ordinance. The application for a PD District Rezoning shall include a Preliminary Plan and the required submission fee.

1. *Submission Fee.* The SPGA shall specify submission fees for a PD District rezoning in its Rules and Regulations. In no case shall the fee be less than \$850. The required fee shall be submitted with the rezoning request and Preliminary Plan.

2. A Preliminary Plan which shall include the following at a level of detail sufficient to enable a peer review, if required by the SPGA:

a. A narrative that describes:

1. Social, economic, or community needs which are served by the proposed development proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment;

6. Potential fiscal impact, including impact on City services, tax base, and employment;

b. A preliminary site construction plan showing the proposed:

1. Location of buildings, number of stories, approximate floor area and maximum height of each building, the distance (in feet) between buildings;

2. Contours in addition to the existing contours;

3. Lot lines;

4. Grading and landscaping;

5. Location and dimensions of drives and parking areas;

6. Location and characteristics of any common open space or usable open space;

7. Drainage system;

8. Building elevations;

c. Uses to be allowed by special permit. A Zoning Table of uses shall be listed with a description of the type and character of uses requested. This may include a cross reference of uses to be permitted as they appear in Section 3.0.

d. A table showing:

1. Total land area;

2. Developable site area;

3. Common or usable open space, if any;

4. Site coverage of buildings;

5. Impervious surface area;

6. Impervious surface ratio;

7. Gross floor area of all nonresidential buildings;

8. Floor area ratio if applicable;

9. Density of dwelling units, or their equivalent, if applicable;

10. Number of off-street parking spaces and, if applicable, loading bays;

e. A locus-context map of all land within 500 feet of any part of the tract and showing:

1. All dwellings and principal buildings;

2. The land use of each lot;

3. Lot and right-of-way lines;

4. Existing contours at two-foot intervals;

f. Principal natural features in general such as:

1. Significant rock outcroppings;

2. Water systems (including standing surface water, brooks or streams, the direction of drainage, wetlands, and the 100-year flood elevation);

3. Significant vegetation (including mature trees, unique specimens of vegetation, and vegetation that indicates wetness);

4. Zoning district boundaries;

5. Recorded easements on the site and within the 500-foot locus;

6. Public facilities, such as conservation or recreation land, footpaths, bicycle paths, or streets;

7. Significant noise/visual impact (including views from the site and sources of noise affecting the site);

8. Historically or architecturally significant structures and sites on or adjacent to the site;

g. A property rights and dimensional standards plan showing:

1. The location of existing easements or other property rights affecting the development;

2. The approximate locations of any sections of the land to which the City may be granted property rights, other easements or transfer of ownership for street, utility, conservation or other purposes;
3. The anticipated division of the property into parcels in private ownership, if any, if it affects zoning provisions;
4. The yard setback, in feet, for buildings and parking lots from lot lines and, where applicable, a zoning district boundary, a brook or a pond. The Plan shall specifically show appropriate setbacks to adjacent Residential Districts, Business Districts, Industrial Districts, and PD Districts, considering the development potential of any vacant land in such districts using the setback requirements set forth in Section 4.0;
5. The boundaries of any common open space or usable open space;

h. A utilities analysis showing:

1. The location and size of the City's existing water mains, fire hydrants, sanitary sewers, and storm drains;
2. The proposed locations and the approximate size of utilities to be constructed on the site and their proposed connections to the City's utilities, and any special features, such as culverts or pumping stations, that might affect the ability of the City to service the development;

i. A traffic analysis to be conducted by a traffic engineer who will certify that he/she qualifies for the position of member of the Institute of Transportation Engineers (ITE). The analysis shall include:

1. Traffic counts on arterial streets that provide access to the development site showing data on Average Daily Traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into fifteen-minute segments);
2. Intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours divided into fifteen-minute segments);
3. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of sidewalks and their conditions;
4. Estimated trip generation showing the projected inbound and outbound vehicular trips for the a.m. and p.m. peak periods and a typical one hour off-peak trip generation;

5. The estimated distribution of new trips by approach streets;
6. The effect of additional traffic generated by the development on traffic "levels of service" on each approach street;
7. Estimated off-street parking and loading requirements and time of peak accumulation.

j. In addition to the submission requirements outlined in this Section, the SPGA may impose additional submission requirements through the adoption of Rules and Regulations for a PD District rezoning.

8.5.6 Administrative Requirements. All documents must be submitted to the SPGA no later than two (2) business days prior to meetings at which the amendment will be considered. Fifteen (15)c copies shall be submitted. Documents shall also be made available electronically for access by the general public.

8.5.7 Criteria for Approval. The SPGA may approve the PD Special Permit if the SPGA finds that all the following conditions are met:

1. The Site Development and Use Plan is substantially in conformance with the PD Rezoning Ordinance approved by the Council. The SPGA may permit insubstantial changes in view of the more detailed survey and engineering design provided that they do not conflict with the intent of the PD Rezoning Ordinance.
2. The PD Rezoning Ordinance approved by City Council and the Site Development and Use Plan are incorporated into the PD Special Permit by reference.
3. Methods satisfactory to the SPGA of ensuring the performance of any special conditions included in the PD Rezoning Ordinance have been submitted by the developer.
4. Any land designated as common open space on the PD Rezoning Ordinance shall, at the SPGA's discretion, be either conveyed to the City or protected by an easement granted to the City.
5. The SPGA reserves the right to require that up to 20% of all new housing units be made affordable to persons of low and moderate income, according to the standards of the State and/or City, as determined by the SPG.
6. The project meets the evaluation criteria specified in this Section and the SPGA's Rules and Regulations.

7. The SPGA in granting a PD Special Permit may impose such additional conditions as the SPGA finds will serve the public interest and are consistent with the intent of the PD Rezoning Ordinance.

8. The SPGA may deny an application for PD Special Permit and base its denial on the finding that the development proposed in the Site Development and Use Plan did not meet one or more of these criteria for approval.

9. In the event the SPGA determines that the Site Development and Use Plan is not in substantial conformance with the PD Rezoning Ordinance, the application for a PD Special Permit shall be denied. The applicant shall be required to submit a new PD Rezoning Ordinance and zoning amendment to the City Council in order to proceed.

8.5.8 Changes in a Site Development and Use Plan. Changes in uses or substantial changes in the site development from that shown on the Site Development and Use Plan, referenced in the PD Special Permit, are not permitted without the approval by the SPGA. A new PD Rezoning Ordinance must be submitted in accordance with the procedures outlined herein.

8.6 SOBER HOMES

8.6.1 Purpose. The purpose of this Section is to address issues relating to sober houses in Haverhill. Structured sober houses provide housing for individuals in recovery from addiction to drugs and/or alcohol, including people who may have co-occurring mental health issues, as they transition from the treatment setting to life in the community. This housing assists individuals to return to the community through support in an alcohol- and drug-free, home- like environment. This Section is intended to protect the residents of sober houses from operators who engage in abuse, neglect, mistreatment, fraud, and/or inadequate supervision of this vulnerable population as well as to protect the residents of structured sober living homes and the neighboring community from operators who fail to provide a supportive, residential family-like living environment necessary for the residents to achieve and maintain sobriety, in a manner consistent with the reasonable expectations of residents living where sober houses are located in regard to their quality of life.

8.6.2 Definitions. See Section 11, “Sober Homes.”

8.6.3 Registration Required. No sober house may operate within the city without first obtaining a registration as provided in this Section. No person shall open or operate a sober house or working for a sober house in the city until the information required in this Section has been provided to the Director of Inspectional Services or his/her designee. The Operator of any sober house in the city shall be responsible for updating all required information on a monthly basis, as necessary. Application for this registration within 60 days of the effective date of this ordinance by any current operator, and within 30 days of the date of application for an occupancy permit for all new operators.

8.6.4 Registration Application. Every applicant for a registration to operate a sober house shall provide the following information and documentation:

1. The name and full street address of the structured sober living home;
2. The name, full street address, mobile and land phone numbers, email address, and driver's license or government issued identification number of the property owner and the Operator;
3. After a house manager is hired, each house manager's name, full home living street address, mobile and land phone numbers, email address, and driver's license or government issued identification number;
4. If the operation of the sober house involves a lease, a copy of the lease then currently in effect;
5. The operation plan for the sober house, including supervisory roles and responsibilities, all plans that facilitate the rehabilitative process and those that address the maintenance and control of the property including parking, noise abatement and the like, all consistent with local ordinances;
6. The tenant rules and regulations, written intake procedures and relapse policy, and discharge plan;
7. An affirmation by the Operator that only residents (other than the house manager(s)) who have the disability of addiction to drugs and/or alcohol as defined by state and federal law are eligible to reside at the sober house and the home will not admit persons who pose a direct threat to the health or safety of others such as persons on the sex offender registry or prison pre-parolee;
8. A blank copy of every form that residents and potential residents are required to complete;
9. A voluntary fire safety inspection of the property shall be offered as part of the registration process by the Haverhill Fire Department;
10. A signed and dated safety certification that the following safety devices are installed and fully functional as well as a schedule for self-inspecting each device: (a) Functioning smoke detectors in the sleeping rooms and common areas; (b) Functioning carbon monoxide detectors; (c) Functioning fire extinguishers in plain sight and/ or clearly marked location; (d) Interior and exterior of the property is in a functional, safe and clean condition and free of fire hazards; and
11. Contact information shall be provided on an annual basis and updated within 30 days of any change.

8.6.5 Registration Issuance. Upon receipt of the foregoing information, the Director of Inspectional Services or his/her designee shall issue the registration required by this Section as an administrative/ministerial matter. The Director of Inspectional Services or his/her designee may deny the registration for a sober house and may deny any transfer of a current registration or revoke a current registration only under the following circumstances:

1. The owner or operator has provided materially false or misleading information on its application or omitted any pertinent information;
2. Any owner or operator has an employment history in which he or she was terminated during the prior five years or any staff person has an employment history in which he or she was terminated in the prior year, due to physical assault, sexual harassment, embezzlement, theft, falsifying a drug test, or selling or furnishing illegal drugs or alcohol;
3. Any Operator of a sober house who is in recovery from drug and/or alcohol addiction who has been clean and sober for fewer than two full years as of the date of application for this registration or the date of employment;
4. Repeated violations of the operating rules and regulations submitted as part of the application for the registration, and/or the supervision requirements in the sober house for the residents during hours of operation, the structured sober living home's rules and regulations, written intake procedures, relapse policy, or discharge procedure and policy.

8.6.6 Parking Plan. The Operator of a sober house shall provide a parking plan for review and approval by the Director of Inspectional Services or his designee providing for off street parking to accommodate residents and to address parking impacts of the residence on the abutters.

SECTION 9.0 SPECIAL DISTRICTS

9.1 FLOODPLAIN OVERLAY DISTRICT (FPOD).

9.1.1 Overlay District. The Floodplain Overlay District is herein established as an overlay district. The District includes all special flood hazard areas within the City of Haverhill designated as Zones A and AE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the City of Haverhill are panel numbers 25009C0058F, 25009C0059F, 25009C0066F, 25009C0067F, 25009C0068F, 25009C0069F, 25009C0078F, 25009C0080F, 25009C0083F, 25009C0084F, 25009C0086F, 25009C0087F, 25009C0088F, 25009C0089F, 25009C0091F, 25009C0092F, 25009C0093F, 25009C0094F, 25009C0111F, 25009C0226F, 25009C0227F, and 25009C0231F dated July 3, 2012. The exact boundaries of the FPOD may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the City Engineer.

9.1.2 Applicability. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data from the City Engineer, and it shall be reviewed by the Building Commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code and the following special provisions:

1. Structures intended for residential purposes must be built in such a manner that the lowest floor (including basement or cellar) is elevated to or above the base flood elevation.
2. Structures intended for nonresidential purposes must be built in such a manner that the lowest floor (including basement or cellar) is elevated to or above the base flood elevation or, together with attendant utility and sanitary facilities, is floodproofed up to the base flood elevation.
3. Structures shall be anchored to resist flotation and lateral movement.
4. Construction of water supply and waste treatment systems shall prevent the entrance of floodwaters.
5. Valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and stormwaters shall be installed.
6. All electrical equipment, circuits and electrical appliances shall be located in a manner which will assure they are not subject to flood damage.

7. These provisions shall not be interpreted to prohibit the construction of structures underground which are waterproof or are intended to absorb floodwater, provided that such structures do not raise the existing ground elevations nor obstruct the flow of floodwaters.

9.1.3 Existing Structures.

1. Existing structures and appurtenances thereto within the Floodplain District which are inconsistent with these provisions shall be considered nonconforming structures and as such shall be bound by the provisions contained in Section 5.0, except that a facility permitted and assigned under the provisions of M.G.L. c. 111, s. 150A, may be completed without regard to the floodplain provisions stated herein.

2. In addition, an existing structure, group of structures and appurtenances thereto and a facility permitted and assigned under M.G.L. c. 111, s. 150A, may be expanded, altered and/or otherwise improved by right, without regard to the floodplain provisions stated herein, provided that such improvement, alteration and/or expansion which is inconsistent with said floodplain requirements does not exceed 50% of the market value of the existing structure or facility as defined under "substantial improvement" when completed.

9.1.4 Floodway. In the floodway, as designated on the Flood Insurance Rate Map, the following provisions shall apply:

1. All encroachments, including fill, new construction, substantial improvement to existing structures and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood.

2. Any encroachment meeting the above standard shall comply with the floodplain requirements of the State Building Code.

9.1.5 Base Flood Elevation and Floodway Data.

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

2. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.

9.1.6 Use Regulations. The Floodplain Overlay District is established as an overlay district to all other districts. All development in the district, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with M.G.L. c. 131, s. 40, and with the following:

1. Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;
2. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);
4. Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5).

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

9.1.7 Zone AE. In Zone AE, along watercourses within the City of Haverhill that have a regulatory floodway designated on the Essex County FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

9.1.8 Subdivisions. All subdivision proposals must be designed to assure that:

1. Such proposals minimize flood damage;
2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards.

9.1.9 Notification of Watercourse Alteration. In a riverine situation, any party proposing to alter or relocate a watercourse shall notify the following:

1. Adjacent communities of Merrimac, West Newbury, Groveland, Boxford, North Andover, and Methuen, Massachusetts and Salem, Atkinson, Plaistow, and Newton, New Hampshire;
2. NFIP State Coordinator - New Hampshire Office of Energy and Planning, Johnson Hall, 3rd Floor, 107 Pleasant Street, Concord, NH 03301;

3. NFIP State Coordinator - Massachusetts Department of Conservation and Recreation, 251 Causeway Street, Suite 600-700, Boston, MA 02114-2104; and

4. NFIP Program Specialist - Federal Emergency Management Agency, Region I, 99 High Street, 6th Floor, Boston, MA 02110.

The party shall provide the City of Haverhill Zoning Officer with proof of proper notifications in the form of a notarized affidavit.

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

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

9.2 WATER SUPPLY PROTECTION DISTRICT (WSPD).

9.2.1 Purpose. The purpose of the Water Supply Protection District (WSPD) is to:

1. Promote the health, safety and general welfare of the City;
2. Protect, preserve and maintain the existing and any future surface water supply and groundwater recharge areas within the City;
3. Preserve and protect the community against detrimental uses and development within the WSPD;
4. Conserve the natural resources of the City; and
5. Prevent pollution in the WSPD and degradation of the public water supply.

9.2.2 Overlay District. The WSPD is hereby established as an overlay district. A use permitted in a portion of an underlying district which falls within the WSPD must additionally comply with the requirements of this Section 9.2. Any use prohibited in the portions of the underlying districts so overlaid shall be prohibited within the WSPD.

9.2.3 Delineation of WSPD. The WSPD is herein established to include all lands within the City of Haverhill lying within the primary and secondary recharge areas of groundwater aquifers and watershed areas of surface waters which provide public water supply, and, further, should earth work for development purposes shift runoff into the watershed, that development, or the portion that then drains into the watershed, will be included in the overlay district. The map entitled "Water Supply Protection Districts", dated July 2015, defines the extent and boundary of the WSPD and is on file with the City Clerk.

9.2.4 Definitions. See "Water Supply Protection District" in Section 11.0.

9.2.5 Permitted Uses. The following uses, if permitted within the underlying district, are permitted as of right within the WSPD, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained (including any special permit required by the underlying district), and further provided that no permit is required for said use pursuant to the National Pollutant Discharge Elimination System permit program established pursuant to 33 U.S.C. § 1342, the Surface Water Discharge Permit Program established pursuant to M.G.L. c. 21, s. 43, or the Ground Water Discharge Permit Program established pursuant to M.G.L. c. 21, s. 43:

1. One individual single-family dwelling unit which is within the WSPD District but not within 500 feet of the water bodies outlined in Subsection D(3)(a)[5] Places of worship, nonprofit educational development, trade schools, nursery schools, nonprofit schools, colleges or universities and City governmental buildings, provided that no more than 10% of a building lot, or 2,500 square feet, whichever is greater, is rendered impervious, and further provided that the slope of the portion of the lot to be built upon, prior to alteration, shall not exceed 15%, wetlands portions excluded.
2. Conservation of soil, water, plants and wildlife.
3. Outdoor recreation activities and facilities including unpaved play areas, nature study, boating, fishing, and hunting where otherwise legally permitted, but not involving the use of motor vehicles or motor boats.
4. Wildlife management areas, landings, foot and bicycle paths and bridges, provided that such uses do not affect the natural flow pattern of any watercourse.
5. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation structures and devices.

6. Maintenance and repair of any existing structure, provided that no more than 10% of the lot is rendered impervious, or, if the existing impermeable area exceeds 10%, there is no increase in impermeable area.

7. Farming, gardening, nursery, conservation, forestry, harvesting and grazing, provided that fertilizers and other leachable materials are not stored outdoors.

9.2.6 Prohibited Uses. The following uses are prohibited:

1. All new and expanded waste oil retention facilities.
2. All underground storage tanks and above ground storage of liquid hazardous material as defined in M.G.L. c. 21E and petroleum products of any kind, including, without limitation, gasoline, waste oil, heating oils, diesel fuel and any other liquid hydrocarbons, except as follows:
 - a. Those incidental to normal household use and outdoor maintenance or the heating of a structure;
 - b. Emergency generators required by statute, rule or regulation;
 - c. A response action conducted or performed in accordance with M.G.L. c. 21E and 310 CMR 40.000 and which is exempt from a ground water discharge permit pursuant to 314 CMR 5.05(14);

provided that such storage is either in a freestanding container within a building or in a covered freestanding container above ground level with protection adequate to contain a spill the size of 10 percent of the total possible storage capacity or 110 percent of the largest storage container, whichever is greater. However, these storage requirements do not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline outside of Zone A provided the replacement is performed in accordance with applicable state and local requirements.

3. Facilities that, through their acts or processes, generate, treat, store or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.000 including, without limitation, solid wastes, hazardous wastes, leachable wastes, chemical wastes, radioactive wastes, and waste oil, except for the following:
 - a. Very small quantity generators, as defined by 310 CMR 30.000; or
 - b. Treatment works approved by the Department designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.

4. Treatment or disposal works subject to 314 CMR 3.00 or 5.00 including, without limitation, solid wastes, hazardous wastes, leachable wastes, chemical wastes, radioactive wastes, and waste oil, except for:
 - a. The replacement or repair of an existing treatment or disposal works that will not result in a design capacity greater than the design capacity of the existing treatment or disposal works.
 - b. Treatment or disposal works for sanitary sewage if necessary to treat existing sanitary sewage discharges in non-compliance with 310 CMR 15.000: The State Environmental Code, Title 5: Standard Requirements for the Siting, Construction, Inspection, Upgrade and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage, provided the facility owner demonstrates to the Department's satisfaction that there are no feasible siting locations outside of the Zone A. Any such facility shall be permitted in accordance with 314 CMR 5.00 and shall be required to disinfect the effluent. The Department may also require the facility to provide a higher level of treatment prior to discharge.
 - c. Treatment works approved by the Department designed for the treatment of contaminated ground or surface waters and operated in compliance with 314 CMR 5.05(3) or 5.05(13).
 - d. Discharge by public water system of waters incidental to water treatment processes.
5. Sand and gravel excavation operations, including the removal of soil, loam, sand, gravel or any other mineral substances with the exception for excavations for the construction of building foundations or the installation of utility works.
6. Uncovered or uncontained storage of fertilizers including uses which discharge processed liquids on site. Land application and storage of sludge and septage, as defined in 310 CMR 23.05.
7. Storage of road salt and sanding materials, including but not limited to sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of snow or ice on roads. Storage or disposal of snow or ice, removed from highways and streets located outside the WSPD.
8. Animal feed lots and the uncovered or uncontained storage of manure.
9. Automobile graveyards and junkyards, as defined in M.G.L. c. 140B, s. 1; and commercial outdoor washing of vehicles, and commercial car washes.

10. Automobile repair shops, auto body shops, automobile garages and equipment storage garages within Zone A. Automobile repair shops, auto body shops, automobile garages for five or more vehicles and equipment storage garages outside of Zone A but within the limits of the Water Supply Protection District.
11. Cemeteries (human and animal) and mausoleums.
12. Solid waste handling facilities, as defined in 310 CMR 16.00, including, without limitation, sanitary landfills, open dumps, combustion and transfer stations.
13. Disposal of liquid or leachable wastes by on-site sewage disposal systems subject to 310 CMR 15.00, except such systems serving one-or-two-family residences or commercial, industrial or community facilities uses discharging not more than 1,000 gallons per day per 40,000 square feet of lot area and complying with 310 CMR 15.00.
14. Medical, testing and research laboratories that dispose of biological or chemical wastes on-site or store such wastes outside prior to disposal off-site, except such laboratories associated with a medical group or offices consisting of fewer than three doctors.
15. Land uses which result in the rendering impervious of more than 10 percent, or 2,500 square feet, of any building lot whichever is greater.
16. Land use that renders impervious area greater than 2,500 square feet on any building lot within Zone A.
17. Any other use not permitted as of right or by special permit.

9.2.7 Uses Permitted by Special Permit. The following uses are permitted, if not prohibited within the underlying district and if authorized by the SPGA by special permit, in each specific case subject to such additional conditions as the SPGA may impose to protect the water resources of the City of Haverhill:

1. The application of fertilizers, manure and soil amendment for non-domestic or non-agriculture uses, provided that Best Management Practices (BMP's) are utilized as determined by the Special Permit Process to prevent any adverse impact on the Water Supply Protection District and the interests to be protected thereunder. The applicant shall demonstrate to the satisfaction of SPGA that such precautions, including but not limited to erosion control techniques, the control of runoff water, the prevention of volatilization of deposition of agricultural chemicals, and the control of nutrient transport and deposition and sedimentation, will be provided as necessary.
2. Commercial, industrial and community facilities uses, provided that BMP's are utilized as determined by the Special Permit Process to prevent compaction, siltation

of wetlands and surface waters, loss of recharge, exfiltration from sewer pipes and contamination by oil, chemicals, and nutrients, as well as any other adverse impact on the WSPD and the interests to be protected thereunder.

3. The use or storage of toxic or hazardous materials required for treatment of drinking water and public water, treatment facilities, provided those materials are protected to prevent their release to the environment.
4. Any use otherwise permitted as of right or by special permit that requires a permit under the National Pollutant Discharge Elimination System permit program established pursuant to 33 U.S.C. § 1342, the Surface Water Discharge Permit Program established pursuant to M.G.L. c. 21, s. 43, or the Groundwater Discharge Permit Program established pursuant to M.G.L. c. 21, s. 43.
5. Any building, structure, land-disturbing activity or excavation, excluding that done solely to gather data (i.e. test pits, perk tests and monitoring wells supervised by the of Health), within 500 linear feet of the mean high water elevation within any registered water supply for the City of Haverhill.
6. Any use in Section 9.2.6 where explicit provision is made for a special permit; and any use where the owner of the land in question shows such land does not lie as either the primary or secondary recharge areas of groundwater aquifers nor the watershed areas of reservoirs/surface waters that provide public water supply.
7. Any new streets which will be built to serve 3 or more lots.
8. Land uses that result in the rendering impervious of more than 10 percent, 20 percent with artificial recharge, or 2,500 square feet of a building lot, whichever is greater. Any system proposed for artificial recharge of precipitation shall not result in groundwater pollution, the design of which shall be approved by the SPGA pursuant to a special permit.
9. Notwithstanding the provisions of Section 9.6, the SPGA may grant a special permit where an applicant demonstrates that prohibition would constitute a taking of property in violation of the Massachusetts and United States Constitution; provided, however, that the SPGA must comply with the provisions of 310 CMR 22.20B and 310 CMR 22.20C(2) and that no reasonably foreseeable danger to the public health, safety or welfare will arise from such special permit.

9.2.8 Application. Each application for a special permit shall be filed with the SPGA and shall comply with the requirements of M.G.L. c. 40A, and the Rules and Regulations of the SPGA. The application, including any plans and accompanying text, shall be complete in all regards meeting all the requirements herein to allow full evaluation of the proposed use on the Water Supply Protection District.

1. The application shall include a list of all state, local and federal permits, licenses and approvals required for the proposed activity, and the status of all such permits, licenses and approvals.
2. The application shall be prepared in accordance with the data requirements and BMPs of the proposed development (e.g., including but not limited to erosion and sedimentation control plan, stormwater requirements, septic system designs);
3. The application shall include a complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in any quantity. The application shall include a Management Plan for the handling, storage and disposal of any materials identified.
4. The application shall include an analysis by a professional geologist, hydrologist, soil scientist, or Massachusetts licensed engineer experienced in groundwater evaluation or hydrogeology to demonstrate that the proposed activity will not be detrimental to the purposes of this district as set forth in Section 9.2.1.
 - a. The analysis shall fully describe the seasonal profile of volumes and directions of groundwater and surface water flows with and without the proposed use, the location and use of all drinking water supplies that could be affected by the use, and the location and use of any surface and/or groundwater that could be affected by the proposed use.
 - b. The applicant shall characterize subsurface conditions within the area of the proposed activity relative to the potential impacts of the discharge of nitrate to groundwater from subsurface disposal systems associated with the proposed development.
 - c. The analysis shall be conducted through the use of soil borings, monitoring wells, well testing, ground and surface water level monitoring and water quality analysis, modeling and other industry accepted practices.
 - d. The application shall contain adequate data and details of the analysis, including field and laboratory measurement results and fully documented calculations. In describing drinking water supplies, the applicant shall document all previously delineated Massachusetts Department of Environmental Protection Aquifer Classification Information for the potentially affected area.

9.2.9 Design and Performance Standards. Except for one single-family dwelling, each applicant for a special permit shall file as part of his application a report showing prior land uses in existence at the time of passage of this Section and approved by the Board of Health, prepared by a geologist, earth scientist, other qualified specialist in the field of chemistry and land disposal or registered professional engineer, which shall describe how the proposed use and/or structures satisfy the following items. The SPGA may also require the preparation and filing of

operations plans for particular uses, which plans may be incorporated as conditions of a special permit.

1. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as: spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.

2. Location. Where the boundary line of the WSPD divides a lot or parcel, the requirements established by this ordinance shall apply only to the portion of the lot or parcel located within the WSPD. The boundary shall be shown as part of Development Review as required by this Ordinance under Section 10.1.4. The applicant shall demonstrate, through the use of site plans, that development activity outside of the boundary shall not be connected to land within the boundary through post-development grading, stormwater infrastructure, wastewater infrastructure or other potential connections that could lead to the contamination of groundwater within the WSPD. Where development practices create a hydrologic connection across the WSPD boundary, the applicant shall demonstrate that any water moving into or away from the WSPD is accounted for in any of the required pollutant loading calculations and meets all of the standards associated with the WSPD. Where a special permit may be required, the Planning Board may impose such conditions as are reasonably required to ensure that these standards are met. Where the premises are partially outside of a WSPD, site design shall, to the maximum degree possible, locate such potential pollution sources, such as on-site disposal systems, outside of the District.

3. Disposal. The design of on-site sewage treatment and disposal systems shall conform with the requirements of 310 CMR 15.000 in all regards. No system serving new construction shall be designed to receive or shall receive more than 440 gallons of design flow per day per acre except as set forth at 310 CMR 15.217 (2). For any toxic or hazardous wastes produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with M.G.L. c. 21C.

4. Stormwater. The design of on-site stormwater treatment and disposal systems shall conform with Massachusetts Stormwater Standards in all regards. All increase in runoff generated on the site shall be recharged on-site in a manner demonstrated to assure full protection of the water quality and quantity in the WSPD. The SPGA may require off-site disposal of said runoff if it is determined that either on-site recharge is infeasible because of site conditions or is undesirable because of risks to water quality from such recharge. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

9.2.10 Special Permit Procedures. In addition to the notice otherwise required by statute, the SPGA shall give written notice of any special permit application within the WSPD to the Board of Health, Planning Department, Conservation Commission, Water, Wastewater, Engineering, Highway, and Building Departments (individually and collectively, "City Authority") and request a report and recommendation from each of the same.

1. In granting a special permit, the SPGA shall impose such additional conditions and safeguards (e.g., the installation of monitoring wells) as will protect the water resources of the City of Haverhill.
2. If any City Authority, within 35 days of the SPGA's request for comments, opposes the grant of the special permit or recommendations conditions and limitations on the grant, the SPGA must either follow such recommendations or state in writing as part of its findings the reasons for any departures from such recommendations.

9.2.11 Criteria for Approval by the SPGA. In lieu of those criteria set forth in Section 10.4.2, the SPGA may grant a special permit provided that it finds that the proposed use:

1. Satisfies the design and operations guidelines set forth in this Section;
2. Is in harmony with the purposes and intent of this Section and will promote the purposes of the WSPD;
3. Is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
4. Will not, during construction or thereafter, have an adverse environmental impact on any water body or watercourse in the district; and
5. Will not adversely affect the quality or quantity of an existing water supply.

9.2.12 Technical Assistance. To assist its review of applications for special permits, the SPGA may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer experienced in groundwater evaluation of hydrogeology to review the application for completeness and accuracy. The SPGA may retain a professional geologist, hydrologist, soil scientist, or Massachusetts engineer hereunder for reviewing the applicant's projections of the impact of the proposed activity on the purposes of the district, the compliance of the proposed activity with the criteria set forth herein, verifying or supplementing information contained in the application, and/or verifying the inclusion of the subject land within the WSPD.

1. If an application submitted to the SPGA does not contain adequate data, including field and laboratory measurement results and fully documented calculations, performed or certified by a professional geologist, hydrologist, soil scientist, or Massachusetts engineer experienced in groundwater evaluation or hydrogeology, which verifies

groundwater, surface water and drinking water supply information submitted in support of the application and inclusion of the subject land within the WSPD, the SPGA may engage a professional geologist, hydrologist, soil scientist, or Massachusetts engineer experienced in groundwater evaluation or hydrogeology to perform analyses and prepare data necessary to provide the information required by this Section and shall charge the applicant for the cost of providing such information. The SPGA shall provide the applicant with a statement of work performed and the cost thereof when charging an applicant hereunder. The SPGA shall not engage such professional geologist, hydrologist, soil scientist, or Massachusetts engineer experienced in groundwater evaluation or hydrogeology unless it notifies the applicant that the information in the application is not in compliance and provides the applicant an opportunity to supplement the application with information prepared by a professional geologist, hydrologist, soil scientist, or Massachusetts engineer experienced in groundwater evaluation or hydrogeology approved by the SPGA or is notified by the applicant that the applicant will not supplement the information.

9.2.13 Reimbursement of Costs. It is contemplated that in most cases it will be necessary for the SPGA to hire consultants (e.g., geologists, engineers, etc.) in connection with the review and evaluation of applications for special permits under this Section as set forth in Section 9.2. The reasonable fees and expenses of such consultants shall be borne by the applicant, and each application for a special permit hereunder shall contain an agreement by the applicant to that effect regardless of the decision on his appeal. In order to ensure such payment by each applicant, each applicant shall pay an application fee determined by a fee schedule established by the SPGA and contained in the Rules and Regulations of the SPGA, as the same may be amended from time to time. Each application fee shall be used solely to cover the administrative costs of processing and reviewing said application, including consultant fees and expenses, incurred by the SPGA. The SPGA shall refund the applicant the balance of the application fee, if any, remaining once such costs have been paid.

9.2.14 Violations. Written notice of any violation of this Section shall be given by the Building Inspector to the responsible person in accordance with Section 10.1. Notice to the assessed owner of the property shall be deemed notice to the responsible person. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, the Water Department, and the Conservation Commission.

9.3 WATERFRONT DISTRICT (WD).

9.3.1 Purpose. The Waterfront District (WD) is a comprehensive zoning district for the City's waterfront area. The City of Haverhill's waterfront was once an active place for boating and water-dependent uses. This zoning district recaptures that active place and encourage connections, both visually and physically, from the downtown to the waterfront. A major objective of the district is to expand upon the existing rail trail and create a waterfront walkway connecting the downtown and the Bradford side of the Merrimack River.

The Waterfront District encompasses sections of the downtown along the north side of the Merrimack River and the area located on the south (Bradford) side of the Merrimack River. There is currently no connection, either visually or physically, between the Bradford side of the Merrimack River and the rest of the downtown. This district creates standards and provide developers with incentives to create a connection for both sides of the river.

The Waterfront District has standards for the entire district and also creates sub-zones that will contain standards specific to each zone. Each sub-zone encourages uses that are appropriate for the zone. Under the umbrella of the Waterfront District, each of the sub-zones contains goals and standards that will create a comprehensive vision for the waterfront. Together, each of the sub-zones includes goals for either developing affordable housing, market-rate housing, mixed-use development, artist live/work space, retail/office, higher educational uses, water-dependent uses, and high- and low-density residential.

The major objectives of the district are to:

1. Promote public access to and along the Merrimack River.
2. Promote new view corridors and protect existing view corridors to the Merrimack River.
3. Promote physical and visual connections between both the north and south sides of the Merrimack River and the downtown.
4. Link the Merrimack River with street edges to maintain adequate pedestrian circulation and views of both the street and the river.
5. Provide the maximum public benefit in any new development or redevelopment of land along the Merrimack River.
6. Regain an active waterfront.
7. Create development nodes in order to plan for a comprehensive waterfront.
8. Create diversity of housing opportunities along the waterfront and within the downtown.
9. Create an artist community and promote artist live/work space in the downtown and along the waterfront.
10. Create a retail and restaurant base that downtown residents can utilize.
11. Facilitate development of a mix of uses that contributes to a vibrant business environment and increases street level activity.

12. Ensure that existing and future development contributes to a continuous and active street that addresses the contextual, human-scale, mixed-use, and pedestrian-friendly needs of the downtown.
13. Create new jobs at a variety of income levels.
14. Encourage the reuse of existing buildings and the construction of new, innovative designs that enhance the area.
15. Redevelop vacant or underutilized land with appropriately dense development.
16. Promote pedestrian activity in the downtown.
17. Encourage neighborhood and cultural tourism uses as well as infill housing and rehabilitation of existing structures.

9.3.2 Boundaries. The Waterfront District, hereinafter referred to as the "WD", consists of land as shown on the "Zoning with Watershed & Index Map," dated 2017, prepared by the City's Engineering Department.

9.3.3 Definitions. See "Waterfront District" in Section 11.0.

9.3.4 Establishment of Sub-Zones. Sub-zones are established for this district in order to preserve, maintain, and promote a diversity of housing stock and commercial establishments in the City's downtown and waterfront area. There will be eight sub-zones included in this district. The sub-zones are as follows:

1. Sub-Zone A: Washington Street Area. The goal of this sub-zone is to meet the objectives as set forth in the existing Downtown Smart Growth Overlay District, particularly the creation of affordable housing. Sub-Zone A will follow the standards and requirements of the Downtown Smart Growth Overlay District.
2. Sub-Zone B: South side of Merrimack Street Adjacent to the Merrimack River. The goal of this sub-zone is to meet the objectives as set forth in the existing Merrimack Street Gateway Renaissance Overlay District, particularly to foster a range of housing opportunities along with mixed-use development components, including, among others, distinctive retail, education and education-based uses, performing arts, media and graphics arts, offices, and restaurants. Sub-Zone B will follow the standards as set forth in the Merrimack Street Gateway Renaissance Overlay District. All projects proposed will adhere to the requirements of the Merrimack Street Gateway Renaissance Overlay District.
3. Sub-Zone C: North side of Merrimack Street. The goal of this sub-zone is to create a lively area where artists can both live and work and to create a vibrant and active portion of the downtown.

4. Sub-Zone D: Water Street. The goals of this sub-zone are to create a vibrant and active entrance into the downtown; to create view corridors from the street to the Merrimack River; and to create an active waterfront.
5. Sub-Zone E: 100 South Kimball Street (Paperboard Site). The goals of this sub-zone are to allow flexibility in development of large tracts of land and to provide for a residential development combined with a mix of uses that relate to and enhance the waterfront area. Furthermore, development in this sub-zone should provide access and useable open space along the Merrimack River.
6. Sub-Zone F: Industrial Section of the South Side of the Merrimack River (Bradford). The goals of this sub-zone are to create an active waterfront along the Merrimack River; to continue the rail trail along the Merrimack River; to create connections, both visually and physically, to the downtown; and to create a lively area where artists can both live and work.
7. Sub-Zone G: Residential Section of the South Side of the Merrimack River (Bradford). The goals of this sub-zone are to provide open space and access to the Merrimack River; to improve the existing rail trail along the Merrimack River; and to provide a low-density housing option in close proximity to the downtown.
8. Sub-Zone H: North Side of Railroad Avenue (including the Orenstein site). The goals of this sub-zone are to create a residential node which complements the downtown and the adjacent commuter rail station. Furthermore, development in this sub-zone should ensure the continuation of visual corridors to the Merrimack River and extend upon the existing rail trail.

9.3.5 Design Guidelines. These guidelines shall apply to development in the entire district. Furthermore, these guidelines are not intended to inhibit design creativity or discourage innovative architectural design solutions. Rather, they provide general standards for building massing, siting, and articulation. It is understood that buildings and structures may not be able to comply with all of the following guidelines, but buildings and structures should comply if it is physically possible. For projects located in the WD, the following design guidelines shall apply:

1. Retail, restaurant and other lively pedestrian-friendly uses are encouraged, particularly on the ground floor, except in Sub-Zones E, F, G and H where projects providing 100% residential development are encouraged.
2. Residential and office space shall be placed on upper floors, not on the first floor or street level, except in Sub-Zones E, F, G and H where projects providing 100% residential development are encouraged.
3. Installation of public art is encouraged in order to add visual interest and distinguishing features to landscaped or other public areas.

4. Buildings on a corner lot should be set to the corner of the front and side lot lines, with no setback.
5. Blank walls without windows or entrances facing onto pedestrian areas and/or alleyways shall be avoided to the extent possible.
6. Site lighting should be considered an integral element of the landscape design of a property. It should help define activity areas and provide interest at night. At the same time, lighting should facilitate safe and convenient circulation for pedestrians, bicyclists and motorists. Overspill of light and light pollution should be avoided.
7. Outdoor seating/dining throughout the district is encouraged, particularly along the Merrimack River and within the downtown area.
8. Development should be designed to complement and harmonize with adjacent land uses (existing and proposed) with respect to architecture and scale.
9. The standard architectural designs of regional or national businesses shall be modified in such a way so as to be compatible with the scale and massing of the adjacent land uses (existing and proposed).
8. All development should be designed to facilitate, accommodate, and encourage use by pedestrians, as much as, if not more so than, use by motorized vehicles.
9. Parking facilities should be appropriately screened from both pedestrian walkways and the Merrimack River as to not deter activity in these areas.
10. Drive-through facilities should not have driveways entering or exiting over the main frontage sidewalk.
11. Rooftop solar panels are encouraged throughout the district, except in Sub-Zones A, B, and C.

9.3.6 Use Restrictions. The uses permitted and those uses permitted by special permit in the WD shall be as set forth in Table 5, entitled "Table of Uses for the Waterfront District", set forth below.

TABLE OF USES FOR THE WATERFRONT DISTRICT

LEGEND: CC: Permitted by special permit from the City Council

DR: Permitted through the development review process (see Section 10.1.4)

N: Not permitted

Use	Sub-Zones							
	A	B ²	C	D	E	F	G	H
Single-family or two-family dwellings	N		N	N	DR	DR	DR	N
The development of two or more dwelling units as part of a mixed-use structure; the residential dwelling units must be secondary uses in the upper floors of a structure primarily used for retail and/or restaurant uses on the ground floor	DR		DR	CC	CC	CC	N	CC
Multifamily dwelling	CC		CC	CC	DR	DR	DR	CC
Artist live/work unit permitted – if on first floor, space must contain gallery or studio space in the front of the unit with the living quarters to the rear	DR		DR	CC	CC	DR	CC	CC
Art gallery and/or workspace	DR		DR	DR	CC	DR	CC	CC
The development of a retail use of 3,000 gross square feet or less as part of a mixed-use structure; the retail space must be located on the first floor of the mixed-use structure	DR		DR	CC	CC	CC	N	CC
Retail use primarily serving the local retail businesses or servicing the needs of the neighborhood, including but not limited to barber/beauty shop, shoe repair shop, self-service laundry, pickup or delivery station of laundry or dry cleaning, or tailor shop	DR		DR	DR	DR	DR	CC	DR
Retail use selling one or more of the following, but not limited to food, baked goods, groceries, clothing, dry goods, books, art, flowers, paint, hardware, and minor household appliances	DR		DR	DR	CC	DR	N	DR
Retail use exceeding 50,000 square feet of gross floor area	N		N	N	N	N	N	CC
Restaurant, coffee shop, diner, luncheonette and/or sandwich shop (non drive-through) with outdoor seating oriented toward the river where applicable	DR		DR	DR	DR	DR	N	DR

Use	Sub-Zones							
	A	B ²	C	D	E	F	G	H
Restaurant, coffee shop, diner, luncheonette and/or sandwich shop (with drive-through) with outdoor seating oriented toward the river where applicable	N		N	CC	N	CC	N	N
Bar (no live entertainment and/or dancing)	DR		DR	DR	CC	N	N	DR
Cocktail lounge and/or bar (featuring live entertainment and/or dancing)	DR		DR	DR	CC	N	N	DR
Dairy or ice cream bar (non drive-through window)	DR		DR	DR	DR	DR	N	DR
Bank and/or other financial institutions (with or without a drive-through)	DR		DR	DR	CC	CC	N	DR
Inn, hotel, or bed-and-breakfast establishment	DR		DR	DR	DR	DR	N	DR
Marinas	DR		N	DR	DR	DR	DR	DR
General office uses unless otherwise specified	DR ¹		DR ¹	DR ¹	CC	CC	CC	DR
Professional offices – accountant’s office, architect’s and/or engineer’s office, attorney’s office, dentist’s office, insurance office, medical clinic, real estate office	DR ¹		DR	DR	CC	CC	CC	DR
Churches and other places of worship	DR		DR	DR	DR	DR	DR	DR
Nonprofit educational facility which is religious, sectarian, denominational or public, not to include any student living quarters or any type of trade school or nursery school	DR		DR	DR	DRP	DR	N	DR
City governmental building (unless otherwise specified)	DR		DR	DR	DR	DR	DR	DR
City auditorium	DR		DR	DR	DR	DR	DR	DR
Historical association or society	CC		CC	CC	DR	DR	DR	DP
Hospital	DR		DR	DR	DR	DR	N	DR
Public parking lot or structure operated and owned by the City	DR		DR	DR	DR	DR	DR	DR
Street, bridge, tunnel railroad lines	DR		DR	DR	DR	DR	DR	DR
Essential services	DR		DR	DR	DR	DR	DR	DR
Private utility, overhead transmission line (15 kilovolts or over), substation, transformer station or similar facility or building	DR		DR	DR	DR	DR	DR	DR
Membership clubs, lodges and/or societies	CC		CC	CC	DR	N	N	DR
Public recreation or open space	DR		DR	DR	DR	DR	DR	DR
Indoor recreational facility or sports facility	N		CC	CC	DR	N	N	DR

Use	Sub-Zones							
	A	B ²	C	D	E	F	G	H
Cultural uses such as a library, museum, gallery, concert hall, theater, auditorium, performance space, aquarium, or historical exhibit open to the public generally	DR		DR	DR	DR	CC	N	DR
Professional and/or business schools for profit (includes dance, music, art, other professional and/or business schools)	CC		DR	CC	CC	DR	N	DR
Activities of a corporate headquarters or research nature such as industrial, scientific, engineering, executive or administrative	DR ¹		DR ¹	DR ¹	DR	CC	N	DR
Bus or railroad passenger terminal	DR		DR	DR	DR	DR	DR	DR
Private day nursery or kindergarten	DR		DR	DR	DR	CC	N	DR

NOTES:

- ¹ Uses are permitted only on the upper floors of a structure that contains a retail use at the street level.
- ² Uses permitted in Sub-Zone B shall observe the use restrictions in the Merrimack Street Gateway Renaissance Overlay District.

9.3.7 Prohibited Uses. The following uses are specifically prohibited in the WD:

1. Septic system repair facility.
2. Solid waste disposal facility.
3. Salvage yard.
4. Self storage facility.
5. Warehousing and distribution facility.
6. Motor vehicle service station (gasoline sales).
7. Motor vehicle general and body repair.
8. Motor vehicle sales.
9. Motor vehicle car wash.
10. Seasonal dry storage of recreational vehicles on land for periodic use in the water during active boating season.

11. Solar farm.

9.3.8 Exemptions. The following uses are specifically exempt from the use regulations of this Section:

1. Uses exempted by M.G.L. c. 40A, s. 3; and
2. Dwelling units for low- and/or moderate-income families or individuals as set forth in M.G.L. c. 40B.

9.3.9 Special Permit Criteria. In addition to any standards and criteria set forth elsewhere in this Ordinance, the following standards shall apply for all projects, in every sub-zone constructed in the Waterfront District, with the exception of the construction of a single- or two-family structure. These standards are required to be met in order to receive approval:

1. Physical access to or along the Merrimack River shall be provided pursuant to M.G.L. c. 40, s. 9. The ordinance shall be interpreted so as to encourage physical access by the public to the Merrimack River and to discourage developments which prevent or block physical access to the river. Any property that has a property boundary that abuts the Merrimack River shall provide the City with an easement or other legal mechanism at either the water's edge or in close proximity to the Merrimack River depending on the topography of the area. The easement shall include a twenty-five-foot minimum temporary construction easement and a fifteen-foot minimum access easement within the boundaries of the temporary construction easement. Both easements shall be provided for the entire length of the property line or lines adjacent to the Merrimack River. Neither the temporary construction easement nor the access easement is required to be improved/constructed.
2. Visual corridors shall be provided to or along the Merrimack River. The visual corridors are not required to be open to the public and may contain trees or parking lots.
3. Primary building entrances shall be oriented toward the street, but buildings shall also have entrances facing the Merrimack River, which are subordinate in character and scale to the street entrance. For this purpose, "subordinate" shall mean that the entrance is smaller in height and width, and has fewer or simpler architectural elements.
4. All new buildings shall be constructed at the street edge with no front setback in order to complete the streetwall, except in Sub-Zones E and G where a front setback is required.
5. Dumpsters, utility meters, mechanical units and service/loading areas shall be screened from view of both pedestrian areas and the Merrimack River. Furthermore, they shall not be located in the pedestrian right-of-way.

6. Professional or artist live/work units shall be designed to meet the specific needs of the artist occupants, such as, but not limited to, the following: doorways and hallways should be oversized width to accommodate the moving of large objects; floors should be constructed to provide extra weight-bearing capacity; floors do not need to be finished; ceiling heights should allow for the creation of large works and equipment, including machinery and lighting.
7. Adequate municipal services shall be provided, including water, sewer, drainage, parks, and open space.
8. Public facilities and services shall be provided that are adequate to support the proposed development, such as schools, fire, emergency services, and police.
9. Adequate access points (ingress and egress) and routes to and from the property shall be provided to adjoining streets and ways so as to not cause a negative traffic impact.
10. Mitigation shall be provided to create an adequate traffic circulation system in order to insure proper traffic control and to minimize hazards to public health and safety as a result of traffic.

9.3.10 Preferred Projects by Sub-Zone. If a project proposed within the Waterfront District meets all of the requirements of one of the preferred projects listed, the project shall receive an expedited review in accordance with the procedure section of the WD:

1. Projects located in Sub-Zones A, D, F, and H that provide improved public access to the Merrimack River from the parcel. Improved public access shall include the construction of pathways/walkways along the entire length of the property line adjacent to the Merrimack River, construction of pathways/walkways from the street to the Merrimack River, useable open space or parks and/or a fee in lieu of the future construction of pathways/walkways. The location and design of any pathways/walkways, open space, or parks shall be approved by the Economic Development Director and in keeping with the City's rail trail design. If the access is improved, the minimum twenty-five-foot temporary construction easement as required shall not be provided.
2. Projects located in Sub-Zones C and F that provide a minimum of 80% of the units as artist live/work space.
3. Projects located in Sub-Zone C that provide the development of two or more dwelling units as part of a mixed-use structure. The residential dwelling units must be located in the upper floors of a structure which is otherwise used for office, retail and/or restaurant uses on the ground floor.
4. Projects located in Sub-Zones C, D, F, and G that provide a minimum of 80% of the total residential units as market-rate housing and not restricted by income.

9.3.11 Density Regulations. The density regulations within the Waterfront District shall be as follows:

1. Sub-Zone A. The density in Sub-Zone A shall follow the standards as set forth in the Downtown Smart Growth Overlay District.
2. Sub-Zone B. The density in Sub-Zone B shall follow the standards as set forth in the Merrimack Street Gateway Renaissance Overlay District.
3. Sub-Zone C. The density in Sub-Zone C shall be 120 residential units per acre.
4. Sub-Zone D. The density in Sub-Zone D shall be 30 residential units per acre.
5. Sub-Zone E. The density in Sub-Zone E shall be 20 residential units per acre.
6. Sub-Zone F. The density in Sub-Zone F shall be 20 residential units per acre.
7. Sub-Zone G. The density in Sub-Zone G shall be 20 residential units per acre.
8. Sub-Zone H. The density in Sub-Zone H shall be 20 residential units per acre.

9.3.12 Density Bonuses. The Approval Authority may award an additional density bonus to increase the number of dwelling units beyond the maximum number permitted in the WD. An additional density bonus may be awarded in the following circumstances:

1. In Sub-Zone D, a maximum of 70 units per acre shall be permitted when a project provides improved public access to the Merrimack River and a public park. The size and design of the park must be approved by the Economic Development Director.
2. In Sub-Zone E, a maximum of 40 units per acre shall be permitted when a project provides the following:
 - a. A public walkway along the entire property line that is adjacent to the Merrimack River.
 - b. A public park on site. The size and design of the park must be approved by the Economic Development Director.
 - c. A water-dependent use on site. The water-dependent use can be a marina, boat/kayak rental, or a restaurant with outdoor seating adjacent to the Merrimack River. The use must be approved by the Economic Development Director.
3. In Sub-Zone F, a maximum of 40 units per acre shall be permitted when a project proposes to substantially rehabilitate an existing building into residential housing or artist live/work space.

4. In Sub-Zone H, a maximum of 40 units per acre shall be permitted when a project provides a public park on site. The area, location, and amenities included in the park must be approved by the Economic Development Director.

9.3.13 Dimensional Regulations. The dimensional regulations for the district are as follows:

1. The dimensional regulations for Sub-Zone B shall follow Section 9.5.8 of the Merrimack Street Gateway Renaissance Overlay District.
2. There are no dimensional regulations for Sub-Zones A, C, D, F, and H, except that the maximum height of any structures in Sub-Zones A, C, D, and H is 74 feet and the maximum height of any structures in Sub-Zone F is 55 feet.

3. The dimensional requirements for Sub-Zone E are as follows:

- | | |
|--------------------------------|-----------|
| a. Minimum lot area | N/A |
| b. Minimum lot frontage | 100 feet |
| c. Maximum building coverage | N/A |
| d. Minimum open space | 20% |
| e. Minimum width of side yard | 20 feet |
| f. Minimum width of front yard | 25 feet |
| g. Minimum width of rear yard | N/A |
| h. Maximum height of buildings | 74 feet |
| i. Maximum stories | 6 stories |
| j. Floor to area ratio (FAR) | 3 |

4. The dimensional requirements for Sub-Zone G are as follows:

- | | |
|--------------------------------|-----------|
| a. Minimum lot area | N/A |
| b. Minimum lot frontage | 100 feet |
| c. Maximum building coverage | N/A |
| d. Minimum open space | 20% |
| e. Minimum width of side yard | 20 feet |
| f. Minimum width of front yard | 25 feet |
| g. Minimum width of rear yard | 40 feet |
| h. Maximum height of buildings | 40 feet |
| i. Maximum stories | 3 stories |
| j. Floor to area ratio (FAR) | 2 |

9.3.14 Signs. All signage shall follow the requirements as set forth in Section 6.1 of this Ordinance. In addition, projects in the WD must meet the following: Any application for signage or awnings on Merrimack Street under the waterfront zoning ordinance shall require design review and approval by the Planning Director prior to the issuance of permits to ensure compliance with the ordinance. The Building Inspector shall forward permit applications and not issue permits for signage without prior approval of the Planning Director. The Planning Director may engage peer review of the signage application, if warranted, to ensure compliance with the ordinance.

1. Signs.
 - a. One wall sign or one two-sided projecting sign for each building frontage of each establishment shall be permitted.
 - b. All signs within the WD shall have a total sign area of one square foot for each lineal foot of respective individual store or establishment frontage, not to exceed a area of 45 square feet.
 - c. For buildings that have rear frontage on either Wall Street or the Merrimack River, those buildings shall be permitted one additional sign per establishment that has access from the rear of the building. The maximum area of such rear sign shall not exceed 50% of the maximum area permitted for a front sign of the same establishment in the building and shall not be counted toward the total signage permitted for the building.
 - d. All signs shall reinforce the architectural integrity of any building.
 - e. Signage design should respect buildings' context and be oriented to pedestrians.
 - f. Wall signs shall be placed no higher than the first floor of a building in order to achieve a pedestrian scale in the downtown.
 - g. Light sources from externally illuminated signs shall not be visible or create a glare.
 - h. Illuminated signs shall require special approval of the PAA.
 - i. Electric/electronic signs shall require special approval of the PAA.
 - j. All two-sided projecting signs shall be mounted perpendicular to the storefront and shall not extend above the parapet wall of the storefront building.
 - k. Roof signs are prohibited.
 - l. No freestanding permanent signs are permitted in the WD.

2. Awnings.

- a. Awnings shall be designed to project over individual window and door openings and not project as a single continuous feature extending over architectural piers or arches.
- b. The lowest point of any awning shall be a minimum of eight feet above the sidewalk or ground over which it projects.
- c. Text and graphics shall comprise of no more than 20% of the total exterior surface of the awning face and valance.
- d. The percentage of text and graphics on an awning shall also count toward the overall tenant space's square footage allowance for signs.
- e. Valances shall be no more 10 inches in height.
- f. Text and graphics on a valance shall be no larger than eight inches. There shall remain one inch of negative space on the top and bottom of a valance.
- g. Awning materials with reflective or shiny finishes are prohibited.
- h. Architectural fabric, in a matte finish, suitable for outdoor use must be used and shall cover the front of the awning frame.
- i. The awning frame shall be constructed of steel or aluminum.
- j. Awnings cannot contain backlit graphics or be backlit from the interior of the awning.

3. Conflict. If any of the above conflict or is more restrictive than a regulation as set forth in Section 6.2, the above shall apply.

9.3.15 Parking Requirements.

- 1. The parking requirements in Sub-Zone B shall follow the regulations as set forth in the Merrimack Street Gateway Renaissance Overlay District.
- 2. There is no off-street parking requirement in Sub-zones A, C, and D except for the following:

Use	Parking Requirement
Multifamily residential	1 parking space per unit
Artist live/work unit	1 parking space per unit

3. The parking requirements in Sub-zones E, F, G, and H are as follows:

Use	Parking Requirement
Multifamily residential	1.5 parking spaces per unit
Artist live/work unit	1.5 parking space per unit
Galleries	1 space for every 250 square feet of gross floor area
Retail use primarily serving the local retail businesses or service the needs of the neighborhood, including but not limited to barber/beauty shop, shoe repair shop, self-service laundry, pickup or delivery station of laundry or dry cleaning, or tailor shop	1 space for each 200 square feet of gross floor area
Retail use selling one or more of the following, but not limited to: food, baked goods, groceries, clothing, dry goods, books, art, flowers, paint, hardware, and minor household appliances	1 space for each 200 square feet of gross floor area
Retail uses exceeding 50,000 square feet of gross floor area	1 space for each 200 square feet of gross floor area
Restaurant, coffee shop, diner, luncheonette and/or sandwich shop (non-drive-through) with outdoor seating oriented toward the river where applicable	1 space for every 3 seats
Bar (no live entertainment and/or dancing)	1 space for every 3 seats
Dairy or ice cream bar (non-drive-through window)	1 space for every 3 seats
Bank and/or other financial institutions (with or without a drive-through)	1 space for each 250 square feet of gross floor area
Inn, hotel, or bed-and-breakfast establishment	1 space per unit
Marinas	0.6 space per recreational slip and 1 space per commercial slip
General office uses unless otherwise specified	1 space for each 300 square feet of gross floor area
Professional offices - accountant's office, architect's and/or engineer's office, attorney's office, dentist's office, insurance office, medical clinic, real estate office	1 space for each 250 square feet of gross floor area
Churches and other places of worship	1 space for each 4 seats at design capacity

Use

Nonprofit educational facility which is religious, sectarian, denominational or public, not to include any student living quarters or any type of trade school or nursery school

City governmental building (unless otherwise specified)

City auditorium

Historical association or society

Hospital

Membership clubs, lodges and/or societies

Indoor recreational facility or sports facility

Cultural uses such as a library, museum, gallery, concert hall, theater, auditorium, performance space, aquarium, or historical exhibit open to the public generally

Professional and/or business schools for profit (includes dance, music, art, other professional and/or business schools)

Parking Requirement

2 per classroom in an elementary school; 3 per classroom in a middle and junior high school; 4 per classroom, plus 1 space for every 4 seats of the total seating capacity of the auditorium or gymnasium, whichever has the largest capacity, in a senior high school

1 space for each 300 square feet of gross floor area

1 space for each 4 seats at design capacity

1 space for each 300 square feet of gross floor area

1.25 per bed at design capacity

1 space for every 3 seats

1 space for each 300 square feet of gross floor area

1 space for each 250 square feet of gross floor area

2 per classroom in an elementary school; 3 per classroom in a middle and junior high school; 4 per classroom, plus 1 space for every 4 seats of the total seating capacity of the auditorium or gymnasium, whichever has the largest capacity, in a senior high school

4. The parking requirements may be accommodated by either providing parking on site or off site or a combination of on-site parking and/or parking at municipal or other parking facilities in the vicinity of the proposed use.

5. If the required parking is provided on site, the design of the parking shall conform to the specifications as set forth in § [255-45](#) the Zoning Ordinance. In addition, on-site parking areas shall meet the following requirements:

- a. Parking and loading areas shall be hidden from view from public ways. Parking lots are not permitted in the front of buildings and should be located at the side or rear of a lot or in concealed structures, wherever possible.

b. Parking and loading areas shall be suitably screened visually from the street and abutters. Any views into parking areas shall be minimized through use of landscaping or architectural treatment.

c. Parking areas shall provide pedestrian walkways and connections to the sidewalk system.

6. If the required parking is provided at municipal or other parking facilities, the following requirements must be met:

a. The parking facility must be less than 1,000 feet from the proposed development, the distance to be measured in a straight line from the two closest points between the proposed use and the parking facility.

b. If using a municipal facility, the owner must purchase parking stickers from the City if available or lease the required number of spaces to satisfy the parking requirement.

9.3.16 Reduction in the Parking Requirement.

1. The required amount of parking may be reduced at the discretion of the PAA upon showing that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that the lesser amount of parking will provide positive environmental or other benefits. The Plan Approval Authority may consider:

a. The availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus or a MBTA transit station.

b. The availability of public or commercial parking facilities in the vicinity of the use.

c. Shared use of off-street parking spaces serving other uses having peak user demands at different times.

d. Age, income or other characteristics of the likely applicants which are likely to result in a lower level of auto usage.

e. Such other factors as may be considered by the Approval Authority, including whether the reduction of the parking requirement is likely to encourage the use of public transportation or encourage a proposed development to be more pedestrian friendly.

2. If one or more is applicable and the PAA determines it is in the best interest of the City, a reduction in the parking requirements can be approved.

9.3.17 Shared parking in Sub-Zone E. Shared parking in Sub-Zone E. Any off-street parking required by this section in Sub-Zone E for any building or use may be included as part of any off-street parking area similarly required for another building or use on the same site only when the type of buildings or uses indicate that the usage of such parking area would not occur simultaneously, as determined by the Economic Development Director.

9.4 MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD).

9.4.1 Establishment. The Medical Marijuana Overlay District (MMOD) is established as an overlay district. The boundaries of the MMOD are shown on the Zoning Map on file with the City Clerk. Within the MMOD, all requirements of the underlying district(s) remain in effect, except where these regulations provide an alternative to such requirements. Land within the MDOD may be used either for (1) a registered Marijuana dispensary ("RMD"), in which case the requirements set forth in this Section shall apply; or (2) a use allowed in the underlying district, in which case the requirements of the underlying district shall apply. If the provisions of the MMOD are silent on a zoning regulation, the requirements of the underlying district shall apply. If the provisions of the MMOD conflict with the requirements of the underlying district, the requirements of the MMOD shall control.

9.4.2 Purpose. The purpose of this Section is to provide for the placement of RMDs, in accordance with the Humanitarian Medical Use of Marijuana Act, M.G.L. c. 94C, App. s. 1-1 et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

9.4.3 Definitions. See "Medical Marijuana Overlay District" in Section 11.0.

9.4.4 Location.

1. RMDs may be permitted in the MMOD pursuant to a special permit.
2. RMDs may not be located within 500 linear feet of the following:
 - a. School, including a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university;
 - b. Child care facility;
 - c. Library;
 - d. Playground;
 - e. Public park;

- f. Youth center;
 - g. Public swimming pool;
 - h. Video arcade facility; or
 - i. Similar facility in which minors commonly congregate.
3. The distance requirement may be reduced by 25% or less, but only if:
- a. The applicant demonstrates that the RMD would otherwise be effectively prohibited within the municipality.
 - b. The applicant demonstrates that the RMD will employ adequate security measures to prevent diversion of medical marijuana to minors who are not qualifying patients pursuant to 105 CMR 725.004.

9.4.5 Application. The City Council shall be the special permit granting authority (SPGA) for a RMD special permit. The application shall include:

- 1. A copy of its registration as a RMD from the Massachusetts Department of Public Health (DPH);
- 2. A detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs;
- 3. Detailed plans that include the following information:
 - a. Compliance with the requirements for parking and loading spaces, for lot size, frontage, yards and heights and coverage of buildings, and all other provisions of this chapter;
 - b. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
 - c. Convenience and safety of vehicular and pedestrian movement off the site, if vehicular and pedestrian traffic off site can reasonably be expected to be substantially affected by on-site changes;
 - d. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the premises, including designated parking for home delivery vehicle(s), as applicable;

- e. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping; and
 - f. Adequacy of water supply, surface and subsurface drainage and light.
4. A description of the security measures, including employee security policies, approved by DPH for the RMD;
 5. A copy of the emergency procedures approved by DPH for the RMD;
 6. A copy of the policies and procedures for patient or personal caregiver home delivery approved by DPH for the RMD;
 7. A copy of the policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs approved by DPH;
 8. A copy of proposed waste disposal procedures; and
 9. A description of any waivers from DPH regulations issued for the RMD.

9.4.6 Procedures.

1. Referral. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, the Department of Public Works, and the Planning Board. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
2. Action. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other City boards and departments, the SPGA may act upon such a permit.

9.4.7 Special Permit Conditions on RMDs. The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this Section. In addition to any specific conditions applicable to the applicant's RMD, the SPGA shall include the following conditions in any special permit granted under this Section:

1. Hours of operation, including dispatch of home deliveries.
2. The permit holder shall file a copy of any incident report required under 105 CMR 725.110(F) with the Zoning Enforcement Officer and the SPGA within 24 hours of

creation by the RMD. Such reports may be redacted as necessary to comply with any applicable state or federal laws and regulations.

3. The permit holder shall file a copy of any summary cease and desist order, cease and desist order, quarantine order, summary suspension order, order limiting sales, notice of a hearing, or final action issued by DPH or the Division of Administrative Law Appeals, as applicable, regarding the RMD with the Zoning Enforcement Officer and SPGA within 48 hours of receipt by the RMD.
4. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.
5. The special permit shall lapse within five years of its issuance. If the permit holder wishes to renew the special permit, an application to renew the special permit must be submitted at least 120 days prior to the expiration of the special permit.
6. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
7. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
8. The permit holder shall notify the Zoning Enforcement Officer and SPGA, in writing, within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.

9.4.8 Exemption from RMD Special Permit Requirement. RMDs that demonstrate that they are protected pursuant to the agricultural exemption under M.G.L. c. 40A, s. 3, are not required to obtain a special permit.

9.4.9 Prohibition Against Nuisances. No use shall be allowed in the MMOD which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

9.5 MERRIMACK STREET GATEWAY RENAISSANCE OVERLAY DISTRICT (MSGROD).

9.5.1 Purpose. It is the purpose of this Section to establish a Merrimack Street Gateway Renaissance Overlay District and thereby to encourage additional smart growth in the downtown core, to foster a range of housing opportunities along with mixed-use development components,

including, among others, distinctive retail, education and education-based uses, performing arts, media and graphics arts, offices, restaurants, public and private access to and use of the Merrimack River, which is now effectively cut off by a substantial and necessary flood wall, to spark the development of marine use facilities taking advantage of the navigable waters of the Merrimack River adjacent to downtown Haverhill, and to encourage private capital to invest in the design and construction of distinctive and attractive site development programs that promote compact design, creation of vital urban open space, and take advantage of a variety of transportation options, including enhanced pedestrian access to employment and nearby rail access. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Foster the long-term expansion of workforce and market-rate multi-family housing to bring further vitality and stability to the downtown riverfront;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Establish requirements, standards, and guidelines, and ensure predictable, prompt, fair and cost-effective development review and permitting;
5. Establish development standards to allow context-sensitive design and creative site planning;
6. Enable the City to act quickly to take advantage of available capital and technical resources to redevelop key parcels; and
7. Establish an anchoring redevelopment at a major gateway to downtown Haverhill, adjacent to the Bradford Bridge (also known as the "Route 125 bridge") over the Merrimack River.

9.5.2 Definitions. See "Merrimack Street Gateway Renaissance Overlay District" in Section 11.0.

9.5.3 Overlay District. The Merrimack Street Gateway Renaissance Overlay District, hereinafter referred to as the MSGROD, is an overlay district that is superimposed over the underlying zoning district(s) applicable to the property shown on the map entitled "Merrimack Street Gateway Renaissance Overlay District", dated October 5, 2012 (the "MSGROD Map"). The MSGROD Map is hereby made a part of the Zoning Ordinance and is on file in the office of the City Clerk. To avoid any uncertainty that might otherwise arise from the scale of the MSGROD Map, the MSGROD is hereby specified to include the entire area bounded northerly by the center line of Merrimack Street, easterly by the center line of Bridge Street, including the center line of such Street as it passes over the Bradford Bridge over the Merrimack River (being also the Route 125 bridge), southerly by the center line of the Merrimack River, and westerly by

the westerly sideline of the public way known as "Elliott Place" and the extension of such line southerly to the center line of the Merrimack River and northerly to the center line of Merrimack Street as it enters Washington Square at the intersection with Emerson Street.

1. Relationship to Underlying Zoning. The MSGROD is an overlay district superimposed on all underlying zoning districts, including, without limitation, any other overlay zoning district which operates to provide additional restrictions, limitations or conditions on underlying zoning. The provisions applicable to such underlying zoning district(s) shall not be applicable to a Project within the MSGROD shown on a plan which was submitted pursuant to this Section for such Project, and such Project shall instead be governed exclusively by the provisions of this Section.

9.5.4 Applicability. An applicant for a Project located within the MSGROD may proceed to permit and develop such project either entirely pursuant to underlying zoning, including, without limitation, any other overlay zoning district which operates to provide additional restrictions, limitations or conditions on underlying zoning, or, in the alternative, may seek Plan Approval for the Project solely in accordance with the requirements of this Section. If the Applicant seeks Plan Approval in accordance with the requirements of this Section, then notwithstanding anything to the contrary in the Zoning Ordinance, such application and the Project described therein shall be governed solely by this Section, and shall not be subject to any other provisions of the Zoning Ordinance. If a parcel or lot does not have a Project that obtains Plan Approval, or, after Plan Approval, the Project does not obtain a building permit, then the parcel or lot shall remain available for use or redevelopment under either underlying zoning or, at the election of the same or another proponent, this Section.

9.5.5 Permitted Uses. The following uses are permitted as of right in the MSGROD:

1. Mixed-use development which must provide space in the Project or a phase thereof for each of: (1) at least one of the nonresidential uses listed as permitted or specially permitted below, and (2) multi-family development, which multi-family development may be provided throughout the Project, or within one or more specified building(s) or phase(s) of the Project consisting of only multi-family residential use. In addition, any building not immediately fronting on Merrimack Street, whether constructed as a Project, as part of a Project or as a phase of a Project, may be used for purely multi-family residential purposes.

2. The following nonresidential uses:

- a. Business and professional offices.
- b. Business service and consumer service establishments.
- c. Commercial and financial services.

- d. Eating and drinking establishments without a drive-through, including, without limitation, seasonal outdoor seating.
 - e. Retail uses.
 - f. Educational Use.
 - g. Research and development uses.
 - h. Graphics arts and media arts studios, galleries and offices.
 - i. Performing arts uses, including, without limitation, indoor and outdoor stages.
 - j. Community facilities, including, without limitation, chapels and places of religious worship.
 - k. Indoor athletic, fitness, health and health spa establishments, including, without limitation, exercise establishments and martial arts and yoga studios.
 - l. Inns and hotels.
3. Parking, including surface, garage-under, and structured parking (e.g., parking garages) and automobile-sharing and bicycle-sharing services, provided that such parking use and such services are either a component of a mixed-use development or are accessory to another permitted use.
 4. Open space and recreational uses, including, without limitation, plazas, green areas and seasonal and occasional markets.
 5. Marinas, piers, floats, boardwalks, fishing areas, and other facilities and amenities providing views of and access to the Merrimack River, including, without limitation, boat rental, charter-boat facilities and boat-sharing services.
 6. Accessory and ancillary uses customarily incidental to any of the above permitted uses shall also be permitted, including, without limitation, day care accessory to any Educational Use or multifamily residential use, accessory swimming pools for use by residents, hotel or inn guests, workers or students in any mixed-use development, accessory pet care, conference and meeting facilities, and roof gardens and roof structures accessory to any multifamily residential use or any Educational Use.

9.5.6 Prohibited Uses. The following uses are prohibited in the MSGROD:

1. Septic System Repair Facility.
2. Solid Waste Disposal Facility.

3. Salvage Yard.
4. Self Storage Facility (other than any accessory storage units or accessory storage areas which are accessory to a permitted use such as a multi-family residential use or a retail or Educational Use or a performing arts use, which shall be permitted, provided the same shall be entirely located within a building and shall not be advertised or signed from the exterior of the building and shall be limited to use by Project residents, tenants and occupants).
5. Warehousing and Distribution Facility.
6. Motor Vehicle Service Station (Gasoline Sales).
7. Motor Vehicle General and Body Repair (provided that an accessory automobile detailing service may be provided within any parking-under structure).
8. Motor Vehicle Sales.
9. Motor Vehicle car wash (provided that an accessory automobile detailing service may be provided within any parking-under structure).
10. Storage of power boats.
11. Uses, buildings and structures permitted under M.G.L. c. 40A, s. 3, but not otherwise specifically contemplated in this Section, shall not proceed in or as part of a Project or any phase of a Project under this Section, but shall instead proceed solely in accordance with said M.G.L. c. 40A, s. 3, and the applicable provisions of underlying zoning.

9.5.7 Project Phasing. An Applicant may propose that a Project will be phased, and the PAA, as a condition of any Plan Approval, may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. In addition, the PAA may impose additional conditions pertaining to project phasing, including the provision of surety if deemed necessary by the PAA.

9.5.8 Dimensional Regulations.

1. The Maximum Height allowable in the MSGROD shall be the lesser of 125 feet and 10 stories, or the lesser of 125 feet and 12 stories in the case of a Priority Project. The Maximum Height allowable, stated above, does not apply to mechanical equipment, elevator shafts and bulkheads, chimneys, cooling towers and other structures ordinarily carried above the roof and not ordinarily used for human habitation, regardless of height above the roof, nor to balustrades, knee walls, pergolas, shade structures, wind breaks and similar features of roof gardens, provided the same are not more than 10 feet in height above the roof. Maximum Height in feet for any Project and any element thereof in the

MSGROD shall be measured from the mean elevation of the portion of the riverward sideline of Merrimack Street adjacent or most nearly adjacent to the Project, in order to encourage parking in any Project to be provided in a podium or similar parking-under structure. Maximum Height in stories for any Project and any element thereof in the MSGROD shall be measured starting with the first story above any parking provided in a podium or similar parking-under structure.

2. Except for Maximum Height, there are no dimensional, area or similar requirements or limits for Projects in the MSGROD.

9.5.9 Density Requirements.

1. Maximum as-of-right overall multi-family residential density for a Project shall be 220 dwellings per acre for a Priority Project and 110 dwellings per acre for all other Projects. Such density shall be determined using the entire area for any multi-family Project or any mixed-use development Project excluding only the footprint of any building within the Project, which does not have any multi-family residential uses in such building.

2. Maximum floor area ratio (FAR) for any Project shall be 4.0 which shall be calculated in accordance with the definition of "Floor Area Ratio" in Section 11.0, and which, consistent with that definition, shall exclude all areas of any garage-under parking in any Project.

9.5.10 Parking Requirements.

1. General. The purpose of these parking requirements is to encourage the use of public transportation and to make the downtown more pedestrian friendly and bicycle friendly. Parking requirements within the MSGROD are as follows.

a. Surface parking lots and parking structures shall provide pedestrian walkways and connections to the sidewalk system.

b. Parking structures shall be designed to be compatible with adjacent buildings and architecture.

2. Minimum Off-Street Parking Space Requirements.

a. Residential use: 1.0 space per dwelling unit, or, in the case of a Priority Project, 0.75 space per dwelling unit.

b. Such off-street parking spaces shall be provided (i) within the Project itself or (ii) in an off-site parking lot or parking garage, provided that such off-site parking lot or garage and the Project shall be no further than 2,500 feet distant from each other, measured on a straight-line basis at the point of minimum distance between

some point on the perimeter of such lot or garage and some point on the perimeter of the Project, or (iii) in a combination of the foregoing.

3. **Shared Parking.** The use of shared parking to fulfill parking demands noted above that occur at different times of day may be considered by the PAA. Minimum parking requirements above may be reduced at the discretion of the PAA for a mixed-use development that is a Priority Project or, in the case of other Projects, if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g., the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other PAA-approved studies). The applicant is encouraged to use the public parking facilities available in the downtown area and to lease parking in those facilities, and is permitted to use other off-site parking facilities in other locations as well.

4. **Reduction of Parking Requirement.** The required amount of parking may be reduced at the discretion of the PAA upon a showing that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits. The PAA may consider:

- a. The availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus or a MBTA transit station.
- b. The availability of public or commercial parking facilities in the vicinity of the use being served.
- c. Shared use of off-street parking spaces serving other uses having peak user demands at different times.
- d. Age, income or other characteristics of the likely occupants that are likely to result in a lower level of auto usage.
- e. Mixed-use nature of the Project that is likely to result in a lower level of auto usage.
- f. Availability as part of the Project of automobile-sharing services.
- g. Such other factors as may be considered by the PAA, including whether the reduction of the parking requirement is likely to encourage the use of public transportation or encourage a proposed development to be more pedestrian friendly, or whether the proposed Project will provide shuttle-bus services to off-site parking lots or parking garages.

9.5.11 General Design Standards.

1. The design of new buildings shall encourage public and private access to and along the Merrimack River and public and private use and viewing of the Merrimack River.

Projects which provide physical or visual access to the Merrimack River or create further activity on the water sheet of the Merrimack River are encouraged. Physical access to the Merrimack River could include one or more of, but not be limited to, public and/or private docks, marinas, floats, piers, wharves and fishing areas. Visual access to the Merrimack River could include one or more of, but not be limited to, public boardwalks, public plazas, seasonal outdoor seating, seasonal or occasional markets, public walking or biking trails along or in close proximity to the Merrimack River, or lateral access from Merrimack Street to such boardwalks, plazas or trails, or a view corridor where the public could view the Merrimack River.

2. New buildings shall be sited to establish view corridors from Merrimack Street to the River and to invite public pedestrian access to the waterfront from Merrimack Street.
3. New buildings are encouraged to have designs, elements or lighting features that provide a new visual gateway, landmark or iconic view for downtown Haverhill when viewed from any one or more of Merrimack Street, Bridge Street, Main Street, the Merrimack River, the south bank of the Merrimack River and/or the Bradford Bridge.
4. Adequate capital infrastructure for on-site municipal services shall be provided within any Project, including water, sewer, and drainage.
5. Adequate traffic circulation shall be provided to and from the Project's vehicular access points in order to maintain reasonable traffic control on Merrimack Street.
6. Ground floor spaces facing Merrimack Street and facing any plaza on top of any parking-under podium or other parking-under structure shall be designed to encourage a lively, urban, pedestrian-friendly atmosphere.
7. When dumpsters, utility meters, mechanical units and service areas cannot be located within a parking-under area or otherwise away from the street front, they shall be screened from view and shall not be located in the pedestrian right-of-way.
8. Lighting shall not create overspill onto adjacent properties or into the night sky.
9. One goal of the MSGROD is to promote new, urban design and layout in the MSGROD. Applicants shall not be required to preserve existing buildings, facades or other historic or potentially historic features or elements in the district, if any.

9.5.12 Application for Plan Approval. The application for Plan Approval shall be accompanied by 20 copies of the following plans and documents, which shall demonstrate consistency with the standards set forth in this MSGROD. All plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed

and stamped, and drawings prepared at a scale of one inch equals 40 feet or larger, or at another scale as requested by the applicant and approved in advance by the PAA, and shall show the following:

1. The perimeter dimensions of the lot; Assessor's Map, lot and block numbers; and whether any lots are to be combined as one lot for zoning purposes for the Project.
2. All existing and proposed buildings, structures, building setbacks, parking spaces, driveway openings, distance between buildings, plan view exterior measurements of individual buildings, driveways, service areas and open areas.
3. Internal roads, sidewalks and parking areas (width dimensions of paving and indication of number of parking spaces).
4. All facilities for sewage, refuse and other waste disposal and for surface water drainage.
5. All proposed landscaping features, such as fences, walls, boardwalks, walks, promenades, outdoor stages, potential areas for seasonal and occasional markets, planting areas, marinas, docks, piers, floats and access points to the foregoing on the Project site.
6. Existing major natural features, including streams, wetlands, buffer zones, regulated riverfront areas, regulated tidelands and filled tidelands areas, and all trees six inches or larger in caliper (caliper girth of the tree four feet above existing soil height at the trunk).
7. Scale and North arrow (minimum scale of one inch equals 40 feet unless otherwise requested by the applicant and approved by the PAA in advance).
8. Total site area in square footage and acres and area to be available as urban open space.
9. The proposed residential density in terms of dwelling units per acre and types of proposed commercial uses in terms of the respective floor area, proposed recreation areas, and number of residential units proposed by type: number of studio, one-bedroom, two-bedroom and three-bedroom units, if applicable.
10. Location sketch map (indicate surrounding streets and properties and any additional abutting lands owned by the applicant).
11. Proposed marinas, piers, floats, fishing areas, areas, if any, for potential boat rental and boat sharing services, and other amenities providing public and private access to and views of the Merrimack River, including boardwalks, promenades, adjoining urban open space included in the Project and the pedestrian flows intended to link such proposed marinas, piers, floats, fishing and boating areas, etc., to such boardwalks, promenades and other land-side urban open space.

12. Representative elevation sketches of buildings (indicate height of building and construction material of the exterior facade).
13. Typical unit floor plan for residential uses. (Floor plan should be indicated for each type of unit proposed: either studio, one-bedroom, two-bedrooms or more.) The area in square feet of each typical unit should be indicated.
14. Developer's (or its representative's) name, address and phone number.
15. Any other information which may include required traffic, school, and/or utilities impact study and in order to adequately evaluate the scope and potential impacts of the proposed Project.
16. If the Project should be reviewed as a Priority Project, a statement to that effect and a brief statement why it qualifies to be a Priority Project.

All plans and elevations presented with the application shall remain a part of the records of the PAA. The provision of the plan and the application shall be the sole responsibility of the applicant.

9.5.13 Procedures.

1. **Filing.** An applicant for Plan Approval shall file the application and all required submittals with the City Clerk and shall also file forthwith the required number of copies of the application form and the other required submittals as set forth above with the City Planner on behalf of the PAA, including notice of the date of filing with the City Clerk.
2. **Circulation to Other Boards.** Upon receipt of the application, the City Planner shall immediately provide copies of the application materials to the City Council, the Planning Board, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, Community Development, and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments, if any, within 60 days of its receipt of a copy of the plan and application for approval, or within 30 days of such receipt in the case of a Priority Project. Within 20 days after receipt of the application, the City Planner shall determine, in writing, whether the Project described in the application constitutes a Priority Project and shall inform the applicant, the PAA and such municipal boards, agencies and officers of such determination.
3. **Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in M.G.L. c. 40A, s. 11. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk, or within 75 days of the receipt of the application by the

City Clerk in the case of a Priority Project. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days, or said 75 days in the case of a Priority Project, or extended time, if applicable, shall be deemed to be an approval of the application and plan.

4. Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application. Such fees shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, architects, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

9.5.14 Decision.

1. Waivers. Except where expressly prohibited herein, upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of this Section in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MSGROD, or if the PAA finds that such waiver will allow the Project better to achieve the intent and overall purposes of this Section.

2. Plan Review. An application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review shall be construed as an as-of-right review and approval process.

3. Plan Approval. Plan Approval shall be granted where the PAA finds by majority vote of the members present that:

a. The applicant has submitted the required fees and information as set forth in this Section; and

b. The Project and plan meet the requirements and standards set forth in this Section, or a waiver has been granted therefrom; and

c. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

4. Plan Disapproval. A plan may be disapproved only where the PAA finds that:

a. The applicant has not submitted the required fees and information as set forth in this Section; or

b. The Project and plan do not meet the requirements and standards set forth in this Section, or a waiver has not been granted therefrom; or

c. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

5. Form of Decision. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If 20 days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

9.5.15 Change in Plan After Approval by PAA.

1. Minor Change. After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, lighting or facade adjustments, or minor adjustments to parking, landscaping or other site details that do not affect the overall massing, final build-out or building envelope of the site, and do not materially affect the open space, from that shown on the previously approved plan and do not increase the number of dwelling units in the Project in the aggregate from that provided in the original Plan Approval. Such minor changes must be submitted to the PAA on so-called "bubbled" prints of the approved plan, reflecting the proposed changes, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision within 30 days after the applicant has filed its application therefor, and the PAA shall provide a copy of its decision to the applicant for filing with the City Clerk.

2. Major Change. Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section.

9.5.16 Enforcement and Appeal.

1. The provisions of the MSGROD shall be administered by the Building Commissioner, except as otherwise provided herein. Any appeal arising out of action by the PAA

regarding application for Plan Approval shall be governed by the provisions of M.G.L. c. 40A applicable to as-of-right projects which have been subject only to a nondiscretionary plan review not involving or requiring any special permit and shall be made to a court of competent jurisdiction as set forth in M.G.L. c. 40A, s. 17. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of M.G.L. c. 40A.

9.5.17 Freeze During Process; Effectiveness and Validity of Plan Approval.

1. An application to the PAA for Plan Approval shall be governed by the applicable provisions of this Ordinance in effect at the time of the submission of the application, while the plan is being processed, during the pendency of any appeal, and for three years after Plan Approval. If an application is denied, such provisions in effect at the time of the application shall continue in effect with respect to any further application filed within two years after the date of the denial, except as the Applicant may otherwise choose.
2. A Plan Approval, and any and all minor changes thereto sought by an Applicant, shall remain valid and shall run with the land indefinitely, and a Project shall be governed by the applicable provisions of this Section in effect at the time of the submission of the original application for such original Plan Approval (without regard to applications for minor changes) indefinitely, provided that construction of the Project covered by such Plan Approval has commenced within three years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be further extended as provided in a Plan Approval for a multiphase Project. Such commencement of construction of the first phase of a Project covered by such Plan Approval within such three-year period, as so extended, shall constitute the timely commencement of construction of all phases of the entire Project for the purposes of this Section. No phase of a Project shall be in violation of zoning on account of a violation of zoning solely by one or more other phases of such Project. For purposes of this Section, commencement of construction shall include any material expenditure of funds on site work or environmental remediation or on any slurry wall, footings or foundation for any parking garage podium under the Project or under any portion or phase of the Project. The PAA may impose, but shall not be required to impose, such outside time limits for the commencement of the final phase of a phased Project as it sees fit, provided that the earliest date for such required commencement of such final phase shall not be earlier than seven years after the Plan Approval decision is issued, as extended as provided above, nor later than 15 years after the Plan Approval decision is issued, as extended as provided above, and further provided that any failure to meet such outside time limits shall only affect the right to construct the unbuilt phase(s) and shall not affect the previously constructed phase(s) or the respective rights of the same. In the event of a casualty affecting a building or structure which itself, or the use thereof, would be nonconforming with the provisions of this Section but for the grandfathering provided by this Section, such structure may be repaired, rebuilt and/or

reconstructed, as necessary, provided that any such repair, rebuilding or reconstruction shall be commenced within two years after the date of such casualty, and shall thereafter be diligently and continuously prosecuted to completion. Except as provided in any one or more of the preceding sentences of this Subsection, any amendment to this Section shall apply to building permits applied for after the first notice of public hearing on such amendment.

3. The owner of a Project, or applicable portion thereof, may choose to waive the benefit of the provisions of this Section in writing.

4. No further Plan Approval, special permit, variance or the like shall ever be required to reconstruct a Project, or portion thereof, following any casualty.

5. On the other hand, any Alteration or Extension of a Project that would not conform to the then-existing provisions of this Section shall require a further Plan Approval or deemed Plan Approval.

6. For purposes of this Section, "Alteration" means any construction resulting in a material change in the structural parts or height of, or number of stories or footprint of, a building, or to permit a substantially different use of such building; and "Extension" means any material increase in physical size or a substantially different use.

9.5.18 Tax and Other Incentives for Priority Projects. It is the City's intention to give preference to, and to fast track the approval of, Priority Projects, as defined in this Section. Accordingly, and notwithstanding any other provision of this Section or the City Code to the contrary, the City may, in order to foster and encourage a Priority Project:

1. Establish the Priority Project, or the MSGROD, as a Development District within the meaning of M.G.L. c. 40Q and the regulations thereunder and establish and provide District Improvement Financing, so called for the Priority Project, or the MSGROD.

2. Authorize tax increment financing (TIF) as allowed by M.G.L. c. 40, §§ 59 through 60, and the regulations thereunder and authorize, to the extent allowable by law, a tax increment exemption from the portion of the real estate taxes.

3. Invest all or a portion of the building permit and other fees in infrastructure improvements for the Priority Project or the MSGROD.

4. Allow such other tax incentives as may be allowed by law or by Home Rule petitions allowed by the City Council and the General Court of the Commonwealth.

9.6 CAMPUS AREA DEVELOPMENT DISTRICTS.

9.6.1 Applicability. A campus area development may be allowed by special permit in the RC-AC and RC-CV subdistricts subject to the provisions of this Section. Campus area

developments shall not be subject to Table 2: Table of Dimensional and Density Regulations, provided that the following conditions are met.

9.6.2 Tract Area and Ownership Requirements. In order to be developed as a campus area development, a tract of land must have an area of at least 15 contiguous acres and at least 300 feet of continuous frontage on a public right-of-way. Such land need not be in single ownership provided that all owners of land to be developed as a campus area development under a single special permit are coapplicants. Each owner of land within a campus area development shall be responsible for compliance of its own parcel with the requirements of the special permit, if special requirements are imposed on a particular portion of a campus area development, only the owner or owners of such portion shall be required to comply with such requirements.

9.6.3 Dimensional, Parking and Loading Requirements. Because one of the goals of the campus area development zoning designation is the reuse of property formerly used as a college or university campus, special dimensional, parking and loading requirements shall apply to campus area developments in order to facilitate such reuse.

1. RC-CV Subdistrict. All campus area developments in the RC-CV subdistrict shall be subject to the dimensional requirements set forth for the applicable uses in Exhibit A. In addition, the following special provisions shall apply:

a. Buildings shall be set back a minimum of five feet from any perimeter lot line and internal street line (edge of pavement).

b. The maximum continuous length of any building facade in any one direction shall not exceed 300 feet, and for attached dwellings (townhouse or row house), the minimum and maximum numbers of units in a row shall be three and 10, respectively (but not to exceed 300 feet).

c. There shall be a minimum of five feet between buildings and 7.5 feet between townhouse rows.

d. In determining compliance of a lot within a campus area development with the minimum lot area per dwelling unit, maximum building coverage and maximum floor area ratio requirements of Exhibit A, the open space required under this chapter (30% of all land within the RC-CV subdistrict) shall be attributed to the area of the lot for purposes of the calculation (notwithstanding that such open space is not located within the lot proper). In the event that a campus area development is comprised of two or more lots, such open space shall be attributed on a pro rata basis among such lots.

e. There shall be no more than 172 Dwelling Units in the RC-CV subdistrict.

2. RC-AC Subdistrict. All campus area developments in the RC-AC subdistrict shall be subject to the dimensional requirements for the applicable uses set forth in Exhibit A.

Notwithstanding the foregoing, it is understood and agreed that to the extent that campus area developments in the RC-AC subdistrict include nonconforming structures or lots, such structures or lots shall have the benefit of the provisions of this Section, except that nonconforming structures in campus area developments shall not be deemed abandoned unless they have been demolished.

- a. In addition, in the event that any new construction project or any extension or alteration of a nonconforming structure or lot included within a campus area development in the RC-CV or RC-AC subdistricts does not comply with the dimensional requirements set forth in Exhibit A or the parking and loading requirements set forth in Table 1 or in this Section, the campus area development project proponent shall have the right to obtain a special permit from the City Council permitting such noncompliance.

9.6.4 Uses. A campus area development may include one or more uses (including accessory uses) that are either permitted or permitted by special permit in the underlying RC-AC or RC-CV subdistrict, as applicable. In the special permit application for a campus area development, the applicant shall include the proposed uses of the development. If, after approval of the special permit application, the project proponent elects to include one or more additional uses, if the use is, or uses are, permitted as of right in the RC-AC or RC-CV subdistrict, as applicable, the proponent shall provide written notice to the City Clerk of the additional use or uses proposed and no additional permit or permits shall be required, and, if the use is, or uses are, permitted by special permit in the RC-AC or RC-CV subdistrict, as applicable, the proponent shall obtain a special permit for such use or uses from the City Council (notwithstanding any provision of this chapter providing for the Board of Appeals to grant special permits for certain uses). Professional office uses in campus area developments shall not be subject to other requirements of this Ordinance.

9.6.5 Open Space. At least 30% of the land area of all land included within the RC-CV subdistrict shall be set aside as permanent open space, such open space to be located as determined by the owner or owners in its or their discretion. Prior to issuance of a special permit for a campus area development in the RC-CV subdistrict, the City Council shall be satisfied that such permanent open space shall be provided in the subdistrict. This requirement shall not apply to campus area developments in the RC-AC subdistrict. All permanent open space shall be left in a natural state or developed for open space recreational purposes only such as tot lot, park, playground, Mayfield, conservation area, etc. A fee interest or permanent easement to use such open space land shall be granted to the City and accepted by it for park or open space use, granted to a nonprofit organization, the principal purpose of which is the conservation of open space, or granted to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. If such a corporation or trust is utilized, the interest in such open space shall pass with conveyances of the lots or residential units. In any case where such fee or easement interest is not conveyed to the City, a restriction enforceable by the City shall be recorded, provided that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway. Such open space land shall have suitable access to a street.

9.6.6 Public Water and Sewer. A campus area development shall be served by both a public water and public sewerage system.

9.6.7 Subdivision Review. The plan and the roadway and respective utility improvements in the tract shall be subject to the definitive plan and performance guaranty requirements of the Rules and Regulations Governing the Subdivision of Land in the City of Haverhill, Massachusetts.

9.6.8 Clerk of the Works. The services of a consultant to act as a Clerk of the Works, directly responsible to the City Engineer, shall be required for all new construction in the RC-CV subdistrict to assure that proper construction practices are implemented according to any standards or procedures set forth by the City Council as a condition of the issuance of the campus area development special permit and according to the subdivision plans and specifications approved by the Planning Board. Said Clerk shall be selected and reimbursed as outlined in Section 10.7.

9.6.9 Street Signage. The proponent or proponents of a campus area development shall install street identification signs on all rights-of-way and drives within the development. Said signs shall be in place upon completion of final paving of each respective way or drive.

9.6.10 Street Lighting. The proponent or proponents of a campus area development shall install street lighting on all rights-of-way and drives within the development. The lighting shall be in place prior to paving of each respective way or drive.

9.6.11 Design Criteria. Building design and landscaping shall be in harmony with the prevailing character and scale of buildings in the neighborhood through the use of appropriate building materials, screening and other architectural techniques. Variation in detail, form and site shall be used to provide visual interest and avoid monotony, where warranted.

9.6.12 Landscaping. The campus area development shall be integrated into the existing terrain and surrounding landscape. Building sites shall, to the extent feasible:

1. Minimize use of wetlands, steep slopes, floodplains and hilltops.
2. Preserve natural or historic features.
3. Maximize open space retention.
4. Minimize obstruction of scenic views from publicly accessible locations.
5. Minimize tree, vegetation and soil removal, blasting and grade changes.
6. Screen objectionable features from neighboring properties and roadways.

9.6.13 Procedures. The procedures to obtain a special permit for construction of a campus area development shall be the same as the procedure set forth in Section 8.2 for obtaining a special permit for construction of multifamily dwelling units, except that this Section shall be deemed amended for special permits for campus area developments as follows:

1. Upon issuance of the Planning Board's recommendations on the special permit application (or expiration of 35 days after receipt of such application if the Planning Board fails to make such recommendations), the applicant shall submit a definitive plan to the Planning Board as specified in the Rules and Regulations Governing the Subdivision of Land in the City of Haverhill. The Planning Board shall not take final action on such submission until expiration of the appeal period from the City Council's action on the applicant's special permit application.
2. In addition, in view of the public benefits provided by campus area developments including, without limitation, provision of open space and preservation and reuse of historic structures, the provisions of this Ordinance concerning Affordable Housing shall not apply to such developments.

9.7 LICENSED MARIJUANA ESTABLISHMENT OVERLAY ZONE (LMEOZ)

9.7.1 Purpose. The purpose of the LMEOZ is:

1. To provide for the placement of adult use marijuana establishments in appropriate places and under specific conditions in accordance with the provisions of MGL c. 94G, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed.
2. To minimize any adverse impacts of adult use marijuana establishments on adjacent properties, dense or concentrated residential areas, school and other places where children congregate, and other sensitive land uses.
3. To regulate the siting, design, placement, access, security, safety, monitoring, modification and discontinuance of adult use marijuana establishments.
4. To provide applicants, owners and operators with clear guidance regarding adult use marijuana establishments siting, design, placement, access, security, safety, monitoring, modification and discontinuance.

9.7.2 Definitions. See Section 11.0, "Licensed Marijuana Establishment Overlay Zone"

9.7.3 Applicability. No adult use marijuana establishment shall be permitted except in compliance with the provisions of this article.

9.7.4 Designated Locations of Marijuana Establishments.

1. Eligible zones. Certain groups of LMEs shall be eligible for different zoning areas designated in the attached City Engineer's Map entitled "Licensed Marijuana Establishments Overlay Zone with Street Index" dated December 7, 2018, and as amended from time to time. This map is hereby made a part of the Zoning Ordinance and is on file in the office of the City Clerk. Those zones shall be as follows:

District Full Name

Licensed Marijuana Establishments - No Exclusions

Licensed Marijuana Establishments - No Retail Sales

Licensed Marijuana Establishments - Retail Sales Only

Medical Marijuana Overlay District - No Exclusions

2. Buffer zone. No LME outside the Waterfront District Area (WDA) shall be located within 500 feet of the following preexisting structures or uses: any school attended by children under the age of 18, licensed childcare facility, municipally owned and operated park or recreational facilities (not including bikeways, boardwalks, pedestrian paths, or other facilities primarily used for nonvehicular modes of travel), churches or places of worship, libraries, playground or play field, or youth center.

3. Notification. Applicants seeking to establish an LME within the Waterfront District Area (WDA) must notify adjacent property owners, as well as any preexisting licensed childcare facility for children under the age of 18, church or place of worship, or youth center, within 300 feet of the proposed site of the initial application for a special permit.

4. No LME shall be located within 1/2 mile of another licensed LME. The City Council may modify or waive this requirement.

9.7.5 Designated Number of Marijuana Establishments.

1. The total number of all marijuana retailers or social consumption establishments may not exceed 20% of the number of licensed package and liquor stores within the City.

2. In the event that the number of licensed package and liquor stores within the City decreases, a marijuana retailer or social consumption establishment, if then exceeding 20% as noted in Subsection 9.7.5.1, may remain in operation.

3. There shall be no restrictions on the number of any particular type of establishment permitted within the City, other than as regulated in Subsection 9.7.5.1.

9.7.6 Special Permit Required. No LME shall be operated or expanded without first obtaining a special permit from the City Council granting authority in accordance with this Section 9.7 and Section 10.5.

1. The special permit granting authority for any LME shall be the City Council.

2. A special permit shall only be valid for use by the applicant and will become null and void upon the sale or transfer of the license of a LME or change in the location of the business.

3. In the event that the commonwealth's licensing authority suspends the license or registration of a marijuana establishment, the special permit shall be so suspended by the City until the matter is resolved to the satisfaction of said licensing authority.

4. The special permit shall be considered null and void if meaningful construction and operation has not begun within one year of obtaining said permit, as determined by the Building Inspector.

9.7.7 Development Review Required as Part of Special Permit Application.

1. Any application for a special permit for an LME in the City of Haverhill shall not be deemed to be complete without the filing of all information required for Development Review under Section 10.1.4.

2. This information shall be filed as part of the special permit application.

3. This information shall be filed with the City Clerk as part of the special permit application, and the Clerk shall forward the site plan package to the City departments responsible for Development Review for review with comments/recommendations included in a report to the City Council prior to the special permit hearing.

9.7.8 General Requirements.

1. Outside storage. No outside storage of marijuana, marijuana products, related supplies, or educational materials is permitted.

2. Visibility of activities. All activities of any LME shall be conducted indoors.

3. Paraphernalia. Devices, contrivances, instruments, and paraphernalia for inhaling or otherwise consuming marijuana, including, but not limited to, rolling papers and related tools, water pipes, and vaporizers, may be lawfully sold at a marijuana retailer. No retail marijuana, marijuana products, or paraphernalia shall be displayed or kept in a retail marijuana store so as to be visible from outside of the license premises.

4. Hours of operation. In no event shall marijuana retailers, social consumption establishments, or microbusinesses be open and/or operating and dispensing product between the hours of 9:00 p.m. and 9:00 a.m. and not opening before 12:00 noon on Sundays.

5. On-site consumption of marijuana. The use, consumption, ingestion or inhalation of marijuana or marijuana products shall only be permitted at social consumption establishments and research facilities, within the confines of the building. On-site consumption is prohibited on or within the premises of any other LME.

6. Sale of alcohol. LMEs are prohibited from selling alcoholic beverages.

9.7.9 Design Requirements. The following are required for all proposed operations of an LME, consistent with this Section:

1. Permanent location. Each LME and any part of its operation, including but not limited to, cultivation, processing, packaging, and sales, shall be operated from a fixed location within a fully enclosed building. No marijuana establishment shall be permitted to operate from a moveable, mobile, or transitory location.

2. Lighting. Outdoor light levels shall not exceed one footcandle along property lines, nor 10 footcandles for any location on the property. Any light poles, new or existing, may not exceed 18 feet in overall height. All outdoor light fixtures must be shielded and aimed down in order to prevent light trespass onto adjacent properties. The special permit granting authority may modify this requirement if, upon recommendation by the Police, it is required for adequate safety and security.

3. Landscaping. The proposed site shall provide landscaping to harmonize the LME with abutting uses. Landscaping shall be provided as per the requirements of this Ordinance. Trees and shrubs may be clustered. Landscaping must consist of native, noninvasive plant species. The City Council may modify or waive this requirement.

4. Drive-through facilities. LMEs are prohibited from installing an on-site drive-through facility.

5. Fencing. Fencing may be required if determined necessary by the City Council. The location, height and type of fencing may be determined by the City Council as a condition of the special permit approval. In no instance shall barbed-wire fencing be permitted.

6. Waste disposal. There shall be no outdoor storage of waste, including dumpsters, for any marijuana retailer. All waste generated shall be secured indoors, to be serviced by a professional janitorial company or medical waste company.

7. Ventilation. All LMEs must ventilate in a manner so as that no pesticides, insecticides, or other chemicals or products used in cultivation or processing are dispersed into the outside atmosphere. Ventilation must also ensure that no odor from marijuana processing or consumption can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the LME or at any adjoining use or property.

9.7.10 Filing Requirements. Applications to permit an LME must be submitted to the City Council or their designee(s). Such applications for LMEs shall include the following:

1. Development Review Plan. A Development Review Plan shall be submitted that includes all information required by the City Departments responsible for such review, and the following:
 - a. The names, mailing addresses, phone numbers, email addresses, and signatures of the applicant, owner, and operator.
 - b. Physical address (if one exists), and the map, lot, and block number of the proposed site.
- 2.. Security plan. A security plan shall be submitted to ensure the safety of employees, patrons, and the public, to protect the premises from theft or other criminal activity. The security plan shall be reviewed and approved by the local Police Chief or their designee. The plan must include the following: an interior floorplan (including secured areas, windows, doors, etc.), exterior lighting, fencing (if any), gates (if any), alarms, and any other security measures requested by the Police Chief.
3. Traffic study. The City Council may require a traffic study that includes an analysis of traffic generation, circulation, and off-street parking demand to determine sufficient parking and optimum configuration for site ingress and egress.
4. State license. A copy of the license or registration as an LME from the Massachusetts Cannabis Control Commission or documentation that demonstrates that said facility and its owner/operators qualify and are eligible to receive a certification of registration and meet all of the requirements of an LME in accordance with the regulations adopted by the Commission, as amended.
5. Proof of site control. Evidence that the applicant has site control and the right to use the site for an LME in the form of a deed, valid lease, or purchase and sale agreement or a notarized statement from the property owner certifying the applicant has firm site control.
6. Odor control. The odor control plan proposed adequately provides for the ongoing safe operation of the establishment and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on site.
7. Ten-percent contribution. A list shall be submitted that lists all persons or entities contributing 10% or more of the initial capital to operate the LME, including capital in the form of land or buildings.

9.7.11 Discontinuance of Use.

1. Any LME under this article shall be required to remove all material, plants, equipment, and other paraphernalia in compliance with regulations established by the Cannabis Control Commission within 30 days after the expiration or voiding of its license.

2. The City Council may require the marijuana establishment to fund an escrow account in an amount sufficient to adequately support the dismantling and winding down of the marijuana establishment within 60 days of final approval of the special permit.

9.7.12 No City Liability; Indemnification.

1. The applicant and all licensees waive and release the City, its elected officials, employees, and agents from any liability for injuries, damages, or liabilities of any kind that result from any arrest or prosecution of the LME owners, operators, employees, clients, or customers for a violation of state or federal laws, rules, or regulations.

2. The applicant, in receiving approvals issued pursuant to this chapter, and all licensees, jointly and severally, if more than one, agree to indemnify, defend and hold harmless the City, its elected officials, employees, attorneys, agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other loss of any kind whatsoever, arising out of or in any manner connected with the operation of the LME that is subject of the approval/license.

9.7.13 Annual Inspection.

1. Any operating LME within the City shall be inspected annually by the Building Inspector, or their designee, to ensure compliance with this article and with any conditions imposed by the City Council as a condition of the special permit approval.

2. The first annual inspection shall be more than one year after beginning operation, but before two years of beginning operation.

9.7.14 Other Laws Remain Applicable.

1. At all times while a permit is in effect the licensee shall possess all required licenses.

2. To the extent that the state has adopted or adopts in the future any additional or stricter law or regulation governing the cultivation, manufacturing, testing or retail of marijuana or marijuana products, the additional or stricter regulation shall control the LME in the City. Compliance with any applicable state law or regulation shall be deemed an additional requirement for issuance or denial of any license under this chapter, and noncompliance with any applicable state law or regulation shall be grounds for revocation or suspension of any license issued hereunder.

3. Any LME may be required to demonstrate, upon demand by law enforcement officers of the City of Haverhill and/or the local licensing authority, the source and quantity of any marijuana found upon the license premises are in full compliance with any applicable state law or regulation.

4. The issuance of any license pursuant to this chapter shall not be deemed to create an exception, defense or immunity to any person in regard to any potential criminal liability the person may have for the cultivation, possession, sale, distribution, or use of marijuana.

5. Prior to the issuance of a special permit, the LME must have entered into a host community agreement (HCA) with the City. If, upon review by the City Council, the LME is found to not be fully in compliance with the HCA, the special permit and/or the local license may be suspended or rescinded.

9.8 DOWNTOWN SMART GROWTH OVERLAY DISTRICT (DSGOD).

9.8 Purpose. It is the purpose of this Section to establish a Downtown Smart Growth Overlay District (DSGOD) and to encourage smart growth in accordance with the purposes of M.G.L. Chapter 40R, and to foster a range of housing opportunities along with a mixed use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby rail access. Other objectives of this article are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning; and

7. Enable the City to receive zoning incentive payments and/or density bonus payments in accordance with M.G.L. Chapter 40R, 760 CMR 59.06, and M.G.L. Chapter 40S, arising from the development of housing in the DSGOD.

9.8.2 Definitions. See Section 11, Downtown Smart Growth Overlay District.

9.8.3 Overlay District.

1. Establishment. The Downtown Smart Growth Overlay District, hereinafter referred to as the DSGOD, is an overlay district having a land area of approximately 58 gross acres in size that is superimposed over the underlying zoning district applicable to a portion of the property shown on the map entitled "Downtown Smart Growth Overlay District," dated November 23, 2015 (the "DSGOD Map"). This map is hereby made a part of the Zoning Ordinance and is on file in the office of the City Clerk.

2. Subzones. There are hereby established five subzones within the DSGOD: High Density 220 (Subzone A); High Density 120 (Subzone B); High Density 65 (Subzone C); Multifamily 20 (Subzone D); and Townhouse (Subzone E).

3. Location. The location of these subzones is shown on the DSGOD Map.

4. Underlying zoning. The DSGOD is an overlay district superimposed on all underlying zoning districts. When a building permit is issued for any Project approved in accordance with this Section, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to this Section for such Project.

9.8.4 Applicability of DSGOD. In accordance with the provisions of M.G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the DSGOD may seek Plan Approval in accordance with the requirements of this Section. In such case, then notwithstanding anything to the contrary in this Zoning Ordinance, such application shall not be subject to any other provisions of this Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations.

9.8.5 Permitted Uses. The following uses are permitted as of right in the DSGOD Subzones, except as specified below:

1. Multifamily development in Subzones A, B, C, and D only.

2. Mixed Use Development in all subzones; provided, however, that in Subzones A, B and C, the proportion of residential to nonresidential uses within a Mixed Use Development shall be as follows:

- a. At least 75% of the gross floor area of the structure shall be residential;
 - b. Not more than 5% of the gross floor area of the structure shall be nonresidential and all such nonresidential uses shall be located on the first floor only.
3. The following nonresidential uses are allowed as of right in a Mixed Use Development:
- a. Professional offices.
 - b. Retail, business and consumer service establishments.
 - c. Commercial and financial services.
 - d. Eating and drinking establishments.
 - e. Artist live/work in Subzone D and E.
 - f. Townhouse development, in Subzone E only.
 - g. Parking, including surface, garage-under, and structured parking (e.g., parking garages).
 - h. Open Space and Recreational Uses.
 - i. Accessory uses customarily incidental to any of the above permitted uses shall be permitted.

9.8.6 Project Phasing. The PAA, as a condition of any Plan Approval, may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable units and the proportion of market rate units shall be consistent across all phases.

9.8.7 Housing and Housing Affordability.

1. Marketing plan. Prior to granting Plan Approval for housing within the DSGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including individuals, households with children, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to this Section, shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

2. Number of Affordable Housing units. For all Projects, not less than 20% of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

3. Requirements. Affordable Housing shall comply with the following requirements:

- a. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30% of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- b. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30% of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.
- c. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- d. The DSGOD shall not include the imposition of restrictions on age upon the entire district, but the development of specific Projects within the district may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than 25% of the housing units in such a restricted Project shall be restricted as Affordable Housing. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

4. Design and Construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and have exteriors that are equivalent in design and materials to the exteriors of other housing units in the development. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the number of bedrooms in all units in the Project of which Affordable Housing is part.

5. Affordable Housing Restriction. Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

- a. Specification of the term of the affordable housing restriction which shall be no less than 30 years, but which may, as a requirement of Plan Approval, be for a longer period of time;

- b. The name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;
- c. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project without specific unit identification.
- d. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law for the Affordable Housing Units; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;
- e. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;
- f. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;
- g. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;
- h. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the administering agency;
- i. Provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the administering agency;
- j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and the City, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

- k. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and the City, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- l. Provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the administering agency, in a form specified by that agency certifying compliance with the Affordability provisions of this article and containing such other information as may be reasonably requested in order to ensure affordability;
- m. A requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability.

6. Administering Agency. An administering agency which may be the Local Housing Authority, or other qualified housing entity (the "Administering Agency") shall be designated by the PAA as the Administering Agency for all Projects in the DSGOD. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Administering Agency shall ensure the following both prior to issuance of a building permit for a Project within the DSGOD and on a continuing basis thereafter, as the case may be:

- a. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
- d. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;
- e. Affordable Housing Restrictions meeting the requirements of this article are recorded with the proper registry of deeds;

7. Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the

administering agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements. Such payment shall not exceed 1/2% of the amount of rents of Affordable Rental Units (payable annually) or 1% of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

8. Computation. Prior to the granting of any Plan Approval of a Project, the applicant for such building permit must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to Haverhill.

9. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section shall not be waived.

9.8.8 Density.

1. High Density 220 — Subzone A. The density in Subzone A shall be 220 dwellings as of right per acre. In the alternative, where an existing building is rehabilitated, the density (number of dwelling units) shall be the gross square feet contained in the existing building, minus 25%, divided by 1,200 square feet.

2. High Density 120 — Subzone B. The density in Subzone B shall be 120 dwellings as of right per acre. In the alternative, where an existing building is rehabilitated, the density (number of dwelling units) shall be the gross square feet contained in the existing building, minus 25%, divided by 1,200 square feet.

3. High Density 65 — Subzone C. The density in Subzone C shall be 65 dwellings as of right per acre. In the alternative, where an existing building is rehabilitated, the density (number of dwelling units) shall be the gross square feet contained in the existing building, minus 25%, divided by 1,200 square feet.

4. Multifamily 20 — Subzone D. The density in Subzone D shall be 20 dwellings as of right per acre.

5. Townhouse 12 — Subzone E. The density in Subzone E shall be 12 dwellings as of right per acre.

9.8.9 Parking Requirements.

1. General. The purpose of these parking requirements is to encourage the use of public transportation and to make the downtown more pedestrian friendly. Parking requirements within the DSGOD are as follows.

- a. Surface parking lots and parking structures shall provided pedestrian walkways and connections to the sidewalk system.
- b. Parking structures shall be designed to be compatible with adjacent buildings and architecture.

2. Minimum Off-Street Parking Space Requirements.

- a. Residential Use: 1.2 spaces per one-bedroom unit; 1.4 spaces per two-bedroom and three-bedroom unit.
- b. Such off-street parking spaces shall be established no further than 800 feet from the premises to which they are appurtenant.

3. Shared Parking. The use of shared parking to fulfill parking demands noted above that occur at different times of day may be considered by the PAA. Minimum parking requirements above may be reduced at the discretion of the PAA if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g., the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies). The applicant is encouraged to use the public parking facilities available in the downtown area and to lease those facilities in non-peak hours.

4. Reduction of Parking Requirement. The required amount of parking may be reduced at the discretion of the PAA upon a showing that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits. The PAA may consider:

- a. The availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus or an MBTA transit station;
- b. The availability of public or commercial parking facilities in the vicinity of the use being served;
- c. Shared use of off-street parking spaces serving other uses having peak user demands at different times;
- d. Age, income or other characteristics of the likely applicants which are likely to result in a lower level of auto usage;
- e. Such other factors as may be considered by the PAA, including whether the reduction of the parking requirement is likely to encourage the use of public transportation or encourage a proposed development to be more pedestrian friendly.

9.8.10 General Design Standards. General Design Standards. The following Design Standards shall apply in all subzones.

1. The design of new buildings shall preserve existing views to the Merrimack River, and incorporate site and building design features that may help to preserve those views from public rights-of-way.
2. New buildings shall be sited to preserve view corridors, particularly to the Merrimack River.
3. Drive-in facilities shall not have driveways entering or exiting over the main frontage sidewalk.
4. Signs shall conform to the requirements for C districts set forth in Section 6.2 of the Zoning Ordinance.
5. When dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they shall be screened from view and shall not be located in the pedestrian right-of-way.
6. Lighting shall not create overspill onto adjacent properties or into the night sky.

9.8.11 Subzone Design Standards. The following Design Standards shall apply in the various subzones, as set forth below:

1. High Density 220 — Subzone A: Existing structures within the High Density 220 — Subzone A are eight-plus story mill structures. It is anticipated that housing production within Subzone A will take place entirely as redevelopment of existing buildings.
 - a. Some mixed use is required on the first floor, restricted to allowed nonresidential uses, where oriented towards the street. No mixed use shall take place other than on the first floor. Not more than 5% of the gross floor area of the structure shall be devoted to such mixed use.
 - b. Maximum height of the building shall be no greater than the height of the existing structure in the subzone.
2. High Density 120 — Subzone B: Existing structures within the High Density 120 — Subzone B are seven-plus story mill structures. It is anticipated that housing production within Subzone B will take place entirely as redevelopment of existing buildings.
 - a. Some mixed use is required on the first floor, restricted to allowed nonresidential uses, where oriented towards the street. No mixed use shall take place other than on the first floor. Not more than 5% of the gross floor area of the structure shall be devoted to such mixed use.

- b. Maximum height of the building shall be no greater than the height of the existing structure in the subzone.
3. High Density 65 — Subzone C: Existing structures within the High Density 65 — Subzone C are eight-plus story mill structures. It is anticipated that housing production within Subzone C will take place entirely as redevelopment of existing buildings.
- a. Some mixed use is required on the first floor, restricted to allowed nonresidential uses, where oriented towards the street. No mixed use shall take place other than on the first floor. Not more than 5% of the gross floor area of the structure shall be devoted to such mixed use.
 - b. Maximum height of the building shall be no greater than the height of the existing structure in the subzone.
4. Multifamily 20 — Subzone D: Washington Street design standards.
- a. New construction in this subzone shall provide public access and view corridors to the Merrimack River from Washington Street.
 - b. Mixed use is required, with first floor restricted to allowed nonresidential uses on street frontage.
 - c. Buildings shall be oriented perpendicular to the riverfront, or in such fashion as to maximize view corridors to the river.
 - d. Buildings shall be designed in a manner so as to present a "front" facade to both the Washington Street streetscape as well as to the riverfront. Dual entries from Washington Street and from the riverfront facade are required to promote the City's vision for an active, public downtown waterfront.
 - e. First floor use along Washington Street and along the riverfront shall be of a public and/or commercial nature.
 - f. Maximum height shall not exceed six stories overall, with a four-story maximum at Washington Street. If higher than four stories, building shall step from Washington Street frontage from the front cornice line along a 45° bulk control plane which begins at the cornice height at the front lot line.
 - g. In exchange for an easement for the public's right to pass from Washington Street to the City's planned Riverwalk, a proposed project may request an increase in height and density from standard dimensional regulations contained herein. No building shall exceed a maximum height of eight stories under any circumstances.

The PAA will weigh the value of the proposed public benefit against any potential impacts when deciding whether to grant such a request.

5. Multifamily 20 — Subzone D: Historic District; Design Standards.
 - a. Proposed development shall be subject to advisory review by the Washington Street Historic District Commission.
 - b. Mixed use is required, with first floor restricted to allowed nonresidential uses on street frontages.
 - c. Maximum height shall be four stories.
6. Townhouse 12 — Subzone E: This subzone is comprised of smaller scale structures than the rest of the DSGOD, and abuts single- and two-family residential areas.
 - a. Maximum height shall not exceed four stories.
 - b. Along Locust Street frontage, step back requirement shall begin at three stories.

9.8.12 Application for Plan Approval. The application for Plan Approval shall be accompanied by 20 copies of the following plans and documents, which shall demonstrate consistency with the standards set forth in this DSGOD. All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of one inch equals 40 feet or larger, or at a scale as approved in advance by the PAA, and shall show the following:

1. The perimeter dimensions of the lot; Assessor's Map, lot and block numbers.
2. All existing and proposed buildings, structures, building setbacks, parking spaces, driveway openings, distance between buildings, plan view exterior measurements of individual buildings, driveways, service areas and open areas.
3. Internal roads, sidewalks and parking areas (width dimensions of paving and indication of number of parking spaces).
4. All facilities for sewage, refuse and other waste disposal and for surface water drainage.
5. All proposed landscaping features, such as fences, walls, planting areas and walks on the lot and tract.

6. Existing major natural features, including streams, wetlands and all trees six inches or larger in caliper (caliper is girth of the tree at approximately waist height).
7. Scale and North arrow (minimum scale of one inch equals 40 feet).
8. Total site area in square footage and acres and area to be set aside as public open space, if appropriate.
9. Percentage of lot coverage (including the percentage of the lot covered by buildings) and percentage of open space, if appropriate.
10. The proposed residential density in terms of dwelling units per acre and types of proposed commercial uses in terms of the respective floor area, and recreation areas, and number of units proposed by type: number of one-bedroom units, two-bedroom units, etc., if appropriate.
11. Location sketch map (indicate surrounding streets and properties and any additional abutting lands owned by the applicant).
12. Representative elevation sketches of buildings (indicate height of building and construction material of the exterior facade).
13. Typical unit floor plan for residential uses. (Floor plan should be indicated for each type of unit proposed: either one bedroom, two bedrooms or more.) The area in square feet of each typical unit should be indicated.
14. Developer's (or his representative's) name, address and phone number.
15. Draft Housing Marketing and Selection Plan as required by § 255-126A.
16. Evidence that the Project complies with the cost and eligibility requirements of this Section.
17. Project plans that demonstrate compliance with the dimensional and design requirements of this Section.
18. A form of Affordable Housing Restriction that satisfies the requirements of this Section.
19. Any other information which may include required traffic, school, and/or utilities impact study and in order to adequately evaluate the scope and potential impacts of the proposed project.

20. Rehabilitation plan. If living quarters are to be rehabilitated, or areas to be converted into living quarters, in addition to the required site plan, nine copies of the following described plan shall be furnished:

- a. A floor plan of each floor on which remodeling is to be done or areas converted into living quarters;
- b. A floor plan showing the stairways, halls, door openings into the halls and exit doors of each floor or floors where remodeling or converting is to be done; and
- c. An elevation of the parts of the building where outside stairways or fire escapes are to be located. The plans and elevations shall be clearly illustrated. The size of each plan shall be 11 inches by 17 inches or 22 inches; it shall be drawn to scale 1/4 inch equals one foot.

All plans and elevations presented with the application shall remain a part of the records of the PAA. The provision of the plan and the application shall be the sole responsibility of the applicant.

9.8.12 Procedures.

1. Filing. An applicant for Plan Approval shall file the application and all required submittals with the City Clerk and shall also file forthwith the required number of copies of the application form and the other required submittals as set forth above with the PAA including notice of the date of filing with the City Clerk.

2. Circulation to Other Boards. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Planning Board, Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, Community Development, and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

3. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in M.G.L. c. 40A, § 11. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.

4. Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to M.G.L. c. 40R, § 11. Such fees shall be held by the City in a separate account and used only for expenses

associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, architects, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

9.8.13 Decision.

1. **Waivers.** Except where expressly prohibited herein, upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of this Section in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the DSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section.
2. **Plan Review.** An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this article, and such Plan Review shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.
3. **Plan Approval.** Plan Approval shall be granted where the PAA finds by majority vote of the members present that:
 - a. The applicant has submitted the required fees and information as set forth in this Section; and
 - b. The project and site plan meet the requirements and standards set forth in this Section, or a waiver has been granted therefrom; and
 - c. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.
4. **Plan Disapproval.** A site plan may be disapproved only where the PAA finds that:
 - a. The applicant has not submitted the required fees and information as set forth in this Section; or
 - b. The project and site plan do not meet the requirements and standards set forth in this Section, or a waiver has not been granted therefrom; or
 - c. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.
5. **Form of Decision.** The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the

PAA. If 20 days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

9.8.14 Change in Plans after Approval by PAA.

1. Minor change. After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk.

2. Major change. Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section.

9.8.15 Enforcement and Appeal. The provisions of the DSGOD shall be administered by the Building Inspector, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding application for Plan Approval shall be governed by the applicable provisions of M.G.L. c. 40R. Any other request for enforcement or appeal arising under this Article XIV shall be governed by the applicable provisions of M.G.L. c. 40A.

9.8.16 Severability. If any provision of this Section is found to be invalid by a court of competent jurisdiction, the remainder of Section shall remain in full force. The invalidity of any provision of this Article XIV shall not affect the validity of the remainder of the City's Zoning Ordinance.

SECTION 10.0 ADMINISTRATION AND ENFORCEMENT

10.1 BUILDING COMMISSIONER.

10.1.1 Permit Required. It shall be unlawful for any owner or person to erect, construct, reconstruct, convert or alter a structure or change the use, or extend the use of any building, sign or other structure or lot without applying for on the forms provided for and receiving from the Building Commissioner the required permit therefor. For purposes of administration, such permit and application procedure involving a structure may be made at the same time and combined with the permit required under the most recent code adopted by the City Council. Where the application does not involve a structure but only a lot, a permit shall be applied for and may be issued.

1. Prior to the issuance of any permit, the Building Commissioner shall determine that the street or way which provides frontage and access to a lot(s) has, for the entire length of the lot(s) frontage, sufficient width, suitable grades/topography and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to safely and sufficiently serve such land and the buildings erected or to be erected thereon. Any question as to the adequacy of a street or way shall be referred to the Planning Board for the submission of a plan to determine the adequacy of the street or way. Any improvements approved by the Planning Board shall follow normal lot release procedures relative to providing surety for the required improvements.

10.1.2 Exemptions. The following shall be exempt from this Section:

1. Replacing copy. The changing of advertising copy or message on an approved painted or printed sign or on theater marquees and similar approved signs which are specifically designed for the use of replaceable copy.
2. Temporary signs and signs under Section 6.2.
3. Structural improvements or changes that are exempted by the Building Code and do not change the height, number of stories, size, use or location of a structure.
4. Repairs as defined by this Ordinance.

10.1.3 Other Approvals Required. Where authorization of a use of land or of a structure is required by the Board of Appeals or City Council, a copy of such written authorization shall be sent by the Clerk of the Board or Council to the Building Commissioner within 14 days of granting of approval and shall be received by the Building Commissioner prior to the issuance of a permit. In addition, the Building Commissioner in such cases where the Board or Council has granted a limited or conditional zoning variance or special permit shall not issue a permit until the applicant submits an affidavit from the Essex County Registry of Deeds that such authorization of the Board or Council has been recorded. Furthermore, the Building

Commissioner shall not issue a permit where approval by the Mayor, State Department of Natural Resources and the State Department of Public Works for the filling of wetlands; and/or a certificate of appropriateness from the Historic District Commission, if and when required; and/or a covenant or offer for acceptance of open space, until these requirements are met in writing. Authorization for a permit shall be null and void if the applicant has not obtained his permit from the Building Commissioner after one year from the date of approval of his application by the City Council or the Board.

10.1.4 Development Review. In addition to plans and drawings required for submission under regulations of the Building Code or this Ordinance, all applications for building permits for (1) new construction of a single family home, or (2) change of use in an existing structure, or (3) any new construction of a multifamily, commercial, or industrial structure, or (4) the development of 3 or more parking spaces, shall be submitted to the Building Commissioner accompanied by evidence required by the City Departments set forth below (the "City Departments"). This process shall be called "Development Review." Approval shall be required, when applicable, from the following City Departments:

1. Water and Sewer Departments.
2. Fire Chief.
3. Police Chief.
4. City Engineer.
5. Health Department.
6. Conservation Commission.

The purpose of this Development Review is to ensure, prior to issuance of a special permit or building permit, that the proposed development or site alterations will comply with the State Building Code, other state laws and regulations, this Ordinance (including the performance standards set forth in Section 6.3), and public safety standards. If, in the opinion of the relevant City Departments, the work proposed deviates from the standards set forth above, the SPGA or the Building Commissioner may deny the application for a special permit or building permit or other work. Each City Department shall conduct its review within 45 days and report to the applicant and the Building Commissioner in writing.

When a definitive subdivision plan has been approved and said plan conforms with the requirements of the Planning Board's Rules and Regulations, the Development Review Process may be suspended or abbreviated, at the discretion of the Building Commissioner.

10.1.5 Certificate of Use and Occupancy. It shall be unlawful to use or occupy any structure or lot for which a permit is required herein without the owner applying for and receiving from the Building Commissioner a certificate of use and occupancy. Such certificate may be combined with the one which may be issued under the Building Code. The Building Commissioner shall take action within 14 days of receipt of an application for a certificate of use and occupancy. Failure of the Building Commissioner to act within the 14 days shall be considered approval.

10.1.6 Permit and Application Fees. Fees shall be as established by the City Council. Current fees are on file in the office of the City Clerk.

10.1.7 Enforcement. The Building Commissioner shall serve a notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion or alteration of a structure or change in use, or extension of use of any building, sign or other structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit or certificate issued under the provisions of this Ordinance, and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner or person responsible who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare.

10.1.8 Penalties. Any owner or person who violates or refuses to comply with any of the provisions of this chapter may, upon conviction, be fined a sum of up to \$300 per day, for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.

10.2 BOARD OF APPEALS.

10.2.1 Establishment. There is hereby created a Board of Appeals of five members and two associate members. As terms expire, the Mayor shall make appointments in the month of December for a term of office commencing on the following first day of January, for a term of five years for the five regular members and for a term of one year for the two associate members, so that the term of one regular member and the two associate members shall expire each year. If a vacancy should occur during the course of the year, the Mayor shall fill such vacancy within 45 days in the same manner as an original appointment; the appointee shall serve for the unexpired term remaining for the position. The Administrator of the Department of Planning and Development or his designee shall act as an ex officio adviser (sharing all the responsibilities of a regular Board member except not the voting privilege) to the Board.

10.2.2 Powers. The Board of Appeals shall exercise the powers and perform the duties prescribed for a Board of Appeals under the provisions of M.G.L. c. 40A and c. 40B, or any amendments thereto. Any action of such board, under such sections, shall be in accordance with and subject to the terms thereof. The Board's powers are as follows:

1. When designated, to hear and decide applications for special permits.
2. To hear and decide appeals or petitions for variances from the terms of this Ordinance, with respect to particular land or structures, as set forth in M.G.L. c. 40A, s. 10. No use variance may be granted by the Board. Discuss duplex again.
3. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. c. 40A, §§ 7, 8 and 15.

4. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L. c. 40B, §§ 20-23.

10.2.3 Procedures. Applications shall be filed in accordance with the rules and regulations of the Board of Appeals. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Board of Appeals.

10.2.4 Conditions. Special permits and variances may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit or permit granting authority may deem necessary to serve the purposes of this Ordinance.

10.2.5 Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

10.2.6 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for applications for special permits, petitions for variances, administrative appeals, and applications for comprehensive permits.

10.3 PLANNING BOARD.

10.3.1 Establishment. An appointed Planning Board of nine (9) members is hereby established.

10.3.2 Powers. The Planning Board shall have the following powers:

1. When designated, to hear and decide applications for special permits as provided in this Ordinance, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the Board.

10.3.3 Rules and Regulations. The Planning Board shall adopt rules and regulations not inconsistent with the provisions of the Zoning By-law for conduct of its business and otherwise carrying out the purposes of said Chapter 40A, and shall file a copy of such rules in the office of the City Clerk.

10.3.4 Fees. The Planning Board may adopt reasonable administrative fees and technical review fees for applications for special permits.

10.4 SPECIAL PERMITS.

10.4.1 Special Permit Granting Authority (SPGA). The Planning Board, Zoning Board of Appeals, and the City Council shall serve as the SPGA when designated in this Ordinance.

10.4.2 Criteria. Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the proposed use or structure(s) shall not cause substantial detriment to the neighborhood or the City, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, such determination shall include consideration of each of the following:

1. Community needs served by the proposal;
2. Traffic and pedestrian flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on City services, tax base, and employment.

10.4.3 Procedures. Applications shall be filed in accordance with the rules and regulations of the SPGA. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

1. On application for a special permit before the City Council, the Fire, Building, Health, Water, Police, Wastewater, Engineering, Planning, School and Conservation Departments, and other organizations at the selection of the City Council as SPGA, will be requested to review the special permit and provide comments and recommendations. If such comments are not received by the hearing date, the SPGA shall act on the application in the normal manner.

10.4.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the SPGA may deem necessary to serve the purposes of this Ordinance.

10.4.5 Plans. An applicant for a special permit shall submit a plan in substantial conformance with the requirements the SPGA's rules and regulations.

10.4.6 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk.

10.4.7 Regulations. The SPGA may adopt rules and regulations for the administration of this Section.

10.4.8 Fees. The SPGA may adopt reasonable administrative fees and technical review fees for applications for special permits.

10.5 REPETITIVE PETITIONS.

10.5.1 General. No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals (City Council, where applicable) shall be acted favorably upon within two years after the date of final unfavorable action, unless the Board of Appeals finds by a vote of 4/5 of its members (the City Council, where applicable, finds by a vote of 2/3 of its members) specific and material changes in the conditions upon which the previous unfavorable action was based and describes such changes in the record of its proceedings, and unless all but one of the members of the Planning Board gives written consent thereto, prior to consideration by the Board of Appeals (City Council, where applicable), and after public notice as set forth in M.G.L. c. 40A, s. 11 is given to parties in interest of the time and place of the proceedings when the question of such consent will be considered.

10.5.2 Fee. A filing fee in the amount of \$150 shall accompany the application and shall cover the costs for advertising both the City Council and Planning Board public hearings and processing of the petition.

10.6 CLERK OF THE WORKS.

10.6.1 Applicability. A Clerk of the Works: Building and a Clerk of the Works: Roadway/Utilities shall each be required to inspect all multifamily residential developments requiring approval.

1. The Clerks shall be considered consultants to the City, each under a consultant service contract.

10.6.2 Duties.

1. The Clerk of the Works: Building shall inspect all building construction under the direction of the Building Commissioner to ensure that the construction practices and materials utilized are according to any special permit and/or definitive plan conditions and local or state codes. The City shall be reimbursed for the costs of the Clerk of the Works: Building through permit fees.
2. The Clerk of the Works: Roadways/Utilities shall inspect all roadway utilities and drainage construction under the direction of the City Engineer and the Director of Public Works to ensure the use of proper construction practices and that materials are utilized according to any definitive plan and/or permit conditions and local and state codes. The City shall be reimbursed on a monthly basis by the developer for the full cost of inspection by the Clerk of the Works: Roadway/Utilities including the cost of retaining said Clerk during a slack construction period. An hourly rate for inspections and payments shall be determined from time to time by the City Council and Mayor.

10.6.3 Notice. A minimum of eight weeks and a maximum of 12 weeks prior to the start of construction, the developer shall notify the City Engineer of the intended date for commencement of construction. The developer shall be notified at that time of the hourly rate for inspections which shall be applicable to the project for the ensuing 12 months. At the end of each twelve-month period, the rate shall be adjusted to the then established rate.

10.6.4 Payment. The developer shall pay the City the full cost of the Clerk's inspections for each thirty-day inspection period. The City Engineer, at the close of each thirty-day period, shall send a written billing statement to the developer specifying the number of inspection hours and dollar amount expenses incurred. All amounts shall be due on the date of billing. Any unpaid amounts shall accrue interest at a rate of 14% per annum. Accrued interest shall be waived for all billing statements paid within 30 days following the date of billing.

10.6.5 Release. The developer, at the time of filing with the Planning Board a request for the release of lots from the approved covenant in consideration of a proposed method of guaranteeing the construction of roadway and utilities, shall increase the performance guaranty amount by the cost of 180 hours of inspection. This amount shall remain on file and shall not be released until the completion and acceptance by the Board of all construction covered under the performance guaranty.

10.6.6 Deposit. In the event that a developer does not request releases from covenant, he shall deposit with the City Treasurer an amount equal to 180 hours of inspection to remain on file until the completion of all roadway/utility work necessary to service those lots for which building permits have been issued. This amount shall be returned to the developer upon completion and acceptance by the Board of the required construction.

10.6.7 Acknowledgment. The City Treasurer shall provide written acknowledgment to the City Engineer and Planning Board upon receipt of any deposit/payment by a developer.

10.6.8 Suspension. A developer's failure to deposit/pay the required inspection costs shall cause outstanding building permits to be suspended, and no new permits or revocation of any suspended permit shall be issued until the account is brought up-to-date.

10.7 REQUEST FOR REASONABLE ACCOMMODATION.

10.7.1 Purpose. Under the FHA, it is a discriminatory practice to refuse to make "a reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling" 42 U.S.C. § 3604(f)(3)(B). The same standard applies under the ADA, which also addresses nonresidential facilities providing services to persons with disabilities. 42 U.S.C. 12112(b)(5). The purpose of this Section is to facilitate housing and/or services for persons with disabilities and to comply fully with the spirit and the letter of the FHA and, where applicable, the ADA.

10.7.2 Request. Any person eligible under the FHA or any provider of housing to persons eligible under the FHA, or any person eligible to operate a nonresidential facility providing services to persons eligible under the ADA, may request a Reasonable Accommodation as provided by the Fair Housing Act and/or the ADA. A Request for a Reasonable Accommodation does not affect a person's or provider's obligations to act in compliance with other applicable laws and regulations not at issue in the requested accommodation.

10.7.3 Zoning Board of Appeals. All requests for Reasonable Accommodation under the FHA and/or the ADA shall be submitted to the Zoning Board of Appeals (ZBA).

10.7.4 Information. All requests for Reasonable Accommodation shall be in writing and provide, at a minimum, the following information:

1. Name and address of person(s) or entity requesting accommodation;
2. Name and address of property owner;
3. Name and address of dwelling or facility at which accommodation is requested;
4. Description of the requested accommodation and specific regulation or regulations for which accommodation is sought;
5. Reason that the requested accommodation may be necessary for the person or persons with disabilities to use and enjoy the premises; and
6. If the requested accommodation relates to the number of persons allowed to occupy a dwelling, the anticipated number of residents, including facility staff (if any).
7. If necessary to reach a decision on the request for Reasonable Accommodation, the ZBA may request further information from the applicant consistent with the FHA and/or ADA, specifying in detail the information required.

10.7.5 ZBA Procedures. The ZBA shall hold a public hearing using the procedures, including notice, set forth in M.G.L. c. 40A, §§ 11 and 15. The deadlines imposed in M.G.L. c. 40A, s. 11 or s. 15 may be extended upon the request of the applicant and the approval of the ZBA. The ZBA may seek information from other City agencies in assessing the impact of the requested accommodation on the rules, policies, and procedures of the City. Upon written notice to the ZBA, an applicant for a Reasonable Accommodation may withdraw the request without prejudice. The ZBA shall consider the following criteria when deciding whether a request for accommodation is reasonable:

1. Whether the requested accommodation would require a fundamental alteration of a legitimate City policy; and

2. Whether the requested accommodation would impose undue financial or administrative burdens on the City government.

10.7.6 Decision. After conducting an appropriate inquiry into the request for Reasonable Accommodation, the ZBA may:

1. Grant the request;
2. Grant the request subject to specified conditions; or
3. Deny the request.

The ZBA shall issue a written final decision on the request in accordance with M.G.L. c. 40A, s. 15. If the ZBA fails to render its decision on a request for Reasonable Accommodation within the time allotted by M.G.L. c. 40A, s. 15, the request shall be deemed granted. The ZBA's decision shall be filed with the City Clerk and sent to the applicant by certified mail.

10.7.7 Appeal. The ZBA's decision pursuant to this Section may be appealed to a court of competent jurisdiction in accordance with M.G.L. c. 40A, s. 17 or otherwise.

10.7.8 File. The ZBA shall maintain a file of all requests for Reasonable Accommodation under the FHA and/or the ADA and a file of all decisions made on such requests. The file(s) may be reviewed in the Office of the ZBA upon request during regular business hours.

10.7.9 Other Laws. While a request for Reasonable Accommodation is pending, all laws and regulations otherwise applicable to the premises that is the subject of the request shall remain in full force and effect.

10.7.10 Effective Date. The provisions of this Section shall apply only to requests for Reasonable Accommodation made after [REDACTED], 2017. Any person who has previously submitted a request for Reasonable Accommodation may resubmit the request for processing pursuant to the procedures set forth in this Section.

10.8 SITE PLAN REVIEW FOR DOVER AMENDMENT USES

10.8.1 Purpose. The purpose of this Section is to provide for site plan review of Table 1: Table of Use and Parking Regulations, uses B.3, B.4, and B.5, which are otherwise "exempt" pursuant to G.L. c. 40A, s. 3.

10.8.2 Site Plan Review Required. Prior to the issuance of any building permit or certificate of occupancy, the establishment, alteration, change, extension, or reconstruction of uses B.3, B.4, or B.5, as set forth in Table 1: Table of Use and Parking Regulations, shall require site plan approval from the Planning Board pursuant to this Section.

10.8.3 Scope of Site Plan Review. Under this Section, Site Plan Review shall be limited to two inquiries:

1. Whether the use qualifies for protection under G.L. c. 40A, s. 3; and, if so,
2. What reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements, if any, should be imposed on the use.

10.8.4 Required Information. All applications for Site Plan Review shall be in writing and provide, at a minimum, the following information:

1. Name and address of applicant person or entity;
2. Name and address of property owner;
3. Description of the proposed use and any documents necessary to establish threshold compliance with G.L. c. 40A, s. 3;
4. Reason that relief is requested from otherwise applicable zoning requirements;
5. If necessary to reach a decision on the application, the Planning Board may request further information from the applicant consistent with G.L. c. 40A, s. 3, specifying in detail the information required.

10.8.5 Site Plan; Contents. In addition, the applicant shall submit a site plan with the following information:

1. Legend depicting all pertinent existing and proposed site features.
2. The date and north arrow shall be shown on the plans.
3. All site plans must be stamped by a Registered Professional Civil Engineer and a Professional Land Surveyor. The land surveyor shall perform an instrument boundary survey and shall certify the accuracy of the locations of the buildings, setbacks, and all other required dimensions to property lines.
4. Zoning Chart depicting "Required" vs. "Provided" for all applicable Zoning Criteria including Lot Size, Frontage, Setbacks, Building Height, Lot Coverage, Parking Spaces, Landscaping Requirements.
5. Locus map, at a scale of 1" = 600' or suitable scale to accurately locate the site in Town, oriented on the plan in the same way as the large-scale plan.

6. The location, width, status (public or private), and name of all streets within 100' of the project.
7. On-site and abutting lot lines. On-site lot lines shall be described by bearings and distance. Abutting lot lines shall be shown in a general way.
8. Zoning District lines, including overlay districts if applicable.
9. The location of existing or proposed building(s) on the lot shall be shown with total square footage and dimensions of all buildings.
10. Any streams, brooks, or wetland resource area boundaries within 100' of the property lines.
11. Information on the location, size and type and number of existing and proposed landscape features.
12. Information on the location, size and capacity of existing and proposed on-site and abutting utilities, (water, sewer, drainage, natural gas, electrical cable, etc.) including utilities in abutting side streets, if applicable.
13. Detailed locations and dimensions of all existing and proposed buildings and uses on site and on abutting properties, including exterior details relating to the building footprint. All existing and proposed setbacks from property lines. Any minimum, or below minimum, setback distances shall be clearly noted as such on the plan.
14. Information and details for all site and directional on-site signage shall be submitted.
15. Elevation and facade treatment plans of all proposed structures. Color renderings are required for new construction.
16. Information on the location, size and type of parking, loading, storage and service areas. A parking calculation schedule noting existing, required and proposed spaces for the entire site shall be provided.
17. Details and specifications (if applicable) for proposed site amenities, including, but not limited to fences, recreation facilities, walls or other barrier materials; and special paving materials.

10.8.6 Decision. The Planning Board may approve, approve with conditions, or deny an application for site plan approval. In making its decision, the Board shall be guided exclusively by G.L. c. 40A, s. 3. The Board shall file a written decision with the Town Clerk within 90 days of receipt of the application. Failure to file a decision within ninety (90) days shall constitute approval of the site plan.

10.8.7 Appeal. Any appeal of the Planning Board's decision shall be made pursuant to G.L. c. 40A, s. 17, to a court of competent jurisdiction.

SECTION 11.0 DEFINITIONS

For the purpose of this Ordinance, certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural, the plural the singular; the words "used" or "occupied" include the words "designed, arranged, intended or offered to be used or occupied"; the words "building", "structure", "lot", "land" or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the State Building Code or Planning Board Subdivision Regulations shall have the meaning given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, latest Edition. As used in this Ordinance chapter, the following terms shall have the meanings indicated:

ABANDONMENT: The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a structure or lot; or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use without its replacement by similar equipment or furnishings; or the replacement of the nonconforming use or structure by a conforming use or structure.

ACCESS: Access to all lots approved under these regulations as well as all lots approved as ANR lots shall be access which is actual (nonillusory) access to the building location on the lot. The access shall be provided by (from) the frontage so that it is not illusory in nature. Access shall facilitate safe ingress and egress to the building location within the lot for public safety vehicles in the event of an emergency. Length, width, grades, topography and adequacy of construction are all essential components of demonstrating adequate actual access to the building site on a lot.

ACCESSORY APARTMENT: In residential districts, one apartment, consisting of separate living quarters in a principal single-family dwelling.

ACCESSORY RETAIL USES: Newsstand, barbershop, beauty shop, coffee shop, restaurant, sandwich shop, ice cream store, dining room, cafeteria, bookstore, bakery, candy store, delicatessen, florist, drugstore, bank, ATM and similar accessory services primarily for occupants or users thereof within a hotel, office or industrial building, hospital containing more than 50 sleeping rooms, or transportation terminal facility. Accessory retail uses shall not exceed 10% of gross floor area.

ADULT DAY CARE FACILITY: A "Social Day Care (SDC) Program" or "Adult Day Health" Program as those terms are defined by the Commonwealth's Executive Office of Elder Affairs (EOEA), serving not more than 15 persons.

ADULT USE: Shall include and be defined as follows:

ADULT BOOKSTORE: An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture

films, video cassettes, or coin operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "sexual conduct" as that term is defined in M.G.L. c. 272, s. 31; "Sexual Devices" or an establishment having for sale sexual devices which shall mean any artificial human penis, vagina or anus or other device primarily designed, promoted or marketed to physically stimulate or manipulate the human genitals, pubic area or anal area, including: dildos, penisators, vibrators, penis rings, erection enlargement or prolonging creams or other preparations or an establishment with a segment or section devoted to the sale or display of such materials.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS: Establishments which feature live entertainment which consists of entertainers engaging in "sexual conduct" or "nudity" as defined in M.G.L. c. 272, s. 31.

ADULT MINI MOTION PICTURE THEATER: An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by emphasis on matter depicting, describing or relating to "sexual conduct" as defined in M.G.L. c. 272, s. 31 (as defined below) for observation by patrons therein.

ADULT MOTION PICTURE THEATER: An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "sexual conduct" as defined in M.G.L. c. 272, s. 31, for observation by patrons therein.

AFFORDABLE HOUSING: For the purposes of Section 8.3, the following definitions shall apply:

AFFORDABLE RENTS: Those rents as published from time to time by the United States Department of Housing and Urban Development under that agency's HOME program and shall not exceed the low HOME rent limits for the Lawrence/Haverhill PMSA.

AFFORDABLE SALE PRICE: 50% of the HOME maximum value limits for Essex County as published from time to time by the Department of Housing and Urban Development under that agency's HOME program.

ALLEY: A way which is 20 feet or less in right-of-way width which is accepted or devoted to public use by legal mapping or by any other legal procedure.

ALTERATION: Any construction, reconstruction or other action resulting in a change in the height, number of stories, size, use or location of a structure.

ANIMAL DAY CLINIC: A clinic for animals to receive health care during normal working hours.

ASSISTED LIVING RESIDENCE: Facility licensed pursuant to M.G.L. c. 19D.

AUTOMOBILE SERVICE STATION: A building from or within which services such as the repair or cleaning of automobiles are rendered by an attendant. (See definition of "Self-Service Gasoline Station".)

AVERAGE FINISHED GRADE: The average of the finished ground elevation as measured at the corners of the structure. Only a maximum of four main corners of the structure shall be used to determine the grade.

BASEMENT: A portion of a building, partly below grade, which has more than 1/2 of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A "basement" is not considered a story unless its ceiling is six feet or more above the average finished grade. A "basement" may be used for human occupancy. (Also see definition of "Cellar".)

BED-AND-BREAKFAST ESTABLISHMENT: An owner-occupied dwelling with not more than six rooms available for overnight rental, with or without breakfast.

BOARD: The Zoning Board of Appeals of the City of Haverhill.

BUILDABLE LOT: In addition to all other requirements of the Haverhill Zoning Ordinance, each lot to be considered a buildable lot shall comply with all requirements of this definition. A buildable lot shall have a contiguous buildable upland area which is at least 50% of the required lot size for the zone in which the lot is located. This buildable upland area shall not exceed slopes of 15% on average. The term "buildable upland" shall mean any land area which is not part of a street, right-of-way or easement and not part of a pond, river, stream or wetland (as defined further by G. L. c. 131, s. 40 and City of Haverhill Code Chapter 253). In addition to the above requirements, to be considered a buildable lot, any lot retaining less than 40% of total lot area as a natural vegetative area (as defined in this chapter) shall file as part of the site plan for the lot evidence including a narrative statement by a registered professional engineer certifying that such removal of vegetative cover will likely not result in decreased recharge of the groundwater deposit or increased sedimentation of surface waters. The site plan shall indicate any restoration proposals or erosion control measures proposed on the premises.

BUILDING: A combination of any materials, which is fixed, having a roof, to form a structure for the shelter of persons, animals or property. (See definition of "Trailer".) For purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

BUILDING, ACCESSORY: A detached building, the use of which is customarily incidental and subordinate to that of the principal building and which is located on the same lot as that occupied by the principal building.

BUILDING, ATTACHED: A building having any portion of one or more walls in common with adjoining buildings.

BUILDING COVERAGE: The aggregate of the maximum horizontal cross-section area of all buildings on a lot, exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces, expressed as a percentage of total lot area.

BUILDING, DETACHED: A building surrounded by open space on the same lot.

BUILDING FRONTAGE: The width of a building's exterior which faces, fronts upon or coincides with a front lot line.

BUILDING, PRINCIPAL: A building in which is conducted the principal use of the lot on which it is located.

CELLAR: A portion of a building, partly or entirely below grade, which has more than 1/2 of its height measured from finished floor to finished ceiling below the average finished grade of the ground adjoining the building. A "cellar" is not deemed a story and shall not be used for human occupancy.

CHILD CARE CENTER: A day care center or school age child care program, as those terms are defined in M.G.L. c. 15D, s. 1A.

CONGREGATE CARE HOUSING: A shared residential living environment which integrates shelter and service needs of functionally impaired and/or socially isolated older persons who are otherwise in good health and can maintain a semi-independent lifestyle and who do not require the constant supervision or intensive health care services provided by an institution. Each resident has his or her own bedroom and may have separate living room, kitchen, dining area or bathroom and may share living, dining and bathroom facilities with other persons, such as in a common dining facility.

CONTRACTOR'S YARD: Facility serving entities engaged in building, HVAC, electrical, or plumbing services.

DISTRICT: A zoning district as established by Section 2.0 of this Ordinance.

DOWNTOWN SMART GROWTH OVERLAY DISTRICT: For purposes of Section 9.8, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 9.8, or as set forth in the rules and regulations of the Permit Approval Authority ("Regulations"). To the extent that there is any conflict between the definitions set forth in Section 9.8 and the Enabling Laws, the terms of the Enabling Laws shall govern.

AFFORDABLE HOMEOWNERSHIP UNIT: An Affordable Housing unit required to be sold to an Eligible Household.

AFFORDABLE HOUSING: Housing that is affordable to and occupied by Eligible Households.

AFFORDABLE HOUSING RESTRICTION: A deed restriction of Affordable Housing meeting statutory requirements in M.G.L. c. 184, § 31, and the requirements of Section 9.8.

AFFORDABLE RENTAL UNIT: An Affordable Housing unit required to be rented to an Eligible Household.

ARTIST LIVE/WORK UNIT: A residential use that permits up to 50% of the gross floor area of a residential dwelling unit to be used for the production of, showing, and sale of arts and crafts made on the premises by the occupant of said unit. Additionally, for the purposes of this DSGOD, this term shall also mean a building or buildings where a portion of the total space is used for residential purposes and other portions, not to exceed 50% of the gross floor area of a building or buildings, for the production, showing, and sale of arts and crafts produced by the residents thereof.

AS-OF-RIGHT PROJECT or PROJECT: A multifamily development, mixed use development, or townhouse development allowed under Section 9.8 as of right without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

ELIGIBLE HOUSEHOLD: An individual or household whose annual income is less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUDs rules for attribution of income to assets.

ENABLING LAWS: M.G.L. Chapter 40R and 760 CMR 59.00.

MULTIFAMILY DEVELOPMENT: A residential structure containing four or more dwelling units.

PLAN APPROVAL: Standards and criteria which a Project in the DSGOD must meet under the procedures established herein and in the Enabling Laws.

PLAN APPROVAL AUTHORITY: For purposes of reviewing Project applications and issuing decisions on development Projects within the DSGOD, the City Council, consistent with M.G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the "PAA"), and is authorized to approve a site plan to implement a Project.

RECREATIONAL USES: Active recreational uses, including but not limited to ball fields; and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

TOWNHOUSE DEVELOPMENT: A residential structure containing two or three dwelling units.

ZONING ORDINANCE: The Zoning Ordinance of the City of Haverhill.

DRIVE-IN FOOD ESTABLISHMENT: Any commercial establishment selling food, frozen dessert and/or beverages served by attendants to an occupant of a vehicle; or any commercial establishment selling food, frozen dessert and/or beverages in an over-the-counter fashion and which has a floor area ratio that is equal to or less than 0.2.

DRIVEWAY: An open space, located on a lot, which is not more than 30 feet in width as measured along the lot line, built for access to a garage or off-street parking or loading space.

DWELLING: A privately or publicly owned permanent structure which is occupied in whole or part as the home residence or sleeping place of one or more persons. The terms "one-family, two-family or multifamily dwelling" shall not include hotel, lodging house, hospital, membership club, trailer or dormitory.

DWELLING, MULTIFAMILY: A building containing three or more dwelling units, and including but not limited to an apartment house, a garden apartment house, a multifamily dwelling and a townhouse. One model unit for purposes of property management and/or leasing dwelling units shall be permitted within each multifamily development if requested and approved with special permit application.

DWELLING UNIT: One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating and cooking and sanitation.

ESSENTIAL SERVICES: Services provided by a private utility or public utility through erection, construction or alteration or maintenance of gas, electrical, steam or water transmission or distribution systems and collection, communication, supply or disposal systems. Facilities necessary for the provision of "essential services" include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, street name signs, hydrants and other similar equipment and accessories in connection herewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such private or public utilities for the public health, safety or general welfare and private utility substations and/or transformer stations or similar facilities.

FACADE, PUBLIC: The vertical surfaces on any building or structure along adjacent street or public approaches to the building or structure.

FAMILY: One or more persons related by marriage or bloodline, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FAMILY DAY CARE HOME, LARGE: Any private residence operating a facility as defined in M.G.L. c. 15D s. 1A.

FAMILY DAY CARE HOME, SMALL: Any private residence operating a facility as defined in M.G.L. c. 15D, s. 1A.

FLEXIBLE DEVELOPMENT: For the purposes of Section 8.4, the following definitions shall apply:

CONTIGUOUS OPEN SPACE: Open space suitable, in the opinion of the Planning Board, for the purposes set forth in Section 8.5.12, herein. Such open space may be separated by the road(s) constructed within the Flexible Development. Contiguous open space shall not include required yards.

FLOODPLAIN OVERLAY DISTRICT (FPOD): As used in Section 9.1, Floodplain Overlay District, the following terms shall have the meanings indicated:

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Maps (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Maps (FIRM), Zone A usually is refined into Zones A, AO, A1-A99, VO and V1-V30.

BASE FLOOD: The flood having a one-percent chance of being equaled or exceeded in any given year.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

EXISTING CONSTRUCTION: For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures".

FLOOD or FLOODING: (1) A general and temporary condition of partial or complete inundation of normally dry land areas from: (a) The overflow of inland or tidal waters; (b) The unusual and rapid accumulation of runoff of surface waters from any source; (c) Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground. (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal

tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) of this definition.

FLOODPROOFING: Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

STRUCTURE: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home. "Structure", for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a mobile home on a foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the walls. It does not include accessory structures and/or cellars or unenclosed porches or attics not used for human occupancy or cellars used only for storage purposes in connection with a retail and service commercial use or malls within a shopping center utilized purely for pedestrian circulation and/or decorative purposes between individual shops of the center or structures devoted to parking.

FLOOR AREA RATIO: The ratio of the gross floor area to the total lot area. The "floor area ratio" is arrived at by dividing the building gross floor area by the lot area.

HEALTH CARE SERVICES: Services relating to the provision of health care, including any of the following: all inpatient, outpatient and emergency acute and subacute hospital services; skilled nursing services; rehabilitation services; transitional services; assisted-living services; diagnostic services; pharmaceutical services; medical office buildings; health care education, research and training; medical laboratories; physician and health-care practice professional services; health, wellness and fitness programs; public health and disease prevention programs, and such other uses and services reasonably related to the provision of health care.

HEIGHT: The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beam of a flat roof, the deck of a mansard roof or the mean level of a roof style such as a gable, hip, shed, gambrel, pyramid or similar roof.

HOME OCCUPATION: An accessory activity carried on by only the permanent resident of a dwelling, inside the principal building, requiring only customary home or hobby type equipment and no physical evidence of which is observable from outside the building. See Section 3.3.

HOSPITAL: A building housing a facility or institution licensed to provide short-term acute in-patient and/or outpatient medical and/or surgical care; not to include a doctor's office. (See also "Medical Clinic".)

HOTEL: A building or any part of a building containing primarily rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances, including an inn, motel, motor inn and tourist court, but not including a lodging house. A "hotel" may include units containing individual cooking facilities, provided that the number of such units does not exceed 10% of the total number of units.

LICENSED MARIJUANA ESTABLISHMENT OVERLAY ZONE: The following definitions shall apply in Section 9.7:

CRAFT MARIJUANA COOPERATIVE: A marijuana cultivator comprised of residents of the commonwealth organized as a limited-liability company or limited-liability partnership under the laws of the commonwealth, or an appropriate business structure as determined by the Cannabis Control Commission, and that is licensed to cultivate, obtain, manufacture, process package and brand marijuana and marijuana products to deliver marijuana to marijuana establishments but not to consumers.

INDEPENDENT TESTING LABORATORY: A laboratory that is licensed by the Commission and is:

- A. Accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- B. Independent financially from any medical marijuana treatment center or any license or marijuana establishment for which it conducts a test; and
- C. Qualified to test marijuana in compliance with 935 CMR 500.160 and MGL c. 94C, § 34.

LICENSED MARIJUANA ESTABLISHMENT (LME): A marijuana cultivator, testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business.

MARIJUANA CULTIVATOR: An entity licensed to cultivate, process, and package marijuana; to deliver marijuana to marijuana establishments; and to transfer marijuana to other marijuana establishments but not consumers.

MARIJUANA MICRO-BUSINESS: A marijuana establishment that is licensed to act as a: licensed marijuana cultivator in an area less than 5,000 square feet; licensed marijuana product manufacturer, and licensed marijuana delivery service in compliance with the operating procedures for each such license.

MARIJUANA PRODUCT MANUFACTURER: An entity licensed to obtain, manufacture, process, and package marijuana and marijuana products; to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other marijuana establishments but not consumers.

MARIJUANA PRODUCTS: Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms or marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

MARIJUANA RESEARCH FACILITY: An entity licensed to engage in research projects by the Cannabis Control Commission.

MARIJUANA RETAILER: An entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers. Marijuana retailers may be in the form of a storefront or a social consumption establishment.

SOCIAL CONSUMPTION ESTABLISHMENT: A marijuana retailer licensed to purchase marijuana and marijuana products from marijuana establishments and to sell marijuana and marijuana products on its premises only to consumers or allow consumers to consume marijuana and marijuana products on its premises only.

LOADING SPACE: An off-street "loading space" shall comply with the standards contained in this chapter and shall have unobstructed access and maneuvering space and most be for the loading and unloading of goods and materials from one vehicle, whether inside or outside a structure.

LODGING HOUSE: A building containing lodging units. A "lodging house", boardinghouse and/or rooming house shall not be defined to include a detention center or home for delinquent or wayward persons, drug or alcoholic rehabilitation center or similar activities.

LODGING UNIT: One or more rooms for the semipermanent use of one or more individuals not living as a single housekeeping unit and not having cooking facilities. A "lodging unit" shall include rooms in boardinghouses, lodging houses or rooming houses.

LONG TERM CARE FACILITY: Any institution whether conducted for charity or profit which is advertised, announced or maintained for the express or implied purpose of providing three or more individuals admitted thereto with long-term resident, nursing, convalescent or rehabilitative care; supervision and care incident to old age for ambulatory persons; or retirement home care for elderly persons. Long-term care facility shall include convalescent or nursing homes, rest homes, infirmaries maintained in towns and charitable homes for the aged, as set forth in 105 CMR 150.001.

LOT: An area or parcel of land not including any water area shown as a separate and distinct lot on a plan or as described in a deed properly recorded in the Essex County Registry of Deeds or land registered by the Land Court.

LOT, CORNER: A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines or, in case of a curved street, extended lot lines, being not more than 135°. For purposes of this chapter, each street frontage shall be considered a front yard.

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line.

LOT FRONTAGE: Horizontal distance measured along the front lot line between the points of intersection of the side lot lines with the front lot line. A corner lot shall have two "lot frontages", one of which must comply with the distance requirement for the respective district. A through lot shall have two "lot frontages", both of which shall comply with the distance requirement of the respective district.

LOT FRONTAGE, PURPOSE OF: Frontage as defined herein, shall be for the purpose of providing access to all lots approved under these regulations as well as all lots approved as ANR (Form A) lots. The frontage shall provide access which is actual (non-illusory) access to the building location on the lot. The access shall be provided by (from) the frontage so that it is not illusory in nature. Access shall facilitate safe ingress and egress to the building location within the lot for public safety vehicles in the event of an emergency. Length, width, grades, topography and adequacy of construction are all essential components of demonstrating adequate actual access to the building site on a lot.

LOT LINE, FRONT: The property line dividing a lot from a street right-of-way.

LOT LINE, REAR: The lot line opposite from the front lot line. In the case of a corner lot, only one rear yard or lot line shall be required and it shall be located opposite the front of the building.

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

LOT, NONCONFORMING: A lot lawfully existing at the effective date of this chapter, or any subsequent amendment thereto, which is not in accordance with all provisions of this Ordinance.

LOT, THROUGH: An interior lot, the front and rear lot lines of which abut streets, or a corner lot, two opposite lines of which abut streets. A corner "through lot" shall have three front lot lines.

LOT WIDTH: The shortest distance between opposite side lines of a lot measured at the point of the front setback. At no point between the street frontage line and the minimum lot depth setback shall the lot be narrower than 75% of the required lot frontage.

MEDICAL CLINIC: A facility as defined in 105 CMR 145.020, including a mobile clinic.

MEDICAL MARIJUANA OVERLAY DISTRICT (MMOD): Where not expressly defined in the Zoning Ordinance, terms used in the MMOD Ordinance shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, M.G.L. c. 94C, App. s. 1-1 et seq., and the Department of Public Health regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.

REGISTERED MARIJUANA DISPENSARY: Also known as a "medical marijuana treatment center", means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes [including development of related products such as edible marijuana-infused products ("MIPs"), tinctures, aerosols, oils, or ointments], transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

MEMBERSHIP CLUB: A social, sports or fraternal association or organization which is used exclusively by members and their guests and is not conducted as a gainful business.

MERRIMACK STREET GATEWAY RENAISSANCE OVERLAY DISTRICT (MSGROD): For the purposes of Section 9.5, the following definitions shall apply:

AS-OF-RIGHT PROJECT OR PROJECT: A multifamily development or mixed-use development allowed under Section 9.5, which shall be as of right without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

EDUCATIONAL USE: Elementary schools, middle schools, high schools, colleges, universities, community colleges, media centers, arts centers, distance learning facilities, training centers and facilities, libraries and educational offices.

MULTIFAMILY DEVELOPMENT OR MULTI-FAMILY DEVELOPMENT:

A residential structure containing two or more dwelling units.

PLAN APPROVAL: Standards and criteria which a Project in the Merrimack Street Gateway Renaissance Overlay District must meet under the procedures established herein, provided that Plan Approval shall be treated as nondiscretionary and not subject to the standards applicable to special permits under this Zoning Ordinance, if the Plan Approval is appealed or attempted to be appealed by any person.

PLAN APPROVAL AUTHORITY: For purposes of reviewing Project applications and issuing decisions on development Projects within the Merrimack Street Gateway Renaissance Overlay District, the Planning Board shall be the Plan Approval Authority (the "PAA"), and is authorized to approve a site plan to implement a Project.

PRIORITY PROJECT: A mixed-use Project (i) in which 75% or more of the residential units are not restricted by income, (ii) which encompasses an area extending at least the full width between Merrimack Street and the flood wall along the Merrimack River, (iii) which provides public access to and along a boardwalk or promenade overlooking the Merrimack River or public access to the waters of the Merrimack River, or both, and (iv) does not require any waivers from the design standards or the density or dimensional requirements established by this article.

RECREATIONAL USES: Active and passive recreational uses, including but not limited to walking and bicycle paths, bicycle and boat rentals and sharing services, and seasonal skating rinks.

ZONING ORDINANCE: The Zoning Ordinance of the City of Haverhill.

MINIWAREHOUSE: A group of small storage vaults or facilities for rental to consumers for storage of nonnoxious and nonhazardous items.

MIXED USE BUILDING: A multistory building with nonresidential uses on the ground floor (excluding parking) and residential uses above.

NATURAL VEGETATIVE AREA: Land having a well established cover of thatch, mulch or leaves characterized by an historical prevalence of native plants and/or trees requiring minimal use of fertilizers, herbicides or pesticides.

OFFICE, BUSINESS OR GENERAL: Office serving business, real estate, insurance, and the like.

OFFICE, MEDICAL/DENTAL, OR CLINIC: Office serving physician, dentist, psychologist or psychiatrist, or other trained medical provider.

OFFICE, PROFESSIONAL: Office serving accountant, architect, attorney, or other licensed professional.

OPEN SPACE: The space on a lot unoccupied by buildings, unobstructed to the sky, not devoted to streets, driveways, off-street parking or loading spaces and expressed as a percentage of total lot area. The area of a lot devoted to an unroofed accessory swimming pool should be considered as part of the "open space" area.

OWNER: The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

PARKING SPACE: An off-street "parking space" shall comply with the standards contained in this chapter and shall have unobstructed access and maneuvering space and must be for the exclusive use as a parking stall for one motor vehicle, whether inside or outside a structure.

REPAIR: Any construction which replaces materials and does not change the height, number of stories, size, use or location of a structure.

RETAIL, CONVENIENCE: Sale of goods to the public in the following types of stores but not limited thereto: bakery shop; beauty and cosmetic shop; beer, ale, and liquor retail sales; books, periodicals, and newspaper sales; candy shop; dairy products, without drive-in; delicatessen; florist, without outdoor storage; fruit and produce market; grocery, meat, or fish market; hobby shop; DVD or video rental or sales; laundry or dry cleaning pick up; pharmacy or drug store with or without drive-in; tobacco shop; variety store.

RETAIL, GENERAL: A facility selling new or used goods to an end user but not otherwise specifically listed in the Table of Use Regulations.

ROOF LINE: The edge of the roof, or the extended line of intersection of the rooftop and exterior walls.

SELF-SERVICE GASOLINE STATION: A service station from or within which the customer performs or provides the servicing of the automobile. (See definition of "Automobile Service Station".)

SERVICE ESTABLISHMENT, GENERAL: Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair person, printer, blacksmith, carpenter, caterer, lawn mower service person, mason, painter, or roofer.

SERVICE ESTABLISHMENT, PERSONAL: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

SHOPPING CENTER: A combination of two or more retail and/or service commercial establishments on a single lot which rely on and are developed with mutual and coordinated parking facilities, pedestrian walkways, landscaping and loading facilities.

SIGN: Any permanent or temporary structure, device, letter, word, model, banner, pennant, insignia, trade flag or representation used as, or which is in the nature of, an advertisement, announcement or direction or is designed to attract the eye by intermittent or repeated motion or illumination; not to include structural members or materials of a building which are an integral and necessary part of the building, unless used to spell out the name of the use, firm or product sold.

SIGN, ACCESSORY: Any sign calling attention to or indicating the occupancy of the premises on which the sign is erected, the business transacted thereon or the product or products manufactured, distributed or sold thereon.

SIGN, NONACCESSORY: Any sign that advertises, calls attention to or indicates anything not upon, or available upon, the premises or lot on which the sign is erected.

SIGN, SURFACE AREA OF: For a sign, either freestanding or attached and projecting from a building, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether upon or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself. The area of all faces of a sign shall be computed to determine the total "sign surface area". For a sign consisting of individual letters, designs and symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs, symbols and/or frame.

SIGN, TYPES: For the purposes of Section 6.2, the following definitions shall apply:

CONSTRUCTION SIGN: A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

DIRECTIONAL SIGN: A sign limited to pedestrian and vehicular traffic instruction and/or direction or restrictions on the use of parking areas. "No Parking", "Entrance", "Exit" and "Additional Parking in the Rear" are examples of directional signs. No sign that identifies the occupant or use of the site shall be considered a directional sign.

DIRECTORY SIGN: A group of signs clustered together as a single structure or compositional unit to advertise occupants of the same building or building complex.

FLASHING SIGN: A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Does not include changeable copy signs, or signs which, through reflection or other means, create an illusion of flashing of intermittent light (compare "Animated Sign", "Changeable Copy Sign").

FREESTANDING SIGN: A sign structurally separate from a building or structure that is attached to or part of a self-supporting structure.

GOVERNMENT SIGN: Any temporary or permanent sign erected and maintained by the city, county, state, or federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property or facility.

IDENTIFICATION SIGN: A sign whose copy is limited to the name and address of a building, institution, or a person and/or to the activity or occupation being identified.

INTERNALLY ILLUMINATED SIGN: A sign which utilizes translucent panels, canvas or other fabric, letters, devices or other similar components to create an image by allowing light to pass through.

OFF-PREMISES SIGN: A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, e.g., "billboards" or "outdoor advertising".

POLITICAL SIGN: For the purposes of this By Law, a temporary sign used in connection with a local, state, or national election or referendum.

PROJECTING SIGN: A sign, other than a flat wall sign, which is attached to and projects from a building or wall or other structure not specifically designed to support the sign.

REAL ESTATE SIGN: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

ROOF SIGN: Any sign erected over or on the roof of a building (compare "Mansard", "Wall Signs").

TEMPORARY SIGN: A sign not constructed or intended for long-term use.

WALL SIGN: A sign attached parallel to and extending not more than eighteen (18) inches from the wall of a building. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

WINDOW SIGN: A sign installed inside a window and intended to be viewed from the outside.

SOLAR ENERGY SYSTEM: The following definitions shall apply in Section 7.8:

PHOTOVOLTAIC SYSTEM (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

RATED NAMEPLATE CAPACITY: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

SOLAR ENERGY SYSTEM: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

SOLAR ENERGY SYSTEM, ACTIVE: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED: An Active Solar Energy System that is structurally mounted to the ground or otherwise placed upon the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

SOLAR ENERGY SYSTEM, LARGE-SCALE: An Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

SOLAR ENERGY SYSTEM, MEDIUM-SCALE: An Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).

SOLAR ENERGY SYSTEM, ROOF-MOUNTED: An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

SOLAR ENERGY SYSTEM, SMALL-SCALE: An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

SOLAR-READY ZONE: A solar-ready zone is 50% of the roof area that is either flat or oriented between 110 degrees and 270 degrees of true north, exclusive of mandatory access or set back areas as required by the MA Fire Code.

STORY: The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a "story". An attic shall not be deemed to be a "story" if unfinished and without human occupancy. (See "Story, Half".)

STORY, HALF: A story under a gable, hip or gambrel roof, the wall plates (area between the roof overhang and the attic floor) of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STREET: A way shown on a plan approved by the Planning Board in accordance with the Commonwealth's Subdivision Control Law.

STRUCTURE: A combination of materials to form a construction that is safe and stable, including among others buildings, stadiums, tents, reviewing stands, platforms, observation towers, radio towers, water tanks and towers, trestles, piers, wharves, sheds, coal bins, shelters and display signs.

TRAILER: Any vehicle which is immediately portable and/or is designed to have wheels attached directly thereto and is arranged, intended, designed or used for sleeping, eating or business or is a place in which persons may congregate, including a mobile home, house trailer or camper. A "trailer" which is no longer immediately portable by virtue of having its wheels removed or skirts attached shall remain a "trailer" by this definition.

USE: The purpose for which a structure or lot is arranged, designed or intended to be used, occupied or maintained.

USE, ACCESSORY: A use incidental and subordinate to the principal use of a structure or lot or a use not the principal use which is located on the same lot as the principal structure. "Accessory use" by area shall be interpreted not to exceed 40% of the area of the total use of the structure or lot on which it is located.

USE, NONCONFORMING: A use lawfully existing at the time of adoption of this chapter or any subsequent amendment thereto which does not conform to one or more provisions of this chapter.

USE, PRINCIPAL: The main or primary purpose for which a structure or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this chapter. Any other use within the main structure or the use of any other structure or land on the same lot and incidental or supplementary to the "principal use" and permitted under this chapter shall be considered an accessory use.

USE, SUBSTANTIALLY DIFFERENT: A use not indicated as a use of right under the same capitalized major grouping in Table 1: Table of Use and Parking Regulations as the existing use or use first considered or use being compared to.

UTILITY, PRIVATE: A facility provided (owned or operated) by an institution, such as a gas company, power company or telephone company, which has direct bearing on the provision of essential services; not to include offices, garage or similar facilities.

UTILITY, PUBLIC: A facility established by a governmental unit for the purposes of providing or performing essential services.

VARIANCE: Such departure from the terms of this chapter as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Section 10.0.

WATERFRONT DISTRICT (WD): The following definitions shall apply in the Waterfront District:

ART GALLERY AND/OR WORKSPACE: An establishment for the display of objects of art and/or photography. The artist can produce the objects of art and/or photography on site in order to display.

BY-RIGHT PLAN APPROVAL: The standards and criteria which any project permitted in the Waterfront District shall meet under the procedures as set forth in this Section. Such approval shall be treated as nondiscretionary and not subject to the standards applicable to special permits under this Zoning Ordinance. See Section 9.3.6, "Table of Uses for the Waterfront District" for a listing of uses permitted in the Waterfront District.

MARINA: A waterfront area having a dock or mooring facilities for boats for rental purposes; fuel and oil for boats only may be sold on the premises. Shore facilities similar to motels may occupy contiguous land areas.

MIXED-USE DEVELOPMENT: The use of a building for more than one use. The building contains a commercial use or uses on the first floor or ground floor and residential use on the upper floors.

WATER SUPPLY PROTECTION DISTRICT (WSPD): The following definitions shall apply in Section 9.2:

ANIMAL FEEDLOT: A plot of land on which 25 livestock or more per acre are kept for the purpose of feeding.

AQUIFER: Geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

DELINEATION OF WATER SUPPLY PROTECTION DISTRICT: The Water Supply Protection District is herein established to include all lands within the City of Haverhill lying within the primary and secondary recharge areas of groundwater aquifers and watershed areas of surface waters which provide public water supply, and, further, should earth work for development purposes shift runoff into the watershed, that development, or the portion that then drains into the watershed, will be included in the overlay district. The map entitled "Water Supply Protection Districts", dated July 2015,

defines the extent and boundary of the Water Supply Protection Districts and is on file with the City Clerk.

DEPOSIT: The deposit, injection, dumping, spilling, leaking, incineration or placing of any material into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

GROUNDWATER: All the water found beneath the surface of the ground, including, without limitation, the slowly moving subsurface water present in aquifers and recharge areas.

HAZARDOUS WASTES: A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in serious or incapacitating illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. These wastes shall include but not be limited to any wastes which fall within the definitions of hazardous waste under the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, the Water Resources Commission, and the Division of Water Pollution Control under the provisions of M.G.L. c. 21, §§ 27(8), 52, 57 and 58, Editor's Note: M.G.L. c. 21, §§ 52, 57 and 58, were repealed by Ch. 704, s. 1, Acts of 1979, all as may be amended from time to time.

IMPERVIOUS SURFACE: Material or structures on, above or below the ground that do not allow precipitation or surface water to penetrate directly into the soil. This may include pavements (roads, sidewalks, driveways and parking lots) that are covered by impenetrable materials such as asphalt, concrete, brick, and stone and rooftops as well as highly compacted soils.

LEACHABLE WASTES: Waste materials including, without limitation, solid wastes, sewage, sludge, and agricultural wastes that are capable of releasing waterborne contaminants to the surrounding environment.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate heated effluent, or other matter, which is or may be discharged, drained or otherwise introduced into any surface or subsurface disposal or conveyance system, or into water of the Commonwealth or the United States.

PRIMARY RECHARGE AREA: Areas which are underlain by superficial geologic deposits including glaciafluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of surface water and/or groundwater supply wells.

PROCESS LIQUIDS: Liquids used in cooling, cleaning or in manufacturing processes which contact raw materials, products, wastes or machinery and which because of that contact may contain pollutants.

PUBLIC WATER SUPPLY: Any source or volume of surface or ground water demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, s. 160 by the Division of Water Supply of the Department, or demonstrated to have a potential for public use.

RADIOACTIVE MATERIALS: Any of the materials which have a concentration which exceeds the limits set forth in Appendix B, Table II of 10 CFR Part 20 (Standards for Protection Against Radiation) or any other applicable provisions of federal or state law or regulation.

SECONDARY RECHARGE AREA: Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface water flow is toward public surface water and/or ground water supply wells.

SOLID WASTES: Useless, unwanted, or discarded solid material with insufficient liquid content to be free-flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material, combustion residues, demolition debris, construction wastes and landscape refuse.

SPECIAL PERMIT GRANTING AUTHORITY: For purposes of this Section 9.2 only, the City Council shall be the special permit granting authority (SPGA).

SURFACE WATER: All waters other than groundwaters, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and vernal pools.

TOXIC AND HAZARDOUS MATERIALS: Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to surface and/or ground water supplies, environmental quality, or to human health, if such substance or mixture were discharged to land or waters of this City. Toxic or hazardous materials include, without limitation, petroleum products, heavy metals, radioactive materials, pathogenic or infectious wastes, solvents, thinners and other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency under any of the following laws:

Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.;

Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq.;

Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq.;

Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.; and

Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

TRIBUTARY: Any body of running, or intermittently running water which moves in a definite channel, naturally or artificially created, in the ground due to a hydraulic gradient, and which ultimately flows into a Class A water source as defined in 314 CMR 4.05(3)(a).

WATERCOURSE: Any natural or man-made stream, pond, lake, wetland, coastal wetland, swamp or other body of water, and shall include wet meadows, marshes, swamps, bogs and areas where groundwater or loe provide a significant part of the supporting substrate for a plant community for at least five months of the year. "Swamp" shall mean areas where groundwater is at or near the surface of the ground for a significant part of the growing season or where runoff water from surface drainage frequently collects above the soil surface.

WATERSHED: Any region or area measured in a horizontal topographic divide which directs water runoff from precipitation, normally by gravity, into a stream, a body of impounded surface water, or a coastal embayment, or any region or area measured by a groundwater divide which directs groundwater into a stream, a body of impounded surface water, or a coastal embayment.

ZONE A:

- (a) the land area between the surface water source and the upper boundary of the bank;
- (b) the land area within a 400-foot lateral distance from the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a); and
- (c) the land area within a 200-foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body.

ZONE B: The land area within 1/2 mile of the upper boundary of the bank of a Class A surface water source, as defined in 314 CMR 4.05(3)(a) of the Massachusetts Surface Water Quality Standards, or edge of watershed, whichever is less. However, Zone B shall always include the land area within a 400-foot lateral distance from the upper boundary of the bank of the Class A surface water source.

ZONE C: The land area not designated as Zone A or B within the watershed of a Class A surface water source as defined in 314 CMR 4.05(3)(a) of the Massachusetts Surface Water Quality Standards.

ZONE I: The protective radius required around a public ground water supply well or wellfield. For public water system wells with approved yields of 100,000 gpd or greater, the protective radius is 400 feet. Tubular wellfields require a 250-foot protective radius.

ZONE II: The area of an aquifer that contributes water to a ground water well under the most severe pumping and recharge conditions (180 days of pumping at approved yield, with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, Zone II shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary). The Zone II must include the entire Zone I area.

ZONE III: The land area beyond the area of Zone II from which surface water and groundwater drain into Zone II. In some locations, where surface and groundwater drainage is not coincident, Zone III shall consist of both the surface drainage and the groundwater drainage areas.

WAY: Any point of access to a lot of record that does not classify as a street as specified in the definition of street. In general, a way is a point of access established prior to the Subdivision Control Law which is determined by the Planning Board to have sufficient width, suitable grades/topography and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to safely and sufficiently serve such land and the buildings erected or to be erected thereon.

YARD: A portion of a lot except that upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a "yard" or any part thereof.

YARD, FRONT: A space extending for the full width of the lot between the front line of the nearest main building wall and the front lot line.

YARD, REAR: A space, unoccupied, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot line between the rear line of the main building wall and the rear lot line.

YARD, SIDE: An unoccupied space extending for the full length of a building between the nearest main building wall and the side lot line.

CITY OF HAVERHILL

APPENDIX A

TABLE 1: TABLE OF USE AND PARKING REGULATIONS

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
A. RESIDENTIAL USES															
1. One family detached dwelling	N	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	A
2. Two family dwelling	N	N	N	N	PB	PB	N	N	N	N	N	N	N	N	A
3. Three family dwelling	N	N	N	N	CC	CC	N	N	CC	N	N	N	N	N	K
4. Multifamily dwelling	N	N	N	N	CC	CC	CC N	N	CC	CC	N	N	N	N	K ³
5. Flexible Development	CC	CC	CC	CC	N	N	CC N	N	N	N	N	N	N	N	A
6. Lodging, boarding, or rooming house	N	N	N	N	BA	BA	N	N	BA	BA	N	N	BA	N	A
7. Congregate care housing	CC	CC	CC	CC	CC	CC	N	N	N	N	CM	N	N	N	J
8. Fraternity or sorority housing, off campus	N	N	N	N	BA	BA	N	N	BA	N	N	N	N	N	A
9. Bed and breakfast establishment	N	CC	CC	CC	CC	CC	Y	Y	N	CC	N	N	N	N	L
10. Long-term care facility	N	CC	N	CC	CC	CC	N	CC	CC	CC	Y	N	CC	N	Q
11. Assisted living residence	N	CC	N	CC	CC	CC	N	CC	CC	CC	Y	N	CC	N	Q
12. Expansion of a residential dwelling to contain up to six (6) dwelling units where no exterior structural changes are required	N	N	N	N	BA	A	N	N	BA	BA	N	N	N	N	A

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
B. COMMUNITY USES															
1. Museum	BA	BA	BA	BA	BA	BA	Y	Y	Y	Y	N	Y	Y	BA	D
2. Historical association or society	BA	BA	BA	BA	BA	Y	Y	Y	Y	Y	N	Y	Y	N	E
3. Use of land or structures for religious purposes on land owned or leased by a religious sect or denomination	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	H
4. Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	I,M
5. Child care center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	O,--
6. City governmental building, unless otherwise specified	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	E
7. City auditorium	N	N	N	N	BA	BA	N	Y	Y	Y	N	Y	Y	N	H
8. City equipment garage	BA	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	F
9. City or nonprofit cemetery, including crematorium therein	BA	Y	Y	Y	Y	Y	N	N	N	Y	N	N	N	N	None
10. City parking lot or structure	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
11. Essential services	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
12. Private utility, overhead transmission line (15 kilovolts or over), substation, transformer station or similar facility or building	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	N	BA	BA	BA	None

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
B. COMMUNITY USES (con't)															
13. Power plant, sewage treatment plant, refuse facility and solid waste disposal facility as defined in MGL c. 16, s. 18, and assigned under the provisions of MGL c. 111, s. 150A1	CC	CC	N	N	N	N	N	N	N	N	N	N	Y	Y	O
14. Hospital	BA	BA	N	N	BA	BA	N	N	BA	BA	Y	N	BA	CC	R
15. Psychiatric hospital or clinic	N	N	N	N	CC	CC	N	N	CC	CC	Y	CC	N	N	R
16. Privately operated detention center or jail	N	N	N	N	N	N	N	CC	N	CC	N	N	N	N	R,O
17. Drug or alcohol rehabilitation facility	N	N	N	N	CC	CC	N	N	CC	CC	Y	N	N	N	R
18. Safe Injection Facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
C. AGRICULTURAL USES															
1. Agriculture, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	None
2. Raising and keeping of livestock, horses and poultry, not including the raising of swine or fur animals for commercial use, nonexempt	BA	Y	Y	N	N	N	N	N	N	N	N	N	N	BA	None
3. Commercial stable, nonexempt	BA	Y	N	N	N	N	N	BA	N	N	N	N	N	N	D
4. Greenhouse or stand for wholesale and retail sale of agricultural or farm products raised primarily on the same premises, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	S
5. Greenhouse or stand for wholesale and retail sale of agricultural or farm products raised primarily on the same premises, nonexempt	P	Y	Y	N	N	N	Y	Y	Y	N	N	N	N	N	S
6. Nursery, including outdoor storage, nonexempt	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	D

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
D. RECREATIONAL USES															
1. Indoor recreation facility operated by governmental unit	CC	CC	CC	CC	CC	Y	CC	Y	Y	Y	N	Y	CC	CC	F
2. Outdoor recreation facility operated by governmental unit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
3. Golf course and associated clubhouse	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	B
4. Hunting club and/or target range (rifle, pistol, shotgun and/or bow), subject to the standards specified by the National Rifle Association	BA	BA	N	N	N	N	N	N	N	N	N	N	N	N	T
5. Tennis club, swim club and/or fishing club, outdoor except for accessory buildings	BA	BA	N	N	BA	BA	Y	Y	Y	Y	N	Y	N	N	T
6. Nonprofit day camp or other nonprofit camp	BA	BA	N	N	N	N	N	N	N	N	N	N	N	N	G
7. Noncommercial forestry and growing of all vegetation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
8. Recreational facility (indoor and operated for profit or nonprofit, including such items as stadium, race track, sports pavilion, etc.), unless otherwise specified	N	N	N	N	N	N	N	CC	CC	CC	N	CC	CC	CCC	E

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
E. OFFICE USES															
1. Office, general or business	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	Y	E
2. Bank and other financial institution	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	N	D
3. Office, professional	N	N	N	N	N	BA	Y	Y	Y	Y	N	Y	Y	Y	D,E
4. Office, medical or dental office or clinic	N	N	N	N	N	BA	Y	Y	Y	Y	Y	Y	Y	Y	C

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
F. RETAIL AND SERVICE USES															
1. General retail and business, business and/or consumer service establishments, unless otherwise specified (See auto-oriented and/or bulk storage activities, and entertainment, eating and/or drinking establishments)	N	N	N	N	N	N	Y N	Y	Y	Y	N	N	Y	N	C
2. Retail use in excess of 50,000 sq. ft. of gross floor area	N	N	N	N	N	N	CC	Y	CC	CC	N	N	N	N	C
3. Convenience retail	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y	N	C,D
4. Personal service establishment	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y	N	C
5. Health care services	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	C
6. Heating and air conditioning, sales and installation	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	E
7. Antique sales	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y	N	D
8. Furniture sales	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	D,--
9. Furniture, nonretail	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	D
10. Landscaping and gardening equipment, retail sales (no outdoor storage)	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	D
11. Lumber and/or building materials sales	N	N	N	N	N	N	N	BA	BA	N	N	N	Y	N	G
12. Miscellaneous business machines, computer and equipment repair service	N	N	N	N	N	N	N	Y	Y	Y	N	N	BA	Y	E

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
F. RETAIL AND SERVICE USES (con't)															
13. Monument and tombstone sales	N	N	N	N	N	N	N	BA	BA	N	N	N	N	N	F
14. Sales by vending machine as principal use	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	U
15. Swimming pools and related equipment sales	N	N	N	N	N	N	N	Y	Y	N	N	N	BA	N	E
16. Body art establishment, subject to compliance with Board of Health Regulations	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	Y	

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
G. EATING, DRINKING, AND ENTERTAINMENT ESTABLISHMENTS															
1. Restaurant, coffee shop, diner, luncheonette, and sandwich shop, without drive-through	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y	N	V
2. Restaurant, coffee shop, diner, luncheonette, and sandwich shop, with drive-through	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	W
3. Amusement facility and/or amusement park and/or amusement arcade (except in the CBD)	N	N	N	N	N	N	N	BA	BA	BA	N	N	N	N	B
4. Cocktail lounge or bar, with no live entertainment and/or dancing *Special permit from BA required in Washington Street Historic District	N	N	N	N	N	N	BA	Y	Y	Y*	N	N	Y	N	V
5. Cocktail lounge or bar, with live entertainment and/or dancing	N	N	N	N	N	N	N	Y	Y	Y??	N	N	Y	N	V
6. Cafeteria	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y	N	V
7. Dairy bar, without drive-through	N	N	N	N	N	N	Y	Y	Y	Y	N	N	Y	N	V
8. Dairy bar, with drive-through	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	W
9. Membership club, lodge or society	N	N	N	N	N	N	N	Y	Y	Y	N	N	CC	N	V
10. Motion picture or theatre establishment, indoor	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	V
11. Motion picture or theatre establishment, outdoor	N	N	N	N	N	N	N	Y	N	N	N	N	Y	N	None, Y
12. Pool hall	N	N	N	N	N	N	N	N	Y	Y	N	N	Y	N	D
13. Bowling alleys	N	N	N	N	N	N	N	Y	Y	Y	N	N	BA	N	X

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
G. EATING, DRINKING, AND ENTERTAINMENT ESTABLISHMENTS (con't)															
14. Adult use (see Section 7.9)	N	N	N	N	N	N	N	N	CC	N	N	N	CC	N	C

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
H. MOTOR VEHICLE AND MARINE RELATED USES															
1. Motor vehicle station (gas station), not to include the sale of more than 1 vehicle at any one time	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	C
2. Motor vehicle body and paint shop (no outdoor storage of equipment or parts and not to include the sale of more than 1 vehicle at any one time)	N	N	N	N	N	N	N	Y	BA	BA	N	N	N	N	D
3. Motor vehicle dealer, new and/or used, sales and/or rentals, includes usual motor vehicle body and repair services	N	N	N	N	N	N	N	CC	CC	CC	N	N	CC	N	E
4. Motor vehicle garage (general repairs, no outdoor storage of equipment or parts and not to include the sale of more than 1 vehicle at any one time)	N	N	N	N	N	N	N	Y	Y	Y	N	N	N	N	D
5. Motor vehicle supplies, parts and accessories, retail sales (no outdoor storage)	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	E
6. Motor vehicle wash	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	N	F
7. Motorcycle sales and service	N	N	N	N	N	N	N	Y	BA	N	N	N	N	N	F
8. Mobile home and/or trailer sales and/or rental (not to be occupied on the site)	N	N	N	N	N	N	N	Y	BA	N	N	N	N	N	E
9. Truck sales or rental	N	N	N	N	N	N	N	Y	BA	N	N	N	N	N	F
10. Heavy equipment sales or rental	N	N	N	N	N	N	N	Y	BA	N	N	N	Y	Y	F
11. Boat marina and supply sales	CC N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	F

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
I. MISCELLANEOUS COMMERCIAL USES															
1. Blueprinting, photostatting, or custom printing	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	E
2. Business machine and equipment repair service	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	E
3. Catering service	N	N	N	N	N	N	N	BA	BA	BA	N	N	Y	Y	F
4. Commercial parking lot or structures	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	N	None
5. Contractors	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	None
6. Delivery service and/or parcel post	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	N	E
7. Dry cleaning and/or linen supply processing plant	N	N	N	N	N	N	N	BA	BA	N	N	N	Y	Y	D
8. Dry cleaning pick up station	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	C
9. Dry-cleaning pickup station and processing facility not to exceed 4,000 square feet gross floor area	N	N	N	N	N	N	BA	BA	BA	BA	N	BA	BA	BA	C
10. Fuel distributor	N	N	N	N	N	N	N	Y	Y	N	N	N	Y	N	E
11. Fuel storage tanks (aboveground) for fuel distribution	N	N	N	N	N	N	N	BA	BA	N	N	N	BA	N	E
12. Funeral home or establishment	N	N	N	N	BA	BA	N	Y	Y	Y	N	N	N	N	D
13. Home-improvement contractor, cabinet maker, kitchen or bathroom equipment sales, electrical or plumbing shop (with no outdoor storage)	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	Y	E

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
I. MISCELLANEOUS COMMERCIAL USES (con't)															
14. Home-improvement contractor, cabinet maker, kitchen or bathroom equipment sales, electrical or plumbing shop (with outdoor storage)	N	N	N	N	N	N	N	BA	BA	N	N	N	Y	N	E
15. Hotel or motel	N	N	N	N	N	N	N	CC	CC	CC	N	CC	CC	N	J
16. Janitorial service firm	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	F
17. Landscaping service company	N	N	N	N	N	N	N	Y	Y	N	N	N	N	N	E
18. Landscaping/snow plowing	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	None
19. Professional and/or business schools for profit (includes dance, music, art, other professional and/or business schools)	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	I
20. Trade school, for profit	N	N	N	N	N	N	N	N	N	Y	N	Y	Y	Y	I
21. Animal day clinic	N	N	N	N	N	N	N	BA	N	N	N	N	N	N	D
22. Kennel or veterinary hospital in which all animals, fowl or other forms of life are completely enclosed in pens or other structures	BA	BA	N	N	N	N	N	BA	N	N	N	N	N	N	D
23. Commercial communications and/or television tower, provided that it shall be at least 500 feet from any R District	BA	N	N	N	N	N	N	BA	BA	BA	N	BA	BA	BA	None

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
J. WHOLESALE, TRANSPORTATION, INDUSTRIAL USES															
1. Removal of sand, gravel, quarry or other raw material	N	CC	N	N	N	N	N	N	N	N	N	N	N	CC	O
2. Low level radioactive waste disposal and/or treatment facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	
3. Processing and treating of raw materials, including operations appurtenant to the taking, grading, drying, sorting, crushing, grinding and milling operations	N	N	N	N	N	N	N	N	N	N	N	N	N	CC	O
4. Construction industry, including suppliers	N	N	N	N	N	N	N	BA	N	N	N	N	Y	N	O
5. Manufacturing, assembling and/or processing of manufactured products	N	N	N	N	N	N	N	N	N	BA	N	N	Y	Y	O
6. Laboratory for research and development work or establishment engaged in specialized manufacturing, and uses accessory thereto, provided that all activities shall be conducted within enclosed structures	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	O
7. Corporate headquarters or research center	N	N	N	N	N	N	N	Y	Y	Y	N	Y	Y	Y	O
8. Bakery plant	N	N	N	N	N	N	N	N	N	BA	N	N	Y	Y	O
9. Railroad yard and railway express service	N	N	N	N	N	N	N	N	N	Y	N	N	Y	Y	F
10. Truck terminal, motor freight terminal, warehousing	N	N	N	N	N	N	N	BA	N	N	N	N	Y	Y	O

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
J. WHOLESALE, TRANSPORTATION, INDUSTRIAL USES (con't)															
11. Interstate truck terminal	N	N	N	N	N	N	N	N	N	N	N	N	N	BA	O
12. Bus or railroad passenger terminal	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	B
13. Airport or heliport	N	N	N	N	N	N	N	CC	CC	N	N	CC	CC	CC	B
14. Other transportation service	N	N	N	N	N	N	N	BA	BA	BA	N	BA	BA	N	B
15. Wholesale operation	N	N	N	N	N	N	N	Y	Y	Y	N	BA	Y	Y	F
16. Mini or self storage warehouse	N	N	N	N	N	N	N	BA	N	N	N	N	BA	BA	G
17. Open storage of raw materials, furnished goods or construction equipment and structures for storing such equipment, provided that it shall be screened from outside view and all entrances shall have a solid gate at least 6 feet in height	N	N	N	N	N	N	N	N	N	N	N	N	BA	BA	None
18. Junkyard, provided that it is enclosed by a 6-foot masonry wall with solid gates and no repair or storage is carried on outside such wall	N	N	N	N	N	N	N	N	N	N	N	N	BA	N	Z
19. Hazardous waste treatment, disposal and/or storage facility as defined under Massachusetts Department of Environmental Quality Engineering (Protection) Hazardous Waste Regulations 310 CMR 30.00 et seq. shall not be permitted as a sole and principal use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	--

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
K. ACCESSORY USES															
1. Accessory apartment	BA	BA	BA	BA	BA	BA	BA	N	N	N	N	N	N	N	J
2. Accessory dwelling unit in a commercial or industrial area for a caretaker or resident employee	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	None
3. Home occupation	BA	BA	BA	BA	BA	BA	Y	Y	Y	N	N	N	N	N	D
4. Family day care home, small	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
5. Family day care home, large	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	N	BA	BA	BA	None
6. Adult day care home	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	None
7. Accessory activities of corporate headquarters, research facility, office, utility company, printing operation, motor vehicle repair or service, but no outdoor storage	N	N	N	N	N	N	N	Y	Y	Y	N	Y	BA	Y	None
8. Accessory building such as a private garage, playhouse, greenhouse, toolshed or similar accessory structures, subject to provisions of Section 4.0	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	None
9. Accessory swimming pool, subject to provisions of Section 4.0	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	None
10. Accessory private garage for not more than 3 noncommercial motor vehicles and, except on a farm, not more than 2-ton rated or less in size commercial motor vehicle	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
11. Accessory storage of commercial vehicle, exceeding 24 feet in length or 2-ton rating	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	None

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
K. ACCESSORY USES (con't)															
12. Accessory storage of 1 trailer, 1 unregistered automobile and/or boat:															
12.A. Within any R or S District, provided that it shall be stored within a principal or an accessory building or if stored outdoors not within the required front yard or within required side yards, and it shall not be used for dwelling or sleeping purposes	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	None
12.B. Within any C or I District, provided that it shall not be used for dwelling or sleeping purposes	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	None
13. A trailer or mobile home for each contractor or subcontractor for temporary use on a construction site subject to Section 3.2.2.1	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
14. Temporary mobile home subject to Section 3.2.2.3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	J
15. Wall, fence or similar man-made enclosure without the use of barbed or razor wire, provided that it be:															
15.A. Not more than 6 feet in height	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	None
15.B. Not more than 10 feet in height, provided that nonresidential use shall limit such enclosures to not more than 6 feet in height except by special permit	N	N	N	N	N	N	Y	Y	Y	Y	N	Y	Y	Y	None

CITY OF HAVERHILL

	RS	RR	RL	RM	RH	RU	CN	CH	CG	CC	CM	OP	IG	BP	PC
K. ACCESSORY USES (con't)															
16. Up to 3 lodgers or boarders in an existing dwelling, provided that the exterior of the structure is not altered	N	N	N	N	BA	BA	Y	Y	Y	Y	N	N	N	N	M
17. Accessory telephone answering service, provided that there is no exterior alteration that would serve to change the character of the structure and it does not occupy more than 25% of the gross floor area	BA	BA	BA	BA	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
18. Accessory retail or wholesale business activity selling products produced in part or in whole on the premises, provided that such activity does not occupy more than 25% of the gross floor area	N	N	N	N	N	N	N	N	N	Y	N	BA	Y	Y	None
19. Accessory keeping of birds or animals not to exceed 4 in total as domestic pets, subject to approval by the Board of Health	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	None
20. Any accessory activities necessary in connection with scientific research or scientific development or related productions	BA	BA	BA	BA	BA	BA	BA	BA	BA	BA	Y	BA	BA	BA	None
21. Trailers	N	N	N	N	N	N	N	N	N	N	N	N	N	N	None

CITY OF HAVERHILL

Notes to Use Table

- A. With the exception of Interstate Route 495, no automobile service station shall be built within a five-hundred-foot radius of the property line of an already existing automobile service station. On Interstate Route 495, no automobile service station shall be built within 500 feet of the property line of an already existing automobile service station on the same side of the highway.
- B. Trailers shall be prohibited in any district, except as provided for in this item.
- C. Access from any R or S Zoning District to an existing roadway which must pass through or into any other R or S Zoning or through any C or I District is permitted.
- D. Access from any I or C Zoning District to an existing roadway which must pass through or into any other I or C Zoning District is permitted.
- E. Access from any I or C Zoning District to an existing roadway which must pass through an R or S Zoning District may be permitted by a special permit issued by the Board of Appeals.
- F. Over three coin-operated machines, as defined in Chapter **104** of the Code, in any establishment other than bars, clubs and bowling alleys and skating rinks, constitute an amusement arcade (under the general category of amusement facility) allowed only in CH, CG, IG, and BP^[1] Zones throughout the City (except for the central business district as defined below where arcades shall not be allowed) which requires a special permit from the Board of Appeals. The sale and/or consumption of alcoholic beverages shall be prohibited in all amusement arcades. For the purpose of this section, the central business district is defined as that area enclosed by the following boundaries: Starting at the point of intersection of Mill Street and Ginty Boulevard southerly along the project center line of Mill Street to the Merrimack River floodwall; thence westerly along the floodwall to its intersection with the B & M railway line; thence northerly along the railway line to its intersection with the projected center line of Granite Street; thence northeasterly along the center lines of Granite Street and Locust Street to Walnut Street; thence southwesterly along the center line of Walnut Street to Bailey Boulevard; thence easterly along the center lines of Bailey Boulevard and Ginty Boulevard to the point of origin.

CITY OF HAVERHILL

G. Unless specifically exempted by the Building Inspector because of exceptional architectural design and/or site considerations, new single- and two-family structures shall be designed so that the principal façade, i.e. that façade containing the principal entrance (front door), shall be basically parallel to the front lot line.

H. Once a principal façade has been established for any structure or building, whether existing or new, the area between such façade and the adjacent street or public approach to the structure or building shall not be built upon or used for an unattached building or structure in excess of 10 feet in height. This shall apply to the RU and RH Zoning areas only.

CITY OF HAVERHILL

APPENDIX B (DRAFT 02/07/2020)

TABLE 2: TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

District	Use	Minimum Lot Area (square feet)	Minimum Lot Area Required Per Dwelling Unit (square feet)	Minimum Frontage (feet)	Minimum Lot Depth (feet)	Front ^{4,6,7} (feet)	Side ^{4,8,10} (feet)	Rear ⁶ (feet)	Maximum Height ⁴ (feet)	Maximum Stories	Maximum Building Coverage (percent)	Maximum Floor Area Ratio (FAR)	Minimum Open Space (percent)
RS	Any permitted use	2 acres ¹⁵	NA	200	150	40	25	25	35	2.5	15	None	70
RR	Any permitted use ¹¹	80,000 40,000	NA	200	125	40	25	40	35	2.5	15	None	70
RL	Any permitted use ¹¹	40,000	NA	150	100	30	20	30	35	2.5	20	None	55
RM	Any permitted use ¹¹	20,000	NA	150	100	25	15	30	35	2.5	25	None	45
RH	1-family detached dwelling ¹¹	7,500	NA	75	100	20	10	30	35	2.5	25	NA	45
	2-family dwelling ¹¹	9,600	NA	80	100	20	10 ¹	30	35	2.5	25	NA	45
	3-family dwelling ¹¹	11,700	NA	80	100	20	10	30	35	3.5	30	NA	40
	All other multifamily dwellings ^{11,13}	40,000	NA	150	200	25	20 ^{2,3}	40	35	2.5	None	0.50	35
	First dwelling unit	40,000	10,000	150	200	25	20 ^{2,3}	40	35	2.5	None	0.50	35
	Each additional dwelling unit	3,000	3,000	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
	Any other permitted use	10,000	NA	100	100	25	15	40	35	2.5	25	None	35
RU	1-family detached dwelling ¹¹	7,500	NA	75	100	20	10	30	35	2.5	30	None	40
	2-family dwelling ¹¹	9,000	NA	80	100	20	10 ¹	30	35	2.5	25	None	45
	3-family dwelling	11,700	NA	80	100	20	10	30	35	3.5	30	NA	40
	All other multifamily dwellings ^{11,13}	25,000	NA	100	100	25	20 ^{2,3}	40	35 ¹⁶	2.5 ¹⁶	None	1.0	25
	First dwelling unit	7,500	7,500	100	100	25	20 ^{2,3}	40	80	6	None	1.0	25
	Each additional dwelling unit	2,000	2,000	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
	Any other permitted use	10,000	NA	100	100	25	15	40	35	2.5	None	2.0	25
CN	Any permitted use ¹²	5,000	NA	50	100	20 <u>10 min, 20 max</u>	15⁵ <u>10</u>	30 <u>20</u>	35 <u>45</u>	2.5 <u>3</u>	None	0.50 <u>0.85</u>	10
	Any permitted use ¹²	22,500	NA	175	100	30	15	20	40	3.5	None	0.50	25
CG	All other multifamily dwellings ^{11,13}	20,000	NA	100	100	None	20	20	74	6	None	2.0	None
	First dwelling unit	2,000	2,000	100	100	None	20	20	None	None	None	2.0	None
	Each additional dwelling unit	1,000	1,000	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
	Any other permitted use ¹²	5,000	NA	50	100	None	None	20	40	3	None	2.0	None
CC	Multifamily dwelling ^{11,13}	NA	NA	100	100	10 ¹⁷	20	20	74 ¹⁶	6 ¹⁶	60	2.0	None
	First dwelling unit	NA	2,000	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
	Each additional dwelling unit	NA	1,000	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
	Any other permitted use ¹²	5,000	NA	50	100	None	None	None	74 ¹⁶	6 ¹⁶	None	3.0	None
CM	Any permitted use	NA	NA	50	100	None	None	None	74 ¹⁶	6 ¹⁶	None	3.0	None
OP	Any permitted use	10,000	NA	100	100	40	25	25	60	5	50	1.75	20

CITY OF HAVERHILL

BP	Any permitted use ¹²	40,000	NA	150	150	40 <u>10 (max)</u>	15	25	50 <u>85</u>	4	50	1.25	20 <u>10</u>
	1-family detached dwelling	15,000	NA	125	100	25	15	30	35	2.5	25	None	45
IG	Any permitted use ¹²	10,000	NA	100	100	40	25	25	74	6	None	1.25	None
	Multifamily dwelling ^{19, 20}												

TABLE 2: TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

Notes

NOTES:

- ¹ One side only for side-by-side dwelling units.
- ² Semidetached row unit, outside only.
- ³ Provisions for inner and outer courts shall be subject to the Building Code.
- ⁴ In the event that the proposed development lies between two adjacent and abutting developed lots containing structures which are set back a shorter distance than the required minimum, the required front yard of the lot in question shall be based on the average front yard setback of the adjacent and abutting structures. In the event that the proposed development lies adjacent and abuts only one developed lot containing a structure which has a front yard setback that is shorter than the required minimum, the required minimum front yard of the lot in question will be based on an average front yard setback of the adjacent and abutting structure and the required minimum front yard of the zone. In any event, the required minimum will not be greater than the required minimum of the receptive district as stated in the Table of Dimensional and Density Regulations nor less than 10 feet.
- ⁵ Between detached structures: for attached structures with common party wall, no side yard is required.
- ⁶ A corner lot shall have minimum street yards with depths which shall be the same as the required front yard depths for the adjoining lots.
- ⁷ At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- ⁸ Projections into required yards or other required open spaces are permitted subject to the following:
 - A. Balcony or bay window, limited in total length to ½ the length of the building, not more than four feet.
 - B. Open terrace or steps or stoop, unroofed and under four feet in height, up to ½ the required yard setback.
 - C. Steps or stoop, with a roof or that exceed four feet in height, window sill, chimney, roof cave, fire escape, fire tower or storm enclosure or similar architectural feature, not more than four feet.
- ⁹ The minimum lot width shall not be less than 75% of the minimum lot frontage (for at least the minimum lot depth setback).
- ¹⁰ Where an I or C District abuts an R District, no building within the I or C District shall be within 25 feet of the boundary line of the R District.
- ¹¹ The gross floor area and per dwelling unit in a two-family dwelling shall not be less than 768 square feet. The gross floor area in a multifamily or three-family dwelling per dwelling unit shall not be less than 450 square feet for one-bedroom dwelling units, 600 square feet for two-bedroom units and 768 square feet for three-bedroom or larger units.
- ¹² Existing residential uses shall be subject to the regulations for the particular type of dwelling in the RH District.
- ¹³ Except for planned developments for multifamily purposes, cluster residential development, planned unit development, commercial or industrial development, community facilities and public utilities, only one principal structure shall be permitted on a lot. In the case of multifamily developments other than planned unit development, the minimum distance between the exterior walls of such principal buildings shall be a minimum of 50 feet. The minimum lot area required for each individual dwelling unit, building or other unit of use shall be multiplied by the number of such units to obtain the minimum lot area required for the total tract of land. The minimum building setbacks (front, side and rear yards) within a multifamily development shall apply to the perimeter property line and not to the internal development of the site, except that no such building shall be placed within 10 feet of the right-of-way line of an internal roadway.
- ¹⁴ The provisions of this Ordinance governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, electronic equipment, elevator shafts and other necessary appurtenances usually carried above the roof; nor to domes, towers, stacks or spires if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennas and other like structures which do not occupy more than 20% of the lot area; nor to churches or public buildings, agricultural or institutional buildings or private schools not conducted for profit that are primarily used for school purposes, provided that the excepted appurtenances are not located within the flight paths of an airport as defined by Federal Aviation Administration regulations.

CITY OF HAVERHILL

¹⁵In the event that on-site sewage disposal is intended, the minimum lot area (2 acres) specified herein shall be considered a base upon which additional lot area shall be added as determined by the percolation rate defined in the State Sanitary Code, Article XI.

Percolation Rate (Minimum Per Inch Drop)	Lot Area Increase (Additional Lot Area in Square Feet Above the Minimum 80,000 Square Feet)
0 to 5 minutes	0
5 minutes 1 second to 10 minutes	15,000
10 minutes 1 second to 15 minutes	30,000
15 minutes 1 second to 20 minutes	45,000
Over 20 minutes	Unsuitable

¹⁶Up to 110 feet (not to exceed 10 stories) may be allowed, with a special permit, upon a finding that such height is proposed at a gateway or especially significant location within the CBD and will be suitable for the proposed site.

¹⁷No front setback is required for property fronting on Merrimack Street or Washington Street in the CC District.

¹⁸Except in the RM Zone where 25 acres are required.

¹⁹All multifamily/residential special permit projects shall conform to the dimensional and density regulations of the CC Zone.

²⁰All multifamily/residential special permit projects shall contain allowed commercial or industrial uses on the first floor of the structure.

²¹1.0 parking space for studios, 1.2 parking spaces for one-bedroom units, 1.4 parking spaces for two-bedroom units or more in the IG District located in the downtown. This ordinance shall not affect any other IG District and shall not affect the IG District located in the Bradford section of Haverhill.

The applicant may demonstrate to the reasonable satisfaction of the permit granting authority that it has satisfied the parking requirement by the purchase or lease of parking spaces in any public or private parking facility if that parking facility is located within 800 feet of the proposed project.

The use of shared parking to fulfill parking demands that occur at different times of the day is strongly encouraged. The required amount of parking may be reduced upon a demonstration to the reasonable satisfaction of the Planning Board at the definitive plan stage that the lesser amount of parking will not cause excessive congestion or endanger public safety, or that the lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

1. The availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus or an MVRTA transit station;
2. The availability of public or commercial parking facilities in the vicinity of the use being served;
3. Shared use of off street parking spaces serving other uses having peak user demands at different times;
4. Age or other occupancy restrictions which are likely to result in a lower level of auto usage;
5. Impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
6. Such other factors as may be considered by the Planning Board and City Council.