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# TOWN OF BELMONT



## ZONING BY-LAW

As amended through September 23, 2020  
Approved January 7, 2021

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## **SECTION 1. GENERAL**

### **1.1 Title and Authority**

This By-Law shall be known and may be cited as the “Zoning By-Law of the Town of Belmont, Massachusetts” and is adopted in accordance with and pursuant to the provisions of Massachusetts General Law, Chapter 40A, as amended by Chapter 808 of the Acts of 1975 as amended.

### **1.2 Purposes**

The purposes of this By-Law include, but are not limited to, the following:

- to lessen congestion in the streets;
- to conserve health;
- to secure safety from fire, flood, panic and other dangers;
- to provide adequate light and air;
- to prevent overcrowding of land;
- to avoid undue concentration of population;
- to encourage water supply, drainage, sewerage, schools, parks, open space and other public requirements;
- to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment;
- to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the comprehensive plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and
- to preserve and increase amenities by the promulgation of regulations to fulfill these purposes under the provisions of Massachusetts General Law, Chapter 40A.

Regulations adopted pursuant to these purposes may include, but are not limited to, restricting, prohibiting, permitting or regulating the use, alteration, height, area and location of buildings and structures and the use of premises in the Town of Belmont.

### **1.3 Basic Requirements**

Any building or structure hereinafter erected, reconstructed, altered, enlarged, or moved or any use of premises hereinafter established, altered or expanded in the Town of Belmont shall be in conformity with the provisions of this By-Law, with the following exceptions:

- certain nonconforming buildings, as provided in Section 1.5;
- certain aspects of agricultural, educational, and religious uses, as provided in Massachusetts General Law, Chapter 40A, Section 3.

Any use not specifically or generically enumerated in a district herein shall be deemed prohibited.

## 1.4 Definitions and Abbreviations

In this By-Law, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed.

**Accessory Building** - A building devoted exclusively to an accessory use as herein defined, and not attached to a principal building by any roofed structure.

**Accessory Dwelling Unit** – A dwelling unit which is incidental to the use of the principal structure on the same lot and located in a Historic Accessory Building pursuant to a Special Permit issued under Section 6.11 of this By-Law.

*Note: §1.4 was amended by Article 32 at the 2009 Annual Town Meeting.*

**Accessory Use** - An activity incidental to and located on the same premises as a principal use conducted by the same person or his agent. No use (other than parking) shall be considered “accessory” unless functionally dependent on and occupying less land area than the principal use, except for institutional (religious or educational uses) parking lots used by others, with owner’s consent, not conducting business within such institution.

*Note: §1.4 was amended by Article 30 at the 2009 Annual Town Meeting.*

**Age-Restricted Housing Development** - A facility intended for persons of age 55 or over within the meaning of MGL c.151B, §4, and in accordance therewith each of the dwelling units shall be owned and occupied or rented and occupied by at least one person 55 years of age or older per dwelling unit and such development shall be operated and maintained in all other respects in compliance with the requirements of such statutes and regulations promulgated pursuant thereto, and the same are currently in effect and as the same may be amended.

*Note: §1.4 was amended by Article 3 at the 2018 Special Town Meeting.*

**Apartment House** - A dwelling containing no fewer than five dwelling units.

**Assisted Living Facility** - Any firm or legal entity, however organized, that meets all of the following criteria:

- a) Provides room and board;
- b) Provides, directly by its employees or through arrangements with another organization that the entity may or may not control or own, personal care services for three or more adults who are not related by consanguinity or affinity to their care provider; and
- c) Collects payments or third-party reimbursements from or on behalf of residents of the facility to pay for the provision of assistance with the activities of daily living (dressing, washing, eating, walking, etc.), or arranges for the same.

*Note: §1.4 was amended by Article 3 at the 2018 Special Town Meeting.*

**Arterial Street** - Any State-numbered highway, any other street segment with right-of-way width of 60 feet or more, and the following named streets:

Belmont Street	Leonard Street
Blanchard Road	Lexington Street
Bright Road	Mill Street
Brighton Street (east of Pleasant Street)	Trapelo Road
Cross Street	Winter Street
Lake Street	

**Basement** - A portion of a building partially underground, but having less than 60% of its clear height below grade (see cellar).

*Note: §1.4 was amended by Article 18 at the 2005 Annual Town Meeting.*

**Block** - An area of land of one or more lots, bounded by streets or ways, but with no streets or ways within the area.

**Building** - A roofed structure enclosing useful space.

**Catering Service** - An establishment that prepares, serves, and supplies food in large quantities to be delivered and consumed off premises. Deliveries of food products occur on a regular basis.

*Note: §1.4 was amended by Article 9 at the 2003 Special Town Meeting.*

**Cellar** - A portion of a building partially underground, having 60% or more of its clear height below grade (see basement).

*Note: §1.4 was amended by Article 18 at the 2005 Annual Town Meeting.*

**Child Care, Large Family** - A private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under 16 years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the Office of Child Care Services; provided however, that the number of children under the age of sixteen in a large family child care home shall not exceed ten, including participating children living in the residence. A large family child care home shall have at least one additional approved care giver present when the total number of children participating in such child care exceeds six. Large family child care shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

*Note: §1.4 was amended by Article 5 at the 1999 Second Special Town Meeting.*

**CMR** - Code of Massachusetts Regulations.

**Commercial Vehicle** - A vehicle that has ladders, tools, stock or supplies, lettering or advertising that covers an area greater than 18 by 24 inches on either side visible from the outside, or any vehicle with a GVW of 10,000 lbs. or more. Use of a tarpaulin or like cover shall not exempt a vehicle from this definition.

*Note: §1.4 was amended by Article 26 at the 2001 Annual Town Meeting.*

**Day Care Center** - Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or preschool, or known under any other name, which receives children not of common parentage under seven years of age, or under 16 years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include: any part of a public school system; any part of a private, organized educational system unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday School conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefore provided, in the last two instances, such arrangement or care shall not be for more than five children including participating children living in the residence.

**DEP** - Massachusetts Department of Environmental Protection.

*Note: §1.4 was amended by Article 26 at the 1995 Annual Town Meeting.*

**Development** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**Driveway, Shared** – A driveway shared by adjacent property owners and privately owned and maintained.

*Note: §1.4 was amended by Article 11 at the 2014 Annual Town Meeting.*

**Dwelling** - A building containing one or more dwelling units separated by side yards from any other structure or structures except accessory buildings.

**Dwelling, Single-Family** – A single residential building designed for occupancy by one family.

*Note: §1.4 was amended by Article 14 at the 2014 Annual Town Meeting.*

**Dwelling, Two-Family** – A single residential building designed for occupancy by two families:

- **Traditional, Two-Family (Horizontal Style)** –
  - Each unit is completely separated by a common horizontal element (i.e., interior floor-ceiling assembly), and
  - At least 75% of one dwelling unit must be directly above or below the other, or
- **Duplex (Vertical Style)** –
  - A structure containing two dwelling units that share a common vertical wall and roof, and
  - Each unit has direct access to the outside.

*Note: §1.4 was amended by Article 14 at the 2014 Annual Town Meeting.*

**Dwelling Unit** - A building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both refrigerator and sink) not shared with any other unit; or quarters for up to five persons in a dormitory, congregate dwelling, or similar group dwelling.

**EPA** - U.S. Environmental Protection Agency.

**Facade-Mounted Wireless Telecommunications Facility** - A Wireless Telecommunications Facility, other than a Roof-Mounted Wireless Telecommunications Facility, mounted on, erected on or supported in whole or in part by an existing building or structure, occupied or used primarily for purposes other than wireless telecommunication.

*Note: §1.4 was amended by Article 25 at the 1998 Annual Town Meeting.*

**Family** - One or more persons, including domestic employees, occupying a dwelling unit and living as a single nonprofit housekeeping unit; provided that if five or more persons of the group occupying said dwelling are not kindred to each other, as defined by civil law, they shall not be deemed to constitute a family.

**Family Day Care Home** - Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under 16 years of age if such children have special needs; provided however, in either case, that the total number of children under 16 in a family day care home shall not exceed six, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

**Floodplain** - The area of land susceptible to flooding or inundation from a particular body of water, including a pond, a river or a stream during a Base Flood.

**Floor Area, Gross** - The sum of the horizontal areas of the several floors of all buildings on the same lot, measured from the exterior face of exterior walls, including basements and any interior parking and loading areas, but not including cellars or areas having less than six feet floor-to-ceiling height.

**Floor Area Ratio** - The ratio of gross floor area to lot area of the premises. In determining gross floor area for these purposes only, any building area having floor-to-ceiling height in excess of 15 feet shall be counted twice.

**Freestanding Wireless Telecommunications Facility** - A Wireless Telecommunications Facility mounted on, erected on or supported by any freestanding monopole, lattice tower, or similar freestanding structure.

*Note: §1.4 was amended by Article 25 at the 1998 Annual Town Meeting.*

**G.L.** - Massachusetts General Law.

**Grade** - The average of the ground level adjoining the building at all exterior walls based upon the existing contour lines. Contour lines shall be illustrated on a plan and shall be established prior to any filling or earth moving/removal activities. The grade shall not be raised more than 12 inches to allow for proper drainage.

*Note: §1.4 was amended by Article 6 at the 2016 Annual Town Meeting.  
§1.4 was amended by Article 18 at the 2005 Annual Town Meeting.*

**Ground Floor** - The floor which is nearest to the average grade of the sidewalk or ground adjoining the building.

**Height, Building** - The vertical distance from the grade to:

- the highest point of the roof or parapet for flat or shed roofs;
- the midpoint between the lowest and highest points of the roof for gable, hip and gambrel roofs (upper roof pitch 4" per foot or greater); or
- the point of change in roof slope for mansard roofs (upper roof pitch under 4" per foot).

*Note: §1.4 was amended by Article 28 at the 2006 Annual Town Meeting.  
§1.4 was amended by Article 18 at the 2005 Annual Town Meeting.  
§1.4 was amended by Article 31 at the 1991 Annual Town Meeting.*

**Kennel** - A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

*Note: §1.4 was amended by Article 9 at the 2014 Annual Town Meeting.*

**Kennel, Commercial Boarding or Training** - An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under Section 39A of Chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

*Note: §1.4 was amended by Article 9 at the 2014 Annual Town Meeting.*

**Kennel, Commercial Breeder** – An establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

*Note: §1.4 was amended by Article 9 at the 2014 Annual Town Meeting.*

**Kennel, Domestic Charitable Corporation** – A facility operated, owned or maintained by a domestic charitable corporation registered with the Department of Agricultural Resources or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

*Note: §1.4 was amended by Article 9 at the 2014 Annual Town Meeting.*

**Kennel, Personal** – A pack or collection of more than 4 but no greater than 8 dogs, 3 months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a

personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.

*Note: §1.4 was amended by Article 9 at the 2014 Annual Town Meeting.*

**Kennel, Veterinary** – A veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that “veterinary kennel” shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

*Note: §1.4 was amended by Article 9 at the 2014 Annual Town Meeting.*

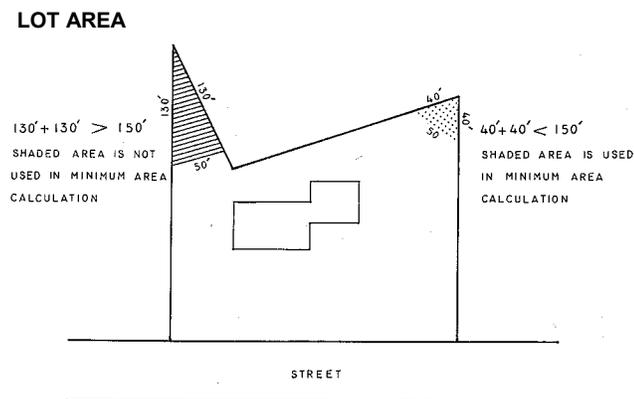
**Interior Wireless Telecommunications Facility** - A Wireless Telecommunications Facility mounted inside, erected inside or supported entirely within an existing building or structure, occupied or used primarily for other purposes, and not visible from any public way or adjoining property.

*Note: §1.4 was amended by Article 25 at the 1998 Annual Town Meeting.*

**Lodging and Boarding** - Rental of not more than three rooms without separate cooking facilities, as an accessory use within a dwelling, if not resulting in more than four unrelated persons being accommodated on the premises.

**Lot** - The whole area of a single parcel of land under one ownership. Whenever such a parcel is divided on a plan which has been placed on file at the Middlesex South District Registry of Deeds at Cambridge, the term lot as used in this By-Law shall mean a lot as shown on such plan.

**Lot Area** - The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least 90% of the lot area required for compliance shall also be exclusive of areas subject to protection under the Wetlands Protection Act, Section 40, Chapter 131, Massachusetts General Law, for reasons other than being subject to flooding. If the distance between any two points on lot lines is less than 50 feet, as measured in a straight line, the smaller portion of the lot as divided by that line shall not be included in lot area unless the two points are separated by less than 150 feet measured along lot lines.



**Lot Coverage** - Percentage of total lot area covered by structures or roofed.

**Lot Frontage** - The boundary of a lot on land coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site. Measured continuously along one street line between side lot lines. In the case of corner lots, measured on the street designated by the owner or, failing that, by the Building Inspector as the frontage street, between the side lot line and the midpoint of the corner radius.

**Marijuana, Adult Use Establishment (AUME)** - Collectively Marijuana Cultivator, Marijuana Independent Testing Laboratory, Marijuana Product Manufacturer, and Marijuana Retailer or any other type of licensed marijuana-related businesses.<sup>1</sup>

*Note: §1.4 was amended by Article 4 at the 2018 Special Town Meeting.*

**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 to consumers.<sup>1</sup>

*Note: §1.4 was amended by Article 4 at the 2018 Special Town Meeting.*

**Marijuana Independent Testing Laboratory** - A laboratory that is licensed by the Cannabis Control Commission (Commission) and is: (i) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is signatory of the International Laboratory Accreditation Accrediting Cooperation with a mutual recognition arrangement, or that is otherwise approved by the Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with regulations promulgated by the Commission pursuant to MGL c. 94G.<sup>1</sup>

*Note: §1.4 was amended by Article 4 at the 2018 Special Town Meeting.*

**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.<sup>1</sup>

*Note: §1.4 was amended by Article 4 at the 2018 Special Town Meeting.*

**Marijuana Products** - Products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including without limitation edible products, beverages, topical products, ointments, oils, and tinctures.<sup>1</sup>

*Note: §1.4 was amended by Article 4 at the 2018 Special Town Meeting.*

**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.<sup>1</sup>

*Note: §1.4 was amended by Article 4 at the 2018 Special Town Meeting.*

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<sup>1</sup> These definitions are based on the definitions as provided in MGL c. 94G, §1, and the regulations thereunder, as they may be amended from time to time.

**Motor Vehicle Service Station** - Premises devoted primarily to retail sale of fuels and lubricants and/or washing of motor vehicles, with any repair services or other sales or services of secondary importance.

**NPDES** - National Pollution Discharge Elimination System.

**Open Space** - An open area on a lot, unbuilt on, containing landscape materials, pedestrian walks, patios, recreational facilities, but excluding driveways and parking spaces.

**Other Retail Sales and Services** - An establishment primarily engaged in the retail sale of goods, services and/or products (including baked products, ice cream, and/or candy for consumption off site with no seating provided on site). Such uses may include incidental food service.

*Note: §1.4 was amended by Article 9 at the 2003 Special Town Meeting.*

**Outdoor Seasonal Seating** – Outdoor seating that is provided on a seasonal basis in an area contiguous to a restaurant to which the seating is associated.

*Note: §1.4 was amended by Article 25 at the 2010 Annual Town Meeting.*

**Parking Space** - An area in a building or on a lot available for parking one automobile, exclusive of passageways and driveways appurtenant thereto, and having free and unimpeded access to a street over unobstructed passageways or driveways.

**Patio** - A paved recreational area, not elevated above adjacent existing grade, separated by plant material or structures from all driveways and not itself to be used for parking.

*Note: §1.4 was amended by Article 19 at the 2000 Annual Town Meeting.*

**Premises** - A lot together with all structures, buildings, and uses thereon and including any water bodies and watercourses or parts thereof.

**Registered Marijuana Dispensary** (or “RMD”) - also known as a Medical Marijuana Treatment Center, means a not-for-profit entity properly registered with the Massachusetts Department of Public Health under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.

*Note: §1.4 was amended by Article 12 at the 2014 Annual Town Meeting.*

**Restaurant** - An establishment at which the principal activity is the preparation, service, and sales of food for consumption on the premises.

*Note: §1.4 was amended by Article 9 at the 2003 Special Town Meeting.*

**Restaurant, Fast Food** - An establishment whose primary business is the sale of food for consumption on the premises which is: (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold; (d) which, because of the nature of the operation sells large volumes of food; but not including drive-up windows.

*Note: §1.4 was amended by Article 9 at the 2003 Special Town Meeting.*

**Restaurant, Take Out** - An establishment whose primary business is the sale of food for consumption off the premises which is: (a) primarily intended for immediate consumption rather than for use as an ingredient or component of meals; (b) available upon a short waiting time; (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold; (d) which, because of the nature of the operation sells large volumes of food; (e) commonly generates a large volume of vehicular traffic, but not including drive-up windows.

*Note: §1.4 was amended by Article 9 at the 2003 Special Town Meeting.*

**Roof-Mounted Wireless Telecommunications Facility** - A Wireless Telecommunications Facility mounted on, erected on or supported in whole or in part by the roof of an existing building or structure, occupied or used primarily for purposes other than wireless telecommunication.

*Note: §1.4 was amended by Article 25 at the 1998 Annual Town Meeting.*

**Satellite Antenna** - A device or instrument, other than a Wireless Telecommunications Facility, for the transmittal or reception of television or other electronic communications.

*Note: §1.4 was amended by Article 26 at the 1998 Annual Town Meeting.  
§1.4 was amended by Article 24 at the 1996 Annual Town Meeting.*

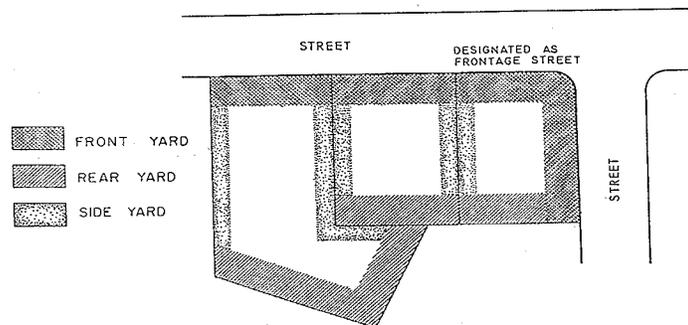
**School-Aged Child Care Home** - Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, school-aged children, when such children are not required to attend school; provided, however, that the total number of children in a school-aged child care home during the portion of the year when school is in session shall not exceed eight, and during the summer months when school is not in session shall not exceed six, including in each case participating children living in the residence. School-aged child care home shall not mean a private residence used for informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor. The phrase 'school-aged children' shall mean children age 7 and older, not to exceed 14 years of age; however, special needs children shall qualify if not more than 16 years of age.

*Note: §1.4 was amended by Article 39 at the 1994 Annual Town Meeting.*

**Setback** - An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, or other customary yard accessory. Setback is measured perpendicular to the street or property line.

*Note: §1.4 was amended by Article 28 at the 2006 Annual Town Meeting.*

SETBACK



**Setback, Front** - A setback taken from a street line. Typically, corner and through lots must provide two front setbacks.

**Setback, Rear** - A setback taken from a rear property line, that is, typically a line or set of lines approximately parallel to the street frontage, and separating lots whose frontage is established on different streets. Setbacks on irregularly shaped lots where "side" versus "rear" is indeterminate shall be construed as rear setbacks.

**Setback, Side** - A setback taken from a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street. Corner lots commonly have one side setback and one rear setback.

**Sign** - Any device designed to inform or attract the attention of persons not on the premises on which the device is located, including any building surfaces other than windows which are internally illuminated or decorated with gaseous tube or other lights. The following, however, shall not be considered signs within the context of this By-Law:

- a) flags and insignia of any government except when displayed in connection with commercial promotion;
- b) legal notices, or informational signs erected or required by government bodies;
- c) temporary signs inside display windows illuminated by building illumination only;
- d) standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline;
- e) carved or other integral devices identifying the building name or date of erection, but not identifying occupants, and not illuminated; or
- f) on-premises devices not exceeding four square feet, guiding traffic and parking, but bearing no advertising matter.

*Note: §1.4 was amended by Article 5 at the 2017 Annual Town Meeting.*

**Sign, Accessory** - Any sign that advertises, or indicates the person occupying the premises on which the sign is erected or maintained, or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter. A sign on the exterior of a structure which advertises a product or service on more than 25% of the total area of the sign, which product or service does not constitute at least 25% of the gross sales made on the premises on which the sign is erected or maintained, is not an accessory sign.

**Sign, Area of -**

- a) The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any “cutouts” or extensions, but shall not include any supporting structure or bracing.
- b) The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
- c) The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross section of that object.
- d) In computing the area of signs, both sides of V-shaped signs, but only one side of back-to-back signs, shall be counted.

**Sign, Non-Accessory -** Any sign not an accessory sign.

**Sign, Standing -** Any accessory sign that is not attached to a building.

**Sign, Window –** A sign posted, painted, placed or affixed in or on a window exposed to public view and is visible from the exterior of the building or a sign that is located within three feet of the glass of a window exposed to public view and visible from the exterior of the building.

*Note: §1.4 was amended by Article 24 at the 2008 Annual Town Meeting.*

**Sign, Temporary -** Any sign, including its supporting structure, intended to be maintained for a continuous period of not more than 60 days in any calendar year, and not repeated for a period of 4 months after removal.

*Note: §1.4 was amended by Article 5 at the 2017 Annual Town Meeting.*

**Special Permit Granting Authority (SPGA) -** The Board specifically designated in this Zoning By-Law to act upon a particular Special Permit. Where no Board is specifically designated herein for a particular Special Permit, the Board of Appeals shall act as the Special Permit Granting Authority.

*Note: §1.4 was amended by Article 28 at the 2006 Annual Town Meeting.*

**Story -** That portion of a building, other than a cellar, included between the upper surface of a floor and upper surface of the floor or roof next above.

**Story, Half** - A space under a sloping roof where:

- a) the line of intersection of the rafter bottoms and the interior wall surface is not more than three feet above floor level on at least half the perimeter of the second floor,
- b) the potential space having headroom of five feet or more is not more than 60% as large as the second floor,
- c) provided that the length of any dormer does not exceed 75% of the length of the roofline of the side of the structure where the dormer is constructed, and
- d) for purposes of this calculation, when the height of the second floor is indeterminate, the height of the second floor (from finished floor to finished ceiling) shall be equal to 12 feet, the remaining portion of the wall shall be factored into the half-story calculation.

Note: §1.4 was amended by Article 18 at the 2005 Annual Town Meeting.  
§1.4 was amended by Article 22 at the 1998 Annual Town Meeting.

**Street** - Either:

- a) a public way or a way which the Town Clerk certifies is maintained and used as a public way, or
- b) a way approved by the Board of Survey, or
- c) a private way that has been and is continually used as a means of vehicular access to the lots fronting on it provided said private way is shown on a subdivision plan recorded prior to September 21, 1988.

Note: §1.4 was amended by Article 27 at the 1995 Annual Town Meeting.

**Structure** - Anything constructed or erected, the use of which requires fixed location on the ground, including buildings, mobile homes, signs, swimming pools, and tanks, but for purposes of this By-Law not including walls, fences, or paving.

**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:

- a) before the improvement or repairs is started, or
- b) if the structure has been damaged, and is being restored, before the damage occurred. 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 "Substantial Improvement" does not apply to either:

- a) any improvements 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
- b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Swimming Pool** - An artificial receptacle capable of containing a body of water, whether in or above ground, or created by artificial means from a natural watercourse, and all appurtenances, equipment, appliances and other facilities for its operation, maintenance or use, used or intended to be used by the owner or tenant thereof and his/her family and by friends invited to use it without payment of any fee, but not including portable or other pools incapable of containing a depth of water exceeding 24 inches at any point.

**Townhouse** – A one-family dwelling unit, with a private entrance, which is part of a residential structure containing three or more dwelling units that are attached horizontally in a linear arrangement, and having two or three totally exposed walls, depending on the number of units in structure, to be used for access, light, and ventilation.

*Note: §1.4 was amended by Article 14 at the 2014 Annual Town Meeting.*

**Watercourse** - The natural channel of a stream or river through which springs, surface runoffs, and rain waters are carried during normal weather conditions.

**Wetland** - Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent plant communities in inland waters; that portion of any bank which touches any inland waters, as defined in DEP Regulations adopted for implementation of the Wetlands Protection Act.

**Window Display** – Any arrangement or presentation of merchandise placed within three feet of a window but not including any pricing, dollar amount or signage intended to augment the display of the merchandise. Signs associated with a window display are considered a window sign for the purposes of this By-Law.

*Note: §1.4 was amended by Article 24 at the 2008 Annual Town Meeting.*

**Wireless Telecommunications Facility** - Any tower, antenna, or appurtenant structure or equipment used to provide wireless telecommunications services to individuals or institutions, but not including an amateur radio facility used in accordance with the terms of any amateur radio service license issued by the U.S. Federal Communications Commission, provided that (1) the facility is not used or licensed for any commercial purpose; and (2) the facility shall be removed upon loss or termination of such license.

*Note: §1.4 was amended by Article 25 at the 1998 Annual Town Meeting.*

## **1.5 Nonconforming Uses and Structures**

*Note: §1.5 was adopted under Article 27 at the 2004 Annual Town Meeting.*

### **1.5.1 Applicability**

This By-Law shall not apply to uses or structures 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 G.L. c. 40A, s. 5 at which this By-Law, or any relevant part thereof, was adopted. No modification of a lawfully existing nonconforming use or structure is allowed except as authorized hereunder.

### **1.5.2 Nonconforming Uses**

The Board of Appeals may grant a Special Permit to change or extend a nonconforming use only if it determines that such change or extension shall not be substantially more

detrimental than the existing nonconforming use to the neighborhood and that it shall be in keeping with the character of the neighborhood in which it is located. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, not substantially more detrimental, nonconforming use.

Once a nonconforming use is changed to a conforming use through the exercise of a Building Permit, there is no authority to allow the property to revert to a nonconforming use.

#### 1.5.3 Nonconforming Structures

The Building Commissioner may issue a Building Permit for a change in use of a pre-existing, nonconforming structure to any permitted use.

The Building Commissioner may issue a Building Permit for an interior renovation, interior alteration or interior reconstruction of a pre-existing, nonconforming structure that does not extend the nonconformity or create a new nonconformity.

The Board of Appeals may grant a Special Permit to reconstruct, extend, alter, or change a nonconforming structure only if it determines that such reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure or create a new nonconformity and shall not be substantially more detrimental than the

existing nonconforming structure to the neighborhood and that it shall be in keeping with the character of the neighborhood in which it is located. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- a. A reconstruction, extension or structural change;
- b. An alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

#### 1.5.4 Nonconforming Single and Two-Family Residential Structures

##### **A. General Residence Zoning Districts**

- (1) In the General Residence Zoning District, as provided in Massachusetts General Law Chapter 40A, Section 6, preexisting non-conforming structures may be extended or altered with a Special Permit by the Zoning Board of Appeals, provided that no such extension or alteration shall be permitted unless there is a finding by the Zoning Board of Appeals that such extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure. Notwithstanding the foregoing, dormers that comply with Section 4.2.2, Linear Requirements, shall be allowed without review by the Zoning Board of Appeals.

- (2) If the Building Commissioner determines that such proposed alteration or structural change increases the gross floor area of the nonconforming structure by more than 300 square feet either as:
  - a) a standalone application, in and of itself, or
  - b) when combined with the gross floor area added to the structure during the five-year period preceding the date of the pending application,then the proposed alteration or structural change shall require a Special Permit from the Planning Board pursuant to Section 6D of this Zoning By-Law.
- (3) On lots that do not comply with the minimum area requirements of this Zoning By-Law (including the minimum lot area per dwelling unit), preexisting non-conforming single- and two-family structures may not be voluntarily demolished and reconstructed except in accordance with a Special Permit issued by the Planning Board under Section 6D of this Zoning By-Law.

*Note: §1.5.4 was amended by Article 4 at the 2018 Annual Town Meeting.  
§1.5.4 was amended by Article 14 at the 2014 Annual Town Meeting.*

#### **B. Single Residence B Zoning District**

- (1) In the Single Residence B Zoning District, a nonconforming single- and two-family residential structure may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or structural change does not increase the nonconforming nature of said structure.

The Building Commissioner may issue a Building Permit under any of the following circumstances:

- 1) An alteration to a structure which complies with all current setbacks, open space, lot coverage and building height. This clause shall apply-regardless of whether the lot complies with the current area and/or frontage requirements;
- 2) An alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, open space, lot coverage and building height requirements. This clause shall apply regardless of whether the lot complies with the current area and/or frontage requirements;

Unless the Building Commissioner determines that the proposed alteration or structural change complies with at least one of the clauses (1) or (2) above, a Special Permit shall be required from the Board of Appeals.

- (2) If the Building Commissioner determines that such proposed reconstruction, extension, alteration or structural change to the existing non-conforming structure:
- a) Increases the height in feet to the ridge or the number of stories; or,
  - b) Increases the gross floor area of the existing non-conforming structure by more than the lesser of thirty percent (30%) or 700 square feet, either as:
    - i. A standalone application, in and of itself, or
    - ii. When combined with the gross floor area added to the structure during the five- year period preceding the date of the pending application,

then the proposed alteration or structural change shall require a Special Permit from the Planning Board.

- (3) A nonconforming single- or two-family structure may be reconstructed after voluntary demolition if the building as reconstructed will be located on the same footprint as the original nonconforming structure, and will be no greater in volume, height in feet to the ridge, or gross floor area as the original nonconforming structure.

If the Building Commissioner determines that the proposed reconstruction would:

- a) cause the structure to exceed the volume, height to the ridge, or gross floor area of the original non-conforming structure or
- b) cause the structure to be located other than on the original footprint,

then a Special Permit shall be required from the Planning Board prior to such reconstruction.

- (4) The Planning Board may grant a Special Permit under this Section 1.5.4.C. (2) or (3) if it finds that the enlarged building:
- a) Is generally in harmony with the neighborhood;
  - b) Will neither generate excessive traffic, parking, noise or density impacts on the abutters, nor create other detrimental effects on the neighborhood;
  - c) Is appropriate in scale and mass for the neighborhood, and addresses topographic conditions to avoid the disproportionate distribution of bulk and mass, with particular consideration for the minimization of impacts upon abutting properties;
  - d) Will not increase the existing nonconforming lot coverage, if it exists; and,
  - e) Will not be substantially more detrimental than the existing nonconforming building to the neighborhood.

- (5) In making any Special Permit decision pursuant to this Section 1.5.4.C. (2) or (3), the Planning Board shall consider the following:
- a) Scale and design of the structure;
  - b) The siting of the structure and driveway;
  - c) Topographic conditions faced by Applicants, and the degree to which Applicants mitigate potential detrimental impacts upon abutters
  - d) Walkway, driveway and parking circulation;
  - e) Exterior lighting;
  - f) Open space and screening; and,
  - g) Drainage.
- (6) For the purposes of this Section 1.5.4.B., a nonconforming single- and two-family structure shall be defined as a single- and two-family structure on a lot that does not comply with the existing minimum lot area and/or frontage requirements and/or the single- and two-family structure encroaches or otherwise does not comply with one or more setbacks, open space, lot coverage or building height requirements.

An application for a Special Permit under this Section 1.5.4.C. shall comply with the procedures and requirements set forth in Section 7.4 of the Zoning By-law.

*Note: §1.5.4 was amended by Article 8 at the 2020 Special Town Meeting.  
§1.5.4 was amended by Article 4 at the 2019 Annual Town Meeting.*

### **C. Single Residence C Zoning Districts**

- (1) In the Single Residence C Zoning Districts, a nonconforming single- and two-family residential structure may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or structural change does not increase the nonconforming nature of said structure.

The Building Commissioner may issue a Building Permit under any of the following circumstances:

- a) An alteration to a structure which complies with all current setbacks, open space, lot coverage and building height. This clause shall apply regardless of whether the lot complies with the current area and/or frontage requirements;
- b) An alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, open space, lot coverage and building height requirements. This clause shall apply regardless of whether the lot complies with the current area and/or frontage requirements;
- c) A half-story addition to a nonconforming structure, that will not increase the footprint of the existing structure, create a new dimensional nonconformity or extend an existing dimensional nonconformity, provided that the existing height

restrictions shall not be exceeded. This clause shall apply regardless of whether the lot complies with the current area and/or frontage requirements.

Unless the Building Commissioner determines that the proposed alteration or structural change complies with at least one of the clauses (a), (b), or (c) above, a Special Permit shall be required from the Board of Appeals

- (2) If the Building Commissioner determines that such proposed alteration or structural change increases the gross floor area of the nonconforming structure by more than thirty percent (30%) either as:

- a) A standalone application, in and of itself, or
- b) When combined with the gross floor area added to the structure during the five-year period preceding the date of the pending application

then the proposed alteration or structural changes shall require a Special Permit from the Planning Board.

- (3) A nonconforming single- or two-family structure may be reconstructed after voluntary demolition if the building as reconstructed will be located on the same footprint as the original nonconforming structure, and will be no greater in volume or gross floor area as the original nonconforming structure.

If the Building Commissioner determines that the proposed reconstruction would:

- a) cause the structure to exceed the volume or gross floor area of the original nonconforming structure or
- b) cause the structure to be located other than on the original footprint,

then a Special Permit shall be required from the Planning Board prior to such reconstruction.

- (4) The Planning Board may grant a Special Permit under this Section 1.5.4.B. (2) or (3) if it finds that the enlarged building:

- a) Is generally in harmony with the neighborhood;
- b) Will neither generate excessive traffic, parking, noise or density impacts on the abutters, nor create other detrimental effects on the neighborhood;
- c) Is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties;
- d) Will not increase the existing nonconforming lot coverage, if it exists; and,
- e) Will not be substantially more detrimental than the existing nonconforming building to the neighborhood.

- (5) In making any Special Permit decision pursuant to this Section 1.5.4.B. (2) or (3), the Planning Board shall consider the following:

- a) Scale and design of the structure;

- b) The siting of the structure and driveway;
  - c) Walkway, driveway and parking circulation;
  - d) Exterior lighting;
  - e) Open space and screening; and,
  - f) Drainage.
- (6) For the purposes of this Section 1.5.4.C., a nonconforming single- and two-family structure shall be defined as a single- and two-family structure on a lot that does not comply with the existing minimum lot area and/or frontage requirements and/or the single- and two-family structure encroaches or otherwise does not comply with one or more setbacks, open space, lot coverage or building height requirements.

An application for a Special Permit under this Section 1.5.4.B. shall comply with the procedures and requirements set forth in Section 7.4 of the Zoning By-Law.

*Note: §1.5.4 was amended by Article 8 at the 2020 Special Town Meeting.  
§1.5.4 was amended by Article 6 at the 2016 Annual Town Meeting.*

#### **D. All Other Districts**

In all other districts, 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 structural change does not increase the nonconforming nature of said structure. The Building Commissioner may issue a Building Permit under the following circumstances:

- 1) An alteration to a structure which complies with all current setbacks, open space, lot coverage and building height requirements but is located on a lot with insufficient area and/or frontage;
- 2) An alteration to a structure which encroaches upon one or more required setbacks, where the alteration will comply with all current setbacks, open space, lot coverage and building height requirements. This clause shall apply regardless of whether the lot complies with the current area and/or frontage requirements;
- 3) A half-story addition to a nonconforming structure, that will not increase the footprint of the existing structure, create a new dimensional nonconformity or extend an existing dimensional nonconformity, provided that the existing height restrictions shall not be exceeded. This clause shall apply regardless of whether the lot complies with the current area and/or frontage requirements.

#### **1.5.5 Restoration**

A structure which has been damaged by fire or other casualty to an extent less than 50% of the fair market value of the structure on the date of the damage may be restored to its original condition and square footage, regardless of any nonconformity of the structure or its use.

A structure damaged to a greater extent, if dimensionally nonconforming or containing a nonconforming use, may be restored to the previous nonconforming configuration or

use only provided such work is started within two (2) years of the damage and completed within three (3) years of the date of the damage and where there is no increase in nonconformance with setback requirements. Any proposed change of use is subject to the provisions of this Section 1.5.

1.5.6 Abandonment

A nonconforming use of a structure or land, that has been abandoned or not used for a period of two (2) years, shall not be reestablished and all future use(s) shall conform with this By-Law.

## **1.6 Variation**

Where this By-Law imposes a greater restriction upon the use of buildings or premises than is imposed by existing provisions of law or other By-Laws, the provisions of this By-Law shall control. Where a provision of this By-Law may be in conflict with any other provision or provisions of this By-Law, the more stringent or greater requirements shall control.

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## **SECTION 2. DISTRICTS**

### **2.1 Classes**

The Town of Belmont is hereby divided into 13 classes of Districts:

Single Residence A	Local Business I
Single Residence B	Local Business II
Single Residence C	Local Business III
Single Residence D	General Business
General Residence	Parking Lot
Apartment House	McLean District *
	Belmont Uplands District **

*\*\* Note: §2.1 was amended by Article 5 at the 2002 Special Town Meeting.*

*\* Note: §2.1 was amended by Article 2 at the 1999 First Special Town Meeting.*

Overlay Districts:

Cushing Square – adopted at the 2006 Special Town Meeting  
Oakley Neighborhood Smart Growth – adopted at the 2007 Special Town Meeting  
Medical Marijuana – adopted at the 2014 Annual Town Meeting  
Adult Use Marijuana Establishment - adopted at the 2018 Special Town Meeting  
South Pleasant Street – adopted at the 2018 Special Town Meeting  
McLean District Zone 3 – adopted at the 2020 Special Town Meeting

### **2.2 Location**

Said districts are located and bounded as shown on the Zoning Map of the Town of Belmont dated March 14, 1955, as amended which is on file with the Town Clerk. Said map with all explanatory matter thereon accompanies this By-Law and is hereby declared to be part hereof.

### **2.3 Boundaries**

#### **2.3.1 Street Boundaries**

The boundaries between Districts are, unless otherwise indicated, the centerlines of such streets, alleys, parkways, or railroads through which the boundary lines run.

#### **2.3.2 Mid-block Boundaries**

Unless otherwise specified, a boundary line within a block less than 200 feet wide is a median line between the street lines of said block. Where a block is 200 feet or more in width, the boundary line between Districts as indicated shall be 100 feet from the less restricted side of the block.

## **2.4 Floodplain District Delineation**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Belmont designated as Zone A and AE, on the Middlesex 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 Middlesex County FIRM that are wholly or partially within the Town of Belmont are panel numbers 25017C0412E, 25017C0414E, 25017C0416E, 25017C0418E and 25017C0419E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk.

*Note: §2.4 was amended by Article 24 at the 2010 Annual Town Meeting.*

## **SECTION 3. USE REGULATIONS**

### **3.1 General Requirements**

No building structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.2, Interpretation, and as permitted and set forth in Section 3.3, Schedule of Use Regulations, herein and in accordance with the following notation:

- |                                                                             |                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Y                                                                           | (Yes)                  | - Use Permitted                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| SP                                                                          | (Special Permit)       | - Use allowed under a Special Permit by the designated Special Permit Granting Authority.                                                                                                                                                                                                                                                                                                                                                                  |
| <i>Note: §3.1 was amended by Article 28 at the 2006 Annual Town Meeting</i> |                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| SPS                                                                         | (Special Permit: Size) | - Use permitted, except requiring a Special Permit if new construction, additions or alterations result in more than 5,000 square feet gross floor area in any one or more business uses (as categorized in Section 3.3) on a lot or set of contiguous lots in the same ownership at any time subsequent to June 1, 1987, except for individual additions or alterations increasing floor area in business use on the lot or set of lots by less than 10%. |
| N                                                                           | (No)                   | - Use Prohibited                                                                                                                                                                                                                                                                                                                                                                                                                                           |

Uses permitted and uses allowed on Special Permit shall be in conformity with all the density and dimensional regulations and any other pertinent requirements of this By-Law.

### **3.2 Interpretation**

Where a use might be classified under more than one of the following categories, the more specific category shall determine permissibility. If equally specific, the more restrictive category shall govern. A use not classifiable under any listed category may be allowed only by Special Permit from the Board of Appeals, upon the Board's determination that the use is similar in its impacts on the neighborhood, the environs and the Town to a use which is permitted or allowed on Special Permit, and also that the test of Section 7.4.3, Special Permit Criteria, is met.

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>AGRICULTURE</u></b>								
Keeping of livestock other than domestic pets	SP	SP	N	N	N	N	Y	N
Other agriculture	Y	Y	Y	Y	Y	Y	Y	Y
<b><u>BUSINESS</u></b>								
<i>Note: See §3.5, Major Development, for business uses involving more than 40,000 square feet floor area</i>								
Commercial off-street parking lots	N	N	N	N	N	N	SPS	SP
Motor vehicle repair, sales, and rental	N	N	N	N	SP	N	SP	N
Motor vehicle service station (see §6.7)	N	N	N	N	SP	N	SP	N
Motorized equipment sales, service and rental including equipment powered by internal combustion engine over 10 hp	N	N	N	N	SPS	N	SPS	N
Catering Service:								
➤ Up to 5,000 square feet	N	N	N	Y	Y	Y	N	N
➤ More than 5,000 square feet	N	N	N	SP	SP	SP	N	N
<i>Note: §3.3 was amended by Article 10 at the 2003 Special Town Meeting.</i>								
Restaurant:								
➤ Up to 10,000 square feet	N	N	N	Y	Y	SP	SP	N
➤ More than 10,000 square feet	N	N	N	SP	SP	SP	SP	N
<i>Note: §3.3 was amended by Article 10 at the 2003 Special Town Meeting.</i>								
Restaurant, Fast Food	N	N	N	SP	SP	SP	SP	N
<i>Note: §3.3 was amended by Article 10 at the 2003 Special Town Meeting.</i>								
Restaurant, Take Out	N	N	N	N	SP	SP	SP	N
<i>Note: §3.3 was amended by Article 10 at the 2003 Special Town Meeting.</i>								
Place of assembly, amusement, or athletic exercise	N	N	N	SP	SP	N	SPS	N
Other retail sales and services	N	N	N	SPS	SPS	SPS	SPS	N

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR- A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>BUSINESS (Continued)</u></b>								
Office	N	N	N	SPS	SPS	SPS	SPS	N
Manufacturing or fabrication of products of which the major portion is to be sold at retail on the premises and not more than 8 operatives are employed in the manufacturing or fabrication process	N	N	N	SPS	SPS	SPS	SPS	N
Other manufacturing and warehousing	N	N	N	N	N	N	SPS	N
Wireless Telecommunications Facility (see §6.8) <i>Note: §3.3 was amended by Article 27 at the 1998 Annual Town Meeting.</i>	SP	SP	SP	SP	SP	SP	SP	SP
Solar Energy System (See §4.3.8) <i>Note: §3.3 was amended by Article 9 at the 2012 Special Town Meeting.</i>	N	N	N	SP	SP	SP	SP	N
Kennels (Commercial or Nonprofit):								
➤ Daycare - the provision of day time services for the care of animals that does not include overnight boarding provided that a minimum of 60 square feet of play area is available per dog.	N	N	N	N	N	SP	SP	N
➤ Boarding	N	N	N	N	N	N	SP	N
➤ Commercial Breeder	N	N	N	N	N	N	N	N
➤ Veterinary	N	N	N	N	N	N	N	N
The Planning Board shall be the SPGA for Kennels <i>Note: §3.3 was amended by Article 9 at the 2014 Annual Town Meeting.</i>								
Registered Marijuana Dispensary (See §6E) <i>Note: §3.3 was amended by Article 12 at the 2014 Annual Town Meeting.</i>	N	N	N	N	SP	N	SP	N

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR- A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>BUSINESS (Continued)</u></b>								
Marijuana Cultivator (See §6F) <i>Note: §3.3 was amended by Article 4 at the 2018 Special Town Meeting.</i>	N	N	N	N	N	N	N	N
Marijuana Independent Testing Laboratory (See §6F) <i>Note: §3.3 was amended by Article 4 at the 2018 Special Town Meeting.</i>	N	N	N	N	N	N	N	N
Marijuana Product Manufacturer (See §6F) <i>Note: §3.3 was amended by Article 4 at the 2018 Special Town Meeting.</i>	N	N	N	N	N	N	N	N
Marijuana Retailer (See §6F) <i>Note: §3.3 was amended by Article 4 at the 2018 Special Town Meeting.</i>	N	N	N	N	SP	N	N	N
<b><u>PUBLIC AND SEMI-PUBLIC</u></b>								
Religious or educational use exempted from prohibition by Massachusetts General Law, Chapter 40A, Section 3	Y	Y	Y	Y	Y	Y	Y	Y
Private school conducted for profit, including nursery, dancing and music schools	SP	SP	N	Y	Y	SP	Y	N
Day care center <i>Note: §3.3 was amended by Article 28 at the 2006 Annual Town Meeting.</i>	Y	Y	Y	Y	Y	Y	Y	N
Family day care home <i>Note: §3.3 was amended by Article 28 at the 2006 Annual Town Meeting.</i>	SP	SP	SP	SP	SP	SP	SP	N
Child Care, Large Family <i>Note: §3.3 was amended by Article 6 at the 1999 Second Special Town Meeting.</i>	SP	SP	SP	SP	SP	SP	SP	N
Hospital or sanitarium	SP	SP	N	N	N	N	N	N
Philanthropic use	SP	SP	N	Y	Y	Y	Y	N

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR- A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>PUBLIC AND SEMI-PUBLIC</u></b>								
<b><u>(Continued)</u></b>								
Private club or lodge owned by members and customarily conducted as a nonprofit activity:								
➤ operated for members only	SP	SP	N	Y	Y	SP	Y	N
➤ other	N	N	N	Y	Y	SP	Y	N
Municipal recreational use	Y	Y	Y	Y	Y	Y	Y	N
Municipal cemetery	SP	SP	N	N	N	N	Y	N
Other municipal use	SP	SP	SP	Y	Y	Y	Y	Y
School-aged child care home	SP	SP	SP	SP	SP	SP	SP	N
<i>Note: §3.3 was amended by Article 39 at the 1994 Annual Town Meeting.</i>								
<b><u>RESIDENTIAL</u></b>								
Detached single-family dwelling (See §6D for the GR Districts)	Y	Y	N	SP	SP	SP	N	N
<i>Note: §3.3 was amended by Article 14 at the 2014 Annual Town Meeting.</i>								
Two-family dwelling (See §6D for the GR Districts)	N	SP	Y	SP	SP	SP	N	N
<i>Note: §3.3 was amended by Article 14 at the 2014 Annual Town Meeting.</i>								
Conversion of large public buildings or public or private school buildings:								
➤ With 10,000 square feet of gross floor area or less (see §6.3B)	SP	SP	SP	Y	SP	SP	SP	N
➤ With more than 10,000 square feet of gross floor area (see §6.3A)	SP	SP	SP	SP	SP	SP	SP	N
<i>Note: §3.3 was amended by Article 5 at the 2005 Special Town Meeting.</i>								
Elderly housing (see §6.4)	SP	SP	SP	N	N	N	N	N
Cluster development (see §6.5)	SP	N	N	N	N	N	N	N
Other apartment house	N	N	SP	N	N	N	N	N

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>ACCESSORY USES</u></b>								
Home occupation (see §3.4.2)	Y	Y	Y	Y	Y	Y	Y	N
Lodging and Boarding								
➤ for daily or weekly periods	SP	SP	SP	Y	Y	Y	Y	N
➤ for longer periods only	Y	Y	N	Y	Y	Y	Y	N
Mixed-Use – provided that at a minimum the first floor is to be reserved for commercial use and that the residential use comply with §6.10, Inclusionary Housing <i>Note: §3.3 was amended by Article 17 at the 2007 Annual Town Meeting.</i> <i>Note: §3.3 was amended by Article 26 at the 2003 Annual Town Meeting.</i>	N	N	N	SP	SP	SP	N	N
A noncommercial greenhouse; a tool shed used for the storage of tools, yard and household equipment or other similar accessory buildings (see §4.3.5) <i>Note: §3.3 was amended by Article 28 of the 2006 Annual Town Meeting.</i>	Y	Y	Y	N	N	N	Y	N
Commercial provision for the care and recreation of dogs in completely fenced-in area for not more than one hour per day. The Board of Appeals shall consider the size and relationship of the lot to adjacent residential lots, and shall determine whether that size and relationship is adequate to accommodate the use without imposing undue noise, visual, and traffic impacts on the adjacent residential lots; it shall, after (and if) making a determination of the adequacy, impose such conditions on hours of use, number of animals accommodated at a given time, fencing, screening or other measures to contain the activity and minimize its impacts <i>Note: §3.3 was amended by Article 29 at the 1995 Annual Town Meeting.</i>	SP	N	N	N	N	N	N	N
Personal Kennel <i>Note: §3.3 was amended by Article 9 at the 2014 Annual Town Meeting.</i>	SP	N	N	N	N	N	N	N

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR- A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>ACCESSORY USES (Continued)</u></b>								
Swimming pools and tennis courts and other similar recreational facilities (see §6.1)	Y	Y	SP	SP	SP	SP	N	N
Windmills	SP	SP	N	SP	SP	SP	SP	N
A garage for more than 3 vehicles or containing more than 660 square feet floor area	SP	SP	SP	Y	Y	Y	Y	Y
Open lot storage or parking of a boat, boat trailer, house trailer, camping trailer, motor home, commercial trailer, or commercial vehicle <i>Note: §3.3 was amended by Article 27 at the 2001 Annual Town Meeting.</i>	SP	SP	N	Y	Y	Y	Y	N
Open lot parking for not more than 3 vehicles accessory to a single-family dwelling, and not more than 2 vehicles per dwelling unit or 5 vehicles per structure for other dwellings	Y	Y	Y	Y	Y	Y	Y	Y
Open lot parking in excess of the above accessory to residential use	SP	SP	Y	Y	Y	Y	Y	Y
Shared Institutional Parking:								
➤ By Town departments	Y	Y	Y	Y	Y	Y	Y	N
➤ Residential overnight parking	Y	Y	Y	Y	Y	Y	Y	N
➤ Pick-up/drop-off of less than 30 minutes	Y	Y	Y	Y	Y	Y	Y	N
➤ Public or private event parking of less than 24 hours	Y	Y	Y	Y	Y	Y	Y	N
➤ Day time use (6 am – 6 pm) by employees and/or customers using less than 30 spaces or 50% of the spaces in the lot, whichever is greater	Y	Y	Y	Y	Y	Y	Y	N
➤ Day time use of more than 30 spaces or more than 50% of spaces in the lot, whichever is greater	SP	SP	SP	Y	Y	Y	Y	N
➤ Evening use (6 pm – 6 am) by customers and/or employees	SP	SP	SP	Y	Y	Y	Y	N
➤ Use by commercial vehicles	SP	SP	SP	Y	Y	Y	Y	N
<i>Note: §3.3 was amended by Article 30 at the 2009 Annual Town Meeting.</i>								

### 3.3 Schedule of Use Regulations

USES	DISTRICTS							
	SR- A,B,C,D	GR	AH	LB I	LB II	LB III	GB	PL
<b><u>ACCESSORY USES (Continued)</u></b>								
Satellite antenna with a receiving dish with a visually coherent surface of 8.5 square feet or less or a diameter of one meter (39.37”) or less (see §4.3.5) <i>Note: §3.3 was amended by Article 18 at the 1999 Annual Town Meeting.</i> <i>Note: §3.3 was amended by Article 26 at the 1996 Annual Town Meeting.</i>	Y	Y	Y	Y	Y	Y	Y	Y
Satellite antenna with a receiving dish with a visually coherent surface of 34 square feet or less or a diameter of two meters or less (see §4.3.5) <i>Note: §3.3 was amended by Article 18 at the 1999 Annual Town Meeting.</i> <i>Note: §3.3 was amended by Article 25 at the 1996 Annual Town Meeting.</i>	SP	SP	SP	Y	Y	Y	Y	SP
Satellite antenna with a receiving dish with a visually coherent surface of more than 34 square feet or a diameter of more than two meters (see §4.3.5) <i>Note: §3.3 was amended by Article 18 at the 1999 Annual Town Meeting.</i> <i>Note: §3.3 was amended by Article 25 at the 1996 Annual Town Meeting.</i>	SP	SP	SP	SP	SP	SP	SP	SP
Other uses customarily incidental to the principal uses herein	SP	SP	SP	Y	Y	Y	Y	Y
Interior Wireless Telecommunications Facility (see §6.8 and §7.3) <i>Note: §3.3 was amended by Article 28 at the 1998 Annual Town Meeting.</i>	Y	Y	Y	Y	Y	Y	Y	Y
Other Wireless Telecommunications Facility (see §6.8) <i>Note: §3.3 was amended by Article 28 at the 1998 Annual Town Meeting.</i>	SP	SP	SP	SP	SP	SP	SP	SP
Solar Energy System (see §4.3.8) <i>Note: §3.3 was amended by Article 9 at the 2012 Special Town Meeting.</i>	Y	Y	Y	Y	Y	Y	Y	Y
Shared Driveway (See §5.1.3 k) <i>Note: §3.3 was amended by Article 11 at the 2014 Annual Town Meeting.</i>	SP	SP	SP	Y	Y	Y	Y	N

### 3.4 Accessory Uses

#### 3.4.1 Accessory Research or Scientific Development

Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be allowed upon the issuance of a Special Permit provided the Board of Appeals finds that the proposed accessory use does not substantially derogate from the public good.

#### 3.4.2 Home Occupations

*Note: §3.4.2 was amended by Article 30 at the 1995 Annual Town Meeting.*

Home occupations are permitted within a dwelling, but are not permitted in accessory buildings unless granted a Special Permit pursuant to Section 6.11 subject to the following:

*Note: §3.4.2 was amended by Article 31 at the 2009 Annual Town Meeting.*

- a) there is no exterior display or visible storage of supplies or equipment to be used on or off the premises or other variation from the residential character of the premises,
- b) no more than one third of the habitable floor area of the residence is to be used for home occupations,
- c) not more than one person who is not a member of the household is employed on the premises in the home occupations,
- d) the production of offensive noise, vibration, odors, fumes, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects shall be prohibited,
- e) no articles are sold or offered for sale on the premises,
- f) traffic generated, including pick up and deliveries, does not exceed that normally expected in that residential neighborhood, and
- g) all parking required to service home occupations is provided for off-street, other than within a required front yard.
- h) If a home occupation results in patrons or clients visiting the premises or if there is a sign indicating the occupation, such home occupation is allowable only upon Special Permit acted on by the Board of Appeals under the criteria in Section 7.4.3 of the Zoning By-Law.
- i) A Certificate of Occupancy is required prior to establishing a home occupation, or re-establishing one following termination, and shall be issued for a period of no greater than four years, to be extended only following determination by the Building Inspector that the use continues to comply with the Zoning By-Law.

*Note: §3.4.2.i) was amended by Article 10 at the 2014 Annual Town Meeting.*

Upon transfer of any beneficial interest in property in which alterations for a home occupation have been made, a Certificate of Compliance must be provided by the owner indicating that either there will be continued compliance with these provisions or that the home occupation is not to be continued.

## 3.5 Major Development

### 3.5.1 Applicability

Business developments as authorized in Section 3.3, Schedule of Use Regulations, require Concept Plan approval by Town Meeting under provisions of this Section prior to submittal for a Special Permit by the Board of Appeals, if resulting in more than 40,000 square feet gross floor area in any one or more business uses (as categorized in Section 3.3) on a lot or set of contiguous lots in the same ownership at any time subsequent to June 1, 1987, except for individual additions or alterations totaling less than 10% of the resultant gross floor area on the lot or set of lots.

### 3.5.2 Concept Plan Approval

Concept Plan Approval shall be by two-thirds vote of the Town Meeting, approving the Plan and a finding that the Plan, subject to such conditions or limitations as the Town Meeting may stipulate, provides benefits to the Town which outweigh any adverse effects for the Town or the vicinity, after consideration of the criteria specified in Section 7.4.3.

Special Permits shall then be required, and shall be approved by the Board of Appeals only upon determination by that Board that the proposal is consistent with the approved Concept Plan, or in the event of an inconsistency, that the departure is necessitated by changed conditions or earlier error, and that the inconsistency does not result in less beneficial development, based on the considerations of Section 7.4.3, Special Permit Criteria.

### 3.5.3 Procedures

- a) Submittal. Five copies of the Concept Plan shall be filed with the Planning Board at least 60 days prior to the date of Town Meeting vote.
- b) Concept Plan Contents. A Concept Plan shall consist of the following:
  - 1) A schematic development plan, indicating boundaries of the lot, buildings, roads, drives, parking, reserved open space, existing topography and proposed grading, areas of retained vegetation and proposed planting areas, and a locus plan showing relation to nearby streets, zoning district boundaries, and water bodies.
  - 2) Floor plans and elevations of all existing and proposed structures.
  - 3) Materials indicating the proposed ultimate floor area in each use; time schedule for development; service improvements proposed at the developer's and those anticipated at the Town's expense.
  - 4) An estimate of peak hour vehicle trips onto and off of the site.
  - 5) Analysis indicating degree of consistency with each of the considerations of Section 7.4.3, Special Permit Criteria.
- c) Study Model. Applicants are encouraged to provide a study model of the proposal for display prior to and at hearings and the Town Meeting.

#### 3.5.4 Pre-Town Meeting Hearing

Prior to Town Meeting action, the Planning Board shall hold a public hearing on the Concept Plan with timing, notice and procedures the same as those required for a hearing on a Special Permit. In addition, the applicant shall be required to post conspicuous notice on the premises indicating the nature of the proposal and time and place of the hearing. The Planning Board shall report its recommendation to the Town Meeting, with a copy of the Concept Plan and the recommendation to be filed with the Town Clerk not less than 14 days prior to the Town Meeting vote on the Concept Plan.

#### 3.5.5 Special Permit

Application for an initial Special Permit must be made not more than 12 months after the Town Meeting approval of the Concept Plan.

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## **SECTION 4. INTENSITY REGULATIONS**

### **4.1 General Requirements**

The erection, extension, alteration, or moving of a structure, and the creation or change in size or shape of a lot shall be permitted only in compliance with the intensity and dimensional requirements set forth herein, except as provided at Section 1.5, Non-Conforming Uses and Structures, and in Section 6, Chapter 40A, Massachusetts General Law, and except for lot line changes which create neither additional lots nor increase in nonconformity.

In order to verify that any new construction requiring a plot plan at the time of building permit application complies with the intensity and dimensional requirements set forth herein and any conditions imposed by the SPGA, an 'as-built' plan may be required. This plan, paid for by the property owner, prepared and stamped by a professional engineer (P.E.), architect or Registered Professional Land Surveyor (RPLS) shall be submitted to the Office of Community Development and approved by the Inspector of Buildings prior to the issuance of a Certificate of Occupancy for that building.

*Note: §4.1 was amended by Article 13 at the 2014 Annual Town Meeting.*

Section 4.2, Schedule of Dimensional Regulations, continued on the next page.

## 4.2 Schedule of Dimensional Regulations

Note: §4.2 was adopted under Article 14 at the 2014 Annual Town Meeting.

### 4.2.1 Area Requirements

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE	MINIMUM LOT AREA PER DWELLING UNIT	MAXIMUM FLOOR AREA RATIO	MAXIMUM LOT COVERAGE	MINIMUM OPEN SPACE
DISTRICTS	SQ. FT.	FEET	SQ. FT./D.U.		% OF LOT	% OF LOT
SR-A	25,000	125	--	--	20%	50%
SR-B	12,000	90	--	--	25%	50%
SR-C	9,000	75	--	--	25%	50%
SR-D	25,000	125	--	--	20%	50%
GR	5,000	50	3,500	--	30%	40%
AH	85,000	100	1,200	--	30%	40%
LB I	--	20	--	1.25	--	--
LB II	--	20	--	1.05	35%	--
LB III	--	20	--	1.05	35%	--
GB	--	20	--	--	--	--
PL	--	--	--	--	--	--

- 1) In the GR District, a minimum lot area of 7,000 square feet and a minimum lot frontage of 70 feet shall exist for a two-family dwelling.
- 2) In the GR District, the Planning Board may grant a Special Permit to modify the minimum lot area per dwelling unit and/or the minimum lot frontage requirements, pursuant to Sections 6D and 7.4 of the Zoning By-Law, provided that the lot size and frontage of the lot on which the two-family dwelling will be constructed has a minimum lot size of 5,000 square feet and a minimum lot frontage of 50 feet.
- 3) In an LBI District, a floor area ratio up to a maximum of 1.5 may be allowed by Special Permit from the Board of Appeals (see §4.4).

4.2.2 Linear Requirements for Residential Districts

RESIDENTIAL DISTRICTS	MINIMUM SETBACK DIMENSIONS FEET			MAXIMUM BUILDING HEIGHT	
	Front	Side	Rear	Feet	Stories
SR-A and SR-D ➤ Dwelling ➤ Other	30 30	15 15	40 25	36 36	2½ 2½
SR-B ➤ Dwelling ➤ Other	25 25	10 10	30 25	30 30	2½ 2½
SR-C ➤ Dwelling ➤ Other	25 25	10 10	30 25	30 30	2½ 2½
GR ➤ Dwelling ➤ Other	20 20	10 10	20 12	33 33	2½ 2½
AH	30	30	30	60	--

*Note: §4.2.2 was amended by Article 6 at the 2016 Annual Town Meeting.  
 Note: §4.2.2 was amended by Article 4 at the 2019 Annual Town Meeting.*

A. Setbacks

1. Ornamental features, such as belt courses, chimneys, eaves, gutters, sills, pilasters, or lintels, may project up to two feet into the setback.
2. In the Single Residence B and C Districts, the placement of ground-mounted outdoor mechanical and fuel storage equipment on a lot shall be subject to the following requirements:
  - a. Not within the front yard - The front yard is defined as the area between a line obtained by extending the front elevation of the dwelling to each of the sidelines of the lot and the front line of the lot;
  - b. Not within the required side or rear setbacks;
  - c. Not within at least 10'-0" of the front elevation; and,
  - d. Screened so that it is not visible from the street or adjacent properties.

*Note: §4.2.2 A.2 was amended by Article 6 at the 2016 Annual Town Meeting.  
 Note: §4.2.2 was amended by Article 4 at the 2019 Annual Town Meeting.*

3. No building need be set back more than 30% of the depth of the lot in a Single Residence A or D District, 25% of the lot depth in a Single Residence B or C District, nor more than the average of the setbacks of the buildings on the lots contiguous thereto on either side, a vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street being counted as though occupied by a building set back at that minimum. However, in no case shall the setback be less than 15 feet in Single Residence Districts.

4. Notwithstanding the front setback requirements listed in Section 4.2.2, the front setback for the Single Residence B and C Districts shall be the average of the front setbacks of the buildings on the lots contiguous thereto on either side. A vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at that minimum.

*Note: §4.2.2 A.4 was amended by Article 6 at the 2016 Annual Town Meeting.*

*Note: §4.2.2 was amended by Article 4 at the 2019 Annual Town Meeting.*

5. Notwithstanding the front setback requirement listed in Section 4.2.2, the front setback for the GR District shall not exceed the average of the front setbacks of the buildings on the lots contiguous thereto on either side. A vacant lot, a lot occupied by a building set back more than the required minimum, or an intersecting street shall be counted as though occupied by a building set back at that minimum.
6. On lots having depth of less than 100 feet, dwelling setback from the rear lot line shall equal not less than 40% of lot depth in the Single Residence A and D Districts, not less than 30% of lot depth in Single Residence B and C Districts, and not less than 20% of lot depth in General Residence Districts; but in no event shall the rear setback equal less than 25 feet in Single Residence Districts or less than 16 feet in General Residence Districts.
7. In the SR Districts, the Board of Appeals may grant a Special Permit reducing the rear setback requirement of corner lots and other unusually configured lots to not less than the side requirement, taking into consideration the configuration of the lot, and the effect upon the neighboring property.
8. In the GR Districts, on lots having depth of greater than 100 feet, dwelling setback from the rear lot line shall equal 20% of the lot depth.
9. For structures other than dwellings, on lots having depth of less than 100 feet, principal building setback from the rear lot line shall equal not less than 25% of lot depth in Single Residence Districts or 15% of lot depth in General Residence Districts. For accessory buildings, see Section 4.3.5.

#### B. Height

1. Chimneys, towers and other projections not used for human occupation may exceed the height limitations herein provided that, except for single vertical freestanding tubular antennae; any such projection above the building exceeding 10 feet or 20% of the building height, whichever is greater, shall be allowed by Special Permit only.
2. In the Single Residence B and C Districts, the height of a Dwelling or other structure shall not exceed 34 feet to the ridge. Notwithstanding the definition of 'Height' in Section 1.4, the height of a Dwelling or other structure with a flat roof shall not exceed 30 feet to the highest point of the roof.

*Note: §4.2.2 B.2 was amended by Article 6 at the 2016 Annual Town Meeting.*

*Note: §4.2.2 was amended by Article 4 at the 2019 Annual Town Meeting.*

3. In the SR Districts, greater height is permitted provided the building setback from each street and lot line exceeds otherwise applicable requirements by 10 feet plus one foot for each foot of excess height, but in no case shall building height exceed 60 feet or 4 stories in height.

4.2.3 Linear Requirements for Commercial Districts

COMMERCIAL DISTRICTS	MINIMUM SETBACK DIMENSIONS FEET			MAXIMUM BUILDING HEIGHT	
	Front	Side	Rear	Feet	Stories
LB I	5	6 or none	6 or none	28	2
LB II	10	0	20	32	2
LB III	10	0	20	28	2
GB	5	6 or none	6 or none	36	--
PL	--	--	--	--	--

A. Setbacks

1. Ornamental features, such as belt courses, chimneys, eaves, gutters, sills, pilasters, or lintels, may project up to two feet into the setback.
2. In the LB III Districts, for structures originally built as residences and not adjacent to Residential District, the lesser of the side setback existing as of May 5, 2003, or 10 feet.
3. Adjacent to Residential District, the side and/or rear setback shall be no less than building height or 20 feet, whichever is greater.

B. Height

1. Chimneys, towers and other projections not used for human occupation may exceed the height limitations herein provided that, except for single vertical freestanding tubular antennae; any such projection above the building exceeding 10 feet or 20% of the building height, whichever is greater, shall be allowed by Special Permit only.
2. No more than two stories wholly or partially above grade.
3. In LBI Districts, a maximum building height of up to 32 feet and 3 stories may be allowed by Special Permit from the Board of Appeals, as provided in Section 4.4.

## 4.3 Specific Requirements

### 4.3.1 Lot Width

Any lot to be used for a dwelling shall, between the street and the rear line of the dwelling, maintain a lot width measured between side lot lines no smaller than the required street frontage for the district in which the lot is located.

### 4.3.2 Unenclosed Porches

In Single Residence and General Residence Districts, unenclosed porches, except on multi-family dwellings, may be built five feet nearer the street line than the required setback.

### 4.3.3 Unenclosed Steps and Similar Projections

Subject to Section 4.3.7, the provisions of Section 4.2 shall not apply to unenclosed steps, unroofed porches, ramps for the handicapped or other similar features which are not more than three feet high above the adjacent grade and which do not project more than four feet from the foundation wall and in no event are closer than four feet to a lot sideline and ten feet to a lot rearline.

### 4.3.4 Exception for Recorded Lots

As provided in Section 6 of Chapter 40A, Massachusetts General Law, any increase in the area, frontage, width, or setback requirements of this By-Law shall not apply to a lot to be used for single- and two-family dwellings if at the time of its recording the lot was:

- 1) Not held in common ownership with any adjoining land,
- 2) Conformed to then existing requirements, and
- 3) Had less than the proposed requirement but at least 5,000 square feet of area and 50 feet of frontage.

Applicants seeking this exemption shall document to the Building Inspector the lot's eligibility for it, through copies of recorded deeds for that and adjoining properties as of the date of adoption of the requirements not being complied with.

*Note: §4.3.4 was amended by Article 14 at the 2014 Annual Town Meeting.*

#### 4.3.5 Accessory Buildings

*Note: §4.3.5 was amended by Article 28 of the 2006 Annual Town Meeting.*

##### a) General Requirements

1. Except as provided in subsection c.2 below, a private one-story garage for not more than three automobiles, a noncommercial greenhouse, or a tool shed used for the storage of tools, yard and household equipment, or other similar accessory buildings, shall be set back at least five feet from the side line and rear line of the lot and five feet from the principal building to which it is accessory.

*Note: §4.3.5 a) 1) was amended by Article 22 at the 2008 Annual Town Meeting.*

2. An accessory building shall be on the same lot as the principal building to which it is accessory.
3. A garage shall have a vehicular access from the street.

##### b) Dimensional Regulations

1. Accessory Buildings shall not exceed the following:
  - 150 square feet of floor area (660 square feet for a garage) or
  - a height of 10 feet (15 feet for a garage).
2. Accessory Buildings shall be set back at least five feet from the side line and rear line of the lot and five feet from the principal building to which it is accessory.

##### c) Rear Yard Restrictions

1. A building accessory to a dwelling shall cover not more than 40% of the rear yard of the lot. The rear yard for this provision is defined as the area between a line obtained by extending the rear line of the dwelling to each of the sidelines of the lot and the rear line of the lot.
2. If any part of the accessory building is forward of the rear line of the dwelling, the accessory building shall conform to the front setback, side line and rear line requirements for a dwelling in the district in which the accessory building is located.
3. Additions to existing dwellings may extend beyond the front line of existing unattached accessory buildings provided said additions meet the requirements for setback, sideline, rearline setbacks and lot coverage and open space requirements for the respective zoning district.

*Note: §4.3.5 c) 3 was amended by Article 6 at the 2007 Special Town Meeting.  
§4.3.5 c) 3 was amended by Article 23 at the 1998 Annual Town Meeting.*

d) Satellite Antennae

1. Satellite antenna with a receiving dish with a visually coherent surface of 8.5 square feet or less or a diameter of one meter or less may be built:
  - i. no closer than 5 feet from any lot line or
  - ii. on the structure to which it is accessory provided it is at least 5 feet from any lot line and,
  - iii. if pole mounted, is not more than 10 feet above the adjacent grade.

*Note: §4.3.5 d) 1 was amended by Article 19 at the 1999 Annual Town Meeting.  
§4.3.5 d) 1 was amended by Article 28 at the 1996 Annual Town Meeting.*

2. Satellite antenna with a receiving dish with a visually coherent surface of more than 8.5 square feet or over one meter in diameter may be built:
  - i. no closer than 5 feet from the rear and side lines of a lot and
  - ii. not within the required front setback of the lot.
  - iii. Any satellite dish located in a commercial or industrial zone any satellite dish located adjacent to Residential Districts shall be no closer than the required setbacks in that district.

*Note: §4.3.5 d) 2 was amended by Article 19 at the 1999 Annual Town Meeting.  
§4.3.5 d) 2 was amended by Article 27 at the 1996 Annual Town Meeting.*

4.3.6 Tennis Courts and Similar Recreational Facilities

The regulations which apply to an accessory building in Section 4.3.5 shall also apply to a tennis court and other similar recreational facility as an accessory use. Where a tennis court or other facility is the principal use on a lot or is located in the front yard, the regulations of Section 4.2 shall apply.

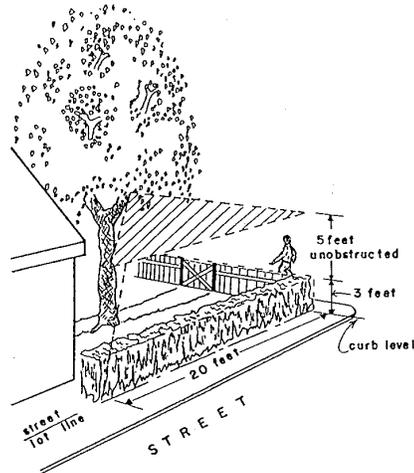
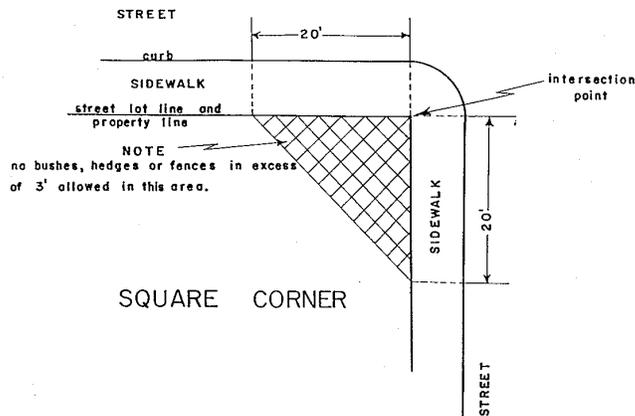
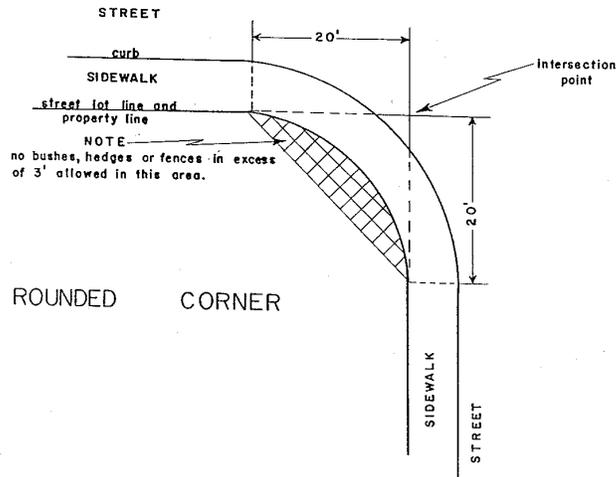
4.3.7 Corner Setback for Fences and Other Landscaping

*Note: §4.3.7 was amended by Article 31 at the 2006 Annual Town Meeting.*

a) Corner lots and intersecting streets

1. No building or structure in any district may be erected and no fence and no vegetation, except tree trunks, may be maintained or allowed to remain between a height of three feet and eight feet above the plane through their center line grades between the property lines of intersecting streets and a line joining points on such lines 20 feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents.
2. However, in a Local Business I, Local Business II, Local Business III or General Business District no part of a building shall be built closer to the point of intersection of right-of-way lines than 10 feet.

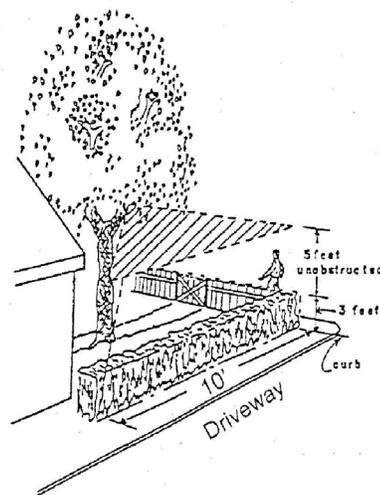
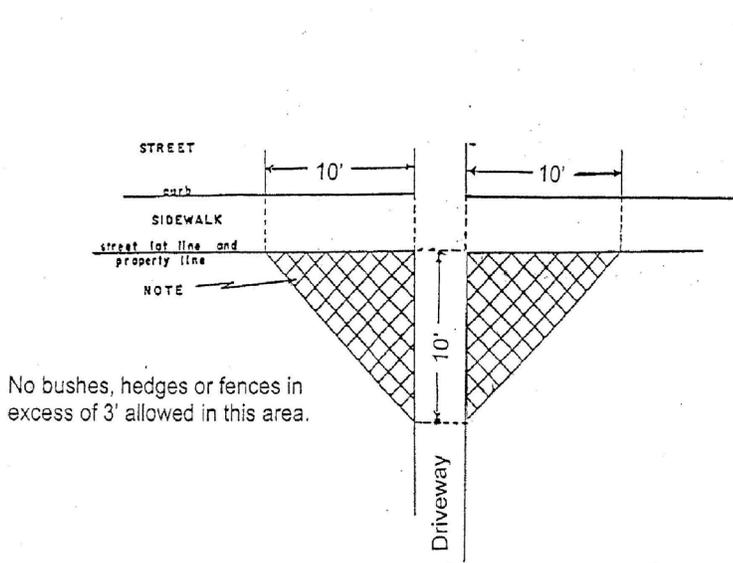
Diagram for a) Corner lots and intersecting streets



b) Driveways and Sidewalks or other pavement

No fence and no vegetation, except tree trunks, shall be located within a site triangle so as to obstruct visibility between a height of three feet and a height of eight feet above the plane through their curb grades. The site triangle is that area of the intersection of street rights-of-way or pavement with other streets, driveways or walkways, formed by the side lines of street rights-of-way or pavement, driveways or walkways and a line joining points on such lines ten feet distant from their point of intersection.

Driveways and Sidewalks or other pavement



#### 4.3.8 Solar Energy Systems

*Note: §4.3.8 was amended by Article 9 at the 2012 Special Town Meeting.*

##### a) Purpose

The purpose of this Solar Energy System By-Law is to encourage investment in Solar Energy Systems in the Town of Belmont, while providing guidelines for the installation of those systems that are consistent with the character of the Town and are necessary to protect the public health, safety and general welfare.

##### b) Definitions

**Accessory Solar Energy System** - A Solar Energy System that supplies electrical or thermal power primarily for on-site use.

**Building-Integrated Solar Energy System** - A Solar Energy System that is an integral part of a principal or accessory building replacing or substituting for an architectural or structural component of the building. Building-Integrated Solar Energy Systems include but are not limited to Photovoltaic or hot water solar systems that are contained within roofing materials, windows, or skylights.

**Photovoltaic (PV)** - The technology that uses a semi-conductor material to convert light directly into electricity.

**Solar Collector Panel** - Any part of a Solar Energy System that absorbs solar energy for use in the system's energy transformation process. The Solar Collector Panel does not include frames, supports or mounting hardware.

**Solar Energy System** – A device or structural design feature, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electrical generation, or water heating.

##### c) General Standards

1. A Solar Energy System shall provide power for the principal use and/or accessory use of the property on which the Solar Energy System is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not prohibit the sale of excess power generated to the local utility company.
2. Whenever practical, all Accessory Solar Energy Systems shall be attached to a building.
3. A Solar Energy System shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials.
4. The manufacturer and equipment information, warning, or indication of ownership shall be allowed on any equipment of the Solar Energy System.

5. The owner of the Solar Energy System shall remove it if the Inspector of Buildings determines that it has become a hazard.
  6. Solar Collector Panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways.
  7. Roof-mounted Solar Energy Systems shall be set back a minimum of 1 foot from all roof edges (eaves, gutterline, ridge) of the roof surface.
  8. Appurtenant electric, piping, wiring or equipment for Solar Energy Systems shall be allowed to extend beyond the perimeter of the building on a side or rear yard exposure, but must be affixed to the building or structure in a neat and workman like manner with the intent of connection to the building system or to run underground.
  9. The horizontal area covered by the area of the Solar Collector Panels of a ground-mounted system at optimum design tilt shall be calculated as part of the overall lot coverage.
  10. All power transmission lines and/or piping from a ground-mounted Solar Energy System to any building or other structure shall be located underground unless otherwise required by the State Building Code.
  11. A ground-mounted Solar Energy System shall limit the impacts on the surrounding properties, maintain safe accessibility, and limit storm water runoff.
  12. Solar Energy Systems as an accessory use shall be allowed, subject to the provisions of this Section 4.3.8, within the McLean District, the Belmont Uplands District, the Oakley Neighborhood Smart Growth Overlay District, and the Cushing Square Overlay District.
- d) Design Standards in Residential Districts
1. Roof-mounted Solar Energy Systems
    - i. Roof-mounted Solar Energy Systems are permitted on principal and accessory structures.
    - ii. All roof-mounted Solar Collector Panels will be subject to the following height limitations:
      - a. The top surface of any Solar Collector Panel mounted on a south-facing sloped roof shall not exceed 12 inches above the adjacent finish roof surface.
      - b. The top surface of any Solar Collector Panel mounted on a north-, east-, or west-facing sloped roof shall not exceed 24 inches above the adjacent finish roof surface.

- c. The top most point of any Solar Collector Panel mounted on a flat roof (1/2 inch or less per foot slope) shall not exceed 30 inches above the adjacent finish roof surface on flat roofs with or without parapets.

The Planning Board may grant a Special Permit to exceed such height limitations subject to the provisions of Section 7.4

2. Ground-mounted Solar Energy Systems

- i. The minimum setback distance from the side and rear property lines to a ground-mounted Solar Energy System shall be five feet when oriented at minimum design tilt. A ground-mounted Solar Energy System shall not be located within the front yard, defined as the area between the front façade of the principal building extended to the side property lines and extending to the street line (corner lots have two (2) front facades).
- ii. A ground- or pole-mounted Solar Energy System shall not exceed 8 feet in height to the tallest point of the Solar Collector Panels at 42.39°. Greater height is permitted provided the Solar Energy System setback from each lot line exceeds otherwise applicable setback requirements by 10 feet plus one foot for each foot of excess height. In no case shall the height exceed ten feet. The Planning Board may grant a Special Permit to exceed this height limitation subject to the provisions of Section 7.4.

e) Design Standards in Non-Residential Districts

- 1. Building-mounted Solar Energy Systems are permitted in the following locations:
  - i. On the roofs of principal and accessory structures, and/or
  - ii. On side and rear building facades, or on front or corner building facades, so long as the Solar Energy System is a Building-Integrated Solar Energy System.
- 2. All Solar Energy System appurtenances such as, but not limited to, plumbing, water tanks, mounting structures, and support equipment shall be screened to the maximum extent possible without compromising the effectiveness of the Solar Collector Panels.
- 3. Roof-mounted Solar Energy Systems
  - i. A roof-mounted Solar Energy System on a flat roof (1/2 inch or less per foot slope), whether mounted on the principal building or accessory building, shall be considered to be a mechanical device and shall be restricted consistent with other building-mounted mechanical systems.
  - ii. All roof-mounted Solar Collector Panels on a sloped roof will be subject to the following height limitations:

- a. The top surface of any Solar Collector Panel mounted on a south-facing sloped roof shall not exceed 12 inches above the adjacent finish roof surface.
- b. The top surface of any Solar Collector Panel mounted on a north -, east-, or west-facing sloped roof shall not exceed 24 inches above the adjacent finish roof surface.

The Planning Board may grant a Special Permit to exceed such height limitations subject to the provisions of Section 7.4.

#### 4. Ground-mounted Solar Energy Systems

- i. The minimum setback distance from the side and rear property lines to a ground mounted Solar Energy System shall be five feet when oriented at minimum design tilt. A ground-mounted Solar Energy System shall not be located within the front yard, defined as the area between the front façade of the principal building extended to the side property lines and extending to the street line (corner lots have two (2) front facades).
- ii. A ground- or pole-mounted Solar Energy System shall not exceed the maximum height of ten feet. The Planning Board may grant a Special Permit to exceed such height limitation subject to the provisions of section 7.4.

##### 4.3.9 Multiple Buildings

More than one principal building other than a single-family or two-family dwelling may be erected on a lot, subject to the requirements and procedures for Design and Site Plan Review in Section 7.3, provided that lot area and yard requirements are met for each building without counting any lot area or yard twice.

##### 4.3.10 Lot Shape

No lot shall be created so as to be so irregularly shaped or extended that it has a "Shape Factor" in excess of twenty-two (22).

The Shape Factor equals the square of the lot perimeter divided by the lot area (before deduction for wetlands, etc.). That portion of the lot in excess of the required lot area may be excluded from the computation of Shape Factor using an imaginary lot line, provided that the entire required frontage is included in the portion used for the calculation.

#### **4.4 Local Business I Exceptions**

In the Local Business I District, the Board of Appeals may authorize certain increased limits to building height and floor area ratio, as provided in Section 4.2. All such applications shall be subject to Design and Site Plan Review by the Planning Board, as provided in Section 7.3. In acting upon applications for such increases, the Board shall consider the following, in addition to the criteria for Special Permits generally (Section 7.4.3):

- a) whether and by how much building height or scale will exceed that of nearby structures,
- b) whether and by how much the building will exceed the height of trees in the vicinity,
- c) whether any potential intrusiveness has been resolved through increased yards, design of building form, or other means,
- d) whether any resulting building prominence is appropriate, in light of the functional or symbolic role of the structure,
- e) whether and by how much shadowing on abutting land or streets will be increased, or privacy will be diminished,
- f) whether there are fire protection concerns created by the increase,
- g) what the traffic consequences are of any increased floor area,
- h) whether the requested increase is necessary for the proposal to proceed, and
- i) what the community benefits are from the proposal, including consideration of taxes, employment, and service.

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## **SECTION 5. GENERAL REGULATIONS**

### **5.1 Off-Street Parking and Loading**

#### 5.1.1 Number of Spaces

- a) Off-street parking must be provided to service all increases in parking demand resulting from new construction, additions, or change of use to one requiring more parking, without counting any existing spaces needed to meet requirements for the existing building and use. The number of spaces indicated in Section 5.1.2, Schedule of Requirements, shall be the basis for determining adequacy of provisions. Any existing spaces removed shall be replaced in kind unless they are either in excess of the number required or removed at the request of the Town. Parking spaces also serving as loading areas shall not be credited.
- b) The number of spaces may be reduced to less than that stipulated below if, in acting on Design and Site Plan Review, the Planning Board determines that a smaller number would be adequate for all parking needs because of such special circumstances as:
  1. shared parking for uses having peak parking demands at different times,
  2. unusual age or other characteristics of site users, or
  3. user sponsored demand reduction devices such as carpooling.
- c) In the Local Business III Districts, legal on-street parking may be credited towards meeting these requirements if located between the premises side lot lines on the same side of the street.

#### 5.1.2 Schedule of Requirements

- a) Dwellings: two parking spaces for each dwelling unit therein, except one parking space for each dwelling unit having fewer than two bedrooms.
- b) Places of public assembly: one parking space for each three persons capacity based on the Massachusetts State Building Code.
- c) Hotels, motels, room and board, other commercial accommodations: one parking space for each guest unit, plus one parking space for each eight units or fraction thereof.
- d) Restaurant: one parking space per 2 persons seating capacity. For purposes of calculating parking requirements, up to 20 outdoor seasonal seats shall not count in total seating capacity.

*Note: §5.1.2 d) was amended by Article 25 at the 2010 Annual Town Meeting.*

- e) Commercial recreation: one parking space per two persons participant capacity, plus one space per three persons spectator capacity.
- f) Auto service station: three parking spaces plus three parking spaces per service bay.

- g) Other service establishments, retail businesses, and offices: one parking space per 250 square feet of ground floor gross floor area (350 square feet in the LB-I District) plus one space per 400 square feet gross floor area on other floors (600 square feet in the LB-I District), but not fewer than three spaces per separate enterprise. Excluded from these calculations shall be floor area used for parking or loading.
- h) Wholesale and industrial establishments: one parking space per 1.5 employees on the largest shift, but capable of expansion to not less than one space per 400 square feet gross floor area.
- i) Other uses: a number of spaces to be determined by the Building Inspector (or the Planning Board in cases referred to it for Design and Site Plan Review), based upon evidence from similar uses under similar circumstances.
- j) Mixed uses: requirements for each use are added, unless it is determined that a smaller number is adequate because of staggered hours.

#### 5.1.3 Parking and Loading Area Location and Design

##### a) Non-residential.

- Required parking for nonresidential uses shall be either on the same premises as the activity it serves or on a separate parcel if the parcel is located within 400 feet of the building entrance to be served and is in a zoning district permitting or allowing by Special Permit the use it serves.
- Parking facilities for six or more cars serving nonresidential uses shall have no elements, other than driveways approximately perpendicular to the street and parking area plantings, located in the area between the street line and the front setback line.

*Note: §5.1.3 a) was amended by Article 18 at the 2005 Annual Town Meeting.*

##### b) Residential.

- 1) In Single Residence Districts, no parking shall be permitted within a required front yard between the side lines of the dwelling extended to the street, except on a driveway leading to, and no wider than, an attached garage, or on Special Permit from the Board of Appeals, to be granted only upon determination by the Board that:
  - i. Feasible alternatives for providing necessary parking do not exist,
  - ii. Effective use of plantings, grading, and location are employed to minimize visual impacts, and
  - iii. On-site drainage is adequately provided for.
- 2) In General Residence Districts, the following provisions shall apply to attached garages including those constructed below the ground floor and driveways and parking spaces that are created within a required front yard between the side lines of the dwelling extended to the street,

- A. An attached single car garage opening and associated driveway leading to, and no wider than the garage, is permitted provided that:
  - 1. The paved area (or other driveway surface material) does not exceed 25% of the front yard area as defined above,
  - 2. Effective use of plantings, grading, and location are employed to minimize visual impacts,
  - 3. The maximum width of the driveway shall not exceed 12 feet,
  - 4. The slope of the driveway shall be no greater than 15% (1.8" per 12"), and
  - 5. On-site drainage is adequately provided for.
  
- B. Parking spaces and/or two-car garage openings or larger below the ground floor shall not be permitted except on Special Permit from the Board of Appeals, to be granted only on determination by the Board that:
  - 1. Feasible alternatives for providing necessary parking do not exist,
  - 2. Effective use of plantings, grading, and location are employed to minimize visual impacts of the paved front yard and/or garage,
  - 3. The garage does not create the appearance of an additional story, which would then give an overall appearance of the structure exceeding the 2-1/2 story limitation,
  - 4. The slope of the driveway shall be no greater than 15% (1.8" per 12"),
  - 5. The paved area is only as wide as the garage and tapers where possible,
  - 6. For buildings with more than one unit, the garages, and associated paved areas necessary to provide access to each garage, shall be separated from each other by at least 12 feet, the area between the driveways to be landscaped with trees and other plantings as provided for in Section 5.3 of these By-Laws, and
  - 7. On-site drainage is adequately provided for.

*Note: §5.1.3 b) was amended by Article 18 at the 2005 Annual Town Meeting.*

- c) Configuration. Dimensions of spaces and aisles shall adequately provide for clearance and movement, and designated spaces shall accommodate needs of the handicapped. The Planning Board shall adopt, and may from time to time amend, standards for such dimensions, reflecting current vehicle sizes.

Groups of not more than 30 parking spaces shall be separated by a six foot landscaped walk or divider.

- d) Construction. Off-street parking areas, loading areas, and access drives, if involving six or more parking spaces, shall be surfaced with at least two inches (2") of bituminous paving or comparable paving material unless the Planning Board approves an alternative surface which, because of only seasonal or periodic use, will adequately prevent dust, erosion, water accumulation, and unsightly conditions. Such parking areas shall be curbed and provide wheel stops where needed.
- e) Lighting. Lighting must comply with Section 5.4.3, Light and Glare.
- f) Backing. All parking areas having six or more spaces shall be so designed that no vehicle will be required to back on a public way or driveway serving as access to 50 or more parking spaces in order to enter or exit from a parking space.
- g) Egress Location.
  - 1) There shall be not more than two driveway openings onto any street from any single premises unless each driveway is separated from all other driveways serving 20 or more parking spaces, whether on or off the premises, by at least 250 feet (measured between centerlines at the street line) on arterial streets and 150 feet on other streets. No parcel of land shall be divided in a way precluding meeting this requirement, using deeded access easements across the lots being created for shared egresses if necessary.
  - 2) No driveway sideline shall be located within 20 feet of the street line of an intersecting way.
  - 3) Driveway egresses serving 20 or more parking spaces must have not less than 250 feet sight distance in each travel direction entering an arterial street and not less than 150 feet sight distance on other streets.
- h) Egress Design.
  - 1) No driveway opening shall exceed 30 feet in width at the street line unless necessity of greater width is demonstrated by the applicant.
  - 2) Openings shall be graded and drainage facilities provided where necessary to prevent stormwater from ponding or running across any sidewalk.
  - 3) All driveway openings serving 20 or more parking spaces shall be constructed with a minimum edge radius of five feet on both sides.
- i) Bicycle Racks. For premises requiring 40 or more parking spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces required or fraction thereof.
- j) Loading. Loading or unloading shall not interfere with the public use of sidewalks, streets, or parking areas.

- k) Shared Driveway. In accordance with Section 7.4, and the objectives, findings and determinations, and conditions for approval set forth below, the Planning Board, acting as the Special Permit Granting Authority (SPGA), may grant a Special Permit to allow a driveway on one lot to lead to a parking space on another lot, or to allow a driveway to straddle the lot line and provide access from one lot to a principal use on an adjoining lot on not more than two lots, when both lots are in a residential district(s) provided an easement is executed and is filed in the Registry of Deeds of Middlesex County. Where the Shared Driveway is located in a Cluster Development, pursuant to Section 6.5, for which a Special Permit with Site Plan Review is required, an additional Special Permit under this Section shall not be required.

1. Objectives

Any use of land involving the arrival, departure, or storage of motor vehicles shall be designed and operated to:

- a. Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
- b. Increase the traffic-carrying capacity of streets and highways in the Town and obtain a more efficient utilization of on-street curbside parking;
- c. Reduce hazards to pedestrians upon public sidewalks;
- d. Protect adjoining lots and the general public from nuisances and hazards such as:
  - i) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles;
  - ii) A lack of visual relief from expanses of paving; and,
  - iii) Accelerated runoff of surface water from land covered by impervious materials;
- e. Maintain the character of the neighborhood and/or streetscape; and,
- f. Preserve historic walls, structures, and/or significant trees.

2. Findings and Determinations

Prior to granting a Special Permit, the SPGA shall make a finding and determination that the proposed Shared Driveway:

- a. Complies with the Special Permit criteria set forth in Section 7.4.3;
- b. Is consistent with the general purposes of this By-Law and its objectives;
- c. Is designed in a manner that is compatible with the existing natural features of the site and is compatible with the characteristics of the surrounding area;
- d. Does not result in the removal of mature trees or, where such trees are proposed to be removed, that the removal is mitigated through replanting or other means;

- e. Will not result in conditions that unnecessarily add to traffic congestion or the potential for traffic accidents on the site or in the surrounding area;
- f. Will not constitute a demonstrable adverse impact on the surrounding area resulting from:
  - i) Excessive noise, level of illumination, glare, dust, smoke, or vibration which is higher than levels now experienced from uses permitted in the surrounding area;
  - ii) Emission or discharge of noxious or hazardous materials or substances; or
  - iii) Pollution of waterways or groundwater; and,
- g. Will be maintained through a maintenance agreement mutually acceptable by the subject property owners.

### 3. Conditions for Approval

The SPGA may impose conditions and limitations on the Special Permit for the Shared Driveway as it deems necessary to ensure that the findings and determinations that it must make under Section k) 2 above are complied with, including but not limited to:

- a. Screening or landscaping from view from adjoining lots or from a street, by planting, walls, fences or other devices;
- b. Regulating the number, design and location of access drives or other traffic features;
- c. Requiring a greater number of off-street parking spaces, and with greater setbacks, landscaping and screening than the minimum standards set forth in Section 5.3; and
- d. Such other limitation as may be reasonably related to reducing any adverse impact on, or increasing the compatibility of the Shared Driveway with the surrounding area.

*Note: §5.1.3 k) was amended by Article 11 at the 2014 Annual Town Meeting.*

## 5.2 Signs

*Note: §5.2 was amended by Article 5 at the 2017 Annual Town Meeting.*

### 5.2.1 Intent and Purpose

It is recognized that signs perform important functions in the community and are essential for the public safety and general welfare, such as communicating messages, providing information about goods and services available, and providing orientation. It is further recognized that because of their potential impact on the visual and perceptual environment, signs must be regulated in order to:

- a) prevent hazards to vehicular and pedestrian traffic;
- b) prevent conditions which have a blighting influence;
- c) provide for easy recognition and legibility of all permitted signs and other uses in the immediate vicinity;
- d) preserve the amenities and visual quality of the Town and curb the deterioration of the community environment; and
- e) conserve energy.

It is the intent of this Section 5.2 to protect property values, create a more attractive business climate, enhance and protect the physical appearance of the community, provide a more enjoyable and pleasing community and to encourage appropriate uses of land.

### 5.2.2 Permits

No sign (other than a temporary sign in a window or a sign pursuant to Section 5.2.5 a) 1. shall be erected, altered or enlarged in a General or Local Business District until a permit has been issued by the Building Inspector, to be issued only for signs complying with all applicable provisions of this By-Law.

Any party seeking to erect a sign that does not meet dimensional or operational requirements of this By-Law may seek a waiver of the requirements of this By-Law from the Planning Board. The Planning Board may provide such a waiver if it finds that such a waiver will not adversely impact the health and safety of nearby persons or property and that granting the waiver is materially consistent with the purposes of this By-Law. In granting such a waiver, the Planning Board shall specify the size, type, and location of the sign(s) and impose such other terms and conditions as deemed necessary to promote the purposes of this By-Law.

### 5.2.3 General Requirements

- a) **Movement.** No sign shall contain any visible movable or moving parts (except for the hands of a traditional analog type, i.e., non-digital clock whose face does not exceed 36 inches in diameter), any moving, flashing, or animated lights, or any automatically changing written or pictorial matter or message.

- b) Illumination. No sign shall be illuminated between the hours of 10:00 p.m. and 6:00 a.m. unless the premises on which it is located are legally open for business. Signs may be illuminated only by the following means:
  - 1. By a white, steady stationary light shielded and directed solely at the sign;
  - 2. By interior non-exposed lights;
  - 3. By exposed neon or similar tube illumination.
- c) Temporary Signs. Temporary signs must comply with the requirements for permanent signs, except for temporary non-commercial signs allowed in all districts without a permit from the Building Inspector.
- d) Removability. No sign shall be painted or posted on the surface of any wall without an intermediary removable surface.
- e) Sign Location. Signs attached to a roof and v-shaped signs attached to buildings are not permitted. Signs attached to a building must be either flat against the wall or perpendicular to the wall. If attached flat against the wall, the sign shall not project more than 12 inches outward or six inches upward from the wall or parapet of the building. If perpendicular to the building, the sign may not project more than five feet from the building, three feet over a public sidewalk, and shall be no less than two feet from the curb line.

The minimum vertical clearance to the underside of any sign projecting over a sidewalk or other pedestrian or vehicular passage shall be 10 feet above the surface of the sidewalk or passage.

#### 5.2.4 Prohibited Signs.

The following sign types shall not be permitted, constructed, erected, or maintained:

- a) Any sign that advertises or calls attention to any commercial activity, business, product, or service that is not produced, sold, carried, or conducted on the premises upon which the sign is located. No such sign shall remain in place or on vacated premises for more than 90 days from the date the vacancy commenced or commercial activity or service ceased, unless otherwise permitted by this By-Law;
- b) String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration;
- c) Signs erected so as to obstruct any door, window or fire escape on a building;
- d) Signs which incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature; and,
- e) Signs illuminated by other than a white, steady stationary light.

#### 5.2.5 District Regulations

- a) All Districts. In all zoning districts, the following are permitted:
  - 1. Non-Commercial Signs. Non-commercial signs, subject to the following conditions:
    - a. Standing signs accessory to a non-commercial building are permitted in all districts, provided that no more than two such signs are permitted for each such building use, plus one additional sign for each additional street where the lot

- fronts on more than one street, each such sign not to exceed 18 square feet in area;
- b. No such sign shall be affixed to a tree or utility pole or otherwise erected in a public way except pursuant to Section 5.2.5 a) 1. c. below;
  - c. Non-commercial signs may be erected in the Town's right of way adjacent to a private property by the property owner only if (a) there is no protrusion of the sign into the public walkway or roadway; (b) placement of the sign will not damage any plantings that are in the area; and (c) placement does not pose a hazard to passersby;
  - d. Non-commercial signs may be erected on other Town property only pursuant to such other administrative policy governing the placement of signs on Town property duly enacted by the Board of Selectmen;
  - e. The non-commercial sign complies with Section 5.2.3 and the applicable dimensional requirements for commercial signs in the same district;
  - f. Any such non-commercial sign must be no larger than the largest commercial sign permitted in the district in which it is located;
  - g. The number of non-commercial signs permitted on one property shall be no more than the number of commercial signs permitted on the property pursuant to this By-Law; however, non-commercial signs shall not count toward the allowable square footage or allowable number of signs on a parcel of land;
  - h. Non-commercial sandwich board signs are permitted, provided that they comply with the dimensional standards in Section 5.2.5 b) 7 a. through 7 e.; and
  - i. Non-commercial temporary signs may be in place for longer than 90 days, notwithstanding the definition of temporary signs.
2. One sign displaying the street number and/or name of the occupant of the premises not exceeding 150 square inches in area. Such sign may include identification of a home occupation only if authorized on Special Permit from the Board of Appeals.
  3. Temporary signs pertaining to the lease, sale, renovation, or maintenance of, or initial occupancy of a lot or building, provided that the aggregate area of all such signs on the premises does not exceed nine square feet. Notwithstanding the definition of temporary signs, the following shall apply:
    - a. temporary signs pertaining to the lease or sale of a lot or building shall be removed within 10 days of the effective date of the lease or sale; and,
    - b. temporary signs pertaining to the renovation or maintenance of a lot or building shall be removed within 90 days of the sign being installed or when the renovation or maintenance is finished, whichever is less.
  4. Signs at Town boundaries and within a street right-of-way, if authorized on Special Permit by the Board of Selectmen, not exceeding five square feet in sign area indicating the meetings of any Town civic organization.

- b) Business Districts. In an area zoned as a Local Business or General Business District, the following are permitted in addition to signs permitted under Section 5.2.5 a).
1. Attached Signs. One sign for each exterior wall of an establishment if such wall faces a public way, private way, or contains a public entrance.
    - Wall Mounted - The area of the sign may not exceed the lesser of 10% of the wall area of such establishment or 65 square feet.
    - Projecting – The area of the sign may not exceed 12 square feet if projecting perpendicular to the wall.
    - More than one sign - The Planning Board may grant a Special Permit authorizing more than one identifying sign on an exterior wall provided that the aggregate area of such signs does not exceed the limits set forth herein.
  2. Directories. One directory of the establishments occupying a building or identification of the principal such establishment at each public entrance to the building. Such directory shall not exceed 1.5 square feet in area for each establishment occupying the building.
  3. Standing Signs. The Planning Board may grant a Special Permit for the erection of a standing sign. A Special Permit may be granted if the Board finds that the sign complies with the requirements and purposes of this By-Law. The Special Permit shall specify the size, type, and location of the sign and impose such other terms and conditions as deemed necessary to promote the purposes of this By-Law. The size of the sign shall not exceed 15 square feet in area nor shall it exceed 5 feet in height above the ground. The Special Permit may require the sign to be renewed, provided that such renewal period does not exceed five years. A special permit shall not be required for the erection of a non-commercial standing sign.
  4. Awnings. A metal or cloth awning, whether containing signage or not, may be located 7.5 feet or higher from the ground and may project over the sidewalk, more than three feet but in no event closer than two feet to the curb line, notwithstanding any provision herein to the contrary.
    - a. Valance – A valance shall consist of the vertical surface of the awning that hangs perpendicular to the ground.
      - i. The maximum height of the valance shall be 18 inches or less.
      - ii. The maximum letter or symbol height on the valance shall be 14 inches or less, with a margin around the edge of the valance of 2 inches or greater.
        1. If lettering and/or symbols are placed on the valance they shall only depict the company name and/or the property's address.
        2. Logos shall not be permitted on the valance.
      - iii. The aggregate area of letter and/or symbols shall not exceed 60% of the area of the valance.
    - b. Slope – The slope of the awning shall consist of the angled surface of the awning that connects to the façade of the building and to the valance, whose height shall not exceed 50% of the height of the window or door that it hangs above. Where

an awning hangs above a window and a door, the height of the awning shall not exceed the height of the window that it hangs above.

- i. If a wall sign either exists or is also proposed, no signage shall be permitted on the slope.
    - ii. If lettering and/or symbols are placed on the valance, then signage located on the slope shall be restricted to one logo.
    - iii. Signage on the slope shall not exceed 25% of the area of the slope, and shall have a margin around the edge of the slope of 2 inches or greater.
  - c. Sides – Signage shall not be placed on the vertical surfaces of the awning that connects the façade of the building to the slope and to the valance.
5. Marquee. A metal or cloth, roof-like projection extending from the façade of a building with a vertical surface or “face” greater than 18 inches in height, whether containing signage or not, the Marquee may be located 7.5 feet or higher from the ground and may project over the sidewalk more than three feet but in no event closer than two feet to the curb line, notwithstanding any provision herein to the contrary.
  - a. The height of a marquee shall not exceed more than 30% of the height of the window or door that it hangs above. Where a marquee hangs above a window and a door, the height of the marquee shall not exceed 30% of the height of the window that it hangs above.
  - b. If a wall sign either exists or is also proposed, neither a marquee structure nor sign shall be permitted.
  - c. A marquee shall be permitted in lieu of a wall sign, and signage on the marquee shall be subject to the following provisions:
    - i. The signage shall be located on the face (the vertical surface of the marquee that hangs perpendicular to the ground). Signage shall not be permitted on the roof (the top of the marquee, whether sloped, angled, or flat), nor on the sides (the vertical surfaces of the marquee that connect the façade of the building, the roof, and the face),
    - ii. The signage area may not exceed the lesser of 10% of the wall area of such establishment, 65 square feet, or 50% of the area of the face, and shall have a margin around the edge of the face of 2 inches or greater.
6. Window Signs. Window signs (permanent and/or temporary) shall be permitted, provided that the aggregate area of such signs does not exceed 20% of the area of the window glass.
7. Commercial Sandwich Board Signs. One “A” frame Sandwich Board sign per business or building shall be permitted (including within the public right-of-way, sidewalk only, except in conditions of snow and/or ice), subject to the following conditions:
  - a. The sign shall only be displayed, adjacent to the buildings only, and not along the curb;

- b. If placed on public property, the sign may not be placed without the prior written permission from the Board of Selectmen in accordance with the Town's General Bylaws, Section 60-800 D, Public ways, sidewalks and rights-of-way;
- c. The sign shall not exceed 24 inches in width and 48 inches in height, including supports and sign area;
- d. The sign shall not protrude on the sidewalk in such a way as to obstruct pedestrian traffic or reduce the open sidewalk width to less than four feet;
- e. The sign shall be free of sharp corners, protrusions and devices that could inadvertently cause injury;
- f. Liability insurance coverage shall be carried, and evidence of same may be requested by the Building Inspector. Said insurance must cover personal injuries and property damage that may occur in such areas. Such coverage limits on liability insurance policy shall be in the amount of one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) per occurrence for any and all claims which may arise, for any reason, as a result of the placement of such a sign. The business shall also require the insurer to give at least thirty (30) days written notice of termination, reduction or cancellation of the policies to the Town; and,
- g. Commercial sandwich board signs shall only be displayed during business hours and shall be removed thereafter.

#### 5.2.6 Maintenance

- a) Every sign permitted hereunder shall be maintained in good condition. If a sign shows corrosion or deteriorated paint over 25% of the area of one side or if damage to a sign causes the loss of 10% of its surface or if a sign suffers damage or deterioration which creates a risk of harm to the person or property of another, it shall be repaired or removed.
- b) The Building Inspector may order the repair of a sign that is not secure, safe or in good state of repair by written notice to the owner. If the defect in the sign is not corrected within 30 days of said written notice, the Building Inspector may order the removal of the sign.

#### 5.2.7 Nonconforming Signs

Signs made nonconforming as a result of a change to this By-Law that are subsequently enlarged, redesigned, replaced, or altered in any way including repainting in a different color, shall comply immediately with all provisions of this By-Law and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement value of the sign at the time of replacement shall not be repaired or rebuilt or altered except to conform to the requirements of this By-Law.

## 5.3 Landscaping

### 5.3.1 Applicability

Street, sideline, parking area, and district boundary plantings and screening shall be provided as specified below for any new nonresidential building, or Free-Standing Wireless Telecommunications Facility, or when any new building, addition, or change of use results in a parking increase of five or more spaces, or results in any loading or exterior storage area for equipment, materials, or supplies serving a nonresidential use. In performing Design and Site Plan Review under Section 7.3, the Planning Board may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.

*Note: §5.3.1 was amended by Article 29 at the 1998 Annual Town Meeting.*

### 5.3.2 Plantings

- a) Required plantings shall include both trees and evergreen shrubs, and preferably will include trees existing on the site. To be credited towards meeting these requirements:
  - Trees must be at least 2.5 inches caliper four feet above grade, be of a species common in the area, and be ones which reach an ultimate height of at least 30 feet.
  - Shrubs must be of an evergreen species common in the area, and be at least 36 inches in height at the time of building occupancy, and reach an ultimate height of at least five feet, except half those heights for street planting areas.
- b) Plantings shall be provided at the rate of at least one tree per 40 linear feet of planting area length, and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be at least three feet wide, unpaved except for access drives and walks, essentially perpendicular to the area.

### 5.3.3 Requirements

- a) **Street Planting Area.** Street planting is required for nonresidential premises having a front yard setback of ten feet or more. Required street planting shall be provided within ten feet of the street property line along the entire street frontage except at drives.
- b) **Sideline Planting Area.** Sideline planting is required for premises having a front yard setback of ten feet or more. Required sideline planting shall be provided within five feet of the side lot line between the front lot line and the building setback (as built, not as required).
- c) **Parking Area Plantings.** Planting areas must comprise a minimum of 2% of the interior area of parking lots containing three or more rows of parking spaces. In such cases, a minimum of one tree and four shrubs exclusive of perimeter plantings must be planted for every 3,500 square feet of parking lot. Planting areas must each contain not less than 30 square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area, and to assure safe patterns of internal circulation.

- d) District Boundary Planting Area. District boundary planting is required on any premises along the full length of any nonresidential district boundary abutting or extending into a Residential District and being developed for a use not permitted or allowed on Special Permit in that District, unless abutting property is determined by the Planning Board to be unbuildable or visually separated by topographic features. Required planting shall be located within ten feet of the boundary.

#### 5.3.4 Screening

Any parking, loading, or storage area for equipment, materials, or supplies serving a nonresidential use or a Freestanding Wireless Telecommunications Facility (including any appurtenant equipment storage building or structure), and any dumpster or similar trash receptacle shall be screened from any adjoining lot residentially used or zoned or in public use. Screening shall consist of plantings as specified in Section 5.3.2 which, unless sufficiently dense to effectively obscure vision, must be supplemented with an opaque fence or wall at least five feet high.

*Note: §5.3.4 was amended by Article 30 at the 1998 Annual Town Meeting.*

#### 5.3.5 Existing Vegetation

Wherever possible, the above requirements shall be met by retention of existing plants. If located within 25 feet of a street, no existing tree of 6 inches caliper or greater (measured four feet above grade), dense hedgerow of four or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one foot unless dictated by plant health, access safety, or identification of the premises.

#### 5.3.6 Exceptions

Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge or property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.

#### 5.3.7 Maintenance

All plant materials required by this By-Law shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season. Any fences required for screening shall be properly maintained.

#### 5.3.8 Nonconforming Landscaping and Screening

- a) Any improvement along the property boundary, including landscaping, screening, and fencing, legally erected and conforming to the requirement of this By-Law when so erected, may continue to be maintained, even though as a result of changes to this By-Law the boundary improvements no longer conform to its requirements, provided that such boundary improvements shall not be enlarged, redesigned or altered except so as to make them conform to said requirements, and further provided that any such boundary improvements which have been destroyed or damaged to such an extent that the cost of restoration would exceed 50% of the replacement value of the boundary improvements at the time of destruction or damage shall not be repaired, rebuilt or altered, except so as to make said boundary improvements conform to the requirements of this By-Law.

- b) The exemption for nonconforming landscaping and screening herein granted shall terminate with respect to any boundary improvements which:
1. shall have been abandoned, or
  2. shall not have been repaired or properly maintained for at least 60 days after notice to do so has been given by the Building Inspector.

## **5.4 Environmental Controls**

### **5.4.1 Permitted Activity**

No activity (except for warning devices, temporary construction or maintenance work, parades, special events, or similar special circumstances) shall be permitted in any district unless the following requirements are met. Applicants may be required to provide evidence of probable compliance, whether by example of similar facilities or by engineering analysis. Issuance of a permit on the basis of that evidence shall certify the Town's acceptance of the conformity of the basic structure and equipment, but future equipment changes and operating procedures must be such as to also comply with these requirements.

### **5.4.2 Noise**

The requirement of the Belmont Noise By-Law (§60 Article 6 of the General Bylaws) must be met.

### **5.4.3 Light and Glare**

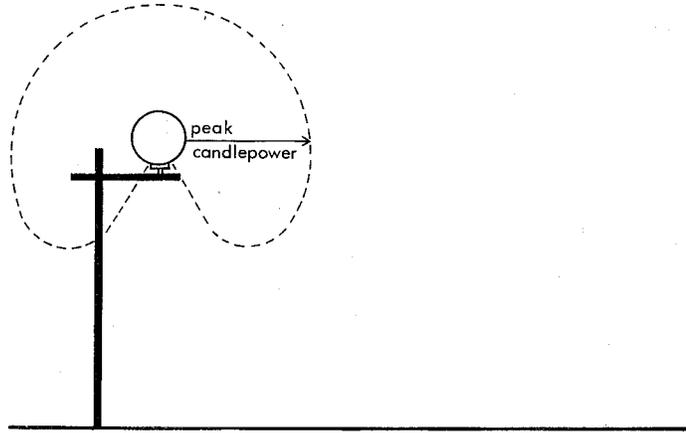
a) Lighting fixture types are defined as follows:

Type 1. No light cutoff.

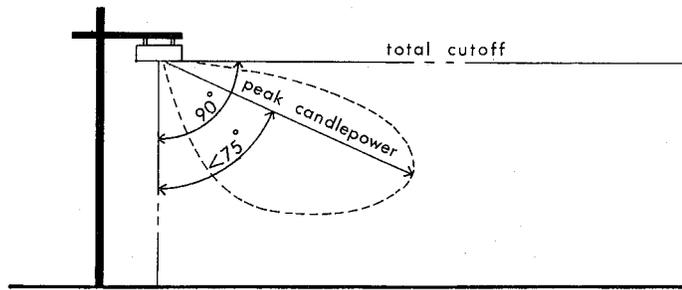
Type 2. Luminaire shielded such that peak candlepower is at an angle of 75 degrees or less from vertical, and essentially no light is emitted above the horizontal.

Type 3. Luminaire shielded such that total cutoff is less than 90 degrees from vertical, and no light source is in direct view of an observer 5 feet above the ground at any point off the premises.

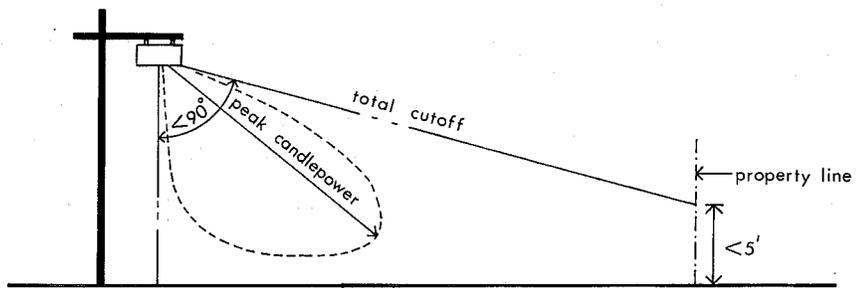
Diagram for Lighting Fixture Types



TYPE 1: NO CUTOFF LUMINAIRE



TYPE 2: 90° CUTOFF LUMINAIRE



TYPE 3: LUMINAIRE WITH LESS THAN 90° CUTOFF

- b) Lighting limitations. The following limitations shall be observed by all uses, unless granted a Special Permit under Section 5.4.8, upon determination by the SPGA that it is inherently infeasible for that use (e.g. public outdoor recreation) to meet these standards, and that all reasonable efforts have been made to avoid glare or light overspill onto residential premises.

LIGHTING LIMITATIONS	DISTRICTS	
	LB, GB, PL	Other
<b><u>Maximum Luminaire Mounting Height (feet)</u></b>		
Fixture Type 1	20	10
Fixture Type 2	30	15
Fixture Type 3	40	20
<b><u>Maximum Off-Site Overspill (foot-candles)</u></b>		
Fixture Type 1	0.3	0.2
Fixture Type 2	1.0	0.3
Fixture Type 3	3.0	0.5

- c) 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 glare or flashing reflected from the sky.
- d) An exterior lighting plan is required where compliance with these requirements is not apparent, and in all applications for a Special Permit for lighting, to include indication of location, mounting height, and orientation of luminaires, and sufficient technical information on the fixture to determine its type and resulting illumination levels.

5.4.4 Air Quality

- a) Any use whose emissions are such as to cause it to be classified as a major new stationary source of air pollution, as defined by the U.S.E.P.A. under the Clean Air Act, and any use required to apply to DEP under 310 CMR 7.00 or to EPA under Section 112 of the Clean Air Act for permission to emit asbestos, benzene, beryllium, mercury, vinyl chloride, or radio nuclides shall be permitted only if granted a Special Permit under Section 5.4.8.

*Note: §5.4.4 a) was amended by Article 26 at the 1995 Annual Town Meeting.*

- b) No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process which involves the creation and/or emission of any odors shall be provided with a secondary safeguard system.

#### 5.4.5 Hazardous Materials

Use of premises involving one or more of the following may be allowed only if granted a Special Permit under Section 5.4.8:

- a) manufacturing as the principal use of the premises, if the products manufactured are either:
  - 1. when wastes, regulated as hazardous under Massachusetts General Law, Chapter 21C.; or
  - 2. substances listed on the Massachusetts Substance List contained in 105 CMR 670.000, Appendix A;
- b) keeping of flammable fluids, solids, or gases in quantities exceeding four times that requiring licensure under 527 CMR 14.00, except for storage of fuel for consumption on the premises or by vehicles operated incidental to the principal use of the premises;
- c) any use for which licensure is required under 310 CMR 30.800 to transport, use, treat, store, or dispose of hazardous waste (but not those excluded under 310 CMR 30.801);
- d) any use whose waste generation requires the obtaining of an EPA identification number, except for small quantity generators, as defined under DEP Regulations, 310 CMR 30.351;

*Note: §5.4.5 d) was amended by Article 26 at the 1995 Annual Town Meeting.*

- e) discharge to surface water requiring a Permit under 314 CMR 3.00 ("NPDES Permit").

#### 5.4.6 Vibration

No use shall be permitted which produces vibration which is discernible to the human sense of feeling (except as sound) at or beyond the boundaries of the premises for 3 minutes or more in any hour between 7:00 a.m. and 9:00 p.m. or for 30 seconds or more in any one hour between 9:00 p.m. and 7:00 a.m. Vibrations exceeding two-thirds the frequency/amplitude limitations established by the Board of Fire Prevention Regulations at 527 CMR 13.11 (18) shall, except for quarry activities within the jurisdiction of that Board, be deemed to be discernible without instruments.

#### 5.4.7 Electrical Disturbances

No electrical disturbance shall be permitted which adversely affects the operation of any equipment other than that of the creator of such disturbance.

#### 5.4.8 Special Permits

- a) Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) for applications under Section 5.4 shall be the Board of Appeals, except that if another agency is designated under other provisions of this By-Law as SPGA for the use being applied for, that agency shall also act as SPGA under this Section.
- b) Submittals. Applicants shall submit such material, including technical analyses, as is reasonably necessary for the SPGA to make the determinations under (c) below. That may include, as germane, a lighting plan, documentation of air quality modeling, identification of any toxic or hazardous materials involved and substances to be emitted, a description of precautions, handling practices, monitoring, and recovery systems proposed, and, if appropriate, a hazard prevention and contingency response plan.
- c) Decision Criteria. Special Permits shall be granted if the SPGA finds that in light of peculiarities of location or circumstance, the proposed use will not cause harm or adverse disturbance to the environment or to other premises, will not jeopardize health or safety either on or off-premises, and that either any control or safety systems being relied upon are fail-safe or redundant, or it has been demonstrated that there would be no adverse health or safety consequences beyond the boundaries of the premises in the event of system failure, in light of on-site decay, dilution, or dispersion.

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## **SECTION 6. SPECIAL REGULATIONS**

### **6.1 Swimming Pools**

Swimming pools must be compliant with all applicable State Building Codes (780 CMR: State Board of Building Regulations and Standards).

*Note: §6.1 was amended by Article 20 at the 2000 Annual Town Meeting.*

### **6.2 Earth Removal**

The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, or similar materials within any 12 month period shall be permitted only incidental to construction on the premises under a current Building Permit or, if authorized on Special Permit by the Board of Appeals, incidental to landscaping or site improvement in cases where no Building Permit is involved.

### **6.3A Public Building and School Conversion**

*Note: §6.3A was amended by Article 5 at the 2005 Special Town Meeting.*

The Board of Appeals may grant a Special Permit for the conversion of public buildings or school buildings to multi-family residential use subject to the requirements and conditions set forth below.

#### **6.3A.1 Objectives**

The general objectives of permitting such conversions are:

- a) To provide for continued use of unused public buildings or public or private school buildings.
- b) To provide additional housing units, including diversity in type and affordability.

*Note: §6.3A.1 b) was amended by Article 26 at the 2003 Annual Town Meeting.*

#### **6.3A.2 Buildings Eligible for Conversion**

A public building or public or private school building located in any zoning district is eligible for conversion to multi-family use, but only provided it meets all of the following tests:

- a) It was originally constructed not less than 20 years prior to the filing of the application for Special Permit.
- b) It was used for not less than 15 years for public or school purposes.
- c) It contains not less than 10,000 square feet in gross floor area

### 6.3A.3 Special Permit Criteria

Special Permits for building conversion shall be subject to the procedures and requirements of Section 7.3, Design and Site Plan Review. The proposal must be found by the Board of Appeals to meet all of the following, as well as complying with Section 7.3 and the Special Permit criteria of Section 7.4.3:

- a) All the tests of Section 6.3A.2 have been met.
- b) The conversion will result in not fewer than five additional dwelling units.
- c) There will be provided a minimum of 1,200 square feet of lot area per dwelling unit. However, a minimum 1,000 square feet is allowed if the developer meets the following affordable housing requirements. The fifth housing unit and every third unit thereafter shall be an affordable housing unit; except that beginning with the 23<sup>rd</sup> unit, that 23<sup>rd</sup> unit and every fourth unit thereafter shall be an affordable housing unit. Nothing in this section shall preclude a developer from providing more affordable housing units than required under the provisions of this By-Law.

*Note: §6.3A.3 c) was amended by Article 26 at the 2003 Annual Town Meeting.*

- d) Off-street parking shall be provided as required at Section 5.1.
- e) There will be no exterior enlargements or extensions of the building other than those necessary to comply with applicable health, building and fire codes except such incidental changes as may be approved by the Board of Appeals enhancing the residential building while being in harmony with the neighborhood.
- f) The proposed conversion will not create traffic hazards or volume greater than the capacity of the streets affected.
- g) The proposed conversion will not be detrimental or injurious to the neighborhood.
- h) Adequate and appropriate facilities will be provided for the proper operation of the converted building.
- i) The converted premises will be adequately landscaped and outdoor parking areas appropriately screened, all in harmony with the neighborhood.

### 6.3A.4 Additional Conditions

The Board of Appeals may attach such additional conditions and limitations to a Special Permit granted under this Section as may be necessary to protect the neighborhood surrounding the property, and as may be necessary to encourage the most appropriate use of the land and building to be converted.

## **6.3B Public Building and School Conversion – 10,000 Square Feet or Less**

*Note: §6.3B was adopted by Article 5 at the 2005 Special Town Meeting.  
§6.3B was amended by Article 18 at the 2007 Annual Town Meeting.*

Conversion of public buildings with 10,000 square feet of gross floor area or less to multi-family residential use shall be permitted by-right, subject to the requirements and conditions set forth below and those found in Section 7.3 of these By-Laws.

### **6.3B.1 Objectives**

The general objectives of permitting such conversions are:

- a) To allow the re-use of surplus public buildings,
- b) To allow multi-family use at an appropriate scale and density,
- c) To promote the re-use and rehabilitation of historically significant structures,
- d) To promote transit oriented development, and
- e) To increase the diversity of housing.

### **6.3B.2 Buildings Eligible for Conversion**

A public building of 10,000 square feet of gross floor area or less is eligible for conversion to multi-family use by-right, subject to Design and Site Plan Review by the Planning Board, but only provided the following criteria are fulfilled:

- a) The building was originally constructed more than 20 years prior to the filing of the application for Design and Site Plan Review.
- b) The building was used for more than 15 years for public or school purposes.
- c) The building contains 10,000 square feet or less in gross floor area.

### **6.3B.3 Application**

The Planning Board shall hear all petitions for multi-family use through the Design and Site Plan Review process. All applications shall follow the guidelines and submittal requirements found in Section 7.3 of these By-Laws.

### **6.3B.4 Approval Criteria**

Applications for the conversion of a public building to multi-family use shall comply with the following criteria as well as the applicable objectives listed within Section 7.3:

- a) Density shall not exceed three (3) dwelling units.
- b) Off-street parking shall be provided at a ratio of not less than 1.5 spaces per unit to a maximum of two (2) spaces per unit. For proposed increases beyond 1.5 spaces per unit, the Planning Board shall determine that the spaces can be created within the footprint of the building (i.e. no reduction in the existing open space on the lot) or that

they can be provided off-site, provided that the applicant can exhibit long-term control over these spaces.

- c) Only one (1) and two (2) bedroom units or a mix of these are allowed.
- d) If applicable, the façade(s) of any building that is determined to be eligible for listing on the National Register of Historic Places will be appropriately rehabilitated, as provided for in the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 67).
- e) The conversion to multi-family use shall comply with the provisions of Section 6.10, Inclusionary Housing of these By-Laws.
- f) Open space surrounding existing buildings shall be maintained and any new outdoor parking areas shall be screened at a minimum with evergreens, all in harmony with the neighborhood. This screening shall be five (5) feet in height at the time of building occupancy and be planted not more than six (6) feet on center, provided that adequate sight lines for pedestrians and motor vehicles are maintained.

## **6.4 Elderly Housing**

"Elderly Housing" as authorized in Section 3.3, Schedule of Use Regulations, shall comprise of multi-family dwellings operated by the Belmont Housing Authority (BHA) for occupancy by elderly persons or elderly families (as defined in Section 26J, Massachusetts General Law, Chapter 121 (Ter. Ed.) or 42 U.S. Code, Section 1402, both as amended, and equivalent provisions of law from time-to-time in force).

## **6.5 Cluster Development**

The Board of Appeals may grant a Special Permit for any tract of land in a Single Residence District to be developed as a Cluster Development subject to the requirements and conditions set forth below:

### **6.5.1 Objectives**

The general objectives of Cluster Developments are to encourage:

- a) Preservation of open space for park, recreation, conservation or agricultural purposes.
- b) Better utilization of natural features of the land through a greater flexibility of design.
- c) More efficient provision of municipal services.
- d) Creating opportunities for affordable housing.

*Note: §6.5.1 d) was amended by Article 26 at the 2003 Annual Town Meeting.*

#### 6.5.2 Tract Size

The minimum tract areas upon which Cluster Developments may be allowed in the various Single Residence Districts are:

Single Residence A - 180,000 square feet

Single Residence B - 120,000 square feet

Single Residence C - 84,000 square feet

Single Residence D - 180,000 square feet

#### 6.5.3 Number of Dwelling Units

- a) The maximum number of dwelling units allowed within any Cluster Development shall be the number determined by dividing 85% of the area of the tract, exclusive of any wetlands or floodplain, by the minimum lot size permitted in the Single Residence District(s) within which the Cluster is located.
- b) The maximum number of dwelling units allowed within the Cluster Development shall be the number determined by dividing 100% of the area of the tract, exclusive of any wetlands or flood plain, by 95% of the minimum lot size permitted in the single residence district(s) within which the cluster is located, provided that where five (5) or more housing units will be developed, the Board of Appeals determines that the developer complies with the following affordable housing requirements. The fifth housing unit and every third unit thereafter shall be an affordable housing unit; except that beginning with the 23<sup>rd</sup> unit, that 23<sup>rd</sup> unit and every fourth unit thereafter shall be an affordable housing unit.

*Note: §6.5.3 b) was amended by Article 26 at the 2003 Annual Town Meeting.*

#### 6.5.4 Open Land

- a) The area of open land shall equal at least 25% of the total area of the Cluster Development tract. Such land shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes by all the residents of the Cluster. Provision shall be made so that the open land shall be readily accessible to the owners and occupants of the lots in the Cluster, and owned by a corporation, association or trust whose owners or beneficiaries are all the owners and occupants of the lots, or by the Town, or otherwise as the Board of Appeals may direct in accordance with Massachusetts General Law, Chapter 40A.
- b) In all cases, a perpetual restriction of the type described in Massachusetts General Law, Chapter 184, Section 31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the Town shall be recorded in respect to such land. Such restriction shall provide that the open land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation or park. Such restriction shall be in such form and substance as the Board of Appeals shall prescribe and may contain such additional restrictions on development and use of the open land as the Board of Appeals may deem appropriate after considering any comments which the Conservation Commission may choose to submit.

- c) If a Special Permit is issued, the Board of Appeals may impose as a condition that the open land shall be conveyed by the applicant free of any mortgage interest or security interest and subject to a perpetual restriction of the type described in Section 6.5.4 a) prior to the issuance by the Building Inspector of a Building Permit for any dwelling or structure.

#### 6.5.5 Dimensional Regulations

Except as otherwise provided in this Section, a Cluster Development tract shall comply with the frontage, setback, distance between buildings and building heights set forth in the Schedule of Dimensional Regulations contained in Section 4.2 of this By-Law. If the Cluster Development is divided into one or more individual lots, the frontage of each lot on a street or on a private road or way within the Cluster Development tract shall be as specified by the Board of Appeals consistent with fire safety, aesthetics and the character of the Cluster Development tract.

#### 6.5.6 Attached Dwelling Units

The Board of Appeals may in its discretion allow a Cluster Development to consist in whole or in part of attached dwelling units if such units are not inconsistent with the aesthetics and physical appearance of the other buildings in the immediate vicinity.

#### 6.5.7 Limitation of Subdivision

No lot shown on a plan for which a Permit is granted under this Section may be further subdivided and a notation to this effect shall be shown on the plan.

#### 6.5.8 Design and Site Plan Review

Cluster Developments, whether or not containing attached dwelling units, are subject to the Design and Site Plan Review procedures and requirements of Section 7.3 of this By-Law.

#### 6.5.9 Amendments

Following the granting by the Board of Appeals of a Special Permit under this Section, it may, upon application and for good cause shown after notice and a public hearing as required for granting a Special Permit, amend the plan solely to make changes in lot lines shown on the plan, provided, however, that no such amendment shall:

- a) Grant any reduction in the size or change in location of the open land;
- b) Grant any change in the layout of the ways;
- c) Increase the number of lots; or
- d) Decrease the dimensional requirements of any lot below the minimum dimensions permitted by this By-Law.

## 6.6 Floodplain District

*Note: §6.6 was adopted under Article 26 at the 2004 Annual Town Meeting.*

### 6.6.1 Purposes

The purposes of this Section are to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve natural flood control characteristics, to maintain the flood storage capacity of the floodplain, and to bring the Town of Belmont into compliance with the National Flood Insurance Program (42 U.S. Code 4001-4128), and regulations adopted pursuant thereto.

### 6.6.2 Definitions

*Note: §6.6.2 was amended by Article 28 at the 2006 Annual Town Meeting.*

Unless otherwise defined below, the terms used throughout this Section shall have the meaning as defined by 780 CMR.

**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, AO, AH, A1-30, AE, A99, V1-30, VE, or V.

**Development** - Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**District** - Floodplain District.

**Flood Boundary and Floodway Map** - An official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**Flood Hazard Boundary Map (FHBM)** - An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or AE.

*Note: §6.6.2 was amended by Article 24 at the 2010 Annual Town Meeting.  
§6.6.2 was amended by Article 28 at the 2006 Annual Town Meeting.*

**Flood Insurance Study** - An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**Regulatory Floodway** see **Floodway**.

**Special Flood Hazard Area** - An area having special flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30 or VE.

**Substantial Damage** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

#### 6.6.3 Use Regulations

- a) The Floodplain District shall be considered as overlying other districts. Any uses permitted or allowed by Special Permit in the portions of the districts so overlaid shall continue to be permitted or allowed by Special Permit, subject to the provisions of this Section.
- b) Except as provided below, the following shall be prohibited in the Floodplain District:
  1. New buildings or structures.
  2. Filling, dumping, excavation, removal, or transfer of any earth material which will restrict or increase flood water flow or reduce the flood water storage capacity.
- c) The following shall be permitted in the Floodplain District:
  1. Land use for conservation of water, plants, and wildlife.
  2. Recreation, including play areas, wildlife reserves, golf, boating, and fishing where otherwise legally permitted.
  3. Grazing, farming, forestry, and nurseries.
  4. Proper operation and maintenance of dams and other water control structures, including temporary alteration of water level for emergency purposes.
  5. Addition or alteration to an existing structure, but if constituting a substantial improvement (see definition), only if authorized by Special Permit from the Board of Appeals.

#### 6.6.4 Requirements

All development in this District, including structural and nonstructural activities, whether permitted by-right or allowed by Special Permit, must be in compliance with the following:

- 780 CMR 120.G of the Massachusetts State Building Code, which addresses construction in floodplains and floodways;
- 310 CMR 10.00, Wetlands Protection, Department of Environmental Protection;
- 310 CMR 13.00, Inland Wetlands Restriction, Department of Environmental Protection;
- Title 5, minimum requirements for the subsurface disposal of sanitary sewage, Department of Environmental Protection.

*Note: §6.6.4 was amended by Article 24 at the 2010 Annual Town Meeting.  
§6.6.4 was amended by Article 26 at the 1995 Annual Town Meeting.*

#### 6.6.5 Floodway Requirements

- a) Floodway Data: In Zone A and Zone 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.

*Note: §6.6.5 a) was amended by Article 24 at the 2010 Annual Town Meeting.*

- b) In the regulatory floodways designated on the Belmont FIRM or Flood Boundary and Floodway Map no encroachments in the floodway shall be permitted which would result in any increase in the base flood discharge level.
- c) Base Flood Elevation Data: Base Flood Elevation Data is required for subdivision proposals or other developments greater than 50 lots or five (5) acres, whichever is the lesser, within unnumbered A Zones.

#### 6.6.6 Special Permit

Upon their receipt, applications for Special Permits in the Floodplain District shall be referred to the Planning Board, Board of Health, and Conservation Commission for their review and comment. In a riverine situation, the applicant shall notify the NFIP State Coordinator, Massachusetts Office of Water Resources and the NFIP Program Specialist in FEMA Region I of any proposed alteration or relocation of a watercourse. Special Permits for substantial improvements within the Floodplain District shall be approved only upon the Board of Appeals making the following determinations:

- a) All requirements of Section 6.6, Floodplain District, are complied with.
- b) No substantial increase in hazard to occupants of the premises or to others will result from the proposed improvements.
- c) Reasonable efforts have been made, relative to the scale of the proposed improvements, to reduce any existing hazard or noncompliance with these requirements.

#### 6.6.7 Waiver

If satisfied, based on a Letter of Map Amendment or Letter of Map Revision obtained by the applicant from FEMA, that the site of a proposed development or improvement is above the Base Flood Elevation shown on the FIRM, the Building Commissioner may waive compliance with this Section, and a copy of such waiver shall be filed with the Town Clerk.

*Note: §6.6.7 was amended by Article 31 at the 1995 Annual Town Meeting.*

## **6.7 Motor Vehicle Service Stations**

Motor Vehicle Service Stations shall be granted a Special Permit only in conformity with the following:

### **6.7.1 Location**

No location shall be approved if a vehicular entrance or exit will be so located as to create an unusual hazard. Sight distance shall be at least 250 feet in each travel direction. No vehicular entrance or exit will be so located so as to cross a major pedestrian flow, such as on sidewalks servicing churches, schools, recreation areas, or compact retail districts.

### **6.7.2 Egress Design**

Driveway sidelines shall be separated from the sidelines of intersecting streets and other driveways on the premises by not less than 40 feet and from other lot lines by not less than 10 feet. Entrances and exits together shall occupy not more than 40% of the lot frontage, and shall be clearly channeled through use of curbed planting areas or similar devices.

### **6.7.3 Queues**

There shall be adequate space off-street for not fewer than two vehicles to await service per filling lane.

### **6.7.4 Setbacks**

No service building shall be located within 40 feet of a street line, and no pump or other dispensing device, movable sign or display, or temporary or permanent storage of merchandise shall be located within 20 feet of a street line.

### **6.7.5 Parking**

Any parking or vehicle storage proposed in excess of the requirements of Section 5.1.2 must be justified in applying for a Special Permit, and may be subject to setback and screening requirements.

## 6.8 Wireless Telecommunications Facilities

*Note: §6.8 was adopted under Article 31 at the 1998 Annual Town Meeting.*

### 6.8.1 Use Regulations

No Wireless Telecommunications Facility shall be permitted to be constructed unless such Facility has completed Design and Site Plan Review pursuant to Section 6.8.4 and 7.3 and, if required by Section 3.3, a Special Permit has been issued pursuant to Sections 6.8.5 and 7.4. No Wireless Telecommunications Facility, other than an Interior Wireless Telecommunications Facility, shall be permitted in any Historic District subject to the provisions of §40 Article 3-315 of the General Bylaws of the Town.

### 6.8.2 Dimensional Regulations

Except as otherwise provided in paragraph (d) of this subsection, all Wireless Telecommunications Facilities shall be required to comply with all applicable requirements set forth in Section 4.

- a) No Freestanding Wireless Telecommunications Facility shall be permitted to be located within 500 feet of any Historic District subject to the provisions of Article 15 of the General By-Laws of the Town.
- b) Except as otherwise permitted in this subsection, no Wireless Telecommunications Facility or appurtenant equipment storage building or structure, other than an Interior Wireless Telecommunications Facility, shall be permitted to be located within 50 feet of a single- or two-family dwelling.
- c) A Wireless Telecommunications Facility or appurtenant equipment storage building or structure that is accessory to a principal use other than a single- or two-family dwelling, may be permitted to be located within 50 feet of a single- or two-family dwelling; provided, however, that, if such dwelling is located within a Single Residence or General Residence District, no such Facility, building or structure shall be permitted to be located within 25 feet of such dwelling.
- d) No Freestanding Wireless Telecommunications Facility shall exceed 100 feet in height.

### 6.8.3 Performance Standards

- a) All Wireless Telecommunications Facilities shall, at all times, be in compliance with all applicable standards of Federal law, State regulations including, but not limited to the Regulations of the Department of Public Health, 105 CMR 122.000, the State Building Code and the published standards of the Electronic Industries Association.
  1. Prior to any significant change to an approved Wireless Telecommunications Facility or associated equipment, notice of such change shall be given to the Building Inspector, together with documentation or other evidence showing that the Facility will continue to be in compliance with such standards.
  2. At least annually, the operator of an approved Wireless Telecommunications Facility shall certify to the Building Inspector that the Facility continues to be in compliance with such standards.

- b) Except as otherwise authorized by the Board of Appeals, a Freestanding Wireless Telecommunications Facility shall be completely fenced for security within an area no greater than 25 feet in radius from the base of the Facility tower, to a height of 6 feet. Such fencing shall be compatible with the character of the property and neighboring properties, and shall not be of barbed wire or razor wire.
- c) All Wireless Telecommunications Facilities shall be constructed utilizing materials colors and textures that minimize the visual impact of the proposed Facility on the Town, the District and neighborhood in which the Facility is located, and adjoining properties. A Façade-Mounted Wireless Telecommunications Facility shall utilize materials, colors and textures that minimize the viewer's ability to distinguish the Facility from the building surface adjacent to it. Where appropriate, plantings and screening shall also be utilized to minimize such visual impact.
- d) Except as specifically authorized by a Special Permit or required by the U.S. Federal Aviation Administration, no Wireless Telecommunications Facility shall incorporate any artificial exterior lighting.
- e) No Wireless Telecommunications Facility shall incorporate any signs except for those essential for the provision of safety or ownership information. Each Wireless Telecommunications Facility shall incorporate a sign, approved by the Planning Board, providing essential emergency response information including, at a minimum, a telephone number that can be used to contact the Facility operator's representative at all times.
- f) Any Freestanding Wireless Telecommunications Facility shall be designed so that, in the event of a structural failure, such Facility shall collapse and fall entirely within the boundaries of the lot on which it is located. Such design shall be certified by a professional engineer.
- g) Except in an emergency, no servicing of a Wireless Telecommunications Facility or associated equipment, other than an Interior Wireless Telecommunications Facility, shall occur except during hours authorized by Special Permit.
- h) All Wireless Telecommunications Facilities shall comply with §60 Article 6 of the General Bylaws of the Town of Belmont, governing sources of noise.

#### 6.8.4 Submission Requirements for Design and Site Plan Review

In addition to the documents required to be submitted pursuant to Section 7.3, each application for Design and Site Plan Review of a Wireless Telecommunications Facility shall be accompanied by ten copies of the following:

- a) Copies of all required franchises, licenses or other federal, state or local permits required for the operation of the proposed Facility or appurtenant equipment;
- b) Plans and elevations demonstrating compliance with the Dimensional Regulations set forth in Section 6.8.2; and
- c) Examples or renderings of the materials, colors and textures proposed to be used.

#### 6.8.5 Special Permit Standards and Submission Requirements

##### a) Submission Requirements for Special Permits

Each application for a Special Permit for a Wireless Telecommunications Facility shall be accompanied by fifteen (15) copies of the following:

1. The owner's deed to the lot or lots upon which the Facility is proposed to be located, together with evidence of the Applicant's control of the Facility's proposed location.
2. An inventory of existing and approved Wireless Telecommunications Facilities owned or operated by the Applicant and located within two miles of the Belmont town line, as well as Facilities for which an application for approval has been filed with any governing authority, together with maps of existing or expected service coverage from such Facilities.
3. Evidence of the need for the proposed Facility and of how the proposed Facility addressed that need.
4. For any proposed Freestanding Wireless Telecommunications Facility, evidence that the need for such a Facility cannot be addressed by a Facility other than a Freestanding Wireless Telecommunications Facility.
5. A discussion of the feasibility of addressing such need with a Wireless Telecommunications Facility located on municipally-owned property.
6. For any proposed Freestanding Wireless Telecommunications Facility, evidence that a crane, balloon or other temporary representation of the height of the Facility has been brought to the site and kept in place for not less than 72 consecutive hours, together with photographs of such representation taken from a sufficient number of locations suitable for evaluating the visual impact of the proposed Facility on the Town, the District and neighborhood in which the Facility is proposed to be located, and adjoining properties.
7. Proposed hours during which the Facility and associated equipment may be serviced, and a description of regular maintenance procedures.

##### b) Special Permit Standards

Notwithstanding the provisions of Section 7.4.3, a Special Permit for a Wireless Telecommunications Facility shall be issued if, upon submission of all required materials and documents and compliance with the procedures set forth in Section 7.4.4, the Board of Appeals finds that:

1. The proposed Wireless Telecommunications Facility is reasonably necessary for the convenience or welfare of the public; and

2. The interests of the public convenience or welfare have been appropriately balanced against the interest of the Town, the District and neighborhood in which the Wireless Telecommunications Facility is proposed to be located, and adjoining properties.

Such Special Permit shall be subject to any limitations imposed pursuant to Section 7.4.5.

c) Factors to Consider in Special Permit Decision

In making any Special Permit decision pursuant to this Section, the Board of Appeals shall consider, in addition to the preferred qualities set forth in Section 7.4, the following:

1. The height of the proposed Facility;
2. The proposed Facility's proximity to residential structures;
3. The nature and uses of adjacent and nearby properties;
4. Surrounding topography including, in particular, features that affect the provision of wireless telecommunication services;
5. Surrounding tree coverage and foliage;
6. The availability of existing structures and buildings so as to avoid the need for Freestanding Wireless Telecommunication Facilities;
7. The good faith efforts of the Applicant to locate the proposed Facility on an existing structure or building or to use a less visual obtrusive site or Facility design;
8. The availability of alternative technology not requiring the siting of the proposed Facility or permitting the utilization of a less obtrusive site or Facility design;
9. Any wireless telecommunications service benefits to the Town and its residents;
10. The good faith efforts of the Applicant to avoid making the proposed Facility a principal use of the lot; and,
11. Potential interference with other electronic devices within the Town.

*Note: §6.8.5 c) was amended by Article 31 at the 1998 Annual Town Meeting.*

6.8.6 Removal of Abandoned Wireless Telecommunications Facilities

Any Wireless Telecommunications Facility that is not operated, or that is not in compliance with Section 6.8.3 a) 2). for a continuous period of six months shall be considered abandoned, and the Building Inspector may, by appropriate notice sent by certified mail, order that such Facility be removed within 30 days. At the time of removal, the Facility and all associated debris shall be removed from the premises.

Any Special Permit issued pursuant to Section 6.8.5 shall require the holder of such Special Permit to post a bond or other surety, specifically approved by Town Counsel, in

an amount sufficient to guarantee the removal of the Facility in accordance with this Section and the lawful disposal of any components thereof. In the event that the posted amount does not cover the cost of such removal and disposal, the Town may place a lien upon the premises covering the difference in cost.

## 6.9 Affordable Housing

*Note: §6.9 was adopted under Article 2 at the 1999 Special Town Meeting.  
§6.9 was amended by Article 2 at the 2006 Special Town Meeting.*

The Planning Board may grant a Special Permit for any tract of land identified as Zone 6, General Residential District, on the McLean District Zoning Map, which Special Permit shall allow:

- a) the construction and use of an apartment house or other multi-family dwellings which contain at least 25% “affordable units” as defined in Section 6.10.2 and which contain up to 40 dwelling units overall; and
- b) the modification of any intensity or dimensional requirement set forth in Section 4.2 or Section 4.3 as necessary in the determination of the Planning Board to permit such development to contain the greatest practical number of affordable units, but in no event so as to allow more than 40 dwelling units overall.

## 6.10 Inclusionary Housing

*Note: §6.10 was adopted under Article 17 at the 2013 Special Town Meeting.*

### 6.10.1 Purpose

The purposes of this Section are to encourage the expansion and upgrade of the Town's affordable housing stock, in order to provide for a full range of housing choices for households of all incomes, ages and sizes; to prevent the displacement of low- to moderate-income Town residents; to increase the production of Affordable Units to meet existing and anticipated employment needs within the Town; to establish standards and guidelines in order to implement the foregoing; and to meet the requirements of MGL c. 40B and the Local Initiative Program.

### 6.10.2 Definitions

For purposes of this Section 6.10 of the Zoning By-Law, capitalized words shall mean as defined elsewhere in this By-Law or as defined below:

**Affordable Housing Trust Fund** - An account established and operated for the exclusive purpose of creating or preserving affordable housing in the Town. The Affordable Housing Trust Fund may be used for the following purposes within the Town: the purchase and improvement of land and Housing Units for the development of new and/or rehabilitated Housing Units for purchase or rental by Qualified Affordable Housing Purchasers or Tenants or to preserve existing affordable housing. Expenditures from the Affordable Housing Trust Fund shall be authorized by a majority vote of the Belmont Housing Trust.

**Affordable Housing Unit** - A Housing Unit that by Deed Restriction is and shall remain affordable to and occupied by a Qualified Affordable Housing Unit Purchaser or Tenant, and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory through the Local Initiative Program.

**Belmont Resident** – Since there is a “local preference” for some of the Affordable Housing Units, the people or households that may qualify for the local preference must be Belmont Residents, defined as follows:

- a. an individual or family maintaining a primary residence within the Town of Belmont;  
or
- b. an individual who is employed at least 30 hours per week within the Town of Belmont; or
- c. a parent or guardian with children attending the Town of Belmont Public Schools.

**Comparable Unit** - When used with respect to quality, character, and room size, means that there are sufficient features in common between the Affordable Housing Unit and the Market Rate Housing Unit so as to render the units similar in nature. Moreover, while the actual design or finishes provided in the Affordable Housing Units versus the Market Rate Housing Unit may differ in a non-material fashion and still constitute Comparable Units, the same amenities proposed for the Market Rate Housing Unit must be provided for the Affordable Housing Units, including without limitation full kitchen, full bath, and parking. Further, the actual room size for the Affordable Housing Unit may not differ in any significant manner to that of the Market Rate Housing Unit.

Notwithstanding the foregoing, when used with respect to external appearance, location and bedroom distribution, means that the external appearance of the Affordable Housing Unit and the Market Rate Housing Unit must be so similar in nature so as to render them indistinguishable while the location of the Affordable Housing Units and the bedroom distribution of such units must be no different from that of the Market Rate Housing Unit.

**Deed Restriction** - A provision, acceptable in form and substance to the Town of Belmont, in a deed to real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. Any Restriction created under this Section 6.10 shall survive any bankruptcy, insolvency, foreclosure, or other action, and shall not be subject to nullification for any reason. Additionally, the Restriction shall provide that in the event that any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.

**Development** - A single parcel or set of contiguous parcels of land held in common ownership for which one or more building permits will be sought within a 24 month period of time. The number of Housing Units to be counted from any project shall be calculated as the net increase in the number of Housing Units as compared to the number of Housing Units in existence on such land as of the date that the building permit application is filed with the Town of Belmont Office of Community Development.

**Dwelling Unit** - A building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both refrigerator and sink) not shared with any other unit; or quarters for up to five persons in a dormitory, congregate dwelling, or similar group dwelling.

**Housing Unit -**

- a. A Dwelling Unit; or
- b. A habitable unit within a senior or assisted living facility.

**Market Rate Housing Unit** – Housing Units available to the general public on the open market, without price restrictions or consumer income limitations.

**Median Income** – the mid-point of incomes of households in the Boston Standard Metropolitan Statistical Area, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development and regardless of housing type or ownership.

**Mixed-Use Residential Development** - A Development consisting of a combination of residential and non-residential uses.

**Qualified Affordable Housing Unit Purchaser or Tenant** - A household with total annual income that does not exceed eighty percent (80%) of the Median Income.

**Residential Development** – A Development consisting exclusively of Housing Units.

6.10.3 Applicability

This Section 6.10 shall apply to any Development with a residential component that requires a Special Permit pursuant to Section 3.3 of the Zoning By-Laws, Schedule of Use Regulations, or pursuant to any overlay district.

6.10.4 Requirements

- 1) Residential Developments that result in six (6) or more new Housing Units shall provide Affordable Housing Units as outlined in the table below:

Size of Residential Development	Percent of Affordable Housing Units Required for Residential Developments
6 to 12 Housing Units	10%
13 to 20 Housing Units	12%
More than 20 Housing Units	15%

*Note: §6.10.4 was amended under Article 3 at the 2019 Annual Town Meeting.*

- 2) Where the calculation of Affordable Housing Units results in a fractional unit greater than one-half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation results in a fractional unit less than or equal to one-half (.5), the fraction shall be rounded down to the next whole unit.
- 3) Rental Developments with units for households at 50% or less of Median Income may reduce the total number of required Affordable Housing Units by an amount equal to the number of units available to households at 50% or less of Median Income, or by 25% of the Affordable Housing Units required, whichever is less.

- 4) Except for cash payments permitted in Section 6.10.5 with respect to for-sale Developments, Affordable Housing Units shall be provided within the Development that requires the Affordable Housing Units.

#### 6.10.5 Cash Payment Option for For-Sale Affordable Units

In exceptional circumstances, the Planning Board may allow the applicant for a Development of 6 or more for-sale new Housing Units to make a cash payment to the Affordable Housing Trust Fund in lieu of providing Affordable Housing Units required under this Section 6.10. Such cash payment shall be equal to 5% of the projected total sale price of the Housing Units based on an appraisal satisfactory to the Planning Board. In making its decision, the Planning Board shall seek a recommendation from the Belmont Housing Trust.

*Note: §6.10.5 was amended under Article 3 at the 2019 Annual Town Meeting.*

#### 6.10.6 Selection of Qualified Affordable Housing Unit Purchasers or Tenants

The selection of Qualified Affordable Housing Unit Purchasers or Tenants shall be pursuant to the Local Initiative Program and shall be administered as follows:

- a. The selection process shall include a plan for marketing of the Affordable Housing Units created under this Section 6.10. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units.
- b. Belmont Residents shall be given preference for seventy percent (70%) of the Affordable Housing Units created under this Section 6.10.
- c. Owners of Developments may sell or lease Affordable Housing Units to the Town of Belmont, the Belmont Housing Trust, the Belmont Housing Authority, or to a private nonprofit entity serving Belmont for the purpose of providing affordable housing opportunities within the Town, in order that such entity carry out the steps needed to market the Affordable Housing Units and manage the choice of buyers or renters.

#### 6.10.7 Timing of Construction

- 1) Occupancy permits for any new Market-Rate Housing Units or nonresidential space shall be issued at an equal ratio of occupancy permits for required Affordable Housing Units.
- 2) Affordable Housing Units shall be dispersed throughout the building(s) and shall be comparable to Market-Rate Housing Units. Affordable Housing Units provided under terms of this Section 6.10 shall be provided on-site in the subject Development.

For an Affordable Housing Unit within a senior or assisted living facility, a comparable Affordable Housing Unit shall include the provision of mandatory living services.

- 3) All documents necessary to ensure compliance with this Section 6.10 and the Local Initiative Program provisions shall be subject to the review and approval of the Special Permit Granting Authority and Town Counsel. Such documents shall be a condition of the Special Permit and executed prior to the issuance of any Certificate of Occupancy.

#### 6.10.8 Rental Development Annual Oversight and Monitoring

- 1) There shall be a monitoring agent for rental Developments with Affordable Housing Units, to be agreed upon by the owner of the Development and the Special Permit Granting Authority.
- 2) The owner shall be responsible for all payments charged by, or related to, the monitoring agent.
- 3) An annual independent compliance audit shall be submitted to the Town by the monitoring agent to insure compliance with this Section 6.10 and the Local Initiative Program provisions.

#### 6.10.9 General Provisions

- 1) Enforcement of this Section 6.10, as it applies to all Developments, shall be the responsibility of the Town of Belmont Inspector of Buildings.
- 2) Provision of accessible Housing Units shall be as determined by Federal Regulations. Standards for accessible units shall comply with 24 C.F.R. Section 8.32.
- 3) This Section 6.10 shall not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or a natural disaster; provided, however, no rehabilitation nor repair shall increase the density, bulk, or size of any such building or structure which previously existed prior to the damage or destruction thereof except in conformance with this Section 6.10.
- 4) This Section 6.10 shall not apply to Developments under Massachusetts General Laws (MGL) Chapter 40B.

#### 6.10.10 Severability, Conflict with Other By-Laws

- 1) If a court of competent jurisdiction holds any provision of this Section 6.10 invalid, the remainder of this Section shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this Section shall not affect the validity of the remaining sections or parts of sections or the other By-Laws of the Town of Belmont.
- 2) Nothing contained in this Section 6.10 shall be construed to apply to the use of land or structures for religious or educational purposes if doing so would violate the applicable provisions of M.G.L. Chapter 40A, Section 3.
- 3) To the extent this Section 6.10 is silent on a particular issue or conflicts with the Local Initiative Program, the requirements of the Local Initiative Program shall govern.

## 6.11 Historic Accessory Building Preservation

*Note: §6.11 was adopted under Article 31 at the 2009 Annual Town Meeting.*

### 6.11.1 Purpose

The purpose of this Section is to promote the preservation of unique Historic Accessory Buildings by permitting their adaptive reuse for uses that may not otherwise be permitted under this Zoning By-Law, thereby making their functional preservation and restoration feasible.

### 6.11.2 Definition

A "Historic Accessory Building" is an accessory building such as a free-standing barn, greenhouse or carriage house built before 1921, which is located on the same lot as the principal building to which it is accessory, and which is either:

- a) listed on the Inventory of the Historic and Archaeological Assets of the Commonwealth as maintained by the Massachusetts Historic Commission; or
- b) listed on the National Register or State Register of Historic Places; or
- c) specifically designated as a "Historic Accessory Building" by the Belmont Historic District Commission, using the criteria for evaluation established for determining eligibility for the National Register of Historic Places.

### 6.11.3 Applicability

The Planning Board may grant a Special Permit for the reuse of a Historic Accessory Building in any residential district of the Town, allowing the adaptation of such Building for use as a home occupation, or for one accessory dwelling unit.

*Note: §6.11.3 was amended by Article 32 at the 2009 Annual Town Meeting.*

### 6.11.4 Procedure

- a) An Application for a Special Permit under this Section shall comply with the procedures and requirements set forth in Section 7.4 of this Zoning By-law, and the Planning Board's Special Permit Regulations.
- b) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Historic District Commission for its review and recommendations concerning the proposed exterior treatments of the Building, including such things as windows, roofing and siding materials, and landscaping. Such recommendations shall include:
  - 1) the Commission's assessment as to whether the proposed reuse and associated exterior alterations would adversely affect the historic landscape or the architectural and historic integrity of the principal building or the Historic Accessory Building itself; and

- 2) specific conditions which the Commission believes should be imposed on the Special Permit in order to prevent any adverse effects.

The Historic District Commission shall hold a public hearing and make recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application. Otherwise, the Application shall be deemed approved.

- c) The Planning Board may issue a Special Permit under this Section only if it finds that the proposed reuse and any related building alterations and site development meet all of the applicable Special Permit criteria set forth in Section 7.4.3, and
  - 1) are generally in harmony with the neighborhood;
  - 2) will neither generate excessive traffic, parking, noise or density impacts on the abutters, nor create other detrimental effects on the neighborhood;
  - 3) will preserve and/or restore the original architectural features of the Building to the maximum extent practicable;
  - 4) will not adversely affect the historic landscape or the architectural and historic integrity of the principal building or the Historic Accessory Building itself; and
  - 5) will not result in any enlargement or relocation of the Historic Accessory Building.
- d) If the Historic Accessory Building is proposed to be used for a home occupation, the Planning Board must also find that the following criteria are or will be met in addition to the criteria set forth in Section 6.11.4 c):

*Note: §6.11.4 d) was amended by Article 32 at the 2009 Annual Town Meeting.*

- 1) There will be no exterior display or visible storage of supplies or equipment to be used on or off the premises, or other variation from the residential character of the premises;
- 2) Not more than one person who is not a member of the household will be employed on the premises;
- 3) There will be no production of offensive noise, vibration, odors, fumes, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects;
- 4) No articles will be sold or offered for sale on the premises;
- 5) Traffic generated, including pick up and deliveries, will not exceed that normally expected in the residential neighborhood in which the Historic Accessory Building is located; and
- 6) All parking will be provided on-site, and not within a required front yard.

- e) If the Historic Accessory Building is proposed to be used for an accessory dwelling unit, the Planning Board must also find that the following criteria are or will be met in addition to the criteria set forth in Section 6.11.4 c):
  - 1) The accessory dwelling unit use will be incidental to the ownership and use of the principal structure on the same lot; and
  - 2) The accessory dwelling unit or the principal structure will be occupied by the owner of the subject premises, except for bona fide temporary absences.

*Note: §6.11.4 e) was amended by Article 32 at the 2009 Annual Town Meeting.*

#### 6.11.5 Conditions of Approval

In granting a Special Permit under this Section, the Planning Board shall require that a perpetual preservation restriction on said Building and its landscape context be granted to the Town or other appropriate body or preservation organization under the provisions of Massachusetts General Laws, Chapter 184, Section 31. The form of such preservation restriction shall be subject to review and approval by Town Counsel.

In addition, the Planning Board may impose such other conditions, safeguards and limitations on time or use that it determines to be appropriate to assure compliance with the applicable criteria set forth in Section 6.11.4 including, but not limited to conditions:

- a) prohibiting the Special Permit from being transferred to a subsequent owner without the approval of the Planning Board;
- b) specifying the required number of on-site parking spaces and their location;
- c) limiting the business operations of a home occupation, such as the number of patrons/clients visiting the premises, hours of operations, and hours and location of deliveries;
- d) requiring installation of additional landscaping;
- e) requiring continuing maintenance of landscaping;
- f) requiring a restrictive covenant to be imposed on the subject property, prohibiting the division or reduction in size of the lot on which the Historic Accessory Building is located.

#### 6.11.6 Nonconforming Historic Accessory Buildings

Any exterior or interior alteration to a preexisting nonconforming Historic Accessory Building made pursuant to a Special Permit issued under this Section shall be deemed not to constitute an "alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent" requiring consideration and a Special Permit by the Board of Appeals under Section 1.5.3.

#### 6.11.7 Compliance with Applicable By-Laws

Except as expressly provided in this Section, the grant of a Special Permit for the reuse of a Historic Accessory Building shall not relieve the applicant from the need to comply with all other applicable Town By-laws and Regulations.

### **6.12 Religious and Municipal Building Preservation**

*Note: §6.12 was adopted under Article 31 at the 2013 Annual Town Meeting.*

#### 6.12.1 Purpose

The purpose of this Section is to promote the preservation of Religious and Municipal Buildings by permitting their adaptive reuse for residential or commercial use (or combination thereof) that may not otherwise be permitted under this Zoning By-Law.

#### 6.12.2 Buildings Eligible Under this By-Law

A Religious or Municipal Building located in any zoning district is eligible for a Special Permit under this Section 6.12 if:

- a) The building, or at least one of the buildings located on the property, was always used for religious or municipal purposes; and
- b) The Religious or Municipal Building was originally constructed prior to 1950.

#### 6.12.3 Uses Allowed by Special Permit

The Planning Board may grant a Special Permit to allow a Religious or Municipal Building, as identified under Section 6.12.2, to be used for other residential or commercial uses (or any combination thereof) than otherwise would be allowed in the underlying zoning district.

#### 6.12.4 Incentives for Preservation

In order to permit the adaptive reuse of Religious or Municipal Buildings, the Planning Board may grant a Special Permit to:

- a) Reduce the on-site parking requirements;
- b) Modify Inclusionary Housing requirements of Section 6.10; and
- c) Increase, within the existing buildings, the number of stories and dwelling units allowed by the underlying zoning district.

#### 6.12.5 Special Permit Procedure

- a) An Application for a Special Permit under this Section shall comply with the procedures and requirements set forth in Section 7.4 of this Zoning By-law.
- b) Applicants are encouraged to meet informally with the Planning Board and Historic District Commission to discuss the proposal prior to submittal of a formal Application.

- c) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Historic District Commission for its review and recommendations concerning the proposed exterior treatments of the Religious or Municipal Buildings, including such things as windows, roofing and siding materials, and landscaping. Such recommendations shall include:
- 1) the Commission's assessment as to whether the proposed exterior alterations would adversely affect the historic landscape or the architectural and historic integrity of the principal historic building itself; and
  - 2) specific conditions which the Commission believes should be imposed on the Special Permit in order to prevent any adverse effects and promote appropriate rehabilitation as provided for in the Secretary of the Interior's Standards for Rehabilitation (36 CFR Part 67).

The Historic District Commission shall hold a public hearing and make recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application. Otherwise, the Application shall be deemed approved by the Historic District Commission.

- d) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Belmont Housing Trust for its review and recommendations concerning Inclusionary Housing. The Belmont Housing Trust shall make recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application. Otherwise, the Application shall be deemed approved by the Belmont Housing Trust.
- e) The Planning Board may grant a Special Permit for development of a Religious and Municipal Building if it finds that the conditions for approval for Special Permits set forth in Section 7.4.3 of this Zoning By-Law have been met.
- f) In granting a Special Permit under this Section 6.12, the Planning Board shall require that a perpetual preservation restriction on the Religious or Municipal Building be granted to the Town or other appropriate body or preservation organization under the provisions of Massachusetts General Laws, Chapter 184, Section 31. The form of such preservation restriction shall be subject to review and approval by Town Counsel.

#### 6.12.6 Nonconforming Buildings

Any exterior or interior alteration to a preexisting nonconforming Religious or Municipal Building made pursuant to a Special Permit issued under this Section shall be deemed not to constitute an "alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent" requiring consideration and a Special Permit by the Board of Appeals under Section 1.5.3.

#### 6.12.7 Rules and Regulations

The Planning Board shall be charged with administering this By-Law and may promulgate rules and regulations to implement its provisions.

## **SECTION 6A. McLEAN DISTRICT**

*Note: §6A was adopted under Article 2 at the 1999 Special Town Meeting.*

There are six (6) Subdistricts within the McLean District: Residential Subdistrict (divided into Zone 1A and 1B and Zone 2); Senior Living Subdistrict; Research and Development Subdistrict; McLean Institutional Subdistrict; Open Space Subdistrict, and the Cemetery Subdistrict.

### **6A.1 Allowed Uses**

#### **6A.1.1 Residential Subdistricts**

Within the Residential Subdistricts, side-by-side attached single-family dwellings (and the conversion of structures existing as of the date of adoption hereof to single-family or multi-family dwellings) shall be allowed, as well as private club or lodge facilities used exclusively by residents with a maximum aggregate gross floor area of 16,000 square feet (provided that such facilities are located within the first floor of existing buildings that are rehabilitated and reused and that dwelling units are located within the upper floors of such buildings) and those other accessory uses permitted in the Single Residence A, B, C and D Districts, other than lodging and boarding (provided, however, that accessory parking shall be limited as provided in Section 6A.3 and accessory structures shall only be allowed by Special Permit issued by the Planning Board).

#### **6A.1.2 Senior Living Subdistrict**

Within the Senior Living Subdistrict, a continuing care retirement community shall be allowed, which shall be defined as development comprised of housing and other associated services operated or sponsored as a coordinated unit by a corporation or organization having as its principal purpose the provision of housing and associated services, including those designed to provide for medical care and assistance with activities of daily living, for elderly persons. A continuing care retirement community may include one or more of the following types of facilities:

- a) **Independent Living Facilities.** Independent Living Facilities provide private living and dining accommodations to persons fifty-five (55) years of age or older, and may include the provision of common areas, social and educational programs, and psychological counseling and crisis intervention as needed, all with the purpose of providing an environment in which older persons can continue to derive the personal and psychological benefits of independent living while also enjoying the substantial social and educational benefits of community living. Home health care facilities for the provision of medical, nutritional, social, psychological, and educational services for the residents of the Independent Living Facilities are permitted.
- b) **Assisted Living Facilities.** Assisted Living Facilities provide a sheltered living environment for persons fifty-five (55) years of age or older, and may include such services as housekeeping, cooking and common dining, social, psychological, and educational programs, programs for Alzheimer care, assistance with personal needs, and crisis intervention, all with the purpose of assisting each resident to continue to develop and to lead a productive and fulfilling life.

- c) **Nursing Care Facilities.** Nursing Care Facilities are those facilities licensed or approved by the applicable state or federal agency to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. Nursing Care Facilities may include medical and therapeutic and ancillary support and rehabilitation services, including but not limited to, food services, programs for Alzheimer care, social, psychological, and educational programs, and twenty-four hour supervision as appropriate.
- d) **Multipurpose Senior Facilities.** Multipurpose Senior Facilities provide social, educational, medical and therapeutic, wellness, counseling, recreational, outreach, and other activities for residents of the Independent Living Facilities, the Assisted Living Facilities and the Nursing Care Facilities. Multipurpose Senior Facilities may include a beauty parlor/barber shop, convenience store, ice cream parlor, bank, exercise center, and other such services ancillary to a senior living community, so long as such services are provided exclusively for staff, residents and their guests.
- e) **Day Care and Similar Programs.** Adult Day Care Facilities and Respite Care Facilities shall be allowed; provided, however, that such uses shall not serve more than 100 persons per day.

#### 6A.1.3 Research and Development Subdistrict

Within the Research and Development Subdistrict, offices for and laboratories for research and development, including but not limited to, research and development in the fields of biology, chemistry, electronics, engineering, geology, medicine, pharmaceutical, physics, computer research and technology shall be allowed.

#### 6A.1.4 McLean Institutional Subdistrict

Within the McLean Institutional Subdistrict, psychiatric hospital use, including clinical, research and teaching programming in the nature of McLean Hospital's current operations as of the effective date of this By-Law, shall be the principal use. To the extent consistent with such principal use, the following non-psychiatric medical uses are also allowed, but such uses in the aggregate shall not exceed 30% of the gross floor area within the Subdistrict: clinics, educational facilities, outpatient services, research and development laboratories and other types of hospital uses and residential programs and professional offices for doctors and other hospital professionals or paraprofessionals; further provided, however, that the following non-psychiatric medical uses in the aggregate shall not exceed 25,000 square feet in gross floor area: clinics, outpatient services and professional offices for doctors, other hospital professionals and paraprofessionals. Uses accessory to psychiatric hospital use and serving the needs of patients or employees are also allowed including overnight accommodations for visitors, cafeterias, fitness centers or gymnasiums, library, art gallery, places of worship, automatic teller machines and auditoriums so long as such services are provided exclusively for staff, residents and their guests.

#### 6A.1.5 Open Space Subdistrict

Within the Open Space Subdistrict, passive recreational uses shall be allowed; provided that the existing building known as Mill Street Lodge can be used as a facility for marketing dwellings in the Residential Subdistricts; the existing building known as Pleasant Street Lodge can be used as a facility for marketing units or space within the

Senior Living Subdistrict or Research and Development Subdistrict; and accessory outdoor parking, trails and visitor and interpretative facilities are allowed within publicly-owned land within the Subdistrict. Except as expressly provided herein, the lands within the Open Space Subdistrict shall be continued in an undeveloped and natural condition. Except as expressly provided herein, cutting, removing or destroying trees (other than the removal of diseased or damaged trees), altering the natural topography and constructing or locating structures within the Subdistrict shall not be allowed. Such land shall not be used for residential, industrial, institutional or commercial use, except that construction and use of vehicular and pedestrian access ways shall be allowed (only within those areas identified as "Vehicular Access Easement" on the Zoning Map) and the installation and maintenance of underground utilities and underground communication connections shall be allowed (only to the extent that such utilities and connections are located and constructed in a manner which minimizes the impact on the conservation values of the property). Continuation and replacement of existing utility and communication facilities shall be allowed. Continuation of the existing recreational field shall be allowed. Use of existing buildings within publicly-owned land within the Subdistrict for cemetery purposes shall be allowed.

#### 6A.1.6 Cemetery Subdistrict

Within the Cemetery Subdistrict, cemetery and associated interment uses, structures, including offices, garage, maintenance buildings and columbariums together with landscaping, pathways, access drives and accessory parking shall be allowed. The installation and maintenance of underground utilities and underground communication connections shall be allowed (only to the extent that such utilities and connections are located and constructed in a manner which minimizes the impact on the conservation values of the property). Continuation and replacement of existing utility and communication facilities shall be allowed.

## 6A.2 Dimensional Requirements

Gross floor area shall have the meaning set forth in this By-Law except that such area shall include all structures within the Subdistrict (except for preserved structures of historic significance which are vacant, unused and unoccupied and structures on privately-owned land used by the Town for public purposes), not within a given lot, and except that interior parking areas shall be excluded.

#### 6A.2.1 Residential Subdistricts

The dimensional requirements applicable to the Residential Subdistricts are:

- a) Maximum building height of 2.5 stories and 36 feet. For the purposes of this Section 6A, "height" shall mean the vertical distance from the average natural grade adjoining the building at all exterior walls to the highest point of the roof. Notwithstanding the foregoing, for purposes of determining the height of no more than 12 buildings in Zone 1A (each of which must have its side with its greatest height from grade turned more than 90° away from the northern boundary of the Subdistrict) and no more than 20 buildings in Zone 2, an alternative height limit shall be applied: the vertical distance from the average natural grade adjoining the building on the side that has the highest average natural grade to the highest point of the roof shall not exceed 36 feet and the vertical distance from the average natural grade adjoining the building on the side that has the lowest average natural grade to the highest point of the roof shall not exceed 50 feet. For buildings using this alternative height limit, a floor having a ceiling elevation

at or below the average natural grade adjoining the building on the side that has the highest average natural grade shall not be considered a story. Each dwelling unit shall be considered a separate building for the purpose of determining height hereunder. No flat or shed roofs shall be allowed on buildings or building elements of more than one story.

- b) Maximum number of dwelling units and gross floor area.
  - 1) in Zone 1A, maximum of 33 units and a maximum total gross floor area of 99,000 square feet.
  - 2) in Zone 1B, maximum of 22 units and a maximum total gross floor area of 66,000 square feet.
  - 3) in Zone 2, maximum of 56 units and a maximum total gross floor area of 168,000 square feet.
  - 4) notwithstanding the provisions of subsections b) 1), b) 2), and b) 3), an additional 11 dwelling units may be constructed as an historic preservation bonus based on rehabilitation and reuse of buildings consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation; five such units shall be earned based on preservation and restoration of the existing building known as Upham Building and shall be located in Zone 2; four such units shall be earned based on rehabilitation and reuse of the existing building known as Garage Building and shall be located in Zone 1A or 1B; one such unit shall be earned based on rehabilitation and reuse of the existing building known as Hope Cottage and shall be located in Zone 2 and one such unit shall be earned based on rehabilitation and reuse of the existing building known as South Cottage and shall be located in Zone 2. Such units shall not have a maximum gross floor area so long as they are located in the existing buildings as preserved and restored. Such units shall have a maximum average gross floor area of 3,000 square feet if they are located outside the buildings preserved and restored.
- c) Minimum open space of 60% of lot area within Zone 1A and minimum open space of 40% of lot area within Zone 1B and Zone 2.
- d) Maximum lot coverage of 20% of lot area within Zone 1A and Zone 1B and maximum lot coverage of 30% of lot area within Zone 2.
- e) Maximum impervious surface coverage of 40% of lot area within Zone 1A and maximum impervious surface coverage of 60% of lot area within Zone 1B and Zone 2. For the purposes of this Section 6A, "impervious surface coverage" shall mean the total area of all surfaces which reduce or prevent the absorption of stormwater into land (including buildings, parking lots, driveways and sidewalks).
- f) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas may be placed within such setback.
- g) Minimum setback from buildings to common driveways of 15 feet.

- h) Along the northerly boundary of Zone 1A, for 400 feet from the northeast corner of the Subdistrict, and along the easterly boundary of Zone 1A, for 200 feet from the northeast corner of the Subdistrict, the following shall apply:
  - 1) The area within 30 feet of such portions of such boundaries shall be maintained in an undeveloped and natural condition, except for the landscaping described below.
  - 2) If structures are located in Zone 1A within 100 feet of such portions of such boundaries, there shall be landscape buffering, including evergreen trees of substantial size (12 to 15 feet in height) upon planting, along both sides of such portions of such boundaries (to the extent permitted by the Town, where on Town property), which shall:
    - a) provide a dense visual screening of such structures from view from the adjacent land in the Open Space Subdistrict;
    - b) be designed in a manner consistent as feasible with the natural appearance of the area, and
    - c) be designed in a manner consistent as feasible with the continued life and health of the existing trees. Such landscape buffering may include the removal of invasive plants and their replacement with other native species.

#### 6A.2.2 Senior Living Subdistrict

The dimensional requirements applicable to the Senior Living Subdistrict are:

- a) Maximum building height of 5 stories and 58 feet, except that one building may extend as high as 6 stories and 67 feet; provided that in such case the Planning Board determines that the siting and design of the building having such additional height shall be such that its roof elevation does not exceed the roof elevation of the 5 story building in the Subdistrict with the highest roof elevation and takes into consideration the tree line in the vicinity of such building; provided, further that a parking structure shall have a maximum height of 5 stories and 45 feet. For purposes of determining the height of a building in the Subdistrict, if and only if the lowest floor of the building is used for parking, then an alternative height limit shall be applied: the vertical distance from the average natural grade adjoining the building on the side that has the highest average natural grade to the highest point of the roof shall not exceed 58 feet and the vertical distance from the average natural grade adjoining the building on the side that has the lowest average natural grade to the highest point of the roof shall not exceed 68 feet. For buildings using this alternative height limit, a floor having a ceiling elevation at or below the average natural grade adjoining the building on the side that has the highest average natural grade shall not be considered a story.
- b) Maximum number of 480 units, at least 30 non-nursing care units of which must be set aside on a continuing basis as affordable units, and no more than a total gross floor area of 600,000 square feet; provided, however, that an additional 6 units having a total gross floor area of no more than 6,000 square feet may be constructed as a historic preservation bonus based on rehabilitation and reuse of buildings consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation; two such units shall be earned based on

rehabilitation and reuse of the existing building known as Chapel Building; and four such units shall be earned based on rehabilitation and reuse of the existing building known as Office Building. Of the 486 units, no more than 400 shall be Independent Living Facilities, no more than 150 shall be Assisted Living Facilities and no more than 150 shall be nursing care beds within Nursing Care Facilities. "Affordable units" shall mean units which are rented or sold to, and occupied by, households with annual incomes of up to 120% of the median area household income, as such median is defined by the United States Department of Housing and Urban Development. The availability of the affordable units may be phased in by approval of the Planning Board in connection with Design and Site Plan Review.

- c) Multipurpose Senior Facilities (not including customary common areas for the residential units) cannot exceed 10% of the total allowable gross floor area and shall be included within such total allowable gross floor area.
- d) Minimum open space of 30% of lot area within the Subdistrict.
- e) Maximum lot coverage of 40% of lot area within the Subdistrict.
- f) Maximum impervious surface coverage of 70% of lot area within the Subdistrict.
- g) Minimum setback from buildings to the Subdistrict boundary line of 10 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.

#### 6A.2.3 Research and Development Subdistrict

The dimensional requirements applicable to the Research and Development Subdistrict are:

- a) Maximum building height of 4 stories and 67 feet; except that a parking structure shall have a maximum height of 5 stories and 45 feet.
- b) Maximum gross floor area of 150,000 square feet.
- c) Minimum open space of 30% of lot area within Subdistrict.
- d) Maximum lot coverage of 40% of lot area within Subdistrict.
- e) Maximum impervious surface coverage of 70% of lot area within Subdistrict.
- f) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.

#### 6A.2.4 McLean Institutional Subdistrict

The dimensional requirements applicable to the McLean Institutional Subdistrict are:

- a) Maximum building height of 4 stories and 67 feet.

- b) Maximum gross floor area of 668,000 square feet.
- c) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setback.
- d) The area within the Subdistrict shown on the Zoning Map as "Conservation Buffer" shall be maintained as open space in an undeveloped and natural condition and no building, fences, walls or paving shall be located in such area.

6A.2.5 Cemetery Subdistrict.

The dimensional requirements applicable to the Cemetery Subdistrict are:

- a) Maximum gross floor area of 2,450 square feet.
- b) Minimum setback from buildings to the Subdistrict boundary line of 15 feet. Minimum setback from buildings to public streets of 30 feet. No fences or walls higher than 4 feet (or such greater height as is approved by the Planning Board in connection with Design and Site Plan Review), nor any parking areas, may be placed within such setbacks.

**6A.3 Parking and Access Requirements**

6A.3.1 Maximum Number of Spaces.

Accessory parking for the uses allowed in the Residential Subdistricts, the Senior Living Subdistrict, the Research and Development Subdistrict, the McLean Institutional Subdistrict, and the Cemetery Subdistrict shall be allowed provided that such parking may not exceed the limits set out in the following table.

Residential Subdistricts	Two inside parking spaces and two outside parking spaces per dwelling and 122 parking spaces for guests.
Senior Living Subdistrict	One parking space per unit and 50 parking spaces for staff and guests.
Research and Development Subdistrict	Three and one-half parking spaces per 1,000 square feet of gross floor area.
McLean Institutional Subdistrict	<ul style="list-style-type: none"> <li>➤ For existing uses and structures 853 parking spaces.</li> <li>➤ For new construction, as follows: 3 per 1,000 square feet of gross floor area; provided, however, that the total of parking spaces added for all new construction may not exceed 150 spaces.</li> </ul>
Open Space Subdistrict (privately-owned lands)	Five parking spaces adjacent to the Mill Street Lodge; five parking spaces adjacent to the Pleasant Street Lodge.
Cemetery Subdistrict	Seven parking spaces.

The accessory use parking of commercial vehicles shall be further restricted as follows in the several Subdistricts:

- a) Residential Subdistricts - by Special Permit only.
- b) Senior Living Subdistricts – prohibited.
- c) Research and Development Subdistrict – permissible if parked indoors or in a parking garage overnight.
- d) McLean Institutional Subdistrict – permissible.
- e) Open Space Subdistrict – prohibited.
- f) Cemetery Subdistrict – prohibited except for Town-owned vehicles.

*Note: §6A.3.1 was amended by Article 28 at the 2001 Annual Town Meeting.*

#### 6A.3.2 Parking Location and Layout

Parking must be located in the same Subdistrict as the use it serves. Parking space sizes shall conform to the rules and requirements generally applicable to the Town of Belmont as established from time to time by the Planning Board. Inside parking spaces in the Residential Subdistricts shall be located within a dwelling or an attached garage (no garage shall contain more than two spaces). Outside parking spaces in the Residential Subdistricts shall be located within a driveway leading to the garage. Guest parking spaces in the Residential Subdistricts shall be outside and shall be located in clusters of no more than 6 spaces each, such clusters to be located as approved by the Planning Board in connection with Design and Site Plan Review. No more than 350 parking spaces in the Senior Living Subdistrict may be outdoor surface spaces; the remainder must be located within a parking garage or other building. No more than 350 parking spaces in the Research and Development Subdistrict may be outdoor surface spaces, the remainder must be located within a parking garage or other building.

#### 6A.3.3 Access Limitations

Vehicular access to the Residential Subdistricts and the McLean Institutional Subdistrict shall be via Mill Street, except in case of emergency access. Vehicular access to the Senior Living Subdistrict and the Research and Development Subdistrict shall be via Pleasant Street, except in case of emergency access.

### **6A.4 Design and Site Plan Review**

Any activity requiring a Building Permit in any Subdistrict, and any proposed construction of a vehicular access way across land in the Open Space Subdistrict, shall require Design and Site Plan Approval by the Planning Board pursuant to this Section 6A.4 (the provisions of Section 7.3 of this By-Law shall not apply except as provided below).

The Planning Board shall promulgate rules requiring any applicant for Design and Site Plan Review under this Section 6A.4 to pay a review fee, in an amount to be determined by the Planning Board to cover the reasonable costs of the Planning Board for the employment of any independent consultants determined to be needed to assist in the review of the application for Design and Site Plan Approval. Such consultants shall be qualified professionals in the relevant fields of expertise determined by the Planning Board.

The objectives of Design and Site Plan Review under this Section 6A.4 shall be to:

- a) obtain appropriate evidence that a traffic monitoring and mitigation program agreement has been entered into with the Town;
- b) obtain appropriate evidence that the proponent or other party has placed into escrow the funds required pursuant to any traffic monitoring and mitigation program agreement entered into with the Town;
- c) determine the adequacy of measures proposed to mitigate construction period impacts on the natural features of the site, on neighboring premises and on the Town roadway system;
- d) determine the adequacy of measures proposed to mitigate the effects of the development on significant natural and landscape features of the site, including the preservation of specimen trees;
- e) determine the appropriateness of the proposed design and materials of proposed buildings;
- f) determine the adequacy of measures proposed to limit peak offsite stormwater runoff to predevelopment levels and to protect water quality in accordance with State stormwater management standards, including adherence to the criteria set forth in Section 6A.5;
- g) determine the adequacy of measures proposed to prevent adverse erosion or sedimentation effects on the natural features of the site or on neighboring premises;
- h) where applicable, obtain appropriate evidence of compliance with all applicable regulatory and licensing requirements with respect to the handling of potentially hazardous materials, including biologic or radioactive materials;
- i) determine that adequate measures have been taken for the private maintenance and management of the development (including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow removal, trash removal and recycling);
- j) determine that the adjoining premises within and outside of the McLean District will be protected against seriously detrimental uses by provision for surface water drainage, sound and light buffers, prevention of undue solar reflection and glare and preservation of views, light and air;
- k) determine that there will be no serious hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks;
- l) determine the adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the buildings;
- m) determine the appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location and landscape screening of dumpsters or other trash receptacles;

- n) determine that the height and bulk of the proposed buildings will not be injurious to surrounding property outside of the McLean District, including appropriate location and screening of non-habitable roof elements;
- o) determine the adequacy of the lighting, landscape planting (including adequate buffers along Subdistrict boundaries) and other exterior construction features in relation to the proposed use of the site and the interests of the safety, convenience and welfare of the public;
- p) determine the appropriateness of the relationship of structures and open spaces to the natural landscape and existing buildings, including the relationship between structures in Zone 1A and the adjacent publicly-owned land in the Open Space Subdistrict;
- q) obtain appropriate evidence of compliance of the proposal with the applicable requirements of this By-Law other than this Section 6A.4; and
- r) obtain appropriate evidence of compliance of the proposal with any non-zoning agreements entered into with the Town of Belmont regarding land in the McLean District.

Any Applicant for Design and Site Plan Review shall submit ten copies of a preliminary concept plan for review by the Planning Board prior to submission of a formal application. The preliminary review shall provide an opportunity for the Applicant to identify early in the process the preferences of the Planning Board relative to the development of the site. The preliminary concept plan should show the proposed location and size of all buildings, parking areas, driveways and undisturbed natural areas. When the Applicant submits a preliminary concept plan to the Planning Board, the Applicant shall at the same time provide a copy of such submission to the Conservation Commission, the Historic District Commission, the Community Development Office, the Town Administrator, the Police Department and the Fire Department (the "Commenting Agencies"). The Planning Board will provide advice and guidance to the Applicant after an opportunity for the Commenting Agencies and the public to provide written comments on the preliminary concept plan.

Each application for Design and Site Plan Review under this Section 6A.4 shall be accompanied by ten copies of the documents described in Section 7.3.4. In addition, the application shall also be accompanied by ten (10) copies of:

- I. plans showing the existing and proposed topography in two foot contours and showing subsurface conditions;
- II. a construction management program including plans for construction vehicle access routes, on-site construction worker parking, designation of material storage methods and locations, and designation of construction hours;
- III. a development phasing plan, setting forth the anticipated timing of construction and occupancy of the proposed development;
- IV. plans showing anticipated views of the proposed development from public locations outside of the McLean District;
- V. a reasonably scaled model of the proposed development;
- VI. plans indicating specimen trees and other existing vegetation to be preserved;
- VII. a traffic circulation plan;

- VIII. an erosion and sedimentation mitigation plan;
- IX. evidence of property ownership;
- X. a stormwater management plan, including the calculations described in Section 6A.5 a) and setting forth all proposed facilities and performance standards in sufficient detail to permit the Planning Board to evaluate the proposed development in accordance with the provisions of Section 6A.5;
- XI. a written statement of the manner in which the proposal meets each of the objectives set forth above;
- XII. evidence that the proposal complies with any non-zoning agreements entered into with the Town of Belmont regarding land in the McLean District; and
- XIII. evidence that a crane, balloon or other temporary representation of the height of each proposed structure has been brought to the site and kept in place for not less than 72 hours, together with photographs of such representation taken from a sufficient number of locations suitable for evaluating the visual impacts of each proposed structure in accordance with the objectives set forth above.

Where applicable, plans shall be prepared by a registered architect, landscape architect, land surveyor or professional engineer.

The Planning Board or its designee shall review a submitted application for completeness and shall notify the Applicant within thirty (30) days of its submission whether the application is complete or, if not, what items are missing. If the Planning Board fails to so notify the Applicant within such time, the application shall be deemed complete; provided that nothing herein shall be interpreted to limit the ability of the Planning Board to require additional information. The time for holding a public hearing shall not commence until the Planning Board has received a complete application. Upon receiving notice that an application is complete, the Applicant shall provide a copy of the complete application to the Commenting Agencies. After an application has been submitted, no tree removal, grading, filling, construction of roads or installation of utilities shall occur with respect to the proposed area of development until the application has been approved by the Planning Board.

In reviewing an application of Design and Site Plan Review under this Section 6A.4, the Planning Board shall follow the procedures established in the first two paragraphs of Section 7.3.3. Notice of the public hearing shall be provided to the Commenting Agencies inviting written comments and recommendations. An application may be denied where:

- a) an application is incomplete or
- b) no reasonable conditions will ensure that the proposed development is consistent with the objectives set forth in this Section 6A.4. Such a denial shall be in writing and shall set forth the reasons therefor.

It is the intent of this Section 6A.4 that an application for Design and Site Plan Review hereunder shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the objectives in this Section 6A.4 and all other requirements of this Section 6A. The Planning Board may impose such reasonable conditions on its approval as it shall deem appropriate to assure the continuing consistency of the development with the objectives set forth herein. The Planning Board may require the posting of a bond or

other reasonable security as a condition of its approval as it shall deem appropriate to assure compliance with the approval and its conditions.

An appeal from a decision of the Planning Board may be filed with Superior Court or Land Court under Massachusetts General Law, Chapter 40A, Section 17, within twenty days of the filing of the decision with the Town Clerk. Any proposed amendment to an Approval under this Section 6A.4 shall follow the procedures set forth herein for an initial application. Notwithstanding any provisions hereof to the contrary, Design and Site Plan Approval shall not be required for alterations or repairs to an existing building which do not increase the height, bulk or footprint thereof, which are not being performed to provide for its use for a substantially different purpose and which do not violate the conditions contained within any prior Design and Site Plan Approval applicable to such building; provided that the proponent must nonetheless obtain the Planning Board's approval of a construction mitigation plan appropriate for the scope of the proposed alteration or repair prior to the issuance of a Building Permit. If Design and Site Plan Approval is required for alterations or repairs, the Planning Board shall only require such information as reasonably necessary given the scope of proposed alteration or repair.

### **6A.5 Stormwater Management Facilities**

Stormwater management facilities shall comply with the following requirements:

- a) Calculations for pre-and post-development runoff based on the 100-year, 24-hour storm event shall be submitted to the Town Engineer upon application for Design and Site Plan Review.
- b) Where possible, roof drainage shall be piped directly into the ground via infiltration trenches and/or dry wells. Where possible, roads and paving areas shall be designed to allow absorption of runoff into adjacent pervious areas.
- c) Additional detention of post-development impervious surface discharge shall be provided to assure that peak storm discharge can be accommodated by and not prohibit additional discharge to the limited hydraulic capacity of the existing Town off-site storm drainage system.
- d) Stormwater management solutions shall be kept local within each Zone to minimize accumulation and the need for larger structures.
- e) Stormwater runoff shall be retained by open detention basins or by an underground chamber system similar to Cultec Contractor Chamber Systems, or equal. At least 50% of the required detention in each Zone shall be by underground chambers.
- f) Open detention basins shall have a water storage depth of no more than 3 feet at peak in the event of the 100-year storm. All detention basins or chambers shall have a controlled outlet so as not to exceed the capacity of the existing Town drainage system. Any exposed concrete retaining wall surfaces (both sides) shall be finished with natural stone to assure a visually attractive structure.
- g) Underground chambers in all traffic and parking areas shall be heavy duty and structurally capable of withstanding highway H-20 loading or the heaviest fire department vehicle whichever is greater. Chambers shall be aligned parallel to the contours. In so far as possible, underground chambers shall be constructed under proposed roadways and parking areas or within building foundations so as to limit the disturbance of existing natural open space.

- h) Excess roof drainage shall be piped directly to the underground detention chambers, while runoff from road and parking areas shall be passed through water quality inlets/deep sump catch basins to remove trash, debris and some amount of sediment and oil and grease from stormwater runoff. Stormwater discharge from the underground chambers shall be through a weir box or other device to carefully regulate discharge flows to the Town's storm drainage system.
- i) Disruption to existing tree cover and vegetation shall be minimized.
- j) All stormwater management facilities shall be the least visually obtrusive.
- k) Structures shall have all appurtenances carefully integrated to minimize visual presence.
- l) Dikes, berms and other required grading, shall be blended with the terrain and appropriately vegetated and landscaped.
- m) All walls, pipe structures and appurtenances shall be designed to assure public safety by devices which prevent climbing and other hazards.
- n) Open detention basins shall have retaining walls having a height (measured at the point of maximum vertical distance from grade) no greater than 4 feet and a length no greater than 100 feet.
- o) Redirection of stormwater shall not have an adverse effect on wetland areas within the McLean District.
- p) Open detention basins shall have sufficient outlet capacity to drain within five days following the 100-year storm event.

## **6A.6 Coordination with Other Provisions of By-Law**

Where this Section 6A imposes a greater restriction upon uses or structures than is imposed by the remaining provisions of this By-Law, the provisions of this Section 6A shall control. Within the McLean District, more than one principal building may be erected on a lot, subject to the limitations of Section 4.3.5 and Section 4.3.6 regarding accessory buildings and recreational facilities, and subject to Design and Site Plan Review and the other limitations set forth in this Section 6A. The provisions of Section 5 and Section 6 of this By-Law shall apply to uses and structures within the McLean District, except that Sections 5.1.1 and 5.1.2 shall not apply. Within the McLean District, Wireless Telecommunications Facilities shall be allowed by Special Permit in accordance with Section 6.8.

## **6A.7 Validity**

The invalidity of any section or provision of this Section 6A shall not invalidate any other section or provision hereof.

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## **SECTION 6B. McLEAN DISTRICT ZONE 3 OVERLAY DISTRICT**

*Note: §6B was adopted under Article 9 at the 2020 Special Town Meeting.*

### **6B.1 General**

#### **6B.1.1 Purposes:**

This Section 6B is intended to permit well-designed, mixed-use residential housing consisting of detached townhouses and multi-family dwelling units within Zone 3, the Senior Living Subdistrict of the McLean District, so as to:

- a) Provide for the housing needs of the Town by making provisions for housing to be occupied by a variety of households who otherwise would not have such housing opportunities within the Town.
- b) Provide added diversity of housing types attractive to a variety of households and income eligibility.
- c) Provide for the development of affordable housing for income-eligible households and seniors.
- d) Promote low-impact, energy-efficient development.
- e) Ensure high quality site planning, architecture, and landscape design that is consistent with the distinct visual character, historical significance, and identity of the McLean District.
- f) Establish development standards that ensure context-sensitive design and creative site planning in the construction of new buildings and reuse of existing buildings.

#### **6B.1.2 Siting and Boundaries of McLean District Zone 3 Overlay District**

The McLean District Zone 3 Overlay District (“MDZ3OD”) shall consist of two Subdistricts: A and B. Subdistrict A shall permit the development of Age-Restricted Townhouse Dwelling Units and Subdistrict B shall permit the development of both Age – Restricted and Non-Age Restricted Multi-Family Rental Dwelling Units.

The boundaries of the MDZ3OD and Subdistricts A and B are shown on the Zoning Map on file with the Town Clerk and include the underlying Zone 3, the Senior Living Subdistrict of the McLean District.

#### **6B.1.3 Applicability and Authority**

The MDZ3OD shall be considered as overlaying the existing Senior Living Subdistrict of the McLean District, Section 6A of the Zoning By-Law. The MDZ3OD provides for an additional development option to be employed at the discretion of the property owner(s), subject to the requirements of Design and Site Plan Review in accordance with Section 6B.6.

Within the MDZ3OD, all requirements of the underlying Senior Living Subdistrict shall remain in effect, except where this Section 6B provides an alternative to such requirements. Land within the MDZ3OD may be used either for uses as set forth in this Section 6B or a use

allowed in the underlying Senior Living Subdistrict, in which case the requirements of the underlying Senior Living Subdistrict shall apply and this Section 6B shall not apply.

## **6B.2 Use Regulations**

The following is permitted in the MDZ3OD Subdistricts:

### **6B.2.1 Subdistrict A – Age-Restricted Townhouse Dwelling Units**

- a) The maximum number of dwelling units that may be developed shall be 40, provided however that up to two additional dwelling units may be created as provided in Subsection 6B.2.4.
- b) Permissible housing types shall be attached or detached townhouse dwelling units. Dwelling units shall be contained in groupings of one- to four-unit buildings.
- c) Dwelling units shall be developed as an owner-occupied condominium.
- d) Age-Restriction - Occupancy of dwelling units shall be limited to any of the following:
  1. An Age-Qualified Occupant (a person who is 55 years of age or older) may reside in a unit;
  2. A spouse or domestic partner under 55 years of age (a Non-Age Qualified Occupant) of an Age-Qualified Occupant may reside in the Age-Qualified Occupant's unit;
  3. A Non-Age Qualified Occupant where the Age-Qualified Occupant has moved out of the unit and into a long-term care facility may continue to reside in the Age-Qualified Occupant's unit;
  4. A child or sibling of an Age-Qualified Occupant or a Non-Age Qualified Occupant who is dependent upon said Age-Qualified Occupant or a Non-Age Qualified Occupant may continue to reside in the Age-Qualified Occupant's unit; and
  5. A paid caregiver providing medical or health care to an occupant who is permitted under this Subsection 6B.2.1 (d) may continue to reside in the Age-Qualified Occupant's unit.
  6. Should the Age-Qualified Occupant predecease the Non-Age Qualified Occupant and resident dependent child, the Non-Age Qualified Occupant and dependent child may continue to reside in the Age-Qualified Occupant's unit, pursuant to Subsection 6B.6.4.

### **6B.2.2 Subdistrict B – Multi-Family Rental Housing Dwelling Units**

- a) The maximum number of dwelling units that may be developed shall be 110, with a mix of studios, one-, two-, and three-bedroom dwelling units; provided, however, that up to two additional dwelling units may be created as provided in Subsection 6B.2.4.
- b) Of the 110 dwelling units, 57 shall not be age-restricted and the remainder shall be subject to the Age-Restriction of Subsection 6B.2.1 (d).
- c) Permissible dwellings shall be two apartment buildings with associated underground or surface parking. An apartment building is a multi-story, multi-family building designed or

intended or used as the home or residence of three or more households, each in a separate dwelling unit, living independently of each other and which have a common right in halls, stairways, parking, and common area amenities.

- d) A pool, clubhouse, and other community facilities (such as but not limited to a community room, gym, library, business center, pet washing center, rooftop deck, maintenance building, trash/recycling facility) may be allowed as accessory uses, provided that such facilities shall not made be available to people other than residents of Subdistricts A and B and their visitors.

#### 6B.2.3 Existing Access Limitations

The access limitations contained within Section 6A.3.3 of the Zoning By-Law shall apply to the MDZ3OD. Vehicular access to the Residential Subdistricts and the McLean Institutional Subdistrict shall be via Mill Street, except in case of emergency access. Vehicular access to the Senior Living Subdistrict, the Research and Development Subdistrict, and the MDZ3OD shall be via Pleasant Street, except in case of emergency access.

Shuttle bus access may be allowed between Zones within the McLean District provided that McLean Hospital and the homeowner associations from each of the Zones that the shuttle bus passes through enter into a written agreement allowing for such access.

#### 6B.2.4 Reuse of the Chapel Building

A bonus density of two dwelling units shall be granted based on rehabilitation and reuse of the Chapel Building, provided that its rehabilitation and reuse is consistent with the United States Secretary of the Interior's Standards and Guidelines for Rehabilitation, subject to review as defined in Subsection 6B.5.1. Such units may be constructed within either Subdistrict or both, subject to Sections 6B.2 and 6B.3 and excluding Section 6B.4 and provided that the total number of additional units does not exceed two. If the bonus units are located in Subdistrict B, the units shall be non-age-restricted. The total square footage and bedroom count limitation of the bonus units shall not count towards the total allowed square footage and/or bedroom count within that designated Subdistrict.

### 6B.3 Performance and Design Standards

All development projects proposed within the MDZ3OD shall require Design and Site Plan Review by the Planning Board, as provided for in Section 6B.6, to ensure conformance with the following Performance and Design Standards (unless waived by the Planning Board as provided herein):

#### 6B.3.1 Subdistrict A - Performance and Design Standards:

- a) No townhouse dwelling unit shall consist of more than three bedrooms and the average number of bedrooms for all units in Subdistrict A shall not exceed 2.6 (rounding up). Any separate room in any unit that is not a living room, home office/den, or an equipped kitchen and is shown on a plan as being for other than bedroom use but which, because of location, size, or arrangement, could be used or adapted for use as a bedroom shall be considered as a bedroom for purposes of this provision. No attic, loft, or other storage or similarly usable space shall be used as, or altered to, create bedroom space, nor shall the design or construction facilitate such use or alteration.
- b) No townhouse dwelling unit shall exceed 3,600 square feet of Gross Floor Area, inclusive of basement area whether or not finished but exclusive of unfinished garage, unfinished

attic area and exterior porch or deck areas. No townhouse dwelling unit shall exceed 2,400 square feet of living area, exclusive of any basement area, unfinished garage, unfinished attic area, and exterior porch or deck areas. A total Gross Floor Area of 144,000 square feet is allowed based on 40 dwelling units of new construction, excluding the dwelling units allowed under Subsection 6B.2.4.

c) Setbacks, Height.

Minimum Setbacks (Feet)			Maximum Height	
Front	Side	Rear	Feet	Stories
10	10	10	36	2.5

1. Minimum setback shall be from the buildings to the Zone 3 Subdistrict boundary line. No parking areas may be placed within such setbacks.
2. For the purposes of this Subsection 6B.3.1, each townhouse dwelling unit shall be considered a separate building for the purpose of determining Height hereunder. For the purposes of only this Subsection 6B.3.1 (c), "Height" shall mean the vertical distance from the average finished grade adjoining the building at all exterior walls to the highest point of the roof. No flat or shed roofs shall be allowed on buildings or building elements of more than one story.

d) Retaining walls shall be no higher than ten feet.

e) Fences shall be no higher than four feet.

f) Minimum open space shall be 40% of lot area. Maximum lot coverage shall be 30% of lot area. Maximum impervious surface coverage shall be 60% of lot area. For the purposes of this Section 6B, "impervious surface coverage" shall mean the total area of all surfaces including buildings, parking lots, driveways, and sidewalks that reduce or prevent the absorption of stormwater into land.

g) No more than two parking spaces shall be allowed per dwelling unit (including any dwelling unit designated to be in Subdistrict A under Subsection 6B.2.4), consisting of a mix of surface and garage parking spaces, plus no more guest/visitor spaces than three-tenths (.3) times the number of townhouse dwelling units (rounding up). Parking spaces shall only be used by residents of Subdistrict A and their visitors and guests.

6B.3.2 Subdistrict B - Performance and Design Standards:

- a) A maximum of 10% of the total number of units shall be set aside for 3-bedroom units. The mix of smaller units shall be consistent with the purposes of Subsection 6B.1.1.
- b) A total gross floor area of 250,000 square feet shall be allowed based on 110 dwelling units of new construction, excluding the dwelling units allowed under Subsection 6B.2.4.
- c) Setbacks, Height.

Minimum Setbacks (Feet)			Maximum Height	
Front	Side	Rear	Feet	Stories
10	10	10	58	5

1. Minimum setback shall be from the buildings to the Zone 3 Subdistrict boundary line. No parking areas may be placed within such setbacks.
  2. For the purposes of only this Subsection 6B.3.2 (c), "Height" shall mean the vertical distance from the average finished grade adjoining the building at all exterior walls to the highest point of the roof (including all rooftop mounted mechanical equipment). No flat or shed roofs shall be allowed on buildings or building elements of more than one story.
  3. For the purposes of determining the Height of a building in Subdistrict B, if and only if the lowest floor of the building is used for parking, then an alternative Height limit shall be applied: the vertical distance from the average finished grade adjoining the building on the side that has the highest average grade to the highest point of the roof shall not exceed 58 feet and the vertical distance from the average finished grade to the highest point of the roof shall not exceed 68 feet. For buildings using this alternative Height limit, a floor having a ceiling elevation at or below the average finished grade adjoining the building on the side that has the highest average finished grade shall not be considered a story.
- d) Retaining walls shall be no higher than ten feet.
- e) Fences shall be no higher than four feet, except where the State Building Code(s) require otherwise.
- f) Minimum open space shall be 30% of lot area. Maximum lot coverage shall be 40% of lot area. Maximum impervious surface coverage shall be 70% of lot area.
- g) No more than 1.5 parking spaces shall be allowed per dwelling unit (rounding up) (including any dwelling unit designated to be in Subdistrict B under Subsection 6B.2.4), consisting of a mix of surface and garage parking spaces. Parking spaces may be located in a parking garage(s) located beneath the building(s); however, surface parking spaces for resident, management, staff, deliveries, and guests may be located outside the building.
- h) Bicycle parking or bike storage spaces shall be provided at the ratio of at least one-half (.5) space per dwelling unit (rounding up) (including any dwelling unit designated to be in Subdistrict B under Subsection 6B.2.4). At least 80% of the minimum required bicycle parking spaces shall be covered (rounding up). The spacing of all bicycle parking shall be 30" on center minimum.

#### **6B.4 Affordability Requirements**

The Applicant for a Design and Site Plan Approval under this Section 6B shall provide for a number of dwelling units to be made available as low- and moderate-income housing units ("Affordable Housing Units") as defined in M.G.L. c40B (or successor statutory provision) and shall qualify as Affordable Housing included in the Subsidized Housing Inventory ("SHI") (or

successor counting mechanism) under applicable regulations of the Massachusetts Department of Housing and Community Development (“DHCD”) or other applicable legal authority (“Administering Agency”).

6B.4.1 Subdistrict A - Number of Affordable Housing Units:

- a) 15% of the townhouse dwelling units, excluding units created subject to Subsection 6B.2.4, shall be affordable to income-eligible households at or below 80% Area Median Income (“AMI”).
- b) Where the calculation of Affordable Housing Units results in a fractional unit greater than one-half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation of Affordable Housing Units results in a fractional unit less than or equal to one-half (.5), the fraction shall be rounded down to the next whole unit.

6B.4.2 Subdistrict B - Number of Affordable Housing Units:

- a) 25% of the aggregate number of dwelling units in Subdistrict B, including units created subject to Subsection 6B.2.4, shall be affordable to income-eligible households as follows:
  1. 20% of the dwelling units shall be affordable to income-eligible households at or below 80% of AMI, and
  2. 5% of the dwelling units shall be affordable to income-eligible households at or below 50% of AMI.
- b) The affordable units shall be divided proportionally between age-restricted and non-age restricted units.
- c) Where the calculation of Affordable Housing Units results in a fractional unit equal to or greater than one-half (.5), the fraction shall be rounded up to the next whole unit. Where the calculation of Affordable Housing Units results in a fractional unit less than one-half (.5), the fraction shall be rounded down to the next whole unit.

6B.4.3 General:

- a) All Affordable Housing Units shall be comparable to the market rate dwelling units in initial construction quality and design. However, nothing in this Section 6B is intended to limit a homebuyer’s rights to renovate a dwelling unit under applicable law.
- b) The mix of bedrooms in the Affordable Housing Units shall, insofar as practicable, be the same as the mix of bedrooms in all units in the Subdistrict.
- c) Affordable Housing Units shall be dispersed throughout the building(s) and shall be comparable to Market-Rate Housing Units.
- d) The Affordable Housing Units shall have the same access and terms of use to all on-site amenities and services as other occupants in the same Subdistrict.
- e) All Affordable Housing Units shall be constructed and occupied not later than concurrently with construction and occupancy of unrestricted units. For any development that is approved in phases, the proportion of Affordable Housing Units shall be consistent across all phases.

6B.4.4 Monthly Housing Payment:

- a) In Subdistrict A. For an Affordable homeownership Housing Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and homeowner's association fees, insurance, and parking, shall not exceed 30% or such other ratio or criteria established by DHCD, or its successor agency, of the maximum monthly income permissible for an income-eligible household, assuming a family size equal to the number of bedrooms in the townhouse dwelling unit plus one.
- b) In Subdistrict B. The monthly rent payment for an Affordable rental Housing Unit, including utilities and parking, shall not exceed 30% or such other ratio or criteria established by DHCD, or its successor agency, of the maximum monthly income permissible for an income-eligible household, with price determined assuming a family size equal to the number of bedrooms in the unit plus one unless other affordable program rent limits approved by DHCD shall apply.
- c) Affordable Housing Units required to be offered for rent or for sale shall be rented or sold to and occupied only by income-eligible households.

6B.4.5 Affordable Housing Restriction.

Each Affordable Housing Unit shall be subject to an affordable housing restriction which is recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County. The affordable housing restriction shall provide for the implementation of the requirements of this Section 6B.4. All affordable housing restrictions shall include, at minimum, the following:

- a) A description of the development, including whether the Affordable Housing Unit will be rented or owner-occupied.
- b) A description of the Affordable Housing Unit by address and number of bedrooms.
- c) A statement that the term of the affordable housing restriction shall be in perpetuity.
- d) The name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction.
- e) Reference to a housing marketing and resident selection plan, to which the Affordable Housing Unit 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. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size.
- f) 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 income-eligible households compiled in accordance with the housing marketing and selection plan.
- g) Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set.

- h) A requirement that only an income-eligible household may reside in an Affordable Housing Unit and that notice of any oral or written lease, sublease, or grant of occupancy rights of any Affordable Housing Unit to another income-eligible household 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) A provision that the restriction on an Affordable homeownership Housing Unit shall run in favor of the Administering Agency and the Town of Belmont, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an income-eligible household.
- k) A provision that the restriction on Affordable rental Housing Units in a rental development shall run with the rental development and shall run in favor of the Administering Agency and the Town of Belmont, in a form approved by municipal counsel, and shall limit rental and occupancy to income-eligible households.
- l) A provision that the owner(s) or manager(s) of affordable rental unit(s) shall file an annual report with the Administering Agency, in a form specified by that Agency certifying compliance with the provisions of this Section 6B.4 and containing such other information as may be reasonably requested in order to ensure affordability.
- m) A requirement that residents in Affordable Housing Units provide such information as the Administering Agency may reasonably request in order to ensure affordability eligibility and compliance.
- n) Designation of the priority of the affordable housing restriction over mortgages and other liens, and encumbrances.

#### 6B.4.6 Administration

The Administering Agency shall ensure that:

- a) Prices for all Affordable Housing Units are properly computed.
- b) Income eligibility of households applying for Affordable Housing Units 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 income-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 Section 6B.4 are recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County.

The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of income-eligible households, to conduct the housing lottery, and to monitor and enforce compliance with affordability requirements.

## **6B.5 Design Guidelines**

### **6B.5.1 General Guidelines**

The Planning Board shall consider the architectural and aesthetic compatibility of the proposed development project with the character of the Town of Belmont, the McLean Hospital Campus, the Open Space Subdistrict, and Lone Tree Hill, taking into account appropriate scale, massing, and location of buildings on the lot, roof slopes, exterior building materials, site topography, historic significance, and similar factors.

The following objectives and criteria shall be considered in reviewing development projects in the MDZ3OD:

- a) Appropriateness of the proposed design and materials of proposed buildings;
- b) Impact on traffic and pedestrian flow and safety;
- c) Adequacy of utilities, including sewage disposal, water supply, and stormwater drainage;
- d) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the buildings;
- e) Appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location, and landscape screening of dumpsters and other trash receptacles;
- f) Adequacy of landscaping/site improvements, and
- g) Impact on abutting properties within the Zones 2 and 4, and the Institutional and Open Space Subdistricts of the McLean District.

Consistent with Attachment G: Historic Preservation Agreement of the 1999 Memorandum of Agreement, McLean Hospital, or its developers, will consult with the Town of Belmont Historic District Commission (HDC) regarding the proposed design plans including both architecture and landscape elements.

### **6B.5.2 Building Design**

The detailed design standards below are intended to promote high quality sustainable development.

#### **a) Scale**

The size and detailing of buildings should be designed to reduce the visual perception of bulk and mass. The façade should have sufficient architectural detail to mitigate issues of scale and to ensure overall aesthetic appearance.

#### **b) Architectural Features and External Materials and Appearance**

Predominant wall finishes should be compatible with the existing historic architecture and other structures in the McLean District.

#### **c) Design of Chapel Building**

The HDC shall determine if proposed renovation of the historic Chapel Building meets the Secretary of Interior's Standards for Rehabilitation.

#### 6B.5.3 Pedestrian, Bicycle, and Vehicle Features

The following pedestrian, bicycle, and vehicle guidelines apply to MDZ3OD development projects:

- a) Buildings and site plans should be designed to enhance the pedestrian environment and foster a walkable built environment.
- b) Reasonable pedestrian connections should be provided within the Subdistricts and to the adjacent zones, including a trail head access to Lone Tree Hill, Belmont Conservation Land.
- c) Benches should be provided at convenient locations throughout the Subdistricts and along Olmsted Drive.
- d) The provision of parking should take into consideration the extent to which the design maximizes pedestrian flow within the development
- e) Underground parking is strongly encouraged in Subdistrict B.
- f) Parking Structures.

The following design guidelines should be considered for projects containing structured parking:

1. Parking structures should be compatible with the proposed building(s) and surrounding neighborhood with regard to architecture, size, scale, intensity, and mass;
2. Access points whenever possible should be on the secondary or side streets, or accessed via a side driveway, versus the primary street frontage;
3. Exterior landscaping should be provided to screen the structure and mechanical equipment from within each Subdistrict and from Zone 2, the McLean Hospital Campus, and Lone Tree Hill;
4. Entire sides or substantial lengths of the parking structure walls should not be open without suitable fenestration. Design should avoid long runs of openings that do not conform to or replicate window patterns consistent with the primary building; and
5. Architectural articulation should be on all sides of the parking structure and of materials compatible with the primary building.
6. Electric vehicle (EV) charging connectivity and stations should be provided in the garages of each Subdistrict.
  - i. In Subdistrict A - all required connectivity infrastructure for a parking space should be EV-ready for one space at each residential unit. EV-ready is defined as providing capacity and space for a 50A breaker in the main house panel and outline in construction documents for charging station location. Conduit for future connectivity should be provided from the main house panel to the Garage.

- ii. In Subdistrict B - EV charging stations should be provided for at least 10% of all common parking spaces.

#### 6B.5.4 Landscaping and Site Improvements

The following landscaping and site improvement guidelines apply to the MDZ3OD:

- a) The Applicant should be required to install street furniture (benches, planters, trash receptacles, lamps, signs, and bus shelters) and landscaping and landscape screening within proximity of the proposed development project to promote the development of a pedestrian-oriented building environment that enhances connectivity to Waverley Square and transit stops.
- b) Street furniture should be made of solid wood, metal, or recycled plastic lumber to ease maintenance.
- c) All open space (yards, parking lots, setbacks) should be planted with appropriate plantings or landscaping. Open space should be appropriately usable and open and may consist of landscaped gardens, plazas, sitting areas, sidewalks, or similar features.
- d) Open spaces may be utilized to break up a block of buildings in order to provide visual relief.
- e) Trash receptacles should be provided at all gathering places and should be properly maintained.
- f) Climate requirements, growth potential, and adaptability to the urban environment should be considered when selecting plant types and species.
- g) Landscaping should be installed to screen dumpsters, transformers, air conditioning equipment, and other similar outdoor mechanical building equipment.
- h) Along the southern boundary of Subdistrict A and the eastern boundary of Subdistricts A and B, to the extent appropriate for density and screening, an area proximate to the boundary should be maintained in an undeveloped and natural condition free of invasive and competitive plant species and enhanced by additional landscaping. Additional landscape buffering may be required along both sides of such boundaries (to the extent permitted by the Town of Belmont Land Management Committee, if on Lone Tree Hill property) to provide visual relief of such structures from view from the adjacent land in the Open Space Subdistrict;
- i) Landscape buffer should be provided between Olmsted Drive as it passes through Zone 3 and the townhouses located in Zone 2 of the McLean District. Buffering should also be provided prior to construction.

#### 6B.5.6 Lighting

The lighting requirements of Section 5.4.3 of the Zoning By-Law shall apply to buildings within a MDZ3OD development project. Lighting should be arranged and designed to minimize visibility of lights and structures from outside MDZ3OD and minimize light spillover beyond each Subdistrict boundary.

#### 6B.5.7 Environmental Design

Purpose: The following guidelines support the Town of Belmont's Climate Action Plan as approved at Town Meeting on November 16, 2009, and its commitment to an 80% reduction in carbon emissions by the year 2050. They are intended to promote environmentally responsible site design and green building principles in order to better manage stormwater, conserve natural resources, and reduce the impact of development on the natural environment.

The Planning Board shall consider the following guidelines:

- a) Buildings within the MDZ3OD should be LEED Silver certifiable, under Version 4 (or later) of the New Construction or Homes Rating Systems by the USGBC.
- b) Buildings should be ready for the installation of photovoltaic panels.
- c) Landscape and Site Development
  1. On-site retention of the runoff from the developed site using green infrastructure and low-impact development practices should be considered.
  2. Pest concerns should be minimized and the risk of exposure to pesticides through appropriate site design measures should be limited.
  3. A combination of green space, tree canopy, and light-colored hardscape materials to reduce the heat island effect of the project site should be utilized.
  4. Invasive plant species should not be introduced to the project site.
  5. Turf grass areas should be reduced and native or adapted plant areas should be increased to reduce outdoor water use.
  6. Existing healthy, viable trees should be retained.

## **6B.6 Design and Site Plan Review**

### 6B.6.1 Objectives.

The objectives of Design and Site Plan Review under this Section 6B.6 shall be to:

- a) Evaluate how well the proposed design meets the purposes of Section 6B.1 and guidelines of Section 6B.5 and, where the Planning Board deems appropriate, require changes;
- b) Determine the adequacy of measures proposed to mitigate construction period impacts on the natural historic features of the site, on neighboring premises, and on the Town roadway system;
- c) Determine the adequacy of measures proposed to mitigate the effects of the development on significant natural, historic, and landscape features of the site, including the sloping topography, preservation of specimen trees, and native woodlands;
- d) Determine that the Environmental Design Standards of Subsection 6B.5.7 have been addressed;

- e) Determine the appropriateness of the proposed design and materials of proposed buildings;
- f) Determine that adequate measures have been taken for the private maintenance and management of the development, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and nontoxic pest control measures;
- g) Determine that the adjoining premises within and outside of the MDZ3OD will be protected against detrimental uses by provision for surface water drainage, sound and light buffers, prevention of undue solar reflection and glare, and preservation of views, light, and air;
- h) Determine that there will be no hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks;
- i) Determine the appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location, and landscape screening of dumpsters and other trash receptacles;
- j) Determine the adequacy of the lighting, landscape planting, including adequate buffers along Subdistrict boundaries and the removal of known invasive and competitive plant species, and other exterior construction features in relation to the proposed use of the site and the interests of the safety, convenience, and welfare of the public;
- k) Determine the appropriateness of the relationship of proposed structures and open spaces to the natural landscape, existing buildings, and historic campus;
- l) Obtain appropriate evidence of compliance of the proposed development with the applicable requirements of this Zoning By-Law other than this Section 6B; and
- m) Determine that sight lines to and from existing historic structures and landscape features are not adversely affected.

#### 6B.6.2 Submittal Requirements

Applicants seeking Design and Site Plan Review for a MDZ3OD development shall submit 10 copies of the application, and an electronic copy (e.g., pdf), in such form as the Planning Board may require, which shall include the following:

- a) Development plans bearing the seal of a Massachusetts registered professional (architect, landscape architect, civil engineer, or similar professional as appropriate);
- b) Narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used;
- c) Site plans and specifications showing total square footage and dimensions of all buildings and site improvements, including:
  - 1. New buildings, additions, adjacent structures;
  - 2. Streets, sidewalks, and crosswalks;

3. Existing and proposed open spaces, including, existing and proposed walls, fences, outdoor lighting, street furniture, new paving, and ground surface materials;
  4. Points of vehicular and pedestrian access/egress;
  5. All utilities, easements, or service facilities, insofar as they relate to the project;
  6. Proposed site grading, including existing and proposed grades at property lines; and
  7. A topographic plan with 3'-0" contours;
- d) Architectural plans, sections, and elevations at a scale of 1/4" = 1' or other appropriate scale, with all spaces properly labeled and all dimensions clearly shown;
  - e) Site perspectives from up to three points of view of the proposed development from public locations outside of the McLean District;
  - f) Summary of building statistics indicating the number of dwelling units, distinguishing units by number of bedrooms and any special occupancies (affordable, handicapped, etc.), the maximum number of bedrooms, floor area, and square footage of each dwelling unit;
  - g) Proposed development schedule showing the beginning of construction, the rate of construction and development, including phases, if applicable, and the estimated date of completion;
  - h) Detailed plans for landscaping and landscape buffers and the corresponding maintenance plans;
  - i) Parking plan;
  - j) Plan for lighting, including the type of fixtures, and the off-site overspill (foot candles) of the lighting;
  - k) Proposed method of stormwater removal accompanied by calculations for a 20-year and 100-year storm event;
  - l) Construction management program, including plans for construction vehicle access routes, on-site construction worker parking, designation of material storage methods, and locations, and designation of construction hours;
  - m) Plans indicating specimen trees and other existing vegetation to be preserved;
  - n) A traffic circulation plan;
  - o) An erosion and sedimentation mitigation plan;
  - p) A maintenance plan that provides for the private maintenance and management of the development, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and non-toxic pest control measures;
  - q) A written statement of the manner in which the proposal meets each of the Design and Site Plan Review objectives contained within this Section 6B.6; and
  - r) For Subdistrict A, the following are also required:
    1. All condominium deeds, trusts, or other documents that incorporate the applicable age-restriction and comply with all federal, state, and local laws. Covenants and deed

restrictions shall provide that the townhouse dwelling units shall be occupied by Age-Qualified Occupants except for a guest visiting for short duration not to exceed 30 days in a calendar year or 30 days in any 12-month period.

2. The manner in which the Management Organization or Homeowners Association shall certify to the Town when any unit is sold or rented and that the provisions of this Section 6B will be met.

#### 6B.6.3 Additional Submittal Requirements

The Planning Board may require additional information helpful in their deliberations, including but not limited to:

- a) Materials and specifications for the proposed buildings;
- b) An estimate of municipal revenues and costs expected to be generated by the development, including anticipated real estate valuation and public service needs; and
- c) Additional information to help the Planning Board assess site perspectives from various points of view of the proposed development from public locations outside of the McLean District.

#### 6B.6.4 Procedures

Applicants for Design and Site Plan Review under this Section 6B shall pay a review fee in an amount to be determined by the Planning Board to cover the reasonable costs for the employment of any independent consultants to assist in the review of the application. Consultants shall be qualified professionals in the relevant fields of expertise as determined by the Planning Board.

Applications shall follow the procedures below and as specified in Section 7.3.3 of the Zoning By-Law. Where there is a conflict in procedures, those specified below shall prevail. The Planning Board, or its designee, shall review a submitted application for completeness and shall notify the Applicant within 30 days of its submission whether the application is complete or, if not, what items are missing. If the Planning Board fails to so notify the Applicant within such time, the application shall be deemed complete; provided that nothing herein shall be interpreted to limit the ability of the Planning Board to require additional information. The time for holding a public hearing shall not commence until the Planning Board has received a complete application.

An application for Design and Site Plan Review under Section 6B.6 shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the purposes and guidelines in this Section 6B and all other requirements of this Zoning By-Law. The Planning Board may impose such reasonable conditions as it shall deem appropriate to assure the continuing consistency of the development with the purposes and guidelines of Section 6B.

Applications may be denied when:

- a) Applications are incomplete; or
- b) Proposed developments are inconsistent with the standards and criteria set forth in Section 6B, which shall be denied in writing and shall set forth the reasons for denial.

Final decisions from the Planning Board on applications for Design and Site Plan Review shall be in writing and set forth the reasons therefor.

Proposed amendments to approvals under this Section 6B shall follow the procedures set forth for initial applications.

Notwithstanding any provisions of this Section 6B to the contrary, Design and Site Plan Review shall not be required for alterations or repairs to an existing building in a previously approved MDZ3OD development project that do not increase the height, bulk, or footprint thereof, that are not being performed to provide for its use for a substantially different purpose, and that do not violate the conditions contained within any prior Design and Site Plan Approval applicable to such building.

#### 6B.6.5 Additional Conditions

In granting Design and Site Plan Approval under this Section 6B, the Planning Board may impose such other reasonable conditions or safeguards that it determines to be in compliance with the applicable criteria set forth in this Section 6B.6 including, but not limited to the following conditions:

##### a) Deed Restrictions

All townhouse dwelling units in Subdistrict A shall be subject to an age-restriction described in a deed/deed rider, restrictive covenant, the deed of the trust, master deed or articles of incorporation, or other document approved by the Planning Board that shall be recorded in the chain of title with the Registry of Deeds or Land Court.

The age-restriction shall limit the townhouse dwelling units to tenancy by Age-Qualified Occupants, any respective Non-Age Qualified Occupants, reasonable time-limit for guest visitations, and authorized exceptions that allow persons of all ages to live in the townhouse dwelling unit together with Age-Qualified Occupants, if the Planning Board so approves and specifies in its Design and Site Plan Approval.

Except in the event of the death of the Age-Qualified Occupant of a townhouse dwelling unit, or foreclosure or other involuntary transfer of a townhouse dwelling unit, a two-year exemption shall be allowed to facilitate the transfer of townhouse dwelling units to another Age-Qualified eligible household.

Deed restrictions, including age-restrictions, shall run with the land in perpetuity and shall be enforceable by an association of owners or any owner(s) of dwelling units in the development and by the Town of Belmont.

The continuing observance and enforcement of the age-restriction described herein shall be a condition of compliance with the MDZ3OD.

##### b) Local Preference

The Planning Board shall require that Belmont residents (as defined in Section 6.10.2 of the Zoning By-Law) be given preference in the purchase or rental of dwelling units within the MDZ3OD. Such preference shall be for 30% of the dwelling units in the development and shall be for at least one year from the issuance of the first Certificate of Occupancy for any residential building or portion thereof.

##### c) Maintenance of the Development

The Applicant shall provide for the private maintenance and management of the development, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and non-toxic pest control measures.

#### 6B.6.5 Waiver

The Planning Board may waive any provision or provisions of this Section 6B (and including without limitation, setbacks, height restrictions, numbers of units, and parking spaces) if the Planning Board determines that granting such waiver will result in an overall improved, feasible design in accordance with the purposes and design guidelines provided in this Section 6B.

### **6B.7 Coordination with Other Provisions of the Zoning By-Law**

This Section 6B together with the rest of this Zoning By-Law constitutes the zoning regulations for the MDZ3OD. Where conflicts exist between this Section 6B and the rest of the Zoning By-Law, the provisions of this Section 6B shall govern. Except where specifically indicated in this Section 6B, the provisions of this Section 6B supersede Sections 3 (Use Regulations), 4 (Intensity Regulations), 5.1.1 (Parking – Number of Spaces), 5.1.2 (Parking – Schedule of Requirements), 5.1.3 a) (Parking and Loading Area Location and Design, Location), 5.3.3 c) (Landscaping for Parking Area Plantings), 6.6.3 b) (Floodplain District, Use Regulations), and 7.3 (Design and Site Plan Review) of the Zoning By-Law.

### **6B.8 Coordination with Memorandum of Agreement**

This Section 6B does not alter any legal obligation on behalf of the Town of Belmont, McLean Hospital, and the potential developer, of the Memorandum of Agreement signed by the Select Board (formerly known as the Board of Selectmen) on behalf of the Town of Belmont and McLean Hospital on November 22, 1999.

### **6B.9 Validity**

The invalidity of any section or provision of this Section 6B shall not invalidate any other section or provision hereof.

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## **SECTION 6C. THE OAKLEY NEIGHBORHOOD SMART GROWTH OVERLAY DISTRICT**

*Note: §6C was adopted under Article 9 at the 2007 Special Town Meeting.*

### **6C.1 Purposes**

The purposes of The Oakley Neighborhood Smart Growth Overlay District (OL) are:

1. To encourage smart growth in the development of the former Our Lady of Mercy real properties located within the distinctive, attractive and livable residential neighborhood intersected by Belmont Street and Oakley Road (Oakley Neighborhood).
2. To promote low impact, green, and sustainable development that is pedestrian friendly within the Oakley Neighborhood.
3. To ensure high quality site planning, architecture and landscape design that is consistent with the distinct visual character and identity of the Oakley Neighborhood and provides the Oakley Neighborhood with safety, convenience and amenities appropriate to its residential nature.
4. To establish development standards that ensures context-sensitive design and creative site planning in the reuse of existing buildings and construction of new buildings.
5. To provide for diversified housing stock at a variety of costs in close proximity to the Belmont Street bus line, including affordable housing, that meets the needs of the Town's population and promotes diversity.
6. To generate positive tax revenue, and to benefit from the financial incentives provided by Massachusetts General Law, Chapter 40R, while providing the opportunity for housing choice among households of varying incomes, ages and sizes.

### **6C.2 Scope and Authority**

The OL is established pursuant to the authority of Massachusetts General Law, Chapter 40R and 760 CMR 59.00, and shall be deemed to overlay the parcels as shown on the Zoning Map of the Town of Belmont, as amended. At the option of the owner, development of land within the OL may be undertaken by means of a Site Plan Approval pursuant to the zoning controls set forth in this Section 6C or by complying with all applicable zoning controls set forth in the Zoning By-Law of the Town of Belmont (Underlying Zoning). Development Projects proceeding under this Section 6C shall be governed solely by the provisions of this Section 6C and shall be deemed exempt from the standards and/or procedures of the Underlying Zoning.

### **6C.3 Establishment and Delineation of The Oakley Neighborhood Smart Growth Overlay District and Sub-Districts**

Within the OL, there are Sub-Districts identified as OL Church Buildings Sub-District, OL Rectory Sub-District, OL Senior Center Sub-District and OL Triangle Sub-District. The boundaries of the OL and the Sub-Districts are delineated on a sheet labeled "The Oakley Neighborhood Smart Growth Overlay District and Sub-Districts" which is a part of the Official Zoning Map of the Town of Belmont on file in the office of the Town Clerk.

## 6C.4 Definitions

As used in this Section 6C, the following terms shall have the meanings set forth below:

**AASHTO** – The American Association of State Highway and Transportation Officials.

**Administering Agency** - An organization designated by the Belmont Board of Selectmen, which may be the Belmont Housing Authority or other qualified housing entity, with the power to monitor and to enforce compliance with the provisions of this By-Law related to Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Affordable Unit in the OL. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Belmont Board of Selectmen or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Belmont Board of Selectmen or, in the absence of such timely designation, by an entity designated by the DHCD.

**Affordable Unit** – an Affordable Rental Unit or an Affordable Homeownership Unit that is affordable to and occupied by an Eligible Household.

**Affordable Housing Restriction** – A deed restriction of an Affordable Homeownership Unit meeting the requirements in Massachusetts General Law, Chapter 184, Section 31 and the requirements of this By-Law.

**Affordable Rental Unit** - A dwelling unit required to be rented to an Eligible Household in accordance with the requirements of this By-Law.

**Affordable Homeownership Unit** – A dwelling unit required to be sold to an Eligible Household in accordance with the requirements of this By-Law.

**Alley** – A roadway or shared driveway on which no primary buildings have front doors and the primary purpose of which is to provide immediate access to garages and private parking spaces serving such buildings.

**Applicant** – A landowner or other petitioner that files a site plan for a Development Project subject to the provisions of the OL.

**Approving Authority** – The Planning Board of the Town of Belmont acting as the authority designated to review projects and issue approvals under this By-Law.

**As-of-Right Development** - A Development Project allowable under this By-Law without recourse to a Special Permit, Variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this By-Law shall be considered an As-of-Right Development.

**Basement** – A portion of a building partially underground, but having less than sixty percent (60%) of its clear height below grade (see Cellar).

**Cellar** - A portion of a building partially underground, having sixty percent (60%) or more of its clear height below grade (see Basement).

**Convent** – The residential building located within the OL Church Buildings Sub-District as of the date of adoption of this By-Law.

**DHCD** – The Massachusetts Department of Housing and Community Development (DHCD) or any successor agency.

**Design Standards** – The document entitled Belmont The Oakley Neighborhood Smart Growth Overlay District Design Standards, as amended, approved by DHCD on April 18, 2008, pursuant to Massachusetts General Law, Chapter 40R, Section 10. The Design Standards are applicable to all Development Projects within the OL that are subject to Site Plan Review by the Approving Authority.

**Development Lot** – One or more lots which are designated as a Development Lot on a site plan for a Development Project proposed within the OL and for which Site Plan Approval is required under the provisions of this By-Law. The lots comprising a Development Lot need not be in the same ownership. Where the Development Lot consists of more than a single lot, the lots, in combination, shall be treated as the Development Lot, may be contiguous or non-contiguous, and at the discretion of the Approving Authority, may be considered as one lot for the purpose of calculating parking requirements.

**Development Project** – A residential development undertaken under this Section 6C. The limits of a Development Project shall be identified on the Site Plan which is submitted to the Approving Authority for Site Plan Review.

**Dwelling** – A building containing one or more dwelling units separated by side yards from any other structure or structures except accessory buildings. The following types of Dwellings are specifically defined:

- a. **Multi-Family Dwelling** – A single residential building containing more than three Dwelling Units designed for occupancy by the same number of families as the number of Dwelling Units.
- b. **Single-Family Detached Dwelling** — A detached residential building containing a single Dwelling Unit, other than a mobile home, designed for occupancy by one family only and located on a distinct lot.
- c. **Three-Family Dwelling** – A single residential building containing three Dwelling Units.
- d. **Two-Family Dwelling** – A single residential building containing two Dwelling Units.

**Dwelling Unit** – A building or portion of a building intended as living quarters for a single family, having a single set of kitchen facilities (a stove plus either or both refrigerator and sink) not shared with any other unit.

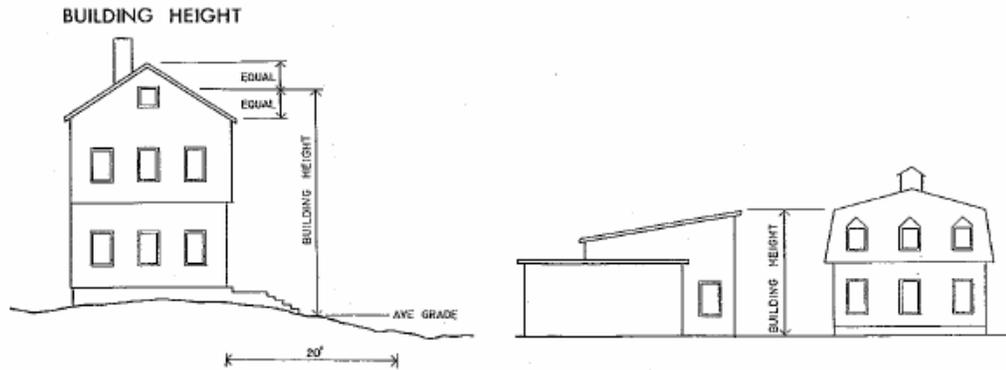
**Eligible Household** – An individual or household whose annual income is below eighty percent (80%) of the area-wide Median Household Income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**Family** – One or more persons, including domestic employees, occupying a dwelling unit and living as a single nonprofit housekeeping unit; provided that if five or more persons of the group occupying said dwelling are not kindred to each other, as defined by civil law, they shall not be deemed to constitute a family.

**Height, Building** – The vertical distance from the grade to:

- a. the highest point of the roof or parapet for flat or shed roofs;

- b. the midpoint between the lowest and highest points of the roof for gable, hip and gambrel roofs (upper roof pitch 4" per foot or greater); or
- c. the point of change in roof slope for mansard roofs (upper roof pitch under 4" per foot).



**Historically Significant Buildings** – The Our Lady of Mercy church building located on Belmont Street built in 1927 in the Lombardy Romanesque style by the religious architectural firm of Maginnis and Walsh (“Church”) and the Our Lady of Mercy rectory located on Lawndale Street, built in the Craftsman style in 1900 (“Rectory”).

**Home Occupation** – The use of a room or rooms in a Dwelling Unit as an office or studio by a resident provided said use is permitted pursuant to Section 3.4.2 of the Underlying Zoning.

**Household Income, Median** – The median income, adjusted for household size, as reported by the most recent information from, or calculated from regulations promulgated by, the United States Department of Housing and Urban Development (HUD).

**Lot** – The whole area of a single parcel of land under one ownership. Whenever such a parcel is divided on a plan which has been placed on file at the Middlesex South District Registry of Deeds at Cambridge, the term lot as used in this By-Law shall mean a lot as shown on such plan.

**Lot Coverage** – Percentage of total lot area covered by structures or roofed.

**Lot Frontage** – The boundary of a lot on land coinciding with a street line if there are both rights of access and potential vehicular access across that boundary to a potential building site. Measured continuously along one street line between side lot lines. In the case of corner lots, measured on the street designated by the Applicant or, failing that, by the Building Inspector as the frontage street, between the side lot line and the midpoint of the corner radius.

**Oakley Neighborhood Association** – An unincorporated neighborhood association located in Precinct 6 comprised of Belmont residents owning or renting homes on streets near the Our Lady of Mercy real properties which organized in 2005 for the purpose of influencing and promoting appropriate future development of the Our Lady of Mercy real properties within the Oakley Neighborhood.

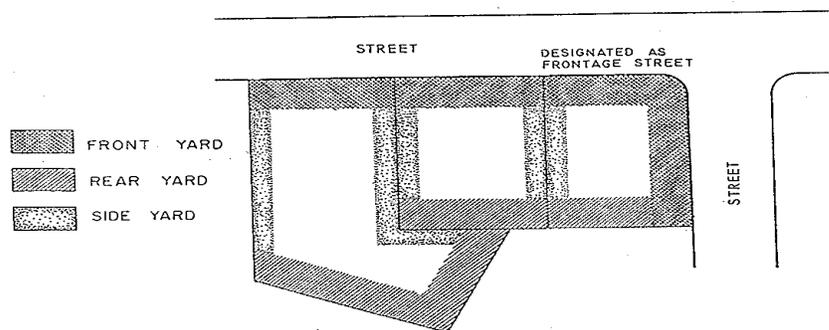
**OL** – An overlay zoning district adopted pursuant to Massachusetts General Law, Chapter 40R, in accordance with the procedures for zoning adoption and amendment as set forth in

Massachusetts General Law, Chapter 40A and approved by the Department of Housing and Community Development pursuant to Massachusetts General Law, Chapter 40R and 760 CMR 59.00.

**Open Space** – An open area on a lot, unbuilt on, containing landscape materials, pedestrian walks, patios, recreational facilities, but excluding driveways and parking spaces.

**Renovation** – Physical improvement that adds to the value of the real property. Painting, ordinary repairs, and other normal maintenance do not constitute a renovation.

**Setback** – An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, or other customary yard accessory. Setback is measured perpendicular to the street, property line or Sub-District boundary.



**Setback, Front** - A setback taken from a street line. Typically, corner and through lots must provide two front setbacks.

**Setback, Rear** - A setback taken from a rear property line, that is, typically a line or set of lines approximately parallel to the street frontage, and separating lots whose frontage is established on different streets. Setbacks on irregularly shaped lots where “side” versus “rear” is indeterminate shall be construed as rear setbacks.

**Setback, Side** - A setback taken from a side property line, typically a line or set of lines which intersect a street line, separating lots whose frontage is established on the same street. Corner lots commonly have one side setback and one rear setback.

**Shared Parking Facilities** – Off-street parking facilities designed and intended to serve more than a single Dwelling as shown on a Site Plan.

**Site Plan** – A plan depicting a proposed Development Project for all or a portion of the OL and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of Section 6C.12 of this By-Law.

**Site Plan Approval** – The Approving Authority’s authorization for a proposed Development Project based on a finding of compliance with this By-Law and Design Standards after the conduct of a Site Plan Review.

**Site Plan Review** – The review procedure established by this By-Law and administered by the Planning Board of the Town of Belmont as the Approving Authority.

**Sub-District** – A specific and defined area of land within the OL that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the OL.

**Underlying Zoning** – The zoning requirements adopted pursuant to Massachusetts General Law, Chapter 40A that are otherwise applicable to the geographic area in which the OL is located, as said requirements may be amended from time to time.

**Unduly Restrict** – A provision of the OL or a Design Standard that adds unreasonable costs or unreasonably impairs the economic feasibility of a proposed Development Project in the OL.

**Unrestricted Unit** – A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.

**Use, Accessory** – A use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the OL.

**Use, Principal** – The main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section 6C.

**Use, Recreation / Community** – Any horticultural or active or passive recreational use of land such as for walking and bicycle paths, parks, gardens or other green spaces or use of buildings for community purposes such as meeting areas.

**Zoning By-Law** – The Zoning By-Law of the Town of Belmont, Massachusetts, adopted in accordance with and pursuant the provisions of Massachusetts General Law, Chapter 40A.

**Zoning Map** – The Zoning Map of the Town of Belmont, Massachusetts, adopted in accordance with and pursuant the provisions of Massachusetts General Law, Chapter 40A.

### 6C.5 Permitted Uses

The following uses shall be permitted in the following Sub-Districts As-of-Right upon Site Plan Approval, and at residential densities specified in Table 6C.8.1 pursuant to the provisions of this By-Law:

	Single-Family Detached Dwelling Unit	Two-Family Dwelling	Three-Family Dwelling	Multi-Family Dwelling Unit	Recreation / Community Use
Church Buildings Sub-District	Yes	Yes	Yes	No, except as authorized at §6C.7.1	Yes
Rectory Sub-District	Yes	Yes	Yes	No	Yes
Senior Center Sub-District	Yes	No	No	No	Yes
Triangle Sub-District	Yes	Yes	No	No	Yes

### 6C.6 Prohibited Uses or Activities in the OL

1. Non-Residential Use, except for Home Occupations permitted pursuant to Section 3.4.2 of the Underlying Zoning, and Recreation / Community Use.
2. Any use prohibited by Section 5.4 of the Underlying Zoning in effect as of October 22, 2007.
3. Any use not listed in Section 6C.5 is expressly prohibited; provided, however, that uses permitted in the Underlying Zoning district are permitted as long as they are not exercised in connection with a Development Project.

### 6C.7 Building Renovation and Additional Allowable Dwelling Units

1. In order to promote the re-use and rehabilitation of buildings in the OL in existence as of the date of this By-Law, an Applicant shall be authorized to construct a number of Dwelling Units in addition to the maximum As-of-Right density provided said development occurs through renovation of existing buildings in the OL as follows:
  - a. If an Applicant proposes and obtains Site Plan Approval to renovate the Our Lady of Mercy church building to include no more than six (6) Multi-Family dwelling units, the Applicant shall also be entitled to construct an additional Dwelling Unit within the OL Church Buildings Sub-District such that a total of ten (10) Dwelling Units may be permitted in the OL Church Buildings Sub-District, inclusive of the renovated church, provided that: the additional Dwelling Unit is shown on the same Site Plan as the church building renovation; and the proposed additional Dwelling Unit complies with all

requirements of this By-Law, including setbacks and dimensional requirements and Design Standards.

- Buildings that are moved to another location in the OL shall comply, upon relocation, with all requirements of this By-Law, including setbacks and dimensional requirements.

### 6C.8 Dimensional and Other Requirements

- New buildings within the OL shall be subject to the following bulk and dimensional requirements based on the use of the Development Lot:

	Single-Family Dwelling	Two-Family Dwelling	Three-Family Dwelling	Multi-Family Dwelling	Recreation / Community Use
<b>Frontage (linear feet)</b>	50	50	90	N/A	N/A
<b>Setback, Front (linear feet)</b>	25	25	25	N/A	N/A
<b>Setbacks, Side (linear feet)</b>	10	10	15	N/A	N/A
<b>Setback, Rear (linear feet)</b>	30	30	30	N/A	N/A
<b>Height (feet)</b>	36	36	36	N/A	N/A
<b>Maximum Lot Coverage (%)</b>	25	30	40	N/A	N/A
<b>Minimum Open Space (%)</b>	50	50	40	N/A	50

- Setbacks from other buildings. All buildings must maintain a minimum twenty (20) foot setback from other buildings both within and adjacent to the District.
- In the Church Buildings Sub-District, the rear setback of dwellings with frontage on Belmont Street or Oakley Road shall be defined as the setback opposite the Belmont Street side of the dwelling.
- Building Renovation. Renovation of existing buildings may maintain existing building footprints, and may only expand such footprints insofar as such expansion is in compliance with the required dimensional requirements for new buildings. Renovation building projects need not meet setback requirements applicable to new construction, but renovated buildings may not cross lot lines or Sub-District boundaries.
- Number of buildings on a lot. Not more than one principal building may be erected on a lot provided, however, that up to three total buildings including renovated buildings may be allowed in the Church Buildings Sub-District, and that accessory buildings such as sheds may also be permitted.

6. In the Triangle Sub-District, side yard setback may be reduced to zero for a dwelling sharing a party wall with another dwelling on the abutting lot, provided the opposite side yard setback shall be at least sixteen (16) feet from the opposite lot side line.
7. Fractional Units. When the application of the allowable densities specified in Table 6C.8.8 results in a number that includes a fraction, the fraction shall be rounded down to the next whole number.
8. Maximum Residential Development. Unless a greater number of dwelling units is permitted pursuant to Section 6C.7 governing building renovation and additional allowable dwelling units, the aggregate number of dwelling units that may be constructed in the OL is eighteen (18) and is calculated for each of the Sub-Districts as follows:

<b>Sub-District</b>	<b>Highest Density Allowable Residential Use unless otherwise approved pursuant to §6C 7.1</b>	<b>Allowable Units Per Acre unless otherwise approved pursuant to §6C 7.1</b>	<b>Allowable Number of Units unless otherwise approved pursuant to §6C 7.1</b>
Church Buildings Sub-District	Two-Family or Three-Family	15	9
Rectory Sub-District	Two-Family or Three-Family	15	3
Senior Center Sub-District	Single-Family	8	2
Triangle Sub-District	Two-Family	12	4

### **6C.9 Off-Street Parking**

Off-street parking shall be provided at a ratio of not less than one (1) space per Dwelling Unit to a maximum of two (2) spaces per Dwelling Unit to be located within 300 feet of the front entrance to the Dwelling. For proposed increases beyond one (1) space per unit, the Approving Authority shall determine that the spaces can be created within the lot while maintaining compliance with dimensional and maximum lot coverage requirements, or that the parking spaces can be provided off-site, subject to the Applicant demonstrating ownership of or a recorded use easement subject to all off-site spaces.

### **6C.10 Design Standards**

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Belmont in adopting this By-Law, the Planning Board shall adopt the Design Standards governing the issuance of Site Plan Approvals for Development Projects within the OL and shall file a copy with the Town Clerk. In addition to the standards set forth in this By-Law, the physical character of Development Projects within the OL shall comply with such Design Standards. In the event of any conflict between this By-Law and the Design Standards, this By-Law shall govern and prevail.

## **6C.11 Affordable Housing**

1. Number of Affordable Units. Twenty percent (20%) of all Dwelling Units constructed in a Development Project shall be Affordable Units. Twenty-five percent (25%) of all rental dwelling units in a Development Project shall be Affordable Units. Provided however, for Development Projects in which all of the Dwelling Units are limited to occupancy by elderly persons and/or by persons with disabilities, twenty-five percent (25%) of the Dwelling Units shall be Affordable Units, whether the Dwelling Units are rental or ownership units.
2. Fractional Units. When the application of the percentages specified above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.
3. Affordable Units shall comply with the following requirements:
  - a. The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, with price determined assuming a family size equal to the number of bedrooms in the unit plus one unless other affordable program rent limits approved by 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 thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the Dwelling Unit plus one; and
  - c. Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
4. Design and Construction.
  - a. Design. Affordable Units must be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer's rights to renovate a Dwelling Unit under applicable law. The Affordable Units must have access to all on-site amenities. The total number of bedrooms in the Affordable Units shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Development Project.
  - b. Timing. All Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units. For any Development Project that is approved in phases, the proportion of Affordable Units shall be consistent across all phases.
5. Age/Disability. At the Applicant's option, the Development Project may include the imposition of deed restrictions on Age or Disability to permit the Development Project to be exclusively for the elderly and/or persons with disabilities provided, however, that any such restrictions may not be applicable to the District as a whole.
6. Affordable Housing Restriction. Each Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County. The Affordable Housing Restriction shall provide

for the implementation of the requirements of this By-Law. All Affordable Housing Restrictions must include, at minimum, the following:

- a. Description of the Development Project, including whether the Affordable Unit will be rented or owner-occupied.
- b. A description of the Affordable Unit by address and number of bedrooms.
- c. The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.
- d. The name and address of the Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction.
- e. Reference to a housing marketing and resident selection plan, to which the Affordable Unit 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. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size.
- f. 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.
- g. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set.
- h. A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit to another Eligible Household 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 Town of Belmont, 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 Development Project or rental portion of a Development Project shall run with the rental Development Project or rental portion of a Development Project and shall run in favor of the Administering Agency and the Town of Belmont, 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 provisions of this By-Law and containing such other information as may be reasonably requested in order to ensure affordability.

- m. A requirement that residents in Affordable Units provide such information as the Administering Agency may reasonably request in order to ensure affordability eligibility and compliance.
  - n. Designation of the priority of the Affordable Housing Restriction over mortgages and other restrictions.
7. Administration. The Administering Agency shall ensure the following:
- 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 Units 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 section are recorded with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County.
8. The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households, to conduct the housing lottery, and to monitor and enforce compliance with affordability requirements.

### **6C.12 Administration**

The Approving Authority shall adopt and file with the Town Clerk administrative rules relative to the application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto must be approved by the Massachusetts Department of Housing and Community Development. The Site Plan Review process encompasses the following:

1. Pre-application Review. The Applicant is encouraged to participate in a pre-application review with the Oakley Neighborhood Association at any time and from time to time and with the Approving Authority at a regular meeting(s) of the Approving Authority. The purpose of the pre-application review is to minimize the Applicant's costs, and to obtain the advice and direction of the Approving Authority and the Oakley Neighborhood Association prior to filing the application. At the pre-application review the Applicant shall outline the proposal and seek preliminary feedback from the Oakley Neighborhood Association and the Approving Authority, other municipal review entities, and other members of the public. The Applicant is also encouraged to request site visits by the Oakley Neighborhood Association and/or the Approving Authority and/or its designee in order to facilitate pre-application review.
2. Application Procedures.
  - a. An application for Site Plan Approval shall be filed by the Applicant with the Town Clerk and a copy of the application including the date of filing certified by the Town Clerk shall be filed forthwith with the Approving Authority. The Applicant shall also file the required

- number of copies of the application with the Building Inspector and with the Approving Authority. Said filing shall include any required forms provided by the Approving Authority.
- b. As part of any application for Site Plan Approval, the Applicant must submit the following documents to the Approving Authority and the Administering Agency:
    - 1) Evidence that the Development Project complies with the cost and eligibility requirements of Section 6C.11.3;
    - 2) Development Project plans that demonstrate compliance with the requirements of Section 6C.11.4; and
    - 3) A form of Affordable Housing Restriction that satisfies the requirements of Section 6C.11.6.
  - c. Review fees. The Applicant shall be required to pay for reasonable consulting fees to provide peer review of the application for the benefit of the Approving Authority. Such fees shall be held by the Town of Belmont in an interest-bearing escrow account, and shall be used only for expenses associated with the use of outside consultants employed by the Approving Authority in reviewing the Site Plan application. Any surplus funds remaining after the completion of such review, including any interest accrued, shall be returned to the Applicant forthwith.
  - d. Upon receipt by the Approving Authority, applications for Site Plan Approval shall be distributed to the Board of Selectmen, Board of Health, Housing Trust, Housing Authority, Building Inspector, Conservation Commission, Zoning Board of Appeals, Department of Public Works, the Fire and Police Departments and the Water and Sewer Commission. Any reports from these parties shall be submitted to the Approving Authority within sixty (60) days of filing of the application.
  - e. Within thirty (30) days of filing of an application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the Applicant certifying the completeness of the application. The Board or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.
3. Public Hearing. The Approving Authority shall hold a public hearing and review all applications according to the procedure specified in Massachusetts General Law, Chapter 40R, Section 11.
  4. Prior to the granting of any Site Plan Approval for a Development Project, the Applicant 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 the Town of Belmont
  5. Site Plan Approval Decision.
    - a. The Approving Authority shall make a decision on the Site Plan application, and shall file said decision with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The time limit for public hearings and taking of action by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority. A copy of such agreement shall be filed with the Town Clerk.

- b. Failure of the Approving Authority to take action within 120 days or extended time, if applicable, shall be deemed to be an approval of the application.
  - c. An Applicant who seeks approval because of the Approving Authority's failure to act on an application within the 120 days or extended time, if applicable, must notify the Town Clerk in writing, within fourteen (14) days from the expiration of said time limit for a decision, of such approval and that a copy of that notice has been sent by the Applicant to parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Massachusetts General Law, Chapter 40R and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the Applicant that the Approving Authority failed to act within the time prescribed.
  - d. The Approving Authority's findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Site Plan Approval application. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision.
  - e. The decision of the Approving Authority, together with the detailed reasons therefore, shall be filed with the Town Clerk, the Board of Appeals and the Building Inspector a copy of the decision shall be mailed to the Applicant and to the owner if other than the Applicant by the Approving Authority certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Approving Authority. A notice of the decision shall be sent to parties in interest, the Oakley Neighborhood Association, c/o Town of Belmont Planning and Economic Development Manager, and to persons who requested a notice at the public hearing.
  - f. Effective date. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the application is approved by reason of the failure of the Approving Authority to timely act, the Town Clerk shall make such certification on a copy of the application. A copy of the decision or application shall be recorded with the title of the land in question in the Middlesex County Registry of Deeds or the Middlesex Land Registry District, 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 responsibility and the cost of said recording and transmittal shall be borne by the Applicant.
6. Criteria for Approval. The Approving Authority shall approve the Development Project upon finding that it complies with the requirements of the OL and applicable Design Standards.
  7. Criteria for Conditional Approval. The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with this Section 6C and applicable Design Standards, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties, insofar as such conditions are compliant with the provisions of Massachusetts General Law, Chapter 40R and applicable regulations and do not Unduly Restrict opportunities for development. The Approving Authority may require construction of an approved Development Project to be phased for the purpose of coordinating the Development Project with any mitigation required to address extraordinary adverse Development Project impacts on nearby properties.

8. **Criteria for Denial.** The Approving Authority may deny an application for Site Plan Approval pursuant to this By-Law if the Board finds one or more of the following:
  - a. The Development Project does not meet the conditions and requirements set forth in the OL Zoning and applicable Design Standards.
  - b. The Applicant failed to submit information and fees required by the OL Zoning and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts.
  - c. It is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions.
9. **Time Limit.** A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project.
10. **Appeals.** Pursuant to Massachusetts General Law, Chapter 40R, Section 11, provided a bond thereby is duly posted, any person aggrieved by a decision of the Approving Authority may appeal to the Superior Court, the Land Court, or the District Court within twenty (20) days after the Site Plan decision has been filed in the office of the Town Clerk.

### **6C.13 Waivers**

The Approving Authority may authorize waivers with respect to the dimensional and other standards set forth in this Section 6C in the Site Plan Approval upon a finding that such waiver will allow the Development Project to achieve the affordability and/or physical character allowable under this By-Law. However, the Approving Authority may not waive any portion of the Affordable Housing requirements in Section 6C.11 except insofar as such waiver results in the creation of a number of Affordable Units in excess of the minimum number of required Affordable Units.

### **6C.14 Fair Housing Requirement**

All Development Projects within the OL shall comply with applicable federal, state and local fair housing laws.

### **6C.15 Annual Update**

On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the Department of Housing and Community Development (DHCD) in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to Massachusetts General Law, Chapter 40S and accompanying regulations. The Town Clerk shall maintain a copy of all updates transmitted to DHCD pursuant to this By-Law, with said copies to be made available upon request for public review.

### **6C.16 Notification of Issuance of Building Permits**

Upon issuance of a residential building permit within the OL, the Building Inspector shall cause to be filed an application to the DHCD in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to Massachusetts General Law, Chapter 40R. The application shall contain all information required in 760 CMR 59.06 (2), as may be amended from time to time, and additional information as may be required pursuant to Massachusetts General Law, Chapter 40S and accompanying regulations. The Town Clerk shall maintain a copy of all such applications transmitted to DHCD pursuant to this By-Law, with said copies to be made available upon request for public review.

### **6C.17 Date of Effect**

The effective date of this By-Law shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of Massachusetts General Law, Chapter 40A, Section 5 and Massachusetts General Law, Chapter 40R; provided, however, that an Applicant may not proceed with construction pursuant to this By-Law prior to the receipt of final approval of this By-Law and accompanying Zoning Map by both the Department of Housing and Community Development and the Office of the Massachusetts Attorney General.

### **6C.18 Severability**

The provisions of this Section are severable. If any provision of this Section is held invalid, the other provisions shall not be affected but shall remain in full force.

## **SECTION 6D. SINGLE AND TWO-FAMILY DWELLINGS IN THE GENERAL RESIDENCE ZONING DISTRICTS**

*Note: §6D was adopted under Article 14 at the 2014 Annual Town Meeting.*

### **6D.1 Purpose**

The purpose of this Section is to promote development of single and two-family dwellings that are compatible with the surrounding built environment in the General Residence Zoning Districts (GR).

### **6D.2 Use Regulation and Authority**

Single and two-family dwellings in the General Residence Zoning Districts shall require Design and Site Plan Review from the Planning Board, pursuant to this Section and Section 7.3 of this Zoning By-Law.

The Planning Board shall be the Special Permit Granting Authority for all single and two-family dwellings in the General Residence Zoning Districts that require a Special Permit.

### **6D.3 Performance Standards**

- a. Scale of Building. The building shall be sited and constructed in a manner that is consistent with the scale of other structures in the neighborhood through the use of appropriate massing, front setbacks, and other architectural techniques such as variation in detail, form and siting.
- b. Design of Building. The building shall be designed consistent with the prevailing character of buildings in the neighborhood including the use of appropriate materials and other architectural techniques such as style, roof design and pitch, window design, and color. Unless the Board finds that a different design is necessary to preserve the historic or architectural significance of an existing single-family dwelling (1) front doors for each of the dwelling units shall be facing the street and not permitted to face into the side yards; and (2) the front door accessing the second unit shall be setback no greater than 25% of the front setback of the unit closest to the street.
- c. Height. The height of the building should be compatible with the style and character of the buildings in the surrounding neighborhood.
- d. Proportions. The proportions and relationships of height to width between windows, doors, and other architectural elements should be compatible with the architectural style and character of the surroundings.
- e. Building and Driveway Siting. The building and driveway shall be sited so as to work with the natural topography of the site. Re-grading should be kept to a minimum and shall be in keeping with the general appearance of the neighboring developed areas. The development shall be integrated into the existing terrain and surrounding landscape and shall maximize retention of open space; and, minimize tree, vegetation and soil removal, blasting and grade changes. No more than one curb cut shall be allowed for lots with less than 70' of frontage; except in situations where the Applicant can demonstrate that the second curb cut is in harmony with the surrounding neighborhood.
- f. Circulation. Walkways, drives and parking shall be safe and convenient and not detract from the use and enjoyment of adjacent properties, sidewalks, and Town streets.

- g. Lighting. Exterior lighting shall be minimized and only as needed to accomplish safety and design objectives and shall be arranged so as to minimize the impact on neighboring properties.
- h. Open Space (landscape). The landscape shall be preserved in its natural state by minimizing use of any grade changes and vegetation and soil removal. The open space shall be as extensive as is practicable and the landscape shall be designed so as to add to the visual amenities of the neighborhood for persons passing the site or overlooking it from nearby properties. Reasonable efforts shall be made to save significant trees and enhance the landscaping.
- i. Relation of Structures and Spaces. The relation of a structure to the open space between it and adjoining structures should be compatible with such relations in the surrounding area.
- j. Screening. Objectionable features shall be screened from abutting properties. Consideration shall be given to the need for vegetated buffers. The larger the house, the greater the buffer that will be required.
- k. Drainage. The development shall comply with the Stormwater and Erosion Control By-Law (General By-Law Section 60-325).
- l. Street Trees. During construction, street trees shall be protected to insure their survival. The number and size of curb cuts shall be minimal to protect the roots of the trees. Construction vehicles and staging areas shall be kept away from the drip line of the trees. Where feasible, the addition of street trees is encouraged.
- m. Outdoor Mechanical Equipment. Heating, ventilation, air conditioning, electric generating, or other noise emitting equipment shall not be located within the front yard of the lot. The front yard is defined as the area between a line obtained by extending the front elevation of the dwelling to each of the sidelines of the lot and the front line of the lot. Additionally, heating, ventilation, air conditioning, electric generating, or other noise emitting equipment shall not be located within the required side or rear setbacks and not visible from the street or from the adjacent properties.

#### **6D.4 Submission Requirements for Design and Site Plan Review**

In addition to the documents required to be submitted pursuant to Section 7.3, each application for Design and Site Plan Review shall be accompanied by ten copies of the following:

1. Scale drawings showing proposed architectural elevations and sections,
2. A site plan showing property boundaries, existing and proposed grades, the location of all existing and proposed structures, driveways and driveway openings, existing and proposed lighting, existing and proposed landscape features both vegetative and structural.
3. Photographs or other readily available data concerning the location and size of structures on lots adjacent to or visible from the lot under consideration in order to provide a neighborhood context for the development under consideration.

The Planning Board may, in its discretion, waive any portions of the submission requirements or request additional information that directly relates to the purpose of this Section or to the Planning Board's evaluation of the applicable standards under Section 6D.4.

## **6D.5 Special Permit Standards**

- a. An application for a Special Permit under this Section shall comply with the procedures and requirements set forth in Section 7.4 of this Zoning By-Law.

- b. Special Permit Standards

Notwithstanding the provisions of Section 7.4.3, a Special Permit shall be issued if, upon submission of all required materials and documents and compliance with the procedures set forth in Section 7.4.4, the Planning Board finds that it is:

- 1) Generally in harmony with the neighborhood; and
- 2) Neither generates excessive traffic, parking, noise or density impacts on the abutters, or creates other detrimental effects on the neighborhood.

Such Special Permit shall be subject to any limitations imposed pursuant to Sections 6D.8 and 7.4.5.

- c. Factors to Consider in Special Permit Decision

In making any Special Permit decision pursuant to this Section, the Planning Board shall consider, in addition to those set forth in Section 7.4, the following:

1. Scale and design of the structure;
2. The siting of the structure and driveway;
3. Walkway, driveway and parking circulation;
4. Exterior lighting;
5. Open Space and screening; and,
6. Drainage.

## **6D.6 Single-Family Dwellings as an Alternative to a Two-Family Dwelling**

*Note: §6D.7 was adopted under Article 7 at the 2015 Annual Town Meeting.*

In order to achieve the purposes of the General Residence Zoning Districts Zoning By-Laws [amended April 2014] of controlling density and preserving the character of the associated neighborhoods, as an alternative to the construction of a two-family dwelling on a lot that is equal to or greater than 8,000 square feet and that has lot frontage equal to or greater than 90 feet, the Planning Board may grant a Special Permit for the construction of two single-family dwellings.

### **6D.6.1 Standards for Single-Family Dwelling Alternative**

Notwithstanding the 'Dimensional Regulations' contained within Section 4.2 of this Zoning By-Law, each of the lots and the proposed dwellings shall meet the following standards:

1. Each lot:
  - a. Shall be at least 4,000 square feet and have at least 45 feet of lot frontage; and

b. Comply with Sections 4.3.1, 'Lot Width', and 4.3.10, 'Lot Shape', of this Zoning By-Law.

2. Each dwelling:

- a. The open space shall not be less than 45%;
- b. The length of the dwelling shall not exceed its width multiplied by 1.6 times;
- c. The height shall not exceed 32 feet; and,
- d. Each dwelling shall comply with the 'Performance Standards' listed in Section 6D.4.

#### 6D.6.2 Factors to Consider

In granting a Special Permit to allow two single-family dwellings instead of a two-family dwelling, in addition to the applicable 'Special Permit Criteria' set forth in Section 7.4.3 of this Zoning By-Law, the Planning Board shall make the following findings:

1. The lot sizes and frontages of each lot on which the single-family dwellings will be constructed are comparable to those in the surrounding neighborhood;
2. The open space between and surrounding the dwellings is maximized;
3. Each dwelling is compatible with the surrounding neighborhood;
4. Each dwelling complies with the standards listed in Section 6D.7.1, 'Standards for Single-Family Dwelling Alternative'; and,
5. This development (the lots and proposed dwellings) shall meet the 'Special Permit Standards' outlined in Section 6D.6.

#### 6D.6.3 Conditions of Approval

In addition to the conditions that the Board may impose in granting a Special Permit under Section 6D.8, Conditions of Approval, the Planning Board may impose additional conditions and safeguards that it determines to be appropriate to assure compliance with the standards set forth in Section 6D.7.1, including, but not limited to conditions:

1. Prohibiting the further division or reduction in size of the lots that the single-family dwellings will be constructed on;
2. Prohibiting the further enlargement of the single-family dwelling beyond the standards established in this Section;
3. Prohibiting lot coverage of more than 25%; and,
4. Maintaining open space of at least 45%.

## **6D.7 Conditions of Approval**

In granting a Special Permit under this Section, the Planning Board may impose such other conditions, safeguards and limitations on time or use that it determines to be appropriate to assure compliance with the applicable criteria set forth in this Section including, but not limited to conditions:

- a. Specifying the required number of on-site parking spaces and their location;
- b. Requiring installation of additional landscaping; and,
- c. Requiring a performance guarantee to insure preservation of street trees.

## **6D.8 Severability, Conflict with Other By-Laws**

- 1) To the extent that a conflict exists between this By-Law and other By-Laws of the Town of Belmont, the more restrictive provisions shall apply.
- 2) If a court of competent jurisdiction holds any provision of this By-Law invalid, the remainder of the By-Law shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this By-Law shall not affect the validity of the remaining sections or parts of sections or the other By-Laws of the Town of Belmont.

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## **SECTION 6E. MEDICAL MARIJUANA OVERLAY DISTRICT**

*Note: §6E was adopted under Article 12 at the 2014 Annual Town Meeting.*

### **6E.1 Purpose**

The purpose of the Medical Marijuana Overlay District (MMOD) is to provide for the placement of Registered Marijuana Dispensaries (RMD), as they are authorized pursuant to state regulations set forth at 105 CMR 725.000, Implementation of an Act for the Humanitarian Medical Use of Marijuana, in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs.

### **6E.2 Authority and Establishment**

The Planning Board shall be the Special Permit Granting Authority for a Registered Marijuana Dispensary.

The boundaries of the MMOD are shown on the Zoning Map on file with the Town Clerk and include the underlying Local Business II and General Business Districts. Within the MMOD, all requirements of the underlying districts remain in effect, except where these regulations provide an alternative to such requirements. Land within the MMOD may be used either for a RMD, in which case the requirements set forth in this Section shall apply or 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.

Besides the zoning districts listed above, RMDs shall be allowed, subject to the provisions of this Section 6E, within the Belmont Uplands District. RMDs shall not be allowed within the McLean or the Cushing Square Overlay Districts.

### **6E.3 Use Regulations**

- a. The building or buildings in which RMD activities take place shall not be located within, on the same lot as, or on a lot immediately adjacent to a licensed pharmacy or within buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana, which exist as of the effective date of this amendment to the Zoning By-Law.
- b. The RMD shall establish policies and procedures to ensure that no marijuana is smoked, eaten or otherwise consumed or ingested on the Premises.
- c. The hours of operation shall be set by the Planning Board, but in no event shall a RMD be open to the public, nor shall any sale or other distribution of marijuana occur upon the Premises or via delivery from the Premises, between the hours of 8:00 p.m. and 8:00 a.m.

## **6E.4 Physical and Locational Requirements**

- a. All aspects of the RMD must take place at a fixed location within a fully enclosed building (including, but not limited to, loading, refuse and service areas), or in the case of cultivation within a locked, limited access area in compliance with CMR 725.15(B)(1)(c), and shall not be visible from the ground outside the enclosure. Outside storage of marijuana, related supplies, or educational materials is prohibited. Notwithstanding the foregoing, all areas, in which the sales of marijuana products take place, must be visible through appropriate windows from public places.
- b. All buildings housing RMDs shall be ventilated in such a manner that:
  - i. Pesticides, insecticides or other chemicals or products used in the cultivation or processing shall not be dispersed into the outside atmosphere; and,
  - ii. Odor from marijuana or its processing shall not be detected at the exterior of the RMD building or at any adjoining use or property.
- c. Signage determined to be sufficient by the Planning Board shall be displayed in plain sight of clients at the entrance of the RMD facility stating that 'Registration Card Issued by the MA Department of Public Health Required' in text two inches in height.
- d. RMD facilities may not be located within 300 feet of the following uses, but only if the uses exist as of the effective date of this amendment to the Zoning By-Law:
  1. A dwelling unit;
  2. School, including a public or private elementary or secondary school, or licensed child care facility;
  3. Playground, public park, athletic field, or building used for athletic activities and events; or,
  4. Library, public swimming pool or similar facility in which minors congregate.
- e. The distance under this Section is measured in a straight line from the nearest point of the lot line of the protected uses identified in Section 6E.4 d. to the nearest point of the building in which the RMD is located.

## **6E.5 Application**

In addition to the materials required under Section 7.4.4 of the Zoning By-Law, the application for a Special Permit RMD shall include:

- a. Disclosure Statement - A notarized statement signed by the organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons for such entity;
- b. Description of Activities - A narrative describing the type and scale of all activities that will take place on the proposed site, including, but not limited to cultivating and processing of

marijuana or marijuana infused products, on-site sales, off-site deliveries, distribution of educational materials, and other programs or activities;

- c. Floor Plans - a 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 marijuana-infused products;
- d. Site Plans – A plan or plans depicting all proposed development on the property, including the dimensions of the building, the layout of parking, the location of pedestrian and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design;
- e. Service Area - A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD exists or have been proposed within the expected service area;
- f. Transportation Analysis - a quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of client and employee trips to the site, the expected modes of transportation used by clients and employees, and the frequency and scale of deliveries to and from the site;
- g. Context Map – a map depicting all lots and land uses within a 500 foot radius of the Premises, including but not limited to all of the protected uses identified in Section 6E.4 e. above;
- h. Building Elevations and Signage – Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used;
- i. Registration Materials: Copies of registration materials issued by the Massachusetts Department of Public Health for the purpose of seeking registration, to confirm that all information provided to the Planning Board is consistent with the information provided to the Massachusetts Department of Public Health:
  1. Its registration as an RMD;
  2. Proposed waste disposal procedures;
  3. A description of any waivers from DPH regulations issued to the RMD; and,
- j. Letters from the Police and Fire Departments indicating that they have reviewed the application materials and approve the safety and security measures of the RMD.

## **6E.6 Special Permit Criteria**

In granting a Special Permit for a RMD, in addition to the general criteria for issuance of a Special Permit as set forth in Section 7.4.3 of this Zoning By-Law, the Planning Board shall find that the following criteria are met:

1. The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by other RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.

2. The RMD meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
3. The Premises have been designed to be compatible with other buildings in the area and to mitigate any adverse visual or design impacts that might result from required security measures and restrictions on visibility into the building's interior.
4. The RMD provides a secure indoor waiting area for individuals and clients.
5. The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.
6. Traffic generated by client trips, employee trips, deliveries to and from the RMD, and parking and queuing especially during peak periods at the RMD, shall not create a substantial adverse impact on nearby residential uses.

### **6E.7 Special Permit Conditions**

The Planning Board shall impose conditions reasonably appropriate to improve site design, traffic flow, public safety, air quality, and 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 Planning Board shall include the following conditions in any Special Permit granted under this Section:

- a. Hours of Operation, including dispatch of home deliveries.
- b. 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.
- c. The Special Permit shall be limited to the current Applicant and shall lapse if the permit holder ceases operating the RMD.
- d. The Special Permit shall lapse upon the expiration or termination of the Applicant's registration by DPH.
- e. The permit holder shall provide to the Inspector of Buildings, Chiefs of the Police and Fire Departments, and the Board of Health, 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.
- f. The designated contact person(s) shall notify in writing the Police and Fire Departments, Inspector of Buildings, Board of Health, and the Planning Board within a minimum twelve (12) hours following a violation, a potential violation, or any attempts to violate any applicable law, or any criminal, potential criminal, or attempted criminal activities as a RMD permitted under this Section.
- g. The designated representatives shall file an annual report (annually from the issuance of a Certificate of Occupancy) with the Office of Community Development providing a copy of all current applicable state licenses for the RMD and to demonstrate continued compliance with the conditions of the Special Permit.

## **6E.8 Exemption from RMD Special Permit Requirement**

RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a Special Permit, but shall apply for Site Plan Approval pursuant to Section 7.3 of the Zoning By-Law.

## **6E.9 Severability**

If any provision of this Section shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the Section shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 6E.1.

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## **SECTION 6F ADULT USE MARIJUANA ESTABLISHMENT OVERLAY DISTRICT**

*Note: §6F was adopted under Article 4 at the 2018 Special Town Meeting.*

### **6F.1 Purpose**

The purpose of the Adult Use Marijuana Establishment Overlay District (AUMEOD) is to provide for the placement of Adult Use Marijuana Establishments (AUME), as they are authorized in accordance with the "Act to Ensure Safe Access to Marijuana," adopted as Chapter 55 of the Acts of 2017. The AUMEs will be in locations suitable to minimize adverse impacts of AUMEs 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 AUMEs.

### **6F.2 Authority and Establishment**

The Planning Board shall be the Special Permit Granting Authority for Adult Use Marijuana Establishment (AUME) Special Permits.

The boundaries of the AUMEOD are shown on the Zoning Map on file with the Town Clerk and include the underlying Local Business II. Within the AUMEOD, all requirements of the underlying districts remain in effect, except where this Section provides an alternative to such requirements. Land within the AUMEOD may be used either for (1) an AUME, in which case the requirements set forth in this Section 6F shall apply; or (2) a use allowed in the underlying zoning district, in which case the requirements of the underlying zoning district shall apply. If the provisions of the AUMEOD are silent on a zoning regulation, the requirements of the underlying zoning district shall apply. If the provisions of the AUMEOD conflict with the requirements of the underlying zoning district, the requirements of the AUMEOD shall control.

An AUME proposed to be sited in the South Pleasant Street Overlay District ("SPSOD") described in Section 6G of this By-Law, shall be also be subject to the SPSOD "Design Standards" in Section 6G.3.3 if the project proposes to use any of the provisions of Section 6G.3.1 of the SPSOD to enlarge or enhance the AUME.

*Note: §6F.2 was amended by Article 4 at the 2018 Special Town Meeting*

### **6F.3 Use Regulations**

- a. Uses under this Section may only be involved in the uses and activities permitted by the definition as limited by state law, and may not include other businesses or services in the same building.
- b. No marijuana shall be smoked, eaten, or otherwise consumed or ingested on the Premises.
- c. The hours of operation shall be set by the Planning Board, but in no event shall a building be open to the public, nor any sale or other distribution of marijuana occur upon the Premises between the hours of 8:00 p.m. and 8:00 a.m.

## **6F.4 Physical and Locational Requirements**

- a. All aspects of the AUME must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- b. Outside storage of marijuana, related supplies, or educational materials is prohibited.
- c. The proposed use shall not display signage or other marketing materials on the exterior of the building or in any manner visible from the public way that, in the opinion of the Planning Board, may promote or encourage the use of marijuana or other drugs by minors. Symbols and logos used to identify marijuana shall be prohibited in accordance with state law.
- d. AUMEs may not be located within 500 feet of a school, including a public or private elementary or secondary school. The distance under this Section is measured in a straight line from the nearest point of the property line of the protected uses identified in this Section to the nearest point of the building in which the proposed AUME is to be located.

## **6F.5 Application**

In addition to the materials required under Section 7.4.4 of this Zoning By-Law, the application for a Special Permit AUME shall include:

- a. Disclosure Statement – An affidavit(s) signed by the organization’s Chief Executive Officer disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, directors, officers or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
- b. Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or in the case of a lease, a notarized statement from the property owner or a redacted copy of the lease agreement.
- c. Description of Activities - A narrative providing information about the type and scale of all activities that will take place on the proposed site, including, but not limited to on-site sales, distribution of educational materials, and other programs or activities.
- d. Floor Plans - A detailed floor plan of the proposed AUME that identifies the square footage available and describes the functional areas of the AUME.

- e. Site Plans - Detailed site plans that include the following information:
  - i. Compliance with the requirements for parking and loading spaces, for frontage, yards, and heights and coverage of buildings, and all other provisions of this Zoning By-Law;
  - ii. Convenience and safety of vehicular and pedestrian movement on the site and for the location of driveway openings in relation to street traffic;
  - iii. 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;
  - iv. Adequacy as to the arrangement and the number of parking and loading spaces in relation to the proposed use of the building,;
  - v. Design and appearance of proposed buildings, structures, freestanding signs, screening' and landscaping; and
  - vi. Adequacy of water supply, surface and subsurface drainage, and exterior lighting of the Premises.
- f. Transportation Analysis - A quantitative analysis, prepared by a qualified transportation specialist acceptable to the Planning Board, modeling the expected origin and frequency of customer and employee trips to the site, the expected modes of transportation used by customers and employees, and the frequency and scale of deliveries to and from the site.
- g. Context Map – A map depicting all properties and land uses within a 500-foot radius of the project site, including but not limited to all facilities identified in Section 6F.4 d above.
- h. Building Elevations and Signage – Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used.
- i. Registration Materials – Copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Belmont, in accordance with MGL c. 94G and subsequent regulations, to the Planning Board prior to the issuance of a Certificate of Occupancy. Required licenses include: the state license from the Cannabis Control Commission (CCC) and the Sales Permit from the Town of Belmont Board of Health.
- j. Disposal Plan – A plan indicating how the unused and expired marijuana products will be disposed consistent with applicable state and local regulations.

## **6F.6 Special Permit Criteria**

In granting a Special Permit for an AUME, in addition to the general criteria for issuance of a Special Permit as set forth in Section 7.4.3 of this Zoning By-Law, the Planning Board shall find that the following criteria are met:

- a. The AUME meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and the Town of Belmont and will be in compliance with all applicable state and local laws and regulations.
- b. The building and site have been designed to be compatible with other buildings in the area and to mitigate any adverse visual or economic impacts that might result from required security measures and restrictions on visibility into the building's interior.

- c. The AUME provides a secure vestibule for checking proper identification and provides a secure indoor waiting area and adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage of marijuana is adequately secured in enclosed, locked facilities.
- d. The site is designed to provide convenient, safe, and secure access and egress for customers and employees arriving to and leaving from the Premises using all modes of transportation.
- e. Loading, refuse, and service areas are designed to be secure and visually shielded from abutting uses.
- f. Traffic generated by customer trips, employee trips, deliveries to and from the AUME, and parking and queuing, especially during peak periods at the AUME, shall not create a substantial adverse impact on nearby residential uses.

### **6F.7 Special Permit Conditions on AUMEs**

The Planning Board may impose conditions reasonably appropriate to improve site design, traffic flow, public safety, preserve the character of the surrounding area, and otherwise serve the purpose of this Section 6F. In addition to any specific conditions applicable to the applicant's AUME, the Planning Board shall include the following conditions in any Special Permit granted under this Section:

- a. Hours of Operation.
- b. The Special Permit shall lapse within five years of its issuance. If the Special Permit holder wishes to renew the Permit, an application to renew the Special Permit must be submitted at least 120 days prior to the expiration of the Special Permit.
- c. The Special Permit shall be limited to the current applicant and is not transferable and shall lapse if the permit holder ceases operating the AUME.
- d. The Special Permit shall lapse upon the expiration or termination of the applicant's state license from the CCC or Sales Permit from the Town of Belmont's Board of Health.
- e. The permit holder shall provide to the Inspector of Buildings 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.
- f. The designated representatives shall file an annual report (one year from the issuance of a Certificate of Occupancy) with the Office of Community Development providing a copy of all current applicable state licenses for the AUME and to demonstrate continued compliance with the conditions of the Special Permit.

## **6F.8 Exemption from AUME Special Permit Requirement**

AUMEs that demonstrate that they are protected pursuant to the agricultural exemption under MGL c. 40A, §3, are not required to obtain a Special Permit, but shall apply for Design and Site Plan Approval pursuant to Section 7.3 of this Zoning By-Law.

## **6F.9 Severability**

If any provision of this Section 6F shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the Section shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Section 6F.1.

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## **6G. SOUTH PLEASANT STREET OVERLAY DISTRICT**

*Note: §6G was adopted under Article 3 at the 2018 Special Town Meeting.*

### **6G.1 General**

#### **6G.1.1 Purpose**

In recognition of the unique location, function, and character of land uses in the South Pleasant Street commercial area, the South Pleasant Street Overlay District (SPSOD) is intended to:

- a) encourage revitalization of South Pleasant Street;
- b) promote the redevelopment of under-utilized properties in a coordinated and well-planned manner;
- c) promote mixed-use development, incorporating retail, restaurant, office, and residential uses;
- d) foster the development of a more pedestrian-oriented built environment;
- e) allow the uses and dimensional regulations of the Local Business I (LB-I) in the South Pleasant Street Local Business II (LB-II) area without altering the underlying LB-II zoning that are located wholly or partially within the SPSOD;
- f) provide for the demonstrated needs of the Town by making provisions for housing to be occupied by elderly persons who otherwise would not have such housing opportunities within the Town; and
- g) provide a type of housing for the elderly that reduces burdens of property maintenance and which reduces demands on municipal services.

#### **6G.1.2 Boundaries of South Pleasant Street Overlay District**

The South Pleasant Street Overlay District (SPSOD) boundaries are shown on the South Pleasant Street Overlay District Map and is generally described as the area on South Pleasant Street east of and including the White Street Extension, south of the Lone Tree Hill Conservation Land, and north of the railroad tracks, including those parcels in the underlying Local Business II Zoning District. The SPSOD boundaries shall be shown on the Town of Belmont Zoning District Map.

#### **6G.1.3 Applicability and Authority**

The SPSOD shall be considered as overlaying other existing zoning districts. The SPSOD confers additional development options to be employed at the discretion of the property owner(s), subject to the requirements of Design and Site Plan Review in accordance with Section 6G.3. The Planning Board may waive some or all of the dimensional and parking requirements of this Section if, in its determination, such waiver will result in improved design.

The Planning Board is the Special Permit Granting Authority (SPGA) for SPSOD developments requiring a Special Permit. SPSOD development projects will also be eligible for a Special Permit to increase building height and to exceed otherwise applicable square footage limitations.

## **6G.2 Uses**

### **6G.2.1 Uses Permitted in the South Pleasant Street Overlay District**

The uses allowed within the Local Business I District (LB-I), as outlined in Section 3, Use Regulations, shall be allowed within a SPSOD development project.

Uses permitted by Special Permit in the LB-I as outlined in Section 3 shall also require a Special Permit in the SPSOD and shall be subject to the requirements of Sections 7.4.3 and 6G.3:

### **6G.2.2 Additional Uses Permitted by Special Permit in the SPSOD**

#### **a) Age-Restricted Housing Development.**

A development that provides independent housing for households including at least one member 55 years of age or older ("Occupant") and may include any one of the following:

1. A spouse, under 55 years of age, of an Occupant may reside in the Occupant's unit;
2. A spouse who survives the Occupant;
3. A spouse where the Occupant has moved out of the unit and into a long-term care facility;
4. A child, brother, or sister of an Occupant or spouse who has a mental or physical disability and is dependent upon said Occupant or spouse for daily care; or

*Note: §6G.2.2 was amended by Article 3 at the 2018 Special Town Meeting.*

5. A paid caregiver providing medical or health care to an Occupant or spouse.

#### **b) Assisted Living Facility.**

An Assisted Living Facility may include associated dining facilities, common rooms, activity and recreation rooms, and offices that provide for the benefit of their residents. Assisted Living Facilities may also provide, without limitation, meals served in a common dining room or delivered to rooms; housekeeping or laundry services; transportation services; emergency response services; assistance with eating, bathing, dressing, toileting, and walking; security; exercise programs; medication reminders; and social and recreational activities.

#### **c) Accessory Uses.**

Age-Restricted Housing Developments and Assisted Living Facilities may provide convenience retail and personal services if said uses do not have any exterior signs and do not comprise more than 2,500 square feet. These accessory uses shall not render this development a Mixed-Use Residential Development under Section 6.10, Inclusionary Housing, of this Zoning By-Law, used for calculating the number of required affordable housing units.

6G.2.3 The following are expressly prohibited uses in a SPSOD development project:

- a) Commercial surface parking lot and related facilities;
- b) Banks, credit unions, and similar establishments;
- c) Drive-through establishments; or
- d) Adult entertainment establishments.

6G.2.4 Existing Zoning District

The SPSOD does not in any manner remove or alter the zoning rights permitted by the underlying, existing zoning district.

### **6G.3 Performance and Design Standards**

All development projects proposed within the SPSOD require Design and Site Plan Review by the Planning Board to ensure conformance with the following Performance and Design standards:

6G.3.1 Performance Standards

Dimensional Regulations - the following dimensional regulations, as generally allowed within the LB- I District, (Section 4.2, Schedule of Dimensional Regulations) shall be allowed within a SPSOD development project.

a) Setbacks

- 1. Front: The maximum front setback shall be five feet for the front and street side façades.
- 2. Side: The minimum side setback shall be six feet.
- 3. Rear: The minimum rear yard setbacks shall be six feet.

The Planning Board may modify all setback requirements if, in its opinion, such waiver will result in improved design.

b) Height of Structures

1. In Feet:

The maximum height of buildings is 28 feet above ambient sidewalk grade.

A building height of up to 40 feet to the highest point of the building may be allowed by Special Permit from the Planning Board, provided that all of the mechanical systems are contained within the building.

2. In Stories:

The maximum height of buildings is two stories.

A building height of up to three stories may be allowed by Special Permit from the Planning Board.

c) Floor Area Ratio (FAR)

The maximum allowed FAR shall be 1.25.

A FAR of 1.5 may be allowed by Special Permit from the Planning Board.

For Special Permits under this Section, the Planning Board shall take into account the criteria provided in Sections 4.4 and 7.4.3 and subject to Section 6G.3

6G.3.2 Parking Requirements

a) The parking requirements for uses within the SPSOD shall be provided in accordance with Section 5.1 of this Zoning By-Law.

b) Reduction of Parking

The Planning Board may reduce the on-site parking requirements for all uses in a SPSOD development project, based upon a consideration of:

1. Availability of shared parking on another property within 300 feet; however, parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times. The Planning Board may require a written shared parking agreement to be submitted as part of the Design and Site Plan Review application. The agreement shall address issues such as the times of use, maintenance, striping, and snow plowing of the shared parking area.
2. Uses within ½ mile of public transportation may be entitled to a 10% reduction in required parking.
3. Other factors supporting the reduction in the number of required parking spaces such as, but not limited to, staggered hours or other opportunities for shared parking among different uses.

c) Bicycle Parking

The following requirements apply to any new developments:

1. Residential - at least one bicycle parking or storage space shall be provided per dwelling unit.
2. Business - at least two bicycle parking spaces shall be created per business establishment.

For business establishments over 10,000 square feet gross floor area (GFA), one additional bicycle parking space shall be provided for every additional 1,000 square feet GFA.

Assisted Living Facilities and Age-Restricted Housing Developments shall be exempt from the residential bicycle parking requirement, and instead shall provide one bicycle parking space per five vehicular parking spaces.

Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner in close proximity to each development utilizing the shared parking.

### 6G.3.3 Design Standards

#### a) General Guidelines

The Planning Board shall consider the architectural and aesthetic compatibility of the proposed development project with the character of the Town of Belmont, taking into account appropriate scale, massing, and location of buildings on the lot, roof slopes, street façade, exterior building materials, historic significance, and similar factors. The following objectives and criteria shall be considered in reviewing development projects in the SPSOD:

1. Appropriateness of the proposed design and materials of proposed buildings;
2. Adequacy of the site in terms of the size of the proposed use(s);
3. Adequacy of the provision of open space;
4. Impact on traffic and pedestrian flow and safety;
5. Adequacy of utilities, including sewage disposal, water supply, and storm water drainage;
6. Impact of the proposal on the existing mix of structures and businesses in the SPSOD;
7. Determination that there will be no significant hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks;
8. Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the buildings;
9. Appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location, and landscape screening of dumpsters or other trash receptacles; and
10. Adequacy of landscaping/site improvements.

#### b) Building Design

The detailed design standards below are intended to promote high quality development. To provide additional guidance, the Planning Board may promulgate more detailed design guidelines.

##### 1. Scale

The size and detailing of buildings shall be pedestrian-oriented and shall be designed to reduce the visual perception of bulk and mass, particularly as viewed from the residential neighborhoods southeasterly of the SPSOD. The façade should have both horizontal and vertical elements to break down the scale and enhance the appearance.

##### 2. External Materials and Appearance

Buildings shall be designed to avoid use of reflective materials such as porcelain enamel, sheet metal, mirrored glass, or plastic.

Predominant wall finishes shall be or have the appearance of wood, brick, or stone. Window openings shall be maximized in order to increase visibility into storefronts and add vibrancy to the commercial area.

3. Architectural Details

Architectural features shall be compatible with other structures in the Town's commercial areas. Distinctive features, finishes, and construction techniques shall be utilized in the design of new buildings or additions.

All mechanical systems shall be contained within the building.

The Planning Board may waive some or all of the dimensional and parking requirements of this Section if the proposed project effectively retains the architectural integrity of buildings contained on the list entitled Belmont's Significant Historic Buildings Subject to Demolition Delay Bylaw as previously reviewed and determined by the Historic District Commission pursuant to the procedures outlined in Section 60-320 of the Town's General Bylaws.

4. Interior Layout for Age-Restricted Housing Developments

Dwelling units in Age-Restricted Housing Developments shall contain no more than two bedrooms. Any separate room in any unit which is not a living room or equipped kitchen and is shown on a plan as being for other than bedroom use but which, because of location, size, or arrangement, could be used or adapted for use as a bedroom shall be considered as a bedroom for purposes of this provision. No attic, loft, or other storage or similarly usable space shall be used as or altered to create bedroom space, nor shall the construction or other aspects facilitate such use or alteration.

5. Signs and Awnings

The signs and awnings shall be subject to Section 5.2 of this Zoning By-Law.

6. Vehicle and Pedestrian Features

Buildings and site plans should be designed to enhance the pedestrian environment and foster the creation of a walkable built environment along South Pleasant Street. The following vehicle and pedestrian guidelines apply to SPSOD development projects:

- i. Curb cuts shall be allowed only at the discretion of the Planning Board.
- ii. The Planning Board may allow or require pedestrian and vehicular access to existing or future development on abutting properties in order to facilitate pedestrian access and to minimize curb cuts.
- iii. The provision of parking shall take into consideration the extent to which the design maximizes pedestrian flow within the development and maximizes the efficient use of existing and proposed parking facilities.
- iv. Parking lots and driveways shall have landscaped buffer zones separating cars from pedestrians. The Planning Board shall determine an adequate buffer zone for each project.
- v. Where possible, surface parking lots shall not be placed along Pleasant Street and shall be concealed behind buildings and not visible from Pleasant Street.
- vi. Underground parking is strongly encouraged where feasible.
- vii. Parking Structures.

The following design guidelines shall be considered for projects containing structured parking:

- a. Compatibility with the proposed building(s) and surrounding neighborhood with regard to architecture, size, scale, and intensity and mass;
- b. Promote a pedestrian-friendly street presence;
- c. Located to the rear or side of the primary structure such that the primary street frontage holds the principal building which then screens to the extent possible the parking structure;
- d. Access points whenever possible should be on the secondary or side streets, or accessed via a side driveway, versus the primary street frontage;
- e. All ingress/egress points shall be designed to ensure adequate emergency vehicle access to the parking structure;
- f. Exterior landscaping shall be provided to screen the structure;
- g. Avoid designing entire sides or substantial lengths of the parking structure walls to be open with no fenestration and avoid long runs of openings that do not conform to or replicate window patterns consistent with the primary building;
- h. Architectural articulation shall be on all sides of the parking structure and of materials compatible with the primary building; and
- i. Pedestrian warning devices should be located at all entrances and exits that intersect pedestrian walkways.

## 7. Lighting

The following lighting requirements shall apply to buildings within a SPSOD development project:

- i. Exterior signs should have lights for visibility at night.
- ii. Landscaped paths and walkways should always be comfortably and safely lit. Consider low-placed lamps, wall sconces, and pedestrian-scale pole-mounted fixtures.
- iii. Awnings and canopies may be illuminated from within to make them glow at night.
- iv. Lighting shall be appropriately screened so as to prevent them from creating glare in the eyes of people on the sidewalks, in buildings, or in cars.
- v. Exterior light fixtures shall be shielded from view or blended into the building's lines. Decorative fixtures may be exposed as a design element.
- vi. Building entries and display windows shall be lit with warm-toned lighting.
- vii. To highlight landscaping, up-light into trees or strings of lights among branches may be required.

- viii. Electrical conduits shall be concealed within the moldings and lines of the building.
- ix. There shall be no flashing signs.

#### 8. Landscaping and Off-Site Improvements

The Applicant may be required to install street furniture and landscaping on public property abutting and within the proximity of the proposed development project to ensure the integrity of design in the SPSOD and to promote the development of a pedestrian-oriented building environment that enhances connectivity to both the Waverley Square and Belmont Center commercial areas and transit stops. Site improvements, such as window boxes or potted plants, may be installed outside development project storefronts, provided that they do not conflict with Massachusetts Architectural Access Board regulations.

Street furniture includes benches, planters, trash receptacles, lamps, bike racks, and signs. If a front setback is provided, those portions of the front yard not occupied by public amenities shall be landscaped to enhance the streetscape.

The following landscaping and site improvement guidelines apply to the SPSOD:

- i. All site open space (yards, parking lots, setbacks) should be planned carefully, with appropriate plantings or landscaping. Open space shall be appropriately usable and open and may consist of landscaped gardens, plazas, sitting areas, sidewalks or similar features.
- ii. Open spaces may be utilized to break up a block of buildings in order to provide visual relief.
- iii. Street furniture shall be provided for public use.
- iv. Street furniture should be made of solid wood, metal, or recycled plastic lumber to ease maintenance.
- v. Trash receptacles shall be provided at all gathering places and properly maintained.
- vi. Window boxes, gardens, or hanging planters shall be located in appropriate locations.
- vii. Landscaping and plantings shall be maintained so as not to interfere with entry to stores or block visibility of signs, or sight lines for drivers exiting or crossing sidewalks.

*Note: §6G.3.3 b) 8. Vii was amended by Article 3 at the 2018 Special Town Meeting.*

- viii. Climate requirements, growth potential, and adaptability to the urban environment shall be considered when selecting plant types and species.
- ix. Landscaping shall be installed to screen dumpsters, transformers, air conditioning equipment, and other similar building equipment.

## **6G.4 Submittal Requirements**

Any Applicant seeking Design and Site Plan Review or a Special Permit for a SPSOD development shall submit 10 copies of the application, and an electronic copy (e.g. pdf), in such form as the Planning Board may require which shall include the following:

- a) Development plans bearing the seal of a Massachusetts registered professional (architect, landscape architect, civil engineer, or similar professional as appropriate);
- b) Narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used;
- c) Site plans and specifications showing total square footage and dimensions of all buildings and site improvements, including:
  1. New buildings, additions, adjacent structures;
  2. Streets, sidewalks and crosswalks;
  3. Existing and proposed open spaces, including, existing and proposed walls, fences, outdoor lighting, street furniture, new paving and ground surface materials;
  4. Points of vehicular and pedestrian access/egress;
  5. All utilities, easements or service facilities, insofar as they relate to the project; and
  6. Proposed site grading, including existing and proposed grades at property lines.
- d) A certified plot plan less than 6 months old;
- e) Architectural Layout Plans at a scale of  $1/8" = 1'$  or appropriate scale. All spaces within the proposal must be properly labeled and all dimensions must be clearly shown;
- f) Site perspective, sections, elevations  $1/8" = 1'$ ;
- g) Detailed description of the proposed use of the building, including hours of operation, numbers of employees, method and types of deliveries, etc;
- h) Summary of building statistics indicating the number of dwelling units, distinguishing units by number of bedrooms and any special occupancies (affordable, handicapped, etc.), the maximum number of bedrooms, floor area, square footage of each dwelling unit;
- i) A proposed development schedule showing the beginning of construction, the rate of construction and development, including phases, if applicable, and the estimated date of completion;
- j) Detailed plans for disposal of sanitary sewage;
- k) Detailed plans for landscaping;
- l) Parking plan;
- m) Plan for lighting, including the type of fixtures, and the off-site overspill (foot candles) of the lighting;
- n) Signage plans;

- o) The proposed method of storm water removal accompanied by calculations for a 20-year storm event; and
- p) For Age-Restricted Housing Developments, the following are also required:
  - 1. All condominium deeds, trust or other documents that incorporate the applicable age restriction and comply with all federal, state, and local laws. Covenants and deed restrictions shall provide that the dwelling units shall be occupied by persons 55 years of age and older except for guest visiting for short duration not to exceed thirty days in a calendar year.
  - 2. The manner in which the Management Organization or Homeowners Association shall certify to the Town when any unit is sold or rented and that the provisions of this Section 6.G will be met.

The Planning Board may also require the following prior to acting on the application:

- i. Materials for the proposed buildings;
- ii. An estimate of municipal revenues and costs expected to be generated by the project, including anticipated real estate valuation and public service needs; and

The Planning Board may request additional information necessary in their deliberations relative to the application for the Special Permit.

## **6G.5 Procedures**

### **6G.5.1 Design and Site Plan Review**

Applicants for Design and Site Plan Review under this Section 6G shall pay a review fee in an amount to be determined by the Planning Board to cover the reasonable costs for the employment of any independent consultants to assist in the review of the application. Consultants shall be qualified professionals in the relevant fields of expertise as determined by the Planning Board.

Applications shall follow the procedures below and as specified in Section 7.3.3 of this Zoning By-Law. Where there is a conflict in procedures, those specified below shall prevail. The Planning Board, or its designee, shall review a submitted application for completeness and shall notify the Applicant within thirty days of its submission whether the application is complete or, if not, what items are missing. If the Planning Board fails to so notify the Applicant within such time, the application shall be deemed complete; provided that nothing herein shall be interpreted to limit the ability of the Planning Board to require additional information. The time for holding a public hearing shall not commence until the Planning Board has received a complete application.

An application for Design and Site Plan Review hereunder shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the objectives in this Section and all other requirements of this Zoning By-Law. The Planning Board may impose such reasonable conditions as it shall deem appropriate to assure the continuing consistency of the development project with the purposes of Section 6G.

Applications may be denied when:

- a) Applications are incomplete; or
- b) Proposed developments inconsistent with the standards and criteria set forth in Section 6G shall be denied in writing and shall set forth the reasons for denial.

Proposed amendments to approvals under this Section shall follow the procedures set forth for initial applications.

Notwithstanding any provisions of this Section 6G to the contrary, Design and Site Plan Review shall not be required for alterations or repairs to an existing building in a previously approved SPSOD development project that do not increase the height, bulk, or footprint thereof, that are not being performed to provide for its use for a substantially different purpose, and that do not violate the conditions contained within any prior Design and Site Plan Approval applicable to such building.

#### 6G.5.2 Special Permit Application

All applications for Special Permits in the SPSOD shall follow the sections of the Town of Belmont Zoning By-Law that are applicable to the application procedures.

#### 6G.5.3 Additional Special Permit Conditions for Age-Restricted Housing Developments and Assisted Living Facilities

In granting a Special Permit under this Section, the Planning Board may impose such other conditions, safeguards, and limitations on time or use that it determines to be in compliance with the applicable criteria set forth in this Section including, but not limited to the following conditions:

##### a) Deed Restrictions

All dwellings in the development shall be subject to an age restriction described in a deed/deed rider, restrictive covenant, the deed of the trust, master deed or articles of incorporation, or other document approved by the Planning Board that shall be recorded in the chain of title with the Registry of Deeds or Land Court. The age restriction shall limit the dwelling units to occupancy by seniors, age 55 or older; or their spouses of any age; provide for reasonable time-limit guest visitation rights; and may authorize special exceptions that allow persons of all ages to live in the dwelling unit together with a senior resident, if the Planning Board so approves and specifies in its Special Permit. Except in the event of the death of the qualifying occupant of a dwelling unit, or foreclosure or other involuntary transfer of a dwelling unit, a two-year exemption shall be allowed to facilitate the transfer of dwelling units to another eligible household. Deed restrictions, including age restrictions, shall run with the land in perpetuity and shall be enforceable by an association of owners or any owner(s) of dwelling units in the Development and by the Town of Belmont.

Furthermore, the continuing observance and enforcement of the age restriction described herein shall be a condition of compliance with the SPSOD. Exceptions to this requirement shall be allowed only in the case where eligible residents are deceased, and there is no surviving eligible residents, and the units are owned and occupied by the deceased eligible residents' surviving spouse.

##### b) Local Preference

The Planning Board shall require that Belmont residents be given preference in the purchase or rental of dwelling units within the SPSOD. Such preference shall be for thirty percent of the dwelling units in the development and shall be for at least one year from the issuance of the first Certificate of Occupancy for any residential building or portion thereof.

#### 6G.5.4 Coordination with Other Provisions of By-Law

This Section 6G together with the rest of this By-Law constitutes the zoning regulations for the SPSOD. Where conflicts exist between this Section 6G and the rest of this By-Law, the provisions of this Section shall govern.

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## **SECTION 6H. BELMONT UPLANDS DISTRICT**

*Note: §6H was amended by Article 9 at the 2020 Special Town Meeting.  
§6H was adopted under Article 5 at the 2002 Special Town Meeting.*

### **6H.1 Allowed Uses**

No building structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as set forth in this Section 6H.1, Allowed Uses. Any use not included in this Section 6H.1 as an allowed use is prohibited in the Belmont Uplands District.

#### **6H.1.1 Office Uses**

Buildings to house offices and accessory uses for business or professional uses are allowed provided that medical offices, where the principal use of which are to provide diagnoses and outpatient care on a routine basis for one or more physicians, dentists, or other health care providers are permitted only to the extent that such offices do not occupy more than 33% of the total net usable square feet of the building. Day care is a permitted accessory use, provided that such use is substantially for the tenants of the building.

#### **6H.1.2 Research and Development Uses**

Offices and laboratories for research and development, including but not limited to, research and development in the fields of biology, chemistry, electronics, engineering, geology, medicine, pharmaceutical, physics, computer research and technology are allowed pursuant to all applicable federal, state and local regulations.

#### **6H.1.3 Open Space Uses**

Passive recreational uses, trails and accessory parking and visitor and interpretative structures, including without limitation, non-habitable kiosks, trail signage, engraved boulders, benches, are allowed.

#### **6H.1.4 Structured Parking Facilities**

Structured parking facilities accessory to a permitted use are allowed.

#### **6H.1.5 Wireless Telecommunications Facilities**

Wireless Telecommunications Facilities are allowed by Special Permit in accordance with Section 6.8., provided however, Interior Wireless Telecommunications Facilities are allowed as an accessory use provided such Facilities have completed Design and Site Plan Review pursuant to Section 6.8.4, Section 6H.6 and Section 6H.8. No Roof-Mounted Wireless Telecommunications Facility shall exceed the maximum building height provided in Section 6H.2. However, Roof-Mounted Wireless Telecommunications Facilities can exceed such height by Special Permit.

### **6H.2 Dimensional Requirements**

The dimensional requirements applicable to the Belmont Uplands District are:

- a) Minimum lot area of 9 acres;
- b) Minimum lot frontage of 500 feet;
- c) Minimum front setback of 65 feet;
- d) Minimum side setback of 40 feet;
- e) Minimum rear setback of 40 feet.
- f) Maximum building height of 4 stories and 98 feet (including mechanical penthouses, exhaust pipes and vents and related non-habitable space); except that a parking structure shall have a maximum height of 3 stories and 36 feet.
- g) Maximum gross floor area of 245,000 square feet, excluding the square footage of any structured parking, mechanical penthouses, exhaust pipes and vents and related non-habitable space.
- h) Minimum open space of 65%.
- i) Maximum floor area ratio of 1.0.
- j) Maximum lot coverage of 20%.
- k) Maximum impervious surface coverage of 35%.

For purposes of calculating items (a) and (h) – (k), lot and lot area shall mean the whole area of a parcel or parcels of land under one ownership (including land within the layout of a private way) notwithstanding that a portion of such parcel(s) of land are separated from the remaining portion of the parcel(s) of land by a private way or that a portion of such parcel(s) are located in another City or Town provided such land across a private way or in another City or Town is permanently restricted to passive Open Space and/or Open Space Uses.

### **6H.3 Parking and Access Requirements**

#### **6H.3.1 Maximum Number of Spaces**

Accessory parking for the uses allowed in the Belmont Uplands District are allowed provided that such parking may not exceed 3.25 parking spaces per 1,000 square feet of gross floor area.

#### **6H.3.2 Bicycle Racks**

For premises requiring 40 or more parking spaces, bicycle racks facilitating locking shall be provided to accommodate one bike per 20 parking spaces required.

#### **6H.3.3 Parking Location and Layout**

Parking shall be located on the same lot as the use it serves provided that the Planning Board, as part of the approval required under Section 6H.6 of this By-Law, may, in its discretion, permit reasonable off-site parking as long as such off-site parking is secured through a long-term written agreement and has the substantial likelihood of reducing on-site impervious surfaces, does not create new impervious surfaces elsewhere and will not negatively impact adjacent Town streets and intersections. Parking space sizes shall

conform to the rules and requirements generally applicable to the Town of Belmont in Section 5.1 and as established from time to time by the Planning Board. No more than 110 parking spaces may be outdoor spaces and outside of the footprint of the garage; the remainder must be located on, within or below a parking garage or other building.

#### **6H.4 Signs**

In the Belmont Uplands District, signs are permitted in accordance with the requirements set forth in Section 5.2.4 a) and b).

#### **6H.5 Lighting**

In the Belmont Uplands District, the lighting limitation provisions of Section 5.4.3 b) applicable in a General Business District shall apply provided, however, that primary exterior roadway and parking fixtures shall be full cut off (current IESNA definition), not exceeding 175 watts. Secondary exterior fixtures shall be selected by the developer, and approved by the Planning Board, in a manner that mitigates glare above the horizontal and off site. Garage rooftop and interior garage fixtures shall be located and shielded to eliminate direct glare onto the surrounding terrain beyond 100 feet from the garage structure or the property line, whichever is closer.

#### **6H.6 Design and Site Plan Review**

Any activity requiring a Building Permit in the Belmont Uplands District shall require Design and Site Plan Approval by the Planning Board pursuant to this Section 6H.6 and Section 6H.8 (the provisions of Section 3.5 and 7.3 of this By-Law shall not apply except as provided below).

The Planning Board shall promulgate rules requiring any applicant for Design and Site Plan Review under this Section 6H.6 to pay a review fee, in an amount to be determined by the Planning Board to cover the reasonable costs of the Planning Board for the employment of any independent consultants (including but not limited to attorneys) determined to be needed to assist in the review of the application for Design and Site Plan Approval. Such consultants shall be qualified professionals in the relevant fields of expertise determined by the Planning Board.

The objectives of Design and Site Plan Review under this Section 6H.6 are:

- a) to obtain appropriate evidence that traffic impacts of a project will be identified through a traffic study and then appropriately mitigated through mitigation plans funded and constructed by a project proponent, including but not limited to programs to limit vehicle trips to the project site, such as a required Transportation Demand Management (TDM) plan, and/or physical improvements to the impacted on-site and off-site roadways and intersections that are identified in the traffic studies prepared regarding the proposed project. A TDM shall consider, at a minimum:
  - 1) Ridesharing Programs, including but not limited to, carpool/vanpool matching programs through the local Transportation Management Association (TMA); joint programs with area commercial tenants; dissemination of promotional materials to employees' newsletters about the program; coordination with CARAVAN which leases commuter vans and provides administrative and organizational assistance; preferential parking for carpoolers; and guaranteed ride home program;
  - 2) Alternative Work Schedules;

- 3) Public Transportation including, but not limited to, subsidized passes for public transportation and consultation with public transit authorities to establish bus service to project site; and
  - 4) Bicycle Facilities including, but not limited to, inclusion of bicycle racks and/or bicycle storage lockers and showering facilities as part of a project.
- b) to determine that the architecture of the building(s) and any parking garages reflect the prominence of the buildings on the site and in the neighborhood, including, but not limited to determination on the appropriateness of the building materials proposed for the facades of all buildings and parking structures;
  - c) to determine that measures proposed to mitigate construction period impacts on the wetlands and floodplain areas on the site, on adjoining premises and on the Town roadway system are adequate;
  - d) to determine the adequacy of measures proposed to mitigate the effects of the development on wetlands and floodplain areas on the site and on adjoining properties;
  - e) to determine the adequacy of measures proposed to limit peak off-site stormwater runoff to predevelopment levels and to protect water quality in accordance with the Massachusetts Department of Environmental Protection ("MADEP") stormwater management standards, including adherence to the criteria set forth in Section 6H.7;
  - f) where applicable, to obtain appropriate evidence of compliance with all applicable federal, state and local regulatory and licensing requirements with respect to the handling of potentially hazardous materials, including biologic or radioactive materials;
  - g) to determine that adequate measures have been taken for the private construction, maintenance and management of the natural open space on the site, including the creation of an acceptable Open Space Maintenance Plan and Agreement by which the applicant (including future successors and assigns) agrees to undertake the proper construction, maintenance and management of the natural open space on the site;
  - h) to determine that the adjoining premises within and outside of the Belmont Uplands District will be protected against seriously detrimental uses by provision for stormwater drainage, sound and light buffers, prevention of undue solar reflection and glare and preservation of views, light and air;
  - i) to determine that there will be no serious hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks and to determine that the development shall promote the use of public transportation;
  - j) to determine the adequacy of the proposed methods of commercial removal of refuse and other wastes resulting from the uses permitted on the site, including size, location and landscape screening of dumpsters or other trash receptacles;
  - k) to determine the adequacy of lighting, landscape planting, preservation of specimen trees (where reasonable), location and screening and/or camouflaging of non-habitable roof elements and other exterior construction features in relation to the

proposed use of the site and the interests of the safety, convenience and welfare of the public;

- l) to determine there is adequate provision for municipal water and sewer to service the site;
- m) to determine that the height and bulk of the proposed buildings on a project site comply with the dimensional requirements of Section 6H.2 and to obtain appropriate evidence of compliance of the proposal with the applicable requirements of this By-Law other than this Section 6H.6;
- n) to obtain appropriate evidence of compliance of the proposal, or satisfactory assurances of compliance, with any non-zoning agreements entered into with the Town of Belmont regarding land in the Belmont Uplands District; and
- o) to obtain appropriate evidence that any proposed Conservation Restriction or wetland restoration programs will adequately protect and/or restore the resources intended.

## **6H.7 Stormwater Management Facilities**

Stormwater Management Facilities shall comply with the following requirements:

- a) Pre- and post-development runoff rates from the site during the 2-, 10-, 25- and 100-year storm events shall be calculated and compared in order to demonstrate post-development discharge rates do not exceed the pre-development discharge rates. These calculations shall be submitted with the application for Design and Site Plan Review under Section 6H.6.
- b) Where possible, a portion of building roof drainage shall be piped directly to an underground infiltration system to be sized to meet MADEP groundwater recharge requirements for the site. Once the required MADEP groundwater recharge volumes are met, an overflow pipe from the infiltration system to the adjacent stormwater management systems may convey excess stormwater flows. Underground infiltration systems shall be constructed under proposed parking areas or building foundations so as to limit the disturbance of existing natural open space.
- c) Stormwater runoff from the on-site paved areas will be collected and conveyed through deep sump catch basins and storm drain pipes to adjacent stormwater management systems. The pipe capacity of the storm drain system shall be designed to convey the 10-year storm frequency.
- d) Open detention basins and other Best Management Practices (BMPs) shall detain at a minimum the difference in pre- versus post-development stormwater discharge rates from the site.
- e) Open detention basins shall have adequate storage volume to contain the peak elevation during the 100-year storm event within its top of bank.
- f) Compensatory storage volumes provided due to loss in floodplain storage of Little River shall result in a minimum net increase of 1.5 times the existing volume impacted.
- g) Disruption to existing tree cover and vegetation shall be minimized.

- h) Dikes, berms and other required grading shall be blended with the terrain and landscaped and appropriately vegetated with wetland and indigenous species.
- i) All walls, pipe structures and appurtenances shall be designed to assure public safety by devices which prevent climbing and other hazards.
- j) Creation of an acceptable Stormwater Facilities Maintenance Plan and Agreement by which the Applicant agrees to manage and to maintain the Stormwater Facilities servicing the site.

## **6H.8 Site Plan Review Procedures**

Each application for Design and Site Plan Review under Section 6H.6 shall be accompanied by ten copies of the documents described in Section 7.3.4. In addition, the application shall also be accompanied by ten copies of:

- i) plans showing the existing and proposed topography in two foot contours and showing underground utilities;
- ii) a construction management program including, but not limited to, plans for construction vehicle access routes, on-site construction worker parking, designation of material storage methods and locations, and designation of construction hours;
- iii) a development plan, setting forth the anticipated timing of construction and occupancy of the proposed development;
- iv) plans showing anticipated views of the proposed development from public locations outside of the Belmont Uplands District;
- v) plans indicating the location of wetlands and floodplains, if any, and other existing vegetation to be preserved;
- vi) an erosion and sedimentation control plan;
- vii) evidence of property ownership;
- viii) a stormwater management plan, including the calculations described in Section 6H.7a) and setting forth all proposed facilities and performance standards in sufficient detail to permit the Planning Board to evaluate the proposed development in accordance with the provisions of Section 6H.7;
- ix) a written statement of the manner in which the proposal meets each of the objectives set forth above;
- x) evidence that the proposal complies with any non-zoning agreements entered into with the Town of Belmont regarding land in the Belmont Uplands District;
- xi) evidence that a view shed analysis has been performed using a digitally created representation of the height of each proposed structure for the site, together with photographs of such representation taken from a sufficient number of locations suitable for evaluating the visual impacts of each proposed structure in accordance with the objectives set forth above; and

- xii) the Planning Board may, in its discretion, require a traffic study which shall include an impact study on those roadways and intersections reasonably believed to be likely impacted by the project, as well as any mitigation proposals to reduce or eliminate the identified impacts.

Where applicable, plans shall be prepared by a registered architect, landscape architect, land surveyor or professional engineer. After an application has been submitted, no tree removal, grading, filling, construction of roads or installation of utilities shall occur with respect to the proposed area of development until the application has been approved by the Planning Board.

In reviewing an application for Design and Site Plan Review under this Section 6H.8, the Planning Board shall follow the procedures established in the first two paragraphs of Section 7.3.3 Notice of the public hearing shall be provided to the appropriate boards and departments inviting written comments and recommendations. An application may be denied where:

- a) an application is incomplete, or
- b) no reasonable conditions can be imposed which will insure that the proposed development is consistent with the objectives set forth in Section 6H.6 and applicable sections of the Belmont Zoning By-Law. Such a denial shall be in writing and shall set forth the reasons therefor.

It is the intent of Section 6H.6 and this Section 6H.7 that an application for Design and Site Plan Review shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the objectives in Section 6H.6 and all other requirements of this Section 6H and the Town of Belmont Zoning By-Law. The Planning Board may impose such reasonable conditions on its Approval, as it shall deem appropriate to assure the continuing consistency of the development with the objections set forth herein. The Planning Board may require the posting of a performance guaranty as a condition of its Approval as it shall deem appropriate to insure compliance with the Approval and its conditions.

An appeal from a decision of the Planning Board granting or denying Design and Site Plan Approval may be filed with Superior Court or Land Court under Massachusetts General Law, Chapter 40A, Section 17, within twenty days of the filing of the decision with the Town Clerk.

Any proposed amendment to an approval under Section 6H.6 and this Section 6H.8 shall follow the procedures set forth herein for an initial application.

## **6H.9 Coordination with Other Provisions of By-Law**

This Section 6H together with the rest of this By-Law constitute the zoning regulations for the Belmont Uplands District. Where conflicts exist between this Section 6H and the rest of this By-Law, the provisions of this Section shall govern. Except where specifically indicated in this Section, the provisions of this Section supersede Sections 3 (Use Regulations), 4 (Intensity Regulations) and 5.1.1 (Parking – Number of Spaces), 5.1.2 (Parking – Schedule of Requirements), 5.1.3 a) (Parking and Loading Area Location and Design, Location), 5.3.3 c) (Landscaping for Parking Area Plantings) 6.6.3 b) (Floodplain District, Use Regulations) and 7.3 (Design and Site Plan Review).

## **6H.10 Validity**

The invalidity of any section or provision of this Section 6H shall not invalidate any other section or provision hereof.

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## **SECTION 7. ADMINISTRATION**

### **7.1 Enforcement and Penalty**

#### 7.1.1 Enforcement

The Building Inspector shall enforce this By-Law in the manner and with the powers as provided in Massachusetts General Law, Chapter 40A and this By-Law. The Chief of the Fire Department shall refer to the Building Inspector all violations of this By-Law that are discovered in the course of inspections by that department or otherwise.

If the Building Inspector is requested in writing to enforce a provision or provisions of this By-Law against any person allegedly in violation of the same and such officer declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within 14 days of receipt of such request.

#### 7.1.2 Penalty

Any person violating any provision of this By-Law shall be subject to a fine not exceeding \$300.00 for each offense. Each day or part thereof that any violation continues shall constitute a separate offense.

*Note: §7.1.2 was amended by Article 29 at the 1992 Annual Town Meeting.*

#### 7.1.3 Non-Criminal Disposition

*Note: §7.1.3 was adopted under Article 28 at the 1992 Annual Town Meeting.*

In addition to the procedure for enforcement described above, the provisions of this By-Law may also be enforced by non-criminal disposition as provided in Massachusetts General Law, Chapter 40, Section 21D (Section 21D). The penalty for such violation shall be \$50.00 for the first offense, \$100.00 for the second offense and \$200.00 for the third and each subsequent offense. Each Day or part thereof shall constitute a separate offense.

“Enforcing person” as used in this Section 7.1.3 shall mean the Building Inspector and any other Town employee designated by the Board of Selectmen as an enforcing person.

Any enforcing person taking cognizance of a violation of this By-Law or any rule or regulation adopted hereunder shall give the offender a written notice to appear before the clerk of the district court having jurisdiction thereof for the non-criminal disposition thereof in accordance with the provisions of Section 21D. The provisions of Section 21D are incorporated herein by reference.

### **7.2 Compliance**

#### 7.2.1 Conformity Required

Buildings or structures may not be erected, substantially altered, moved or changed in use and land may not be substantially altered or changed in principal use without certification by the Building Inspector that such action is in compliance with then applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by

federal, state, or local law. Issuance of a Building Permit or Certification of Use and Occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.

#### 7.2.2 Vested Rights Limitation

Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction authorized by the Permit is commenced within a period of not less than six months after the issuance of the Permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

### 7.3 Design and Site Plan Review

*Note: §7.3 was amended by Article 16 at the 2005 Annual Town Meeting.*

#### 7.3.1 Purpose

- a) To maintain the integrity and character of all zoning districts and adjoining zones by insuring that proposed development fulfills the purposes and complies with the requirements of the Belmont Zoning By-Law ("these By-Laws").
- b) To insure that development which is subject to this review is planned and designed to minimize impacts on its abutters, the neighborhood and the environment.
- c) To provide an orderly review procedure where site plans of proposed projects can be approved with reasonable conditions which will further the purposes of these By-Laws.

#### 7.3.2 Applicability

The Planning Board shall hear and decide all petitions for Design and Site Plan Review in accordance with the provisions of this Section 7.3.

- a) Design and Site Plan Review is required for any new building, addition or change in use of a predominantly non-residential building greater than 2,500 gross square feet gross floor area in any zoning district, or a proposal that results in the need for six (6) or more parking spaces on the lot or if the proposal reduces the number of on-site parking spaces or changes to the configuration of off-street parking, screening, egress, utilities, drainage or lighting.
- b) For addition or alterations of less than 2,500 gross square feet, the Planning Board may waive any or all of these requirements.
- c) Design and Site Plan Review is not required for those uses which require a Special Permit (for use) from either the Planning Board or the Zoning Board of Appeals. If a Special Permit is required per Section 1.5 of these By-Laws, it shall be obtained prior to the submittal of an application for Design and Site Plan Review.

#### 7.3.3 Application Procedures

Each application for Design and Site Plan Review shall be submitted to the Office of Community Development (OCD) during regular business hours and shall contain all of the information noted below. Applicants are encouraged to meet with OCD staff

planners, abutters to the proposal and informally with the Planning Board to discuss the proposal prior to submittal.

- A completed application form and the applicable fees to address the administrative, advertising and review costs of the Town,
  - An original and thirteen (13) copies of the application package and plans, and
  - Site information as required in Section 7.3.4 below.
- a) Within ten (10) days of receipt of the application package, the Office of Community Development shall provide copies to the Board of Selectmen, Board of Health, Zoning Board of Appeals, Department of Public Works and the Fire and Police Departments requesting written comments prior to the hearing date. The application may also be provided to other appropriate boards or committees (the Traffic Advisory Committee or Conservation Commission for example). Comments received by OCD shall be made available to the Applicant upon request prior to the hearing.
  - b) The Planning Board shall hold a public hearing within 45 days of OCD receiving the application. Notice of the public hearing shall be placed in a newspaper of general circulation, by posting at Town Hall and the OCD website at least seven (7) days before the hearing. Notice shall be sent by mail to the Applicant and abutters (within 300 feet) prior to the hearing date.
  - c) Within 20 days following the close of the public hearing, the Planning Board shall act on the application. Approval shall require a majority vote of the five (5) members. The associate Planning Board member shall sit on the Board for the purposes of acting on a Design and Site Plan Review application, in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board. This time period may be extended at the request of the Applicant.
- Note: §7.3.3 c) was amended by Article 6 at the 2010 Special Town Meeting.*
- d) The Design and Site Plan Review application shall be approved provided that all of the requirements of these By-Laws are fulfilled. The Board may attach reasonable conditions to any approval. An approval does not relieve the applicant of the responsibility of obtaining other required approvals and/or permits from local boards, state or federal agencies.
  - e) If the Design and Site Plan Review application does not conform to the requirements of these By-Laws, the Planning Board shall identify these deficiencies in writing and may deny approval. A new application and hearing process will then be required for further consideration of the proposal.
  - f) Any appeal may be filed with Zoning Board of Appeals (ZBA) in conjunction with an appeal from the denial or grant of a Building Permit for the subject site.
  - g) No Building Permit shall be issued to the Applicant (or his/her designee) until the Planning Board has filed its written decision with the Town Clerk or after 20 days has elapsed from the close of the public hearing without a decision being filed.

#### 7.3.4 Design and Site Plan Review Submittal Requirements

Each application for Design and Site Plan Review shall include the following information unless, prior to submittal, the Planning Board has determined that certain materials are not germane to the decision being made, and authorizes their omission:

- a) Site plans at a scale of 1"=20' prepared and stamped by a professional engineer (P.E.) or a Registered Professional Land Surveyor (RPLS). (The Board may approve another scale or waive the PE/RPLS requirement in specific circumstances.) The plans shall show all new buildings, additions, adjacent structures, streets, sidewalks and crosswalks and all existing and proposed open spaces. Site development details shall include existing and proposed walls, fences, outdoor lighting, street furniture, new paving and ground surface materials. Points of vehicular and pedestrian access/egress shall be shown. All utilities, easements or service facilities, insofar as they relate to the project, shall be shown. Proposed site grading, including existing and proposed grades at property lines shall be shown.
- b) Building elevations or drawings shall be provided at a scale of 1/8" = 1' or other appropriate scale.
- c) A brief narrative describing the proposal and its potential impacts on its abutters and the neighborhood. The narrative should address issues such as the hours of operation, the number of seats for restaurants, clubhouses, or places of public assembly, anticipated number and frequency of events at clubhouses, places of public assembly, or anticipated pupil enrollment and use schedule for schools for profit, number of parking spaces, the square footage of the site and buildings, and potential impacts on open spaces. For multi-family proposals the number, type and size of dwelling units should be discussed. The Planning Board may, at its discretion, require an estimate of municipal revenues and costs expected to be generated by the project, including anticipated real estate valuation and public service needs.
- d) The proposed method of stormwater removal accompanied by calculations for a 20-year storm event. All efforts shall be made to meet the most current Department of Environmental Protection Stormwater Management Design Guidelines.

#### 7.3.5 Approval Guidelines:

- a) At its discretion, the Planning Board may require the completion of a Development Impact Report pursuant to Section 7.5 of these By-Laws prior to acting on the application. The Applicant may also be required to receive an Order of Conditions from the Conservation Commission and/or approval from the Board of Health prior to the Planning Board acting upon an application.
- b) The following criteria and requirements must be fulfilled:
  - The dimensions of the proposed building(s), lot and lot coverage shall comply with the requirements provided in table form per Section 4 of these By-Laws,

- The arrangement of parking and loading spaces, internal traffic circulation and traffic controls in relation to the proposed uses of the building(s) and adjacent uses shall comply with Section 5.1 of these By-Laws,
  - All Signs shall comply with Section 5.2 of these By-Laws,
  - All Landscaping requirements shall comply with Section 5.3 of these By-Laws,
  - The method to dispose of refuse and other waste if it is not within the structure shall be defined. Screening of exterior dumpsters or similar trash receptacles shall comply with Section 5.3 of these By-Laws, and
  - All Environmental Controls shall comply with Section 5.4 of these By-Laws.
- c) The Board may require that some or all of any conditions of Approval be secured by a deposit of money or an Irrevocable Letter of Credit in the Town's favor. This performance guarantee shall bear a reasonable relationship to the expected costs of completing the specified work being secured.
- d) Design and Site Plan Review Approval shall lapse if on-site construction is not commenced within two (2) years from the date of Approval. If the Approval lapses, a new submittal and hearing will be required.
- e) Upon completion of the project, the developer shall submit "as-built" plans to Office of Community Development for review. Upon acceptance of the plans by Office of Community Development and the Planning Board, the developer may submit a written request for a release of the performance guarantee. This provision may be waived by the Planning Board in certain circumstances.

7.3.6 Revisions to an Approved Site Plan:

- a) The Applicant, property owner, Building Commissioner or the Planning Board may petition to change or modify a Design and Site Plan Approval. This may occur in the event of unforeseen site characteristics, infrastructure or economic problems or other unexpected circumstances.
- b) All proposed changes shall be reviewed and discussed by the Planning Board at a regularly scheduled meeting prior to the initiation of such on the property. Minor changes, as determined by the Planning Board, may be approved without a public hearing.
- The Planning Board reserves the right to require a new hearing at the expense of the Applicant if it determines that a proposed change or modification is major and/or significant.
  - All approved changes or modifications shall be detailed in writing by the Planning Board. All changes or modifications shall be shown on a revised plan and if approved, shown on the "as-built" plans.

## 7.4 Special Permits

*Note: §7.4 was adopted by Article 17 at the 2005 Annual Town Meeting.*

### 7.4.1 Special Permit Granting Authority

At various places in this By-Law, authority for acting on particular Special Permits is assigned to the Planning Board or the Board of Appeals. Where no Board is specifically designated, the Board of Appeals shall act as the Special Permit Granting Authority (SPGA).

Pursuant to Chapter 40A, Section 9 of the General Laws, the Planning Board shall have an associate member for the purposes of acting on a Special Permit application in the case of absence, inability to act, or conflict of interest, on the part of any member of the Planning Board or in the event of a vacancy on the Board. Said associate member shall be appointed by the Board of Selectmen.

*Note: §7.4.1 was amended by Article 6 at the 2010 Special Town Meeting.*

### 7.4.2 Applicability

#### a) Special Permits are required for

1. Specified expansions, alterations and/or changes to non-conforming structures and uses as defined in Section 1.5. The criteria listed therein shall apply to those petitions.
2. Those uses noted in Section 3.3 and,
3. Where otherwise specifically provided for within these By-Laws.

#### b) Where a Special Permit is required to allow a use, no Design and Site Plan Review pursuant to Section 7.3 is necessary from the Planning Board.

### 7.4.3 Special Permit Criteria

The following shall be the basis for decisions on Special Permits, except as may be more specifically provided elsewhere in this By-Law. Special Permits shall be granted only if the Special Permit Granting Authority determines that the proposal's benefits to the Town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:

#### a) Location

1. There shall be adequate provisions for water, sewerage, stormwater drainage for the proposed use and no additional adverse impacts should be created.
2. The site should be able to accommodate the proposed use without substantial environmental impacts, impacts to valuable trees or other natural resources.
3. The site should be able to accommodate the proposed use without substantial impacts on municipal infrastructure and with minimum traffic impacts on abutting residential neighborhoods.

b) Activity Type and Mix

1. Residential proposals should serve housing needs of local residents, broaden the diversity of housing within the Town and/or provide affordable housing opportunities pursuant to Section 6.10 of these By-Laws.

*Note: §7.4.3 b) 1 was amended by Article 26 at the 2003 Annual Town Meeting.*

2. The use should complement the character and the scale of existing buildings/uses/activities in the neighborhood and not create undesirable impacts.
3. The use shall be beneficial to the Town and fulfill a need.

c) Visual Concerns

1. Views from public ways and developed properties should be considerately treated in the site arrangement.
2. The visual impact of parking and service areas should be minimized and should be screened from abutting premises.
3. Departure from the architectural scale of buildings on abutting and nearby premises should be minimized, except where the departure would serve a town purpose.

d) Access

1. Vehicular and pedestrian access/egress should be safe and convenient and shall be designed to minimize impacts on the abutting public ways.
2. Pedestrian and vehicular movement within the site should be safe and convenient, and arranged to minimize impacts on abutters.

e) Process

1. A proposal that has been developed in consultation with municipal staff and those likely to be substantially impacted by it is preferred.
2. Mitigation to ameliorate negative impacts is required.

f) Special Permit applications for use shall comply with the criteria within Section 7.3.5 Design and Site Plan Review.

At the time of application, the Applicant shall submit documentation regarding each of the above considerations which are germane, including information regarding consultative efforts made with municipal staff, neighborhood groups or other affected parties.

7.4.4 Procedures

- a) It is recommended that the Applicant meet with municipal staff and abutters to the proposal prior to the application being filed.

Each application for Special Permit shall be filed with the Town Clerk. Ten (10) copies of said application and supporting plans or other materials, including one having the date

and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Office of Community Development.

- b) The Office of Community Development shall refer the application to the SPGA and the Planning Board (if not acting as the SPGA), Board of Selectmen, Board of Health, Fire and Police Departments, Department of Public Works and/or other boards or authorities, as appropriate, for technical review and comment. Failure of a department or board to make recommendation within 35 days of receipt of the application shall be deemed a lack of opposition thereto.
- c) The Special Permit Granting Authority shall hold a public hearing within 65 days of the filing of the application and shall render a decision within 90 days from the date the public hearing is closed. The required time limits for a public hearing and for rendering a final decision may be extended by written agreement between the petitioner and the Special Permit Granting Authority. A copy of such agreement shall be filed in the Office of the Town Clerk.
  - Failure of the Special Permit Granting Authority to take final action within 90 days from the date of the close of the public hearing or within any extended time, if applicable, shall be deemed to be a grant of the Special Permit subject to the procedures found in MGL, Chapter 40A, Section 9.

#### 7.4.5 Special Permit Limitations

A Special Permit, if granted, shall be subject to any general or specific rules prescribed herein, and may be made subject to appropriate conditions, safeguards, and limitations on time or use. A Special Permit shall lapse within a two-year period or a shorter period if so specified by the Board, not including any time required to pursue or await the determination of an appeal pursuant to MGL, Chapter 40A, Section 17 if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun within the period except for good cause.

## 7.5 Development Impact Report

*Note: §7.5 was adopted under Article 13 at the 2003 Special Town Meeting.*

### 7.5.1 Purpose

The purpose of a Development Impact Report (DIR) is to enable the applicable board and municipal officials to identify the environmental/social/physical and/or infrastructure impacts of the requested activity and to determine if the impacts can be mitigated. The DIR shall identify the methods to be used to mitigate and to minimize adverse impacts on the neighborhood and the Town.

### 7.5.2 Applicability

A DIR may be required by the Planning Board or Zoning Board of Appeals during a review of any application for a non-residential or multi-family structure or use which could have significant, deleterious environmental, physical or social impacts on the neighborhood and/or the Town and its infrastructure. This provision is adopted pursuant to Section 53G, Chapter 44, MGL and as such, the DIR shall be at the expense of the Applicant.

- a) At their discretion, the Planning Board or the Zoning Board of Appeals may require a DIR upon the submittal of any application for a Special Permit, Design and Site Plan Review Approval or a Comprehensive Permit.
- b) If the Applicant is required to file an Environmental Impact Report with the MEPA Unit of the Executive Office of the Environmental Affairs, the Draft or Final Environmental Impact Report may be submitted to fulfill the requirements of this Section. This decision is at the discretion of the Board reviewing the application.

### 7.5.3 Consultant Selection and Requirements

- a) The appropriate Board shall develop a Scope of Work to guide the completion of the DIR. This Scope may be coordinated with other boards and/or professional staff. Upon the completion of the Scope of Work, the Board shall send out a "Request for Proposal" to at least three (3) qualified consulting firms. The Board shall review all responses and choose the optimum proposal.
  1. The selected consultant must have an educational degree in or related to the field at issue, or
  2. Have three or more years of practice in the field at issue, and
  3. Provide suitable references for similar activities in other communities.
- b) The Applicant may appeal the selection of the consultant to the Board of Selectmen if they believe that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The time required for action on the application is extended pending the appeal. The Selectmen have one (1) month from the date of the appeal to render a decision.
- c) The Applicant shall then be required to make a payment to the Town of Belmont in the exact sum of the proposal selected. This money shall be placed in a separate, interest bearing escrow account administered by the Town Treasurer pursuant to

Section 53G, Chapter 44, MGL. An annual report on such accounts shall be submitted by the Treasurer to the Town Administrator.

#### 7.5.4 Contents of the Scope of Work

The appropriate Board may waive or add to the list of concerns noted below pursuant to the specifics of each application. It is recommended that the Applicant work with the Board to participate in the preparation of the Scope. The contents could include the following:

##### a) Physical Environment

1. Provide a description and impact analysis that the development will have on the general topography, vegetation, geologic, scenic and historical features and open space of the site.
2. Provide a description and impact analysis on properties abutting the site. This analysis may include traffic, lighting, noise, shadowing and emissions impacts.
3. Identify historic archeological sites, geological, botanical, existing or potential trails and accesses to open space areas and how they will be maintained or enhanced.

##### b) Surface Water

1. Provide a narrative on the following:
  - i. the methods and degree to which water is recycled back into the ground. Estimate increase of peak run-off and volume of run-off over a 24-hour period caused by altered surface conditions;
  - ii. the maintenance and improvement of the flow and quality of surface waters including Best Management Practices (BMP) to be employed; and,
  - iii. methods to prevent flooding onto adjacent properties.
2. Describe the location, extent and type of existing water bodies or wetlands on the site and the proposed alterations to such, including both existing and proposed surface drainage characteristics within and adjacent to the site.

##### c) Erosion Controls

1. Describe the erosion control and soil stabilization methods, timing and locations to be used during construction.
  - i. approximate the size and location of land to be cleared at any given time and the length of time soil will be exposed;
  - ii. identify methods for protecting soil stockpiles; and
  - iii. detail any other erosion control issues.

2. Evaluate the effectiveness of the proposed soil erosion control methods on the site and on the surrounding areas. Also review the permanent methods to be used to control erosion and sedimentation.
- d) Town Services and Infrastructure
1. Estimate traffic flow at peak periods employing ITE standards and procedures. Detail the proposed on-site and projected off-site circulation patterns to the project. Detail pedestrian and bicycle movements and any proposed enhancements. Are new traffic controls (re: signals, signage, striping, etc.) or upgrades to existing controls necessary?
  2. Estimate the effect/impacts of the project on police and fire protection services, public works, educational services, sewer capacity, and the water supply system.
- e) The appropriate Board may require the submission of information which could be required by the MEPA Unit if an EIR were required under applicable MEPA regulations.

#### 7.5.5 Results of the DIR Process

- a) The selected consultant shall complete the Scope of Work developed in Section 7.5.4 above and submit ten (10) copies of a written report to the appropriate Board and the Applicant. This Report and any accompanying maps shall also be submitted in electronic format.
- b) The Board shall employ the Report in reaching its decision on the application. Mitigation recommendations from the Report may be incorporated into a final decision on the application. If the DIR demonstrates that one or more of the decision-making criteria, objectives or standards cannot be met, the DIR may be the basis for disapproval of the application.
- c) Upon the satisfactory completion of the Scope of Work, the consultant shall be compensated the agreed upon fee and the Applicant shall receive any remaining interest from the account. In no case shall the fee exceed the agreed upon amount unless authorized in advance by the Applicant and the appropriate Board.

## 7.6 Board of Appeals

### 7.6.1 Membership

There shall be a Board of Appeals consisting of five regular and three associate members to be appointed by the Board of Selectmen as provided in Massachusetts General Law, Chapter 40A. All members shall be residents of the Town. In making the appointments, the Board of Selectmen shall consider those persons best qualified to carry out the statutory responsibilities of the Board. One regular member shall be appointed each year for a term of five years. One associate member shall be appointed each year for a term of three years. In case of absence, inability to act or conflict of interest on the part of any member or in the event of a vacancy on the Board, the chairperson of the Board of Appeals may designate an associate member to serve. Any member may be removed for cause by the Board of Selectmen upon written charges and after a public hearing. Vacancies shall be filled for unexpired terms in the same manner as in the case of original appointments. No regular or associate member of the Board of

Appeals shall represent before such Board any party or interest in any matter pending before it.

#### 7.6.2 Powers

The Board of Appeals shall act as a Permit Granting Authority and a Special Permit Granting Authority and shall have the following powers in accordance with the provisions of Massachusetts General Law, Chapter 40A and this By-Law.

- Appeals - To hear and decide an appeal taken by any person aggrieved by reason of his (her) inability to obtain a permit or enforcement action from the Building Inspector under the provisions of Massachusetts General Law, Chapter 40A and/or this By-Law, by the Metropolitan Area Planning Council or by any person including an officer or board of the Town of Belmont or of an abutting town aggrieved by an order or decision of the Building Inspector in violation of any provision of Massachusetts General Law, Chapter 40A or of this By-Law.
- Special Permits - To hear and decide on application for Special Permits as provided in this By-Law in cases where the Board of Appeals is designated as Special Permit Granting Authority.

Pursuant to the provisions of Massachusetts General Law, Chapter 44, Section 53G, the Board of Appeals shall promulgate rules requiring any applicant for a Special Permit pursuant to Section 6.8.5 to pay a review fee, in an amount to be determined by the Board of Appeals, to cover the reasonable costs of the Board of Appeals for the employment of any independent consultants determined to be needed to assist in the review of the Special Permit application. Such consultants shall be qualified professionals in the relevant fields of expertise determined by the Board of Appeals.

*Note: §7.6.2 was amended by Article 33 at the 1998 Annual Town Meeting.*

- Variances - To hear and decide a petition with respect to particular land or structures for a Variance from the terms of this By-Law, where the Board specifically finds that:
  1. Owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and
  2. The desired relief may be granted without substantial detriment to the public good, and
  3. Without nullifying or substantially derogating from the intent or purposes of this By-Law.

Variances authorizing a use or activity not otherwise permitted in a particular zoning district may be granted only for accessory uses, and uses within existing structures without extension thereof except that the Board of Appeals upon petition may modify a Use Variance granted prior to January 1, 1976.

*Note: §7.6.2 was amended by Article 36 at the 1991 Annual Town Meeting.*

In acting on Variances, the Board of Appeals may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguard or limitation based upon the continued ownership of the land or structure to which the Variance pertains by the Applicant, petitioner or any owner. If the rights authorized by a Variance are not exercised within one year of the date of the authorization, they shall lapse and may be reestablished only after a new notice and hearing.

#### 7.6.3 Procedure

- a) **Hearing.** In the case of every appeal made to the Board of Appeals, every petition for a Variance and every application for a Special Permit to said Board under the provisions of this By-Law, the Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within 300 feet of the property line including owners of land in another municipality all as they appear on the most recent applicable tax lists, the Planning Board and the Planning Board of every abutting municipality. The Assessors shall certify to the Board the names and addresses of the parties in interest.
- b) **Filing.** A petition for a Variance and an application for a Special Permit to the Board of Appeals shall be filed by the petitioner with the Town Clerk and a copy of said petition or application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Board of Appeals. A notice of appeal from a decision of the Building Inspector shall specify the grounds for such appeal and shall be filed by the petitioner with the Town Clerk, and a copy of said notice of appeal, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the office or board whose order or decision is being appealed and to the Board of Appeals.

Any such petition, application or appeal shall include ten copies of said petition, application or appeal and any supporting plans or other materials. If Design and Site Plan Review is required, a total of fifteen (15) copies of the petition, application or appeal and supporting plans or other material shall be required.

*Note: §7.6.3 b) was amended by Article 34 at the 1995 Annual Town Meeting.*

- c) **Time limits.** The Board of Appeals shall hold a hearing on any appeal, petition for a Variance, or application for a Special Permit, within 65 days of the Board's receipt of the notice of appeal, petition or application. The decision of the Board shall be made within 100 days after the date of filing of an appeal or petition, except in regard to applications for Special Permits, on which the Board shall render a decision within 90 days from the date of the public hearing.

The required time limits for a public hearing and for rendering a decision may be extended by written agreement between the petitioner and the Board of Appeals. A copy of such agreement shall be filed in the Office of the Town Clerk.

Failure by the Board of Appeals to act within 100 days after the date of the filing of the appeal or petition as the case may be, or within such extended time as is applicable, and failure by the Board to render a decision within 90 days of the required public hearing on a Special Permit application or within such extended time

as is applicable, shall be deemed to be the grant of the appeal, petition or application, subject to the following requirements:

1. The petitioner who seeks such approval by reason of the failure of the Board to act within the time prescribed shall notify the Town Clerk, in writing, within 14 days from the expiration of said 100 days in the case of appeals and Variance petitions, and said 90 days in the case of Special Permit applications, or any extended time if applicable, of such approval and that notice has been sent by the petitioner to parties in interest.
  2. The petitioner shall send such notice to parties in interest by mail, and each such notice shall specify that appeals, if any, shall be made pursuant to Massachusetts General Law, Chapter 40A, Section 17, and shall be filed within 20 days after the date the Town Clerk received such written notice from the petitioner that the Board failed to act within the time prescribed.
  3. After the expiration of 20 days without notice of appeal to a Court of competent jurisdiction, or, if appeal has been taken, after receipt of certified records of the Court indicating that such approval has become final, the Town Clerk shall issue a certificate stating the date of approval, the fact that the Board failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded by the Town Clerk to the petitioner.
- d) Documentation. Upon the granting for a Variance or Special Permit, or any extension, modification or renewal thereof, the Board shall issue to the owner and to the Applicant if other than the owner a copy of its decision, certified by the Board containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such Variance or Special Permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the Planning Board and Town Clerk.

No Variance or Special Permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, and if it is a Variance or Special Permit which has been approved by reason of the failure of the Board to act thereon within the time prescribed, a copy of the application for the Special Permit or petition for the Variance accompanied by the certification of the Town Clerk stating the fact that the Board failed to act within the time prescribed and no appeal has been filed and that the grant of the application or petition resulting from such failure to act has become final or that if an appeal has been filed, that it has been dismissed or denied, is 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 names of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or Applicant.

## **7.7 Repetitive Petitions**

### **7.7.1 To Town Meeting**

No proposed change in this By-Law which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within two years after the date of such

unfavorable action unless adoption of the proposed change has been recommended in the final report of the Planning Board to the Town Meeting.

#### 7.7.2 To Board of Appeals or other SPGA

No appeal, application or petition which has been unfavorably and finally acted upon by the Board of Appeals or other Special Permit Granting Authority shall be acted favorably upon within two years after the date of final unfavorable action unless:

- 1) all but one of the members of the Planning Board consent to a re-petition after notice is given to parties in interest of the time and place of the proceedings to consider consent, and
- 2) the Board of Appeals or other SPGA finds specific and material changes in the conditions upon which the previous unfavorable action was based, described such changes in its records and similarly consents.

### 7.8 Amendment

This By-Law may be amended from time to time at an Annual or Special Town Meeting. An amendment may be initiated by the submission to the Board of Selectmen of a proposed change by the Board of Selectmen, the Board of Appeals, an individual owning land in the Town to be affected by the amendment, registered voters of the Town pursuant to Massachusetts General Law, Chapter 39, Section 10, the Planning Board and the Metropolitan Area Planning Council. Within 14 days of the receipt of the proposed change, the Board of Selectmen shall submit it to the Planning Board. A public hearing shall be held by the Planning Board within 65 days after the proposed change is submitted to the Planning Board. The Town Meeting shall not act upon any zoning amendment until the same has been reported on by the Planning Board as herein provided or until 21 days has elapsed after the Planning Board hearing without submission of such report.

Any petition for the alteration of the boundaries of any zoning district shall be accompanied by an accurate plan, size 20" by 30", at a scale no smaller than 80 feet to the inch showing the changes proposed by the petition. The Planning Board in its report to the Town on any petition to alter the boundaries of any zoning district or on its own initiative shall file with the Town a similar plan showing the changes recommended. No action shall be taken by the Town except as to acceptance without amendment of the plan filed by the petitioner, or plan filed by the Planning Board as aforesaid, or on some modification of either plan, made or approved by the Town Engineer.

### 7.9 Validity

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

### 7.10 Effective Date

The effective date of an amendment to this By-Law shall be the date on which such amendment was adopted by a favorable two-thirds vote of Town Meeting, subject to its publication in a Town bulletin or pamphlet and posting or publication in a newspaper as provided in Massachusetts General Law, Chapter 40, Section 32.

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## **SECTION 8. CUSHING SQUARE OVERLAY DISTRICT**

*Note: §8 was adopted under Article 3 at the 2006 Special Town Meeting.*

### **8.1 General**

#### 8.1.1 Purpose

In recognition of the unique location, function and character of land uses in the Cushing Square commercial area, the Cushing Square Overlay District (CSOD) is intended to:

- a) encourage revitalization of the Square;
- b) promote the redevelopment of under utilized properties in a coordinated and well-planned manner;
- c) promote mixed-use development, incorporating retail, restaurant, office, and residential uses;
- d) improve the design of new and renovated buildings by providing greater flexibility while remaining sensitive to abutting residential districts, environmental impacts, and historic preservation;
- e) improve the streetscape, including but not limited to, such features as trees, shrubs, and other plantings, as well as walkways, plazas, benches, and other site furnishings and lighting; and
- f) encourage development of a more pedestrian-oriented and safer Square.

#### 8.1.2 Boundary of Cushing Square Overlay District

The CSOD boundary is shown on the Cushing Square Overlay District Map and is generally described as the area surrounding the intersection of Trapelo Road and Common Street including all of the underlying Local Business I Zoning District and also including parcels 12-207 and 12-211A as listed on the Town's Tax Assessors Map. The CSOD boundaries shall be superimposed on the Town of Belmont Zoning District Map so as to indicate the extent of the CSOD.

#### 8.1.3 Applicability

The CSOD shall be considered as overlaying other existing zoning districts. The CSOD confers additional development options to be employed at the discretion of the property owner, subject to the requirements of this Section 8. CSOD development projects shall be subject to a Design and Site Plan Review in accordance with Section 8.3. Certain CSOD development projects will also be eligible for a Special Permit to increase building height and/or to exceed otherwise applicable square footage limitations.

##### a. Existing Zoning Districts

The CSOD does not in any manner remove or alter the zoning rights permitted by the underlying, existing zoning districts.

#### 8.1.4 Eligibility

Projects allowed by-right under the underlying, existing zoning are not eligible to apply under the CSOD unless meeting the requirements of Section 8.2.1 d).

#### 8.1.5 Authority

The Planning Board shall have Design and Site Plan Review authority for all projects in the CSOD. As part of its Design and Site Plan Review authority under this Section, the Planning Board may waive some or all of the dimensional and parking requirements of this Section if, in its determination, such waiver will result in an improved design. In addition, the Planning Board is also the Special Permit Granting Authority (SPGA) for CSOD developments requiring a Special Permit.

## 8.2 Uses

### 8.2.1 Uses Permitted in the Cushing Square Overlay District

The following uses shall be allowed within a CSOD development project. Uses in excess of the sizes permitted below may be allowed by Special Permit subject to the requirements of Section 7.4.3 and Section 8.3:

- a) Retail sales and services up to 12,000 square feet but not including banks, credit unions or similar establishments;
- b) Office, but not including banks, credit unions or similar establishments;
- c) Restaurant up to 12,000 square feet, but not including fast food or take out restaurants;
- d) Mixed use development projects consisting of a combination of retail sales, office, restaurant, movie theater, art gallery or commercial off-street parking facility uses provided that the development project also includes a residential component and will be subject to the requirements of Section 6.10 and Section 8.3;
- e) Movie theaters up to 10,000 square feet;
- f) Art galleries up to 10,000 square feet; and
- g) Commercial parking lot or facility.

### 8.2.2 The following are expressly prohibited uses in a CSOD development project

- a) Exterior mounted or stand alone automated banking facility;
- b) Banks, credit unions and similar establishments;
- c) Drive-through establishments;
- d) Adult entertainment establishments; or
- e) Storage trailers and outdoor storage of goods associated with a commercial use unless use of such structure is necessary during construction.

#### 8.2.2.1 Existing Uses

Any use otherwise permitted in the underlying district and which already exists on the premises proposed for a CSOD development project shall be allowed to remain as part of the development project.

### 8.3 Performance and Design Standards

All development projects proposed within the CSOD require Design and Site Plan Review by the Planning Board to ensure conformance with the following Performance and Design standards:

#### 8.3.1 Performance Standards

##### A) Mixed Uses

The mix of uses shall be balanced and compatible and shall contribute to a vibrant atmosphere, including first floor street-front uses comprised of retail, restaurants, and services.

##### 1. Ground Floor Uses

The ground floor of any building shall be reserved for allowed business uses except as specified below:

- i. office use shall not exceed 2,500 square feet on the ground floor; and
- ii. residential uses shall be allowed on ground floors of buildings where the building façade does not front on Trapelo Road or Common Street and the Planning Board has determined that the street front residential use will not have an adverse impact on the continuity of the commercial street-front uses of other properties.

##### 2. Uses Above Ground Floor

Above the ground floor uses shall be residential use with the following exceptions:

- i. retail uses may be permitted on the second floor; and
- ii. office uses may be permitted on the second and third floors.

##### B) Dimensional Regulations

##### 1. Setbacks

- i. Front: The maximum front setback shall be zero (0) feet for the front and street side façades.
- ii. Side: The minimum side setback shall be zero (0) feet. When abutting a residential district, the minimum side setback shall be 20 feet.
- iii. Rear: Rear yard setbacks shall be 20 feet.

The Planning Board may modify all setback requirements if, in its opinion, such waiver will result in improved design.

2. Height of Structures

The maximum height of buildings is 28 feet and two stories, above ambient sidewalk grade.

A building height of up to 36 feet and three stories, may be allowed by Special Permit from the Planning Board taking into account the criteria provided in Section 4.4 and Section 7.4.3 and subject to Section 8.3.

A building height of up to 48 feet and four stories, may be allowed by Special Permit from the Planning Board subject to Section 8.4.

Development projects which abut a residential district may be required to reduce building mass by providing additional setbacks on upper stories of buildings to minimize any impact to surrounding residential properties.

3. Floor Area Ratio (FAR)

Size of Proposed Site	Maximum Allowable Floor Area Ratio
<ul style="list-style-type: none"> <li>➤ Less than 15,000 square feet</li> <li>➤ Greater than or equal to 15,000 square feet</li> </ul>	<p>Not Applicable</p> <ul style="list-style-type: none"> <li>▪ 2.75 for three-story buildings</li> <li>▪ 3.0 for buildings greater than three stories</li> </ul>

Calculation of floor area ratio shall not include areas contained within the cellar as defined in Section 1.4.

8.3.2 Parking Requirements

A) Parking spaces shall be provided for new and/or expanded building area in the CSOD, as follows:

- i. Residential: One parking space for each dwelling unit.
- ii. Restaurant: One parking space per every 4 persons seating capacity. Requirements for outdoor café parking can be modified during Design and Site Plan Review.
- iii. Other service establishments, retail businesses and offices: One parking space per 550 square feet of ground floor gross floor area, plus one space per 800 square feet gross floor area on other floors. Excluded from these calculations shall be floor area used for parking or loading.
- iv. Other uses: A number of spaces to be determined by the Planning Board. The Planning Board may consider evidence from similar uses under similar circumstances.

- v. Mixed Use Development: The total number of spaces shall be determined by adding each separate use together.

#### B) Reduction of Parking

The Planning Board may reduce the on-site parking requirements for all uses in a CSOD development project, based upon a consideration of:

- i. Availability of shared parking on another property within 300 feet; however, parking spaces for one use shall not be considered as providing the required spaces for any other use, except when it can be clearly demonstrated that the need for parking occurs at different times. The Planning Board may require a shared parking agreement to be submitted as part of the Design and Site Plan Review application. The agreement shall address issues such as the times of use, maintenance, striping, and snow plowing of the shared parking area.
- ii. Other factors supporting the reduction in the number of required parking spaces such as staggered hours or other opportunities for shared parking among different uses.
- iii. Uses within 250 feet of municipal parking garages or lots may be entitled to a 20% reduction in required parking.
- iv. Parking waiver agreement between the applicant and the town in which a fee is paid by the applicant which would be set aside for the creation of future municipal parking facilities to service the district.
- v. Uses within 200 feet of public transportation may be entitled to a 10% reduction in required parking.

#### C) Bicycle Parking

Long term bicycle parking shall be provided for all new mixed-use development projects in the CSOD. Long-term bicycle parking shall be at least 50% sheltered from the elements. The following requirements apply to any new developments:

- i. Residential - at least one bicycle parking or storage space shall be provided. However, no bicycle parking is required for residential components where there are fewer than two residential units.
- ii. Business - at least two bicycle parking spaces shall be created.
- iii. Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner in close proximity to each development utilizing the shared parking.

### 8.3.3 Design Standards

#### A) General Guidelines

The Planning Board shall consider the architectural and aesthetic compatibility of the proposed development project with the character of the Overlay District, taking into account appropriate scale, massing, and location of buildings on the lot, roof slopes, street façade, exterior building materials, historic significance and similar factors. The

following objectives and criteria shall be considered in reviewing development projects in the CSOD:

- i. Appropriateness of the proposed design and materials of proposed buildings;
- ii. Adequacy of the site in terms of the size of the proposed use(s);
- iii. Adequacy of the provision of open space, its accessibility to the general public, and/or its association with adjacent or proximate open space areas;
- iv. Impact on traffic and pedestrian flow and safety;
- v. Impact on the visual character of the Cushing Square commercial area and surrounding residential neighborhood;
- vi. Adequacy of utilities, including sewage disposal, water supply and storm water drainage;
- vii. Impact of the proposal on the existing mix of structures and businesses in the CSOD;
- viii. Determination that there will be no serious hazard to vehicles or pedestrians within the site or on adjacent streets or sidewalks;
- ix. Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the buildings;
- x. Appropriateness of the proposed methods of disposal of refuse and other wastes resulting from the uses permitted on the site, including size, location and landscape screening of dumpsters or other trash receptacles;
- xi. Determination that the height and bulk of the proposed buildings will not be injurious to surrounding property;
- xii. Obtain appropriate evidence of compliance of the proposal with the applicable requirements of this By-Law other than this Section; and
- xiii. Adequacy of landscaping/site improvements.

#### B) Building Design

The detailed design standards below are intended to promote quality development consistent with the Square's sense of history, human scale, and pedestrian-oriented character. To provide additional guidance, the Planning Board may promulgate more detailed design guidelines.

To the extent feasible, building and site design shall incorporate best-practices in energy efficiency, environmental protection, and storm water management; shall address current Leadership in Energy and Environmental Design (LEED) standards (or other comparable standards), as promulgated by the U.S. Green Building Council; and shall incorporate Low Impact Development site design components.

##### 1. Scale

The size and detailing of buildings shall be pedestrian oriented and shall reflect community preference for moderate-scale structures that reflect the residential character of the Town, rather than city blocks. Building design shall incorporate

features to add visual interest while reducing appearance of bulk or mass. Such features include, as appropriate, varied facades, rooflines, dormers, roof heights, materials, and details such as brick chimneys or shutters.

2. External Materials and Appearance

Except for windows and minor trim, buildings shall avoid reflective materials such as porcelain enamel or sheet metal.

Predominant wall materials shall have the appearance of wood, brick, or stone painted or coated in a non-metallic finish. Window openings shall be maximized in order to increase visibility into storefronts and add vibrancy to Cushing Square.

Any alteration of, or addition to, an existing historic structure shall employ materials, colors, and textures that are compatible with the original structure.

3. Architectural Details

Architectural features shall be compatible with other structures in Cushing Square. Distinctive features, finishes, and construction techniques shall be utilized in the design of new buildings or additions. Renovated structures shall maintain the unique architectural details of the building.

4. Awnings and Signs

Sections 5.2.4 b) 1 and 5.2.4 b) 4 shall apply to signs. The following requirements shall also apply to awnings on buildings within CSOD development projects:

- i. Hardware should be hidden from view. Supports should be located on walls or window frames, and painted to complement the building's color scheme.
- ii. Adequate ventilation should be provided around air conditioners.
- iii. Periodic maintenance is required for awnings, in addition to full replacement every ten years, depending on the color, exposure to the sun, and fabric.
- iv. All awnings should have a similar design, function (fixed or retractable), material, shape, color, and appearance.
- v. The preferred materials for awnings are canvas or acrylics.
- vi. Awnings should be practical, durable, and not impede other building functions.

5. Preservation of Historic Structures

Proposed CSOD development projects shall protect and preserve the historic and cultural character of Cushing Square by promoting the conservation of buildings that have historic significance or are determined by the Planning Board to contribute to the character of Cushing Square. When it deems appropriate, the Planning Board may consult with and request opinions and information from the Belmont Historic District Commission.

To preserve and enhance Cushing Square's historical resources, the Planning Board may consider the following guidelines when reviewing a proposed CSOD development project:

- i. That proposed new buildings respect adjacent historic structures.

- ii. Rehabilitation of historic structures shall be done with sensitivity to the historic character of the structure.
- iii. Proposals for a façade renovation or new building construction that use a particular historical style shall utilize accurate elements of that style.
- iv. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the historic property shall be preserved. The renovation or alteration of historic structures shall:
  - a. Maintain size and proportions of windows and doors. Any new work shall fit within the scale of the existing windows and doors and repeat the window and door rhythms that already exist.
  - b. Maintain the original materials if possible; new materials shall reflect the original textures and visual effect.
  - c. Maintain, or replace if previously removed, building details such as molding, coping lines or parapets, columns and piers.
  - d. Install signage that is fitting with the image of the building.
  - e. Provide color schemes typical of the original building.

#### 6. Vehicle and Pedestrian Features

Buildings should be designed to enhance the pedestrian environment. The following vehicle and pedestrian guidelines apply to CSOD development projects:

- i. Curb cuts shall be allowed only at the discretion of the Planning Board.
- ii. The Planning Board may allow pedestrian and vehicular access to existing or future development on abutting properties in order to facilitate pedestrian access and to minimize curb cuts.
- iii. The provision of parking shall be designed taking into consideration the extent to which the design maximizes pedestrian flow within the development and maximizes the efficient use of existing and proposed parking facilities.
- iv. Parking lots and driveways shall have landscaped “buffer zones” separating cars from pedestrians. The Planning Board shall determine an adequate buffer zone for each project.
- v. Underground parking is strongly encouraged where feasible.
- vi. Vehicle, pedestrian, and bicycle features shall be designed to provide a network of pathways and promote walking within the District.

#### 7. Lighting

The following lighting requirements concerning lighting shall apply to buildings within a CSOD development project:

- i. Exterior signs should have lights for visibility at night.

- ii. Landscaped paths and walkways should always be comfortably and safely lit. Consider low-placed lamps, wall sconces, and pedestrian-scale pole-mounted fixtures.
- iii. Awnings and canopies may be illuminated from within to make them glow at night.
- iv. Lights may be required to be appropriately screened so as to prevent them from reflecting in the eyes of people on the sidewalks, in buildings, or in cars.
- v. Exterior light fixtures shall be shielded from view or blended into the building's lines. Decorative fixtures may be exposed as a design element.
- vi. Building entries and display windows shall be lit with incandescent or warm-toned fluorescent lighting.
- vii. To highlight landscaping, up-light into trees or strings of lights among branches may be required.
- viii. Electrical conduit shall be concealed within the moldings and lines of the building.
- ix. There shall be no neon or flashing signs.

8. Landscaping and Off-Site Improvements

The applicant may be required to install street furniture and landscaping on public property abutting and within the proximity of the proposed development project to ensure the integrity of design in the Overlay District. Site improvements, such as window boxes or potted plants, may be installed outside a development project storefront.

Street furniture includes benches, planters, trash receptacles, lamps, bike racks, and signs. If a front setback is provided, those portions of the front yard not occupied by public amenities shall be landscaped to enhance the streetscape.

The following landscaping and site improvement guidelines apply to the CSOD:

- i. All site open space (yards, parking lots, setbacks) should be planned carefully, with appropriate plantings or landscaping. Open space shall be usable, open, and available to the general public and may consist of landscaped gardens, plazas, sitting areas, sidewalks or similar features.
- ii. Open spaces shall be utilized to break up a block of buildings in order to provide visual relief.
- iii. Street furniture shall be provided for public use.
- iv. Street furniture should be made of solid wood or recycled plastic lumber to ease maintenance.
- v. Trash receptacles shall be provided at all gathering places and properly maintained.
- vi. Window boxes, gardens, or hanging planters shall be located in appropriate locations.

- vii. Landscaping and plantings shall be maintained so as not to interfere with entry to stores or block visibility of signs.
- viii. Climate requirements, growth potential, and adaptability to the urban environment shall be considered when selecting plant types and species.
- ix. Landscaping shall be installed to properly screen dumpsters, transformers, air conditioning equipment, and other similar building equipment.

## **8.4 Four Story Development Projects**

For CSOD development projects that meet the eligibility requirements specified below, the Planning Board may grant a Special Permit to allow an increase in building height and up to 48 feet and 4 stories.

### **8.4.1 Eligible Development Projects**

- a) The development project shall be located on either a single lot, or on a single premises consisting of an assemblage of lots, whether or not in common ownership having an area of or exceeding 15,000 square feet in size; or
- b) Development projects including underground parking areas on the site.

### **8.4.2 Requirements**

All development projects proposed for a Special Permit under Section 8.4 are subject to the requirements of Section 8.3 with the exception of building heights.

#### **a) Building Heights**

By Special Permit under this Section, the Planning Board may allow the maximum height of buildings in a CSOD development project to be increased up to 48 feet and/or four stories (above ambient sidewalk grade). Said story shall be allowed for residential use only. The Board, in granting a Special Permit, may require that development projects which abut residential property reduce building mass by providing stepped back buildings on the above ground floors, to minimize any impact to surrounding residential property.

### **8.4.3 Additional Criteria**

Development projects with Special Permits under this Section shall also be subject to the Special Permit Criteria specified in Section 7.4.3.

## **8.5 Submittal Requirements**

Any person seeking Design and Site Plan Approval or a Special Permit for a CSOD development shall submit 13 copies of the application in such form as the Planning Board may require which shall include the following:

- a) Development plans bearing the seal of a MA Registered Architect, MA Registered Landscape Architect, Registered Civil Engineer, or similar professional as appropriate;
- b) Narrative description of the proposed work affecting the exterior of the building or structure, including a description of the materials to be used;

- c) Site plans and specifications showing total square footage and dimensions of all buildings and site improvements, including:
  - i. New buildings, additions, adjacent structures;
  - ii. Streets, sidewalks and crosswalks;
  - iii. Existing and proposed open spaces, including, existing and proposed walls, fences, outdoor lighting, street furniture, new paving and ground surface materials;
  - iv. Points of vehicular and pedestrian access/egress;
  - v. All utilities, easements or service facilities, insofar as they relate to the project; and
  - vi. Proposed site grading, including existing and proposed grades at property lines.
- d) A certified plot plan less than 6 months old;
- e) Architectural Layout Plans at a scale of 1/8" = 1' or appropriate scale. All spaces within the proposal must be properly labeled and all dimensions must be clearly shown;
- f) Site perspective, sections, elevations 1/8" = 1';
- g) Detailed description of the proposed use of the building, including hours of operation, numbers of employees, method and types of deliveries, etc;
- h) Detailed plans for disposal of sanitary sewage;
- i) Detailed plans for landscaping;
- j) Parking plan;
- k) Plan for lighting, including the type of fixtures, and the off-site overspill (foot candles) of the lighting;
- l) Signage plans; and,
- m) The proposed method of storm water removal accompanied by calculations for a 20-year storm event.

The Planning Board may also require the following prior to acting on the application:

- i. Material boards of proposed buildings; and
- ii. An estimate of municipal revenues and costs expected to be generated by the project, including anticipated real estate valuation and public service needs.

The Planning Board may request additional information necessary in their deliberations relative to the application for the Special Permit.

## **8.6 Procedures**

### **8.6.1 Design and Site Plan Review**

The Planning Board shall promulgate rules and regulations requiring an applicant for Design and Site Plan Review under this Section to pay a review fee in an amount to be determined by the Planning Board to cover the reasonable costs of the Planning Board for the employment of any independent consultants determined to be needed to assist in the review of the application for Design and Site Plan Review. Such consultants shall be qualified professionals in the relevant fields of expertise as determined by the Planning Board.

Review of a submitted application shall follow the procedures below and as specified in Section 7.3.3 of the Zoning By-Laws. Where there is a conflict in procedures, those specified below shall prevail. The Planning Board, or its designee, shall review a submitted application for completeness and shall notify the Applicant within thirty (30) days of its submission whether the application is complete or, if not, what items are missing. If the Planning Board fails to so notify the Applicant within such time, the application shall be deemed complete; provided that nothing herein shall be interpreted to limit the ability of the Planning Board to require additional information. The time for holding a public hearing shall not commence until the Planning Board has received a complete application.

An application for Design and Site Plan Review hereunder shall be approved if such application, as affected by such reasonable conditions as the Planning Board may impose, is consistent with the objectives in this Section and all other requirements of this By-Law. The Planning Board may impose such reasonable conditions on its approval as it shall deem appropriate to assure the continuing consistency of the development project with the purposes of Section 8.

An application may be denied where:

- a) An application is incomplete; or
- b) No reasonable conditions will ensure that the proposed development is consistent with the standards and criteria set forth in Section 8.3. Such a denial shall be in writing and shall set forth the reasons for denial.

Any proposed amendment to an Approval under this Section shall follow the procedures set forth herein for an initial application.

Notwithstanding any provisions hereof to the contrary, Design and Site Plan Review shall not be required for alterations or repairs to an existing building in a previously approved CSOD development project which do not increase the height, bulk, or footprint thereof, which are not being performed to provide for its use for a substantially different purpose and which do not violate the conditions contained within any prior Design and Site Plan Approval applicable to such building.

#### 8.6.2 Special Permit Application

All applications for a Special Permit in the CSOD will follow Sections 7.4.4 and 7.4.5 of the Town of Belmont Zoning By-Law for the application procedures.

#### 8.6.3 Coordination with Other Provisions of By-Law

This Section 8 together with the rest of this By-Law constitutes the zoning regulations for the CSOD. Where conflicts exist between this Section 8 and the rest of the By-Law, the provisions of this Section shall govern.

# ZONING BY-LAW AMENDMENTS BY SECTION

(Since the 1988 Comprehensive Update)

Including amendments through September 23, 2020

As Approved January 7, 2021

<u>Section</u>	<u>Amendment</u>	<u>ATM</u>	<u>Article</u>
<b>1</b>	<b><u>GENERAL</u></b>		
	<b>Accessory Dwelling Unit</b>		
1.4	Insert a new definition.	2009	32
	<b>Accessory Use</b>		
1.4	Amend definition to allow parking at religious and institutional uses to be used by others not conducting business within that use.	2009	30
	<b>Age-Restricted Housing Development</b>		
1.4	Insert a new definition.	2018(s)	3
	<b>Antenna Surface</b>		
1.4	Delete the definition.	1996	24
	<b>Assisted Living Facility</b>		
1.4	Insert a new definition.	2018(s)	3
	<b>Basement</b>		
1.4	Delete "one half" and replace with "60%".	2005	18
	<b>Catering Service</b>		
1.4	Insert a new definition.	2003(s)	9
	<b>Cellar</b>		
1.4	Delete "having one-half or more than one-half" and replace with "having more than 60%".	2005	18
	<b>Child Care, Large Family</b>		
1.4	Insert a new definition.	1999(s)	5
	<b>Commercial Vehicle</b>		
1.4	Replace with a new definition.	2001	26
	<b>DEP</b>		
1.4	Change DEQE to DEP and Department of Environmental Quality Engineering to Department of Environmental Protection.	1995	26
	<b>Driveway, Shared</b>		
1.4	Insert a new definition.	2014	11
	<b>Dwelling, Single-Family</b>		
1.4	Insert a new definition.	2014	14
	<b>Dwelling, Two-Family</b>		
1.4	Insert a new definition.	2014	14

<b>1</b>	<b><u>GENERAL</u> (Continued)</b>		
	<b>Façade-Mounted Wireless Telecommunications Facility</b>		
1.4	Insert a new definition.	1998	25
	<b>FEMA</b>		
1.4	Delete the definition.	2004	26
	<b>FIRM</b>		
1.4	Delete the definition.	2004	26
	<b>Floodway</b>		
1.4	Delete the definition.	2004	26
	<b>Freestanding Wireless Telecommunications Facility</b>		
1.4	Insert a new definition.	1998	25
	<b>Grade</b>		
1.4	Amend the existing definition.	2016	6
	<b>Grade</b>		
1.4	Amend the existing definition.	2005	18
	<b>Habitable Floor</b>		
1.4	Delete definition.	2005	18
	<b>Height, Building</b>		
1.4	Insert a height limit of 15 feet for garages and 10 feet for other accessory structures.	1991	31
	<b>Height, Building</b>		
1.4	Delete dimensional requirements from definition.	2006	28
	<b>Height, Building</b>		
1.4	Amend existing definition.	2005	18
	<b>Interior Wireless Telecommunications Facility</b>		
1.4	Insert a new definition.	1998	25
	<b>Kennel</b>		
1.4	Insert a new definition.	2014	9
	<b>Kennel, Commercial Boarding or Training</b>		
1.4	Insert a new definition.	2014	9
	<b>Kennel, Commercial Breeder</b>		
1.4	Insert a new definition.	2014	9
	<b>Kennel, Domestic Charitable Corporation</b>		
1.4	Insert a new definition.	2014	9

<b>1</b>	<b><u>GENERAL</u></b> (Continued)		
	<b>Kennel, Personal</b>		
1.4	Insert a new definition.	2014	9
	<b>Kennel, Veterinary</b>		
1.4	Insert a new definition.	2014	9
	<b>Marijuana, Adult Use Establishment</b>		
1.4	Insert a new definition.	2018(s)	4
	<b>Marijuana Cultivator</b>		
1.4	Insert a new definition.	2018(s)	4
	<b>Marijuana Independent Testing Laboratory</b>		
1.4	Insert a new definition.	2018(s)	4
	<b>Marijuana Product Manufacturer</b>		
1.4	Insert a new definition.	2018(s)	4
	<b>Marijuana Products</b>		
1.4	Insert a new definition.	2018(s)	4
	<b>Marijuana Retailer</b>		
1.4	Insert a new definition.	2018(s)	4
	<b>Other Retail Sales and Services</b>		
1.4	Insert a new definition.	2003(s)	9
	<b>Outdoor Seasonal Seating</b>		
1.4	Insert a new definition.	2010	25
	<b>Patio</b>		
1.4	Insert a new definition.	2000	19
	<b>Registered Marijuana Dispensary</b>		
1.4	Insert a new definition.	2014	12
	<b>Restaurant</b>		
1.4	Replace with a new definition.	2003(s)	9
	<b>Restaurant, Fast Food</b>		
1.4	Insert a new definition.	2003(s)	9
	<b>Restaurant, Take Out</b>		
1.4	Insert a new definition.	2003(s)	9
	<b>Roof-Mounted Wireless Telecommunications Facility</b>		
1.4	Insert a new definition.	1998	25

<b>1</b>	<b><u>GENERAL</u></b> (Continued)		
	<b>Satellite Antenna</b>		
1.4	Insert “other than a Wireless Telecommunications Facility.”	1998	26
	<b>Satellite Antenna</b>		
1.4	Insert a new definition.	1996	24
	<b>School-Aged Child Care Home</b>		
1.4	Insert a new definition.	1994	39
	<b>Setback</b>		
1.4	Delete provision for 2 foot overhang.	2006	28
	<b>Sign</b>		
1.4	Delete from sub section c) 'covering not more than 50% of window area.'	2017	5
	<b>Sign, Temporary</b>		
1.4	Insert the phrase ' and not repeated for a period of 4 months after removal'.	2017	5
	<b>Sign, Window</b>		
1.4	Insert a new definition.	2008	24
	<b>Special Permit Granting Authority</b>		
1.4	Insert new definition.	2006	28
	<b>Story, Half</b>		
1.4	Delete existing definition and insert a new one.	2005	18
	<b>Story, Half</b>		
1.4	Delete the word “habitable”.	1998	22
	<b>Street</b>		
1.4	Insert “c)” to include private ways in existence prior to September 21, 1988.	1995	27
	<b>Townhouse</b>		
1.4	Insert a new definition.	2014	14
	<b>Utility or Recreational Vehicle</b>		
1.4	Delete the definition.	2001	26
	<b>Window Display</b>		
1.4	Insert a new definition.	2008	24
	<b>Wireless Telecommunications Facility</b>		
1.4	Insert a new definition.	1998	25
	<b>Nonconforming Uses and Structures</b>		
1.5	Delete the “Nonconformance” Section and replace with new Section.	2004	27
	<b>Alteration or Extension - Deleted as of 2004</b>		
1.5.2	Insert “structure or” between “nonconforming” and “use.”	1995	28

<b>1</b>	<b><u>GENERAL</u></b> (Continued)		
	<b>Nonconforming Single and Two-Family Residential Structures</b>		
<b>1.5.4</b>	Replace Section with different text	2020 (s)	8
	<b>Nonconforming Single and Two-Family Residential Structures in the Single Residence B Zoning Districts (SR-B)</b>		
<b>1.5.4</b>	Insert text to require alterations of nonconforming residential structures in the SR-B Districts to get a Special Permit from the Planning Board.	2019	4
	<b>Nonconforming Single and Two-Family Residential Structures in the General Residence Zoning Districts (GR)</b>		
<b>1.5.4</b>	Insert text to require additions less than 300 square feet go to the Zoning Board of Appeals and those greater go to the Planning Board.	2018	5
	<b>Nonconforming Single and Two-Family Residential Structures in the Single Residence C Zoning Districts (SR-C)</b>		
<b>1.5.4</b>	Insert text to require alterations of nonconforming residential structures in the SR-C Districts to get a Special Permit from the Planning Board.	2016	6
	<b>Nonconforming Single and Two-Family Residential Structures in the General Residence Zoning Districts (GR)</b>		
<b>1.5.4</b>	Insert text to require alterations of nonconforming residential structures in the GR Districts to get a Special Permit from the Planning Board.	2014	14
	<b>Single and Two-Family Residential Structures - Deleted as of 2004</b>		
<b>1.5.7</b>	Insert new Section to allow nonconforming properties to construct complying additions.	1994(s)	2
<b>2</b>	<b><u>DISTRICTS</u></b>		
	<b>Classes</b>		
<b>2.1</b>	Insert "Belmont Uplands District".	2002 (s)	5
	<b>Classes</b>		
<b>2.1</b>	Insert "McLean District".	1999 (s,r)	2
	<b>Dividing Existing Lots</b>		
<b>2.3.3</b>	Delete the provision.	2006	29
	<b>Floodplain District Delineation</b>		
<b>2.4</b>	Delete the entire Section and replace with new text.	2010	24
	<b>Floodplain District Delineation</b>		
<b>2.4</b>	Insert "Floodplain District".	2006	28

<b>3</b>	<b><u>USE REGULATIONS</u></b>		
	<b>General Requirements</b>		
3.1	Allow Special Permits to be granted by the Special Permit Granting Authority.	2006	28
	<b>Catering Service</b>		
3.3	Establish thresholds.	2003(s)	10
	<b>Restaurant</b>		
3.3	Establish thresholds for use.	2003(s)	10
	<b>Restaurant, Fast Food</b>		
3.3	Allow by Special Permit.	2003(s)	10
	<b>Restaurant, Take Out</b>		
3.3	Allow by Special Permit in LBII, LBIII, and GB.	2003(s)	10
	<b>Wireless Telecommunications Facility</b>		
3.3	Allow by Special Permit.	1998	27
	<b>Solar Energy System</b>		
3.3	Allow by Special Permit in Business Districts.	2012(s)	9
	<b>Kennels</b>		
3.3	Clearly identify types of Kennels allowed and in what districts.	2014	9
	<b>Registered Marijuana Dispensary</b>		
3.3	Allow by Special Permit in the LBII and GB Zoning Districts.	2014	12
	<b>Marijuana Cultivator</b>		
3.3	Prohibit in all zoning districts.	2018(s)	4
	<b>Marijuana Independent Testing Laboratory</b>		
3.3	Prohibit in all zoning districts.	2018(s)	4
	<b>Marijuana Product Manufacturer</b>		
3.3	Prohibit in all zoning districts.	2018(s)	4
	<b>Marijuana Retailer</b>		
3.3	Prohibit in all zoning districts.	2018(s)	4
	<b>Day Care Center</b>		
3.3	Separate from family day care home and allow by-right except in PL districts.	2006	28
	<b>Family Day Care Home</b>		
3.3	Separate from day care center and allow by Special Permit except in PL districts.	2006	28
	<b>Child Care, Large Family</b>		
3.3	Allow by Special Permit.	1999 (S)	6

<b>3</b>	<b><u>USE REGULATIONS</u></b> (Continued)		
	<b>School-Aged Child Care Home</b>		
3.3	Allow by Special Permit.	1994	39
	<b>Detached single-family dwelling</b>		
3.3	Refer single-family dwellings in the GR Districts to §6D.	2014	14
	<b>Two-family dwelling</b>		
3.3	Require a Special Permit for two-family dwellings in the GR Districts and refer to §6D.	2014	14
	<b>Conversion of Large Public Buildings</b>		
3.3	In LBI, conversion of 10,000 sq. ft. or less allowed by-right; greater than 10,000 sq. ft. requires Special Permit.	2005(s)	5
	<b>Residential</b>		
3.3	Allow housing units above commercial use by Special Permit.	2003	26
	<b>Mixed Use</b>		
3.3	Require housing above commercial to comply with §6.10.	2007	17
	<b>Noncommercial Greenhouse...</b>		
3.3	Delete references to dimensional regulations.	2006	28
	<b>Sale of food or drink ready for consumption</b>		
3.3	Delete from "Accessory Uses".	2003(s)	11
	<b>Dog Daycare</b>		
3.3	Allow by Special Permit in SR-A, B, C, and D.	1995	29
	<b>Personal Kennel</b>		
3.3	Allow Personal Kennels by Special Permit in the SR Zoning Districts.	2014	9
	<b>Open Lot Storage</b>		
3.3	Delete from "Open lot storage or parking of a boat; ..." the words "recreational vehicle."	2001	27
	<b>Shared Institutional Parking</b>		
3.3	Allow by-right or Special Permit depending on type of vehicle and time of day.	2009	30
	<b>Satellite Antenna</b>		
3.3	Allow by Special Permit if greater than 1.8 square feet.	1996	25
	<b>Satellite Antenna</b>		
3.3	Allow by by-right if less than one meter.	1999	18
	<b>Satellite Antenna</b>		
3.3	Allow by Special Permit if less than two meters in SR-A, B, C, and D.	1999	18
	<b>Satellite Antenna</b>		
3.3	Allow by Special Permit if more than two meters.	1999	18

**3** **USE REGULATIONS** (Continued)

	<b>Satellite Antenna</b>		
3.3	Allow by-right if less than 1.8 square feet.	1996	26
	<b>Interior Wireless Telecommunications Facility</b>		
3.3	Allow by-right.	1998	28
	<b>Other Wireless Telecommunications Facility</b>		
3.3	Allow by Special Permit.	1998	28
	<b>Solar Energy System</b>		
3.3	Allow by-right.	2012(s)	9
	<b>Shared Driveway</b>		
3.3	Allow shared driveways by Special Permit in residential zoning districts and refer to §5.1.3 k).	2014	11
	<b>Footnote 1 - Minimum Affordable Unit – Deleted as of 2007</b>		
3.3	Residential above commercial requires at least one affordable unit.	2003	26
	<b>Home Occupations</b>		
3.4.2	Allow home occupations in accessory structures per §6.11.	2009	31
	<b>Home Occupations</b>		
3.4.2	Delete the entire Section and replace with new text.	1995	30
	<b>Home Occupations</b>		
3.4.2	Change expiration to four years.	2014	10

**4** **INTENSITY REGULATIONS**

	<b>General Requirements</b>		
4.1	Allow Inspector of Buildings to require 'As-Built' plan.	2014	13
	<b>Schedule of Dimensional Regulations</b>		
4.2	Insert a new §4.2.1, and separate Linear Requirements between residential, §4.2.2, and commercial, §4.2.3.	2014	14
	<b>Linear Requirements Table - Building Height, Feet</b>		
4.2.2	Reduce height in the SR-B District from 36' to 30'.	2019	4
	<b>Height to Ridge Limitation in SR-B</b>		
4.2.2 A.1	Limit building height to the ridge to 34' in the SR-B District.	2019	4
	<b>Placement of Ground Mounted Outdoor Mechanical and Fuel Storage Equipment</b>		
4.2.2	Insert locational restrictions for outdoor mechanical equipment in SR-B District.	2019	4
	<b>Front Setback Requirements in SR-B</b>		
4.2.2	Require front setbacks in SR-B district to be the same as the average of the abutting properties.	2019	4

<b>4</b>	<b><u>INTENSITY REGULATIONS</u></b> (Continued)		
	<b>Linear Requirements Table</b>		
4.2.2	Separate SR-B and SR-C requirements.	2016	6
	<b>Linear Requirements Table</b>		
4.2.2	In the Districts column, delete footnote 9 in LBI, II, and III.	2004(s)	10
	<b>Building Height, Feet</b>		
4.2.2	Reduce height in the GR District from 36' to 33'.	2005	18
	<b>Projections into Setbacks – Formerly 4.2.2 8)</b>		
4.2.2 A.1	Allow up to two foot projections into setbacks.	2006	28
	<b>Placement of Ground Mounted Outdoor Mechanical and Fuel Storage Equipment</b>		
4.2.2 A.2	Insert locational restrictions for outdoor mechanical equipment.	2016	6
	<b>Front Setback Requirements in SR-C</b>		
4.2.2 A.4	Require front setbacks in SR-C district to be the same as the average of the abutting properties.	2016	6
	<b>Rear Yard Setback – Formerly 4.2.2 A.4 and 4.2.2 3)</b>		
4.2.2 A.5	Allow lots less than 100 feet deep to reduce rear setbacks.	1994	30
	<b>Height to Ridge Limitation in SR-C</b>		
4.2.2 B.2	Limit building height to the ridge to 34 feet in the SR-C District.	2016	6
	<b>Residential Structures Conform to GR</b>		
4.2.2 8)	Delete existing provision.	2006	28
	<b>Side and Rear Setbacks in LBII &amp; III, GB – Formerly 4.2.2 9)</b>		
4.2.3 A.2	Require greater setbacks for structures that were residences and abut residential districts.	2003	24
	<b>Side Setback in LBIII – Formerly 4.2.2 12)</b>		
4.2.3 A.2	Require greater side setback for structures that were formerly residences.	2004(s)	10
	<b>Side Yard Setback - Formerly 4.2.2</b>		
4.2.3 A.3	Eliminate side yard setbacks in LBII and LBIII except abutting residential districts.	2003	24
	<b>Side and Rear Setbacks in LBII &amp; III, GB – Formerly 4.2.2 9)</b>		
4.2.3 A.3	Require greater setbacks abutting residential districts.	2004(s)	10
	<b>Exception for Recorded Lots</b>		
4.3.4	Delete exception for lots in the General Residence Districts.	2014	14
	<b>Accessory Buildings</b>		
4.3.5	Re-structure and divide into four categories.	2006	28
	<b>Rear Yard Restrictions</b>		
4.3.5 c)	Requires a 5 foot setback for accessory structures.	2008	22

**4** **INTENSITY REGULATIONS** (Continued)

	<b>Rear Yard Restrictions</b>		
<b>4.3.5 c)</b>	Replace 'garage' with accessory building.	2007(s)	6
	<b>Rear Yard Restrictions</b>		
<b>4.3.5 c)</b>	Allow additions to extend beyond the front façade of existing unattached garages.	1998	23
	<b>Satellite Antennae</b>		
<b>4.3.5 d) 1</b>	Allow satellite antenna with a diameter of one meter or less to be built no closer than 5'-0" to any lot line.	1999	19
	<b>Satellite Antennae</b>		
<b>4.3.5 d) 2</b>	Allow satellite antenna with a diameter greater than 18 inches to be built no closer than 5'-0" to the side and rear lot lines.	1996	27
	<b>Satellite Antennae</b>		
<b>4.3.5 d) 2</b>	Allow satellite antenna with a diameter greater than one meter to be built no closer than 5'-0" to the side and rear lot lines.	1999	19
	<b>Satellite Antennae</b>		
<b>4.3.5 d) 1</b>	Allow satellite antenna with a diameter of 18 inches or less to be built no closer than 5'-0" to any lot line.	1996	28
	<b>Corner Setbacks for Fences and Other Landscaping</b>		
<b>4.3.7</b>	Limit the height of fences and landscaping as they intersect with sidewalks, streets, and other pavement.	2006	31
	<b>Solar Energy Systems</b>		
<b>4.3.8</b>	Insert new section to regulate Solar Energy Systems through dimensional and design standards and re-number remaining Sections.	2012(s)	9

**5** **GENERAL REGULATIONS**

	<b>Annual Access Fee for Parking</b>		
<b>5.1.1 c)</b>	Delete provision.	2003(s)	12
	<b>Restaurant</b>		
<b>5.1.2 d)</b>	Exempt up to 20 Outdoor Seasonal Seats when calculating parking requirements.	2010	25
	<b>Parking and Loading Area Locations and Design</b>		
<b>5.1.3 a)</b>	Delete existing subsection 'a' and replace with new subsection 'a. Non-residential'.	2005	18
	<b>Parking and Loading Area Locations and Design</b>		
<b>5.1.3 b)</b>	Insert a new subsection 'b. Residential' and re-alphabetize existing Sections accordingly.	2005	18
	<b>Shared Driveway</b>		
<b>5.1.3 k)</b>	Establish objectives for Shared Driveways.	2014	11
	<b>Signs</b>		
<b>5.2</b>	Insert new subsections, amend existing ones, and edit existing text.	2017	5

**5** **GENERAL REGULATIONS** (Continued)

**Window Signs**

**5.2.3 c)** Limits size window signs and temporary signs. 2008 24

**Attached Signs**

**5.2.4 b) 1** Designate the Planning Board as the Permit Granting Authority. 2006 28

**Attached Signs**

**5.2.4 b) 1** Replace with new text. 1991 34

**Standing Signs**

**5.2.4 b) 3** Reduce the size of standing signs n LBI and LBIII districts. 2006 (s) 6

**Standing Signs**

**5.2.4 b) 3** Designate the Planning Board as the Permit Granting Authority. 2006 28

**Standing Signs**

**5.2.4 b) 3** Replace with new text. 1991 35

**Attached Signs**

**5.2.4 b) 3** Replace “or” with the words “nor shall it exceed” in the two bulleted subsections and delete the word “or” joining the two subsections. 2009 29

**Applicability**

**5.3.1** Insert “or Freestanding Wireless Telecommunications Facility”. 1998 29

**Screening**

**5.3.4** Insert “or Free-Standing Wireless Telecommunications Facility”. 1998 30

**Air Quality**

**5.4.4 a)** Change DEQE to DEP. 1995 26

**Hazardous Materials**

**5.4.5 d)** Change DEQE to DEP. 1995 26

**6** **SPECIAL REGULATIONS**

**Swimming Pools**

**6.1** Delete entire Section and insert reference to the State Building Code. 2000 20

**Public Building and School Conversion**

**6.3A** Re-number the existing Section 6.3 to 6.3A. 2005 (s) 5

**Objectives – Formerly 6.3.1 b)**

**6.3A.1.b)** Insert an objective to include diversity in type and affordability of housing. 2003 26

**6** **SPECIAL REGULATIONS** (Continued)

**Special Permit Criteria – Formerly 6.3.3 c)**

<b>6.3A.3.c)</b>	Reduce lot area per dwelling unit allowed if providing affordable housing.	2003	26
<b>Public Buildings and School Conversion – 10,000 Square Feet or Less in LB I</b>			
<b>6.3B</b>	Insert Section to convert public buildings to residential use by-right if the building is 10,000 sq. ft. or less.	2005 (s)	5
<b>Public Buildings and School Conversion – 10,000 Square Feet or Less</b>			
<b>6.3B</b>	Limit conversion of public buildings to 3 units in any zoning district.	2007	18
<b>Objectives</b>			
<b>6.5.1 d)</b>	Insert an objective for affordable housing.	2003	26
<b>Number of Dwelling Units</b>			
<b>6.5.3 b)</b>	Allow more units if providing affordable housing.	2003	26
<b>Floodplain District</b>			
<b>6.6</b>	Delete the entire Section and replace with new text.	2004	26
<b>Definitions</b>			
<b>6.6.2</b>	Refer to State Law and delete those definitions already defined by State Law.	2006	28
<b>Flood Hazard Boundary Map (FHBM)</b>			
<b>6.6.2</b>	Replace 'Zone A or E' with 'Zone A or AE'.	2010	24
<b>District Delineation</b>			
<b>6.6.3</b>	Delete provision and re-number the Sections accordingly.	2006	28
<b>Requirements – Formerly 6.6.5</b>			
<b>6.6.4</b>	Replace Department of Environmental Quality Engineering with Department of Environmental Protection.	1995	26
<b>Requirements</b>			
<b>6.6.4</b>	Replace references to CMR in the first and third subsections with updated references.	2010	24
<b>Floodway Data</b>			
<b>6.6.5 a)</b>	Replace 'Zone A, A1, 30 and AE' with 'Zone A and Zone AE'.	2010	24
<b>Waiver – Formerly 6.6.8</b>			
<b>6.6.7</b>	Insert new text.	1995	31
<b>Wireless Telecommunications Facilities</b>			
<b>6.8</b>	Insert a new Section.	1998	31

(s) Special Town Meeting  
(r) Town-wide Referendum

**6** **SPECIAL REGULATIONS** (Continued)

	<b>Factors to Consider</b>		
<b>6.8.5 c)</b>			
<b>11)</b>	Require “consideration of interference from other devices.”	1998	31
	<b>Affordable Housing</b>		
<b>6.9</b>	Identify Zone 6, General Residence District on the McLean District Zoning Map.	2006 (s)	2
	<b>Affordable Housing</b>		
<b>6.9</b>	Insert a new Section.	1999 (s,r)	2
	<b>Inclusionary Housing</b>		
<b>6.10</b>	Delete the entire Section and replace with new text.	2013 (s)	17
	<b>Inclusionary Housing</b>		
<b>6.10</b>	Delete the entire Section and replace with new text.	2009 (s)	9
	<b>Inclusionary Housing</b>		
<b>6.10</b>	Insert a new Section.	2003	25
	<b>Affordable Housing Unit Definition - Deleted as of 2009</b>		
<b>6.10.2.3)</b>			
<b>c.</b>	Insert definition to include Local Initiative Program (LIP).	2004	28
	<b>Annual Shelter Cost - Deleted as of 2009</b>		
<b>6.10.2.4)</b>			
<b>a.</b>	Reduce down payment to 5%.	2004	28
	<b>Requirements</b>		
<b>6.10.4 1)</b>	Reduce size of development threshold from 40 housing units to 20 housing units.	2019	3
	<b>Mixed-Use Residential Developments</b>		
<b>6.10.4.2</b>	Delete Mixed-Use Residential Development affordable housing reduction and renumber remaining sections.	2019	3
	<b>Cash Payment Option for For-Sale Affordable Units</b>		
<b>6.10.5</b>	Replace existing section with new calculation.	2019	3
	<b>Requirements - Deleted as of 2009</b>		
<b>6.10.6 2)</b>	Replace ‘Zoning Board of Appeals’ with ‘Special Permit Granting Authority’.	2009	29
	<b>General Provisions - Deleted as of 2009</b>		
<b>6.10.7 3)</b>	Replace ‘Zoning Board of Appeals’ with ‘Special Permit Granting Authority’.	2009	29
	<b>Demolition Moratorium</b>		
<b>6.11</b>	Expired May 31, 2005.	2004	29
	<b>Historic Accessory Building Preservation</b>		
<b>6.11</b>	Insert a new Section to allow conversion of ‘historic’ barns for home occupations.	2009	31

<b>6</b>	<b><u>SPECIAL REGULATIONS</u></b> (Continued)		
	<b>Applicability</b>		
<b>6.11.3</b>	Allow conversion of 'historic' barns into single-family dwellings.	2009	32
	<b>Procedure</b>		
<b>6.11.4 d)</b>	Clarify that listed criteria is for home occupation.	2009	32
	<b>Procedure</b>		
<b>6.11.4 e)</b>	Insert criteria for conversion of 'historic' barns to single-family dwelling.	2009	32
<b>6.12</b>	<b>Religious and Municipal Building Preservation</b> Insert a new section allowing conversion to residential use.	2013	31
<b>6A</b>	<b>McLEAN DISTRICT</b>		
	<b>McLean District</b>		
<b>6A</b>	Insert a new Section.	1999 (s,r)	2
	<b>Parking and Access Requirements</b>		
<b>6A.3.1 f)</b>	Insert a provision for parking of commercial vehicles within subdistricts.	2001	28
<b>6B</b>	<b><u>McLEAN DISTRICT ZONE 3 OVERLAY DISTRICT</u></b>		
	<b>McLean District 3</b>		
<b>6B</b>	Insert a new Section.	2020 (s)	9
<b>6C</b>	<b><u>THE OAKLEY NEIGHBORHOOD SMART GROWTH OVERLAY DISTRICT</u></b>		
	<b>The Oakley Neighborhood Smart Growth Overlay District</b>		
<b>6C</b>	Insert a new Section to encourage the re-use of the Our Lady of Mercy Catholic Church.	2007 (s)	9
<b>6D</b>	<b><u>SINGLE AND TWO-FAMILY DWELLINGS IN THE GENERAL RESIDENCE ZONING DISTRICTS</u></b>		
	<b>Single and Two-family Dwellings in the General Residence Zoning Districts</b>		
<b>6D</b>	Insert a new section regulating Single and Two-family dwellings in the GR zoning districts.	2014	14
	<b>Time Limitation</b>		
<b>6D.2</b>	Delete the sunset provision.	2018	4
	<b>Single-Family Dwellings as an Alternative to a Two-Family Dwelling</b>		
<b>6D.7</b>	Allow Special Permits for 2 Single-Family Dwellings instead of a Two-Family Dwelling if it meets certain thresholds and criteria.	2015	7
<b>6D</b>	<b><u>CENTRAL/PALFREY SQUARES INTERIM PLANNING OVERLAY</u></b>		
<b>6D</b>	Expired June 30, 2012.	2009 (s)	8

<b>6E</b>	<b><u>MEDICAL MARIJUANA OVERLAY DISTRICT</u></b>		
	<b>Medical Marijuana Overlay District</b>		
<b>6E</b>	Insert new section regulating Registered Marijuana Dispensaries.	2014	12
<b>6F</b>	<b><u>ADULT USE MARIJUANA ESTABLISHMENT OVERLAY DISTRICT</u></b>		
	<b>Adult Use Marijuana Establishment Overlay District</b>		
<b>6F</b>	Insert new section regulating Retail Marijuana Sales.	2108(s)	4
<b>6G</b>	<b><u>SOUTH PLEASANT STREET OVERLAY DISTRICT</u></b>		
	<b>South Pleasant Street Overlay District</b>		
<b>6G</b>	Insert new section regulating allowing LBI uses and dimensional regulations and Assisted Living and Age-Restricted Housing in LBII.	2018 (s)	3
<b>6H</b>	<b><u>BELMONT UPLANDS DISTRICT</u></b>		
	<b>Belmont Uplands District</b>		
<b>6B</b>	Relabeled and Renumbered	2020(s)	9
<b>7</b>	<b><u>ADMINISTRATION</u></b>		
	<b>Penalty</b>		
<b>7.1.2</b>	Increase \$100 to \$300 for each offense.	1992	29
	<b>Non-Criminal Disposition</b>		
<b>7.1.3</b>	Insert a new Section.	1992	28
	<b>Design and Site Plan Review</b>		
<b>7.3</b>	Delete the entire Section and replace with new text.	2005	16
	<b>Applicability - Deleted as of 2005</b>		
<b>7.3.2 c)</b>	Insert "c)" for changes in General Business Districts.	1995	32
	<b>Applicability - Deleted as of 2005</b>		
<b>7.3.2 d)</b>	Insert "d)" for Wireless Telecommunications Facilities.	1998	32
	<b>Applicability - Deleted as of 2005</b>		
<b>7.3.2 e)</b>	Insert "e)" for Conversion of public buildings with 10,000 sq. ft. or less to Multi-Family use in the LB I Zoning Districts.	2005 (s)	5
	<b>Application Procedures</b>		
<b>7.3.3 c</b>	Allow an Associate Planning Board member to sit during a Design and Site Plan Review application.	2010 (s)	6
	<b>Special Permits</b>		
<b>7.4</b>	Delete the entire Section and replace with new text.	2005	17
	<b>Special Permit Granting Authority</b>		
<b>7.4.1</b>	Allow an Associate Planning Board member to sit during a Special Permit application.	2010 (s)	6
	<b>Activity Type and Mix – Formerly 7.4.2 b)</b>		
<b>7.4.3 b) 1)</b>	Insert criteria to provide affordable housing.	2003	26

**7** **ADMINISTRATION** (Continued)

**Procedure - Deleted as of 2005**

		1995	33
<b>7.4.3 a)</b>	Require 15 copies for Site Plan Review.		
<b>7.5</b>	<b>Development Impact Report</b> Insert a new Section and re-number remaining Sections.	2003(s)	12
<b>7.6.2</b>	<b>Powers – Formerly 7.5.2</b> Allow the Board of Appeals to require an applicant to pay for a consultant.	1998	33
<b>7.6.2</b>	<b>Powers – Formerly 7.5.2</b> Board of Appeals can modify Use Variances.	1991	36

**7** **ADMINISTRATION** (Continued)

**Procedure, Filing – Formerly 7.5.3 b)**

<b>7.6.3 b)</b>	Increase number of copies required for submission.	1995	34
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**8** **CUSHING SQUARE OVERLAY DISTRICT**

**Cushing Square Overlay District**

<b>8</b>	Insert a new Section to encourage mixed-use development in Cushing Square.	2006 (s)	3
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**8** **ALEWIFE GR DISTRICT MORATORIUM**

<b>8</b>	Expired November 30, 2001.	2000	21
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**9** **MARIJUANA ESTABLISHMENT TEMPORARY MORATORIUM**

**Temporary Moratorium**

<b>9.3</b>	Extend temporary moratorium to December 31, 2018.	2018	8
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**Marijuana Establishment Temporary Moratorium**

<b>9</b>	Insert a new Section to study marijuana retail and distribution.	2017	6
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**9** **INTERIM CONTROLS FOR MEDICAL MARIJUANA USES**

<b>9</b>	Expired May 12, 2014.	2013	30
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**10** **INTERIM CONTROLS – SHAW GARDENS AND HITTINGER FARM OVERLAY DISTRICT**

<b>10</b>	Expired June 30, 2016.	2015	6
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**10** **DEMOLITION MORATORIUM**

<b>10</b>	Expired June 30, 2014.	2013 (s)	18
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# ZONING MAP AMENDMENTS

(Since the 1988 Comprehensive Update)

Including amendments through September 23, 2020  
As Approved January 7, 2021

<b><u>Location and Amendment</u></b>	<b><u>ATM</u></b>	<b><u>Article</u></b>
<b>Kendall Gardens (Lorimer Road and Brookside Avenue)</b> Change zoning of entire neighborhood - Single Residence A (SA) to Single Residence C (SC).	1991	32
<b>Park Road and Knox and Lamoine Streets</b> Change zoning of entire neighborhood - Single Residence A (SA) to Single Residence C (SC).	1991	33
<b>Intersection of School and Belmont Streets</b> Amend zoning of commercial properties - General Residence (R) to Local Business III (LBIII).	1998	24
<b>Intersection of Jonathan and Belmont Streets</b> Amend zoning of commercial properties - General Residence (R) to Local Business III (LBIII).	1999	20
<b>McLean District</b> Change zoning of McLean Hospital - Single Residence D (SD) to new McLean District.	1999 (s,r)	2
<b>Belmont Uplands District</b> Change zoning of Belmont Uplands - General Residence (R) to new Belmont Uplands District and Single Residence C (SC).	2002 (s)	5
<b>Lot on B Street</b> Amend zoning of lot in Highway Yard - General Business (B) to General Residence (R).	2004	30
<b>Waverley Square Local Business I</b> Extend Waverley Square to include Fire Station and 2 properties on Trapelo Road - General Residence (R) to Local Business I (LBI).	2005 (s)	4
<b>Re-Zoned Split Zoned Lots</b> Establish property lines as zoning district boundaries - 108 affected properties: 54 commercial, 54 residential	2006	29
<b>Cushing Square Overlay District (CSOD)</b> Delineate the boundaries of the CSOD (Section 8) to include Local Business I (LBI), General Residence (R), and Parking Lot (P) properties.	2006 (s)	3
<b>Split Zoned Lot Correction</b> Correct the zoning of 1 lot from General Residence (R) to Local Business III (LBIII).	2006 (s)	4
<b>Re-Zone Three Properties</b> Expand Central Square district by changing 3 properties from General Residence (R) to Local Business III (LBIII).	2006 (s)	5
<b>Oakley Neighborhood Smart Growth Overlay District</b> Delineate the boundaries of the OL as those properties formerly owned by the Our Lady of Mercy Catholic Church.	2007 (s)	6

H-1m

(s) Special Town Meeting

(r) Town-wide Referendum

**Location and Amendment**

**ATM   Article**

**Re-Zone Property on Brighton Street**

Expand General Business district to include a residentially zoned property that was formerly zoned commercially. 2008 (s) 4

**Central/Palfrey Squares Interim Planning Overlay District**

Expired June 2012. 2009 (s) 8

**Delete Building Setback Lines in Residential Districts**

Delete BSLs in residential districts that were created before Zoning was adopted removing confusion between BSLs and Zoning setbacks. 2010 26

**Medical Marijuana Overlay District**

Allow Registered Marijuana Dispensaries by Special Permit in the LBII, GB and Belmont Uplands Zoning Districts per the locational regulations in §6E. 2014 12

**Adult Use Marijuana Establishment Overlay District**

Allow retail sales of marijuana by Special Permit in the LBII Zoning District per the locational regulations in §6F. 2018 (s) 4

**South Pleasant Street Overlay District**

Allow LBI Uses and dimensional regulations and Age-Restricted and Assisted Living Uses in the LBII District. 2018 (s) 3