

# City of Worcester



## Zoning Ordinance

Ordained in City Council April 2, 1991

As amended through February 6, 2007

**CITY OF WORCESTER  
PROPOSED ZONING ORDINANCE**

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## **ARTICLE I GENERAL PROVISIONS**

### **Section 1 – Purpose**

- A. The Zoning Ordinance of the City of Worcester is intended to promote the health, safety and general welfare of the public and to contribute to the implementation of the City’s ongoing comprehensive planning process. To accomplish these ends, the Zoning Ordinance is designed to encourage the most appropriate use of land in a manner that:
1. Creates and maintains conditions under which people and their environment can fulfill the social, economic and other needs of present and future generations.
  2. To facilitate the adequate and economic provision of transportation, water supply, drainage, sewerage, schools, parks, open space, light and other public requirements;
  3. Encourages the creation and preservation of housing of such type, size and cost suitable for meeting the current and future needs of the City;
  4. Protects against: overcrowding of land; air and water pollution; use of land incompatible with nearby uses; undue intensity of noise; danger and congestion in travel and transportation; and loss of life, health, or property from fire, flood, panic or other dangers;
  5. Protects natural resources as well as the scenic and aesthetic qualities of the community;
  6. Promotes the preservation of historically/architecturally significant land uses.

## **Section 2 – Definitions**

Following are general definitions used throughout this Ordinance, which shall have meanings as used in common discourse. Other definitions, specific to a particular use or activity, are included elsewhere in this Ordinance. Where two or more definitions may reasonably apply to a particular use or activity, the more specific definition shall control as determined by the Director of Code Enforcement.

**ABANDONMENT** – The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises; including, but not limited to the removal of characteristic equipment or furnishings, or the replacement of the nonconforming use with a conforming use. (See Article XVI, Section-4(E)(3)).

**ABUTTING** – Having a common border with, or being separated from such common border by a right of way, alley or easement.

**ACCESSORY PARKING** – The parking required by this Ordinance pursuant to the primary use. Also includes that parking provided above the minimum requirements of the Ordinance.

**ACCESSORY USE** – A land use which is subordinate and incidental to a predominant or main use. (See Article IV, Section-8.)

**AFFORDABLE HOUSING** – Housing which can be afforded by a household whose income is eighty percent (80%) of the median household income for the City of Worcester, and/or housing which is eligible for some form of public support (local, state, federal). Except where the program criteria differ from this general definition, the program criteria shall govern.

**AGRICULTURAL, COMMERCIAL** – Agricultural activities for commercial purposes, including nursery, greenhouse, farm (not involving animals), or landscape gardening business, but excluding animal husbandry.

**AIR RIGHTS** – The rights to the space above a property for development.

**AIRPORT ENVIRONS** – AN overlay district surrounding the Worcester Regional Airport, as described in this ordinance, Article XI, and shown on the Official Zoning Map.

**ALLEY** – Any private way affording a secondary means of vehicular access between abutting properties and not intended for general traffic circulation.

**ALTERATION** – Any construction, reconstruction or other action resulting in a change in a structure; including but not limited to the height, the number of stories or exits, the size, the use, or the location of a building or structure.

**ANIMAL CLINIC** – A building or structure used for walk-in treatment of injured animals not to be kept overnight.

**ANIMAL HOSPITAL** – A building or structure used to house and provide treatment for injured animals and to board and groom animals.

**ANTENNA** – Equipment designed to transmit or receive electronic signals; includes satellite dish.

**ASSISTED LIVING RESIDENCE** – Any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

1. provides room and board; and
2. provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity to their car provider; and
3. collects payments or third party reimbursements from or on behalf of residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

**ATTIC** – The space between the ceiling beams of the top habitable story and the roof rafters.

**AUTOMOBILE REFUELING STATION** – A structure, building or premises or any portion thereof where gasoline, oil, alternative fuels or other similar products are stored and sold by an attendant and/or on a self-service basis to the public, without repair service or garage, but may also include retail sales.

**BASEMENT** – A portion of a building partly underground which has more than one-half (1/2) of its clear height from floor to ceiling above the outside average grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six (6) feet or more above grade.

**BED AND BREAKFAST ESTABLISHMENT** – An owner-occupied dwelling with no more than six (6) guestrooms that includes a breakfast in the guestroom rate, and provides for a term of residency of less than eight (8) days. Guestrooms shall not include individual kitchen facilities, but shall be allowed an individual or shared bath/toilet facility, with at least one toilet, one bath/shower, and one washbasin separate from those required for the single-family residence portion of the dwelling. A maximum of two guests are allowed per room and children under the age of twelve (12) years shall not be considered in the total number of guests. The use of that portion of the dwelling devoted to transient occupancy shall be accessory to the use of the dwelling as a single-family residence and shall not change the character thereof.

**BLOCK** – A portion of land measured along a public way right-of-way line, extending from one intersecting public way to the next intersecting public way along the same right-of-way line.



**BUILDING** – A combination of any materials, whether portable or fixed, having a roof and enclosed within exterior walls or firewalls which is built, erected or framed to form a structure for the shelter of persons, animals or property.

**BUILDING, ACCESSORY** – A building the use of which is primarily subordinate and incidental to that of the principal building and which is located on the same lot.

**BUILDING ENVELOPE** – That area on a lot that encompasses all development including but not limited to excavation, fill, grading, storage, demolition, structures, building heights, decks, roof overhangs, porches, patios and terraces, pools and any areas of disturbance.

**BUILDING LINE** – The line, parallel to the street line, which passes through the point of the principal building nearest the front lot line.

**BUILDING, PRINCIPAL** – A building in which is conducted the principal use of the lot on which it is located.

**CAMPUS** – A campus is the single geographic area (even though such area may be divided by public or private streets, rivers, or parks), comprised of grounds and buildings owned or occupied by a licensed hospital or its affiliates or by a nonprofit academic or professional college or university.

**CARPORT** – An attached roof projecting from the side of a building, used as a shelter for an automobile.

**CELLAR** – The portion of the building partially underground, having one-half (1/2) or more of its clear height below the grade plane.

**CHAPTER 131 LAND** – Any area under the jurisdiction of the Conservation Commission according to the State Wetlands Protection Act regulations (310 CMR 10.02).

**CHURCH/PLACE OF WORSHIP** – A building or portion of a structure set apart or consecrated for public worship, which is regularly used for such purpose and associated accessory activities.

**CLINIC** – A place where persons, on an out-patient basis, are treated for dental or medical care by licensed practitioners operating as an established group and which provides no facilities for, and does not house, patients on an overnight basis.

**CLUB, LODGE** – A building or structure used by an organization of persons for special purposes or for the promotion and advancement of sports, arts, science, literature, politics or the like, whose facilities are available to members and guests.

**CLUSTER DEVELOPMENT** – A residential development in which the buildings and accessory uses are clustered together into one or more groups separated from adjacent properties and other groups within the development by intervening open land.

**COMMERCIAL VEHICLE** – A vehicle used for business and/or commercial purposes.

**COMPREHENSIVE PLANNING PROCESS** – A generalized, coordinated process that serves as a guide for policy development and decision-making related to the built and natural environment that interrelates all functional and natural systems and activities relating to the use of land.

**COMMUNITY GARDEN** – A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family.

**CONTINUING CARE RETIREMENT COMMUNITY** – A development of land comprising a dwelling or dwellings with residential services operated or sponsored as a coordinated unit by a corporation or organization having among its principal purposes the provision of housing and associated services for retired and aging persons, with occupancy of dwelling units limited to persons, at least one of whom shall have attained the age of fifty-five (55) years, and as further provided in **Article X**.

**CONSERVATION AREA** – Land areas designated for acquisition and/or protection as open space by the City of Worcester because of significant physical and/or biological factors such as outstanding or unusual biological diversity or groundwater protection.

**CONVALESCENT HOME/INSTITUTION** – A building or structure other than a nursing home or hospital used for twenty-four (24) hour care of patients convalescing from sickness or disability.

**CUL-DE-SAC** – A dead end street which includes a vehicle turnaround area.

**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 pre-school, or known under any other name, which receives children not of common parentage for non-residential custody or care during part or all of the day separate from their parents, as further defined in the State Building Code.

**DAY CARE CENTER, ADULT** – Any facility operated on a regular basis which receives adults not of common kindred for non-residential custody or care during part or all of the day.

**DEVELOPER** – A person who is responsible for any undertaking that requires a building permit, special permit and/or sign permit or other approval under this Ordinance.

**DEVELOPMENT** – That which is to be done pursuant to a zoning permit, special use permit, sign permit and/or other approval.

**DISPLAY LOT** – An area of land used for the parking, storage, or presentation of motor vehicles, trailers and boats, for sale, lease or rent.

**DISPLAY SPACE** – A portion of a display lot set aside for the display or storage of one vehicle, trailer, boat or similar item.

**DORMITORY** – A building, which is owned and/or operated by an educational institution, whose primary use is to provide living accommodations for individuals associated with the institution.

**DRAINAGE** – The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development and includes the means necessary for water supply preservation or prevention or alleviation of flooding.

**DRIVE-THROUGH SERVICE** - The provision of a product or service by means of a window or automated service point (e.g., ATM) where said window or automated service point is designed or intended to allow a customer to remain in a motor vehicle while obtaining the products or services offered.

**DRIVE-THROUGH SERVICE LANE** - The vehicular travel lane providing access to the drive-through service window or automated service point.

**DRIVEWAY** - That portion of a vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the accommodation area.

**DWELLING** – A building and its attendant premises designed and used in whole or in part for human habitation.

**DWELLING, MULTI-FAMILY** – A building or portion thereof used for the purpose of providing four (4) or more separate dwelling units with shared means of ingress and egress and other essential facilities.

**DWELLING, MULTI-FAMILY, HIGH RISE** – A multi-family dwelling four (4) or more stories in height.

**DWELLING, MULTI-FAMILY, LOW RISE** – A multi-family dwelling not exceeding three (3) stories in height.

**DWELLING, SINGLE FAMILY ATTACHED** – A building consisting of not less than three (3) dwelling units, each of which is separated from the other by a vertical party wall or double wall, and each of which has a separate ground floor entrance; includes townhouse.

**DWELLING, SINGLE FAMILY DETACHED** – A building consisting of one (1) dwelling unit occupying one (1) lot.

**DWELLING, SINGLE FAMILY SEMI-DETACHED** – A building consisting of two (2) individually owned dwelling units erected side by side in a single building occupying two (2) adjoining lots with the units separated from the other by a party wall or double wall, on or along the common side lot line; typically called a “*duplex*.”

**DWELLING, THREE FAMILY DETACHED** – A building consisting of three (3) dwelling units one above the other (in whole or part), sharing a common entrance or entranceway in a single building occupying one (1) lot; typically called a “*three-decker*”.

**DWELLING, TWO FAMILY DETACHED** – A building consisting of two (2) dwelling units, whether one above the other or side by side, in a single building occupying one (1) lot.

**DWELLING UNIT** – A single unit within a dwelling which provides complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EARTH EXCAVATION** – The removal of earth including soil, loam, sand, gravel, clay, stone, quarried rock or other subsurface products except water.

**EARTH FILL (DUMPING)** – The placing, filling or dumping of earth including, soil, loam, sand, gravel, clay, stone, quarried rock or other subsurface products except water.

**EARTH MOVING/EARTH ALTERATION** – The term shall include, without limitation, the following activities:

1. Removal, excavation or dredging of soil, sand, gravel or aggregate materials of any kind;
2. Changing of pre-existing drainage characteristics, sedimentation patterns, flow patterns or flood retention characteristics;
3. Dumping, discharging or filling with any material which may degrade water quality;
4. Placing of fill or removal of material, which would alter elevation;
5. Driving of piles, erection of or additions to buildings or structures of any kind;
6. Placing of obstructions or objects in water;
7. Removal of vegetation from a combined total area exceeding ten thousand (10,000) square feet on single or adjacent lots;

8. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water; but specifically excluding the use of de-icing materials and chemicals for roadway maintenance during the winter months;
9. Any activities, changes or work, which may cause or tend to contribute to the pollution of any body of water or ground water;
10. For the purposes of this ordinance more than one contiguous area under development constitutes a single project.

**EASEMENT** – An enforceable right to use the real property of another for a specified purpose.

**ELDERLY** – Persons in the community sixty-five (65) years of age or older.

**EROSION** – The detachment and movement of soil or rock fragments by water, wind, ice and/or gravity.

**ESSENTIAL SERVICES** – The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead, gas, electrical, steam, fuel or water transmission or distribution towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment which are necessary for furnishing adequate service by such utilities or municipal departments for the general health, safety or welfare.

**FABRICATION SHOP** – Uses involving the fabrication of goods and materials, including but not limited to baked goods, canvas products, woodworking/carpentry, hardware, jewelry manufacture and repair, medical supply, printing, sign manufacture, taxidermy, wallpaper and paint supply, monument works and sales, plumbing and electrical materials, not involving retail sales of goods and materials, except incidentally.

**FAMILY** – One (1) or more persons occupying a dwelling unit and living as a single housekeeping unit, not including a group of more than three (3) persons who are not within the second degree of kinship.

**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 (7) years of age or children under sixteen (16) years of age if such children have special needs; provided, however, in either case that the total number of children under sixteen (16) in a family day care home shall not exceed six (6), including participating children living in the residence.

**FLEA MARKET** – A shop or open market selling antiques, used household goods, curios and the like.

**FLOOR AREA, GROSS** – The sum of the horizontal areas of the several floors of a building excluding areas used for accessory garage purposes, basements, cellar areas and attics. All dimensions shall be taken from the exterior faces of walls, including the exterior faces of enclosed porches.

**FLOOR AREA RATIO** – The ratio of the total gross floor area of a building or buildings on one (1) lot to the total area of the lot.

**FOOD SERVICE ESTABLISHMENT** – Any fixed or mobile place, structure or vehicle, whether permanent, transient or temporary, including any restaurant, coffee shop, cafeteria, luncheonette, short-order café, grille, tea room, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, and lunch wagon feeding establishment; private, public or non-profit organization or institution routinely serving the public, catering kitchen, commissary, or any other similar eating and drinking establishment or place in which food or drink is prepared for sale or for service on the premises or elsewhere, or where food is served or provided for the public with or without charge.

**FOOD SERVICE ESTABLISHMENT, FAST FOOD/DRIVE-IN** – A licensed food service establishment in which a substantial portion of the food is prepared in advance of the designated order, for consumption on or off the premises, which provides for food pick-up by the public without the need to leave the car.

**FRONTAGE, STREET** – A continuous portion of a lot abutting one (1) street measured along the front lot line dividing the lot from the right of way.

**GARAGE, PARKING** – A structure, building or part of a building in which to park a car or cars.

**GARBAGE** – The animal, vegetable or other organic waste resulting from the handling, preparation, cooking, or consumption of food.

**GAS STATION** – See Garage, Public and Automobile Refueling Station.

**GRADE** – The steepness of a slope of land as determined by a topographic map.

**GROUP RESIDENCE** – Any home licensed, authorized or operated by the Commonwealth for residential care and supervision of persons who are capable of self-preservation.

**GROUP RESIDENCE, LIMITED** – Any home licensed, authorized or operated by the Commonwealth for residential care and supervision of persons who are not capable of self-preservation.

**HEIGHT OF BUILDING** – The vertical distance from the grade level measured from the center of that face of the building having the main entrance, to a line extended horizontally from the highest point of the building. Chimneys and other similar projections shall not be included in calculating the height.

**HELIPORT** – An area, either at ground level or elevated on a structure, that is used for the landing and take-off of helicopters, with associated structures.

**HOME OCCUPATION** – A use conducted within the main building or accessory building which is clearly incidental and secondary to residential occupancy, as further defined in **Article IV – Section 8**.

**HOSPITAL OR SANATORIUM** – Any institution, however named, licensed by the Massachusetts Department of Public Health, whether conducted for profit or not, which is maintained for the express or implied purpose of caring for persons admitted thereto for the purpose of diagnosis, medical or surgical treatment, which is rendered within said institution.

**HOTEL, MOTEL, INN** – Any building or group of buildings with at least six (6) guest rooms for hire which provide sleeping accommodations for transient guests.

**KENNEL** – A lot with structures or pens in which three (3) or more dogs, cats or other household pets are boarded, bred or sold.

**LEAST SETBACK** – That distance measured in linear feet, specified in **Table 4.2** as the minimum front yard depth, measured from the front lot line.

**LIMITED RESIDENTIAL HOSPICE HOUSE** – A single family detached dwelling in which care is given to terminally ill patients who have a medically documented prognosis of less than six months to live. Hospice services given in a Limited Residential Hospice House under this ordinance must be provided by a non-profit entity that holds a license as a hospice care program from the Department of Public Health of the Commonwealth of Massachusetts, **pursuant to G.L. Chapter 111, Section-57D and 105 CMR Section-141.000**.

**LOADING AND UNLOADING AREA** – That portion of a vehicle accommodation area used to load and/or unload goods to/from motor vehicles.

**LODGING HOUSE** – A dwelling or that part of a dwelling where sleeping accommodations are let, with or without kitchen facilities, to four (4) or more persons not within the second degree of kindred to the person conducting it, and shall include rooming houses, boarding houses and tourist homes, but shall not include hotels, motels, inns, sorority, fraternity and cooperative residences, dormitories, or convalescent homes, nursing homes, rest homes, or group residences licensed or regulated by agencies of the Commonwealth.

**LOFT, COMMERCIAL ARTIST** – Commercial artist loft space used or designed to be used by artists or craftspeople to create works of art or crafts, and which may also be used by such artists or craftspeople to reside in. Such residency shall be limited to one (1) family per dwelling unit. Works of art or craft shall mean items that are created primarily for purposes of aesthetic enjoyment, and not solely for practical purposes, including but not necessarily limited to: paintings, drawings, lithographs, and other representations; photographs, film, video, prints and other visual and electronic media; textiles and costumes; jewelry; pottery; art objects made of glass; precious and semi-precious metals, stones and the like; lighting used for artistic purposes; gallery and exhibit space; performance arts including: dance, music and theater including lessons, practice, rehearsal and actual performances whether live audiences, taped or filmed.

**LOT** – A single and contiguous parcel of land under one (1) ownership which is not divided by a street or way appearing on the Official Map. Such a parcel is a single lot even where interior lot lines exist.

**LOT AREA** – The total number of square feet within the exterior lines of the lot. For purposes of calculation, any water area more than ten (10) feet from the shoreline is excluded from the total lot area.

**LOT, BORDER** - A lot contiguous to a zone district boundary.

**LOT, CORNER** – A lot situated at the intersection of and abutting two (2) streets that have an angle of intersection of not more than three hundred and thirty-five (335) degrees.

**LOT LINE** – The boundary of a lot that separates it from adjoining lots.

**LOT, SPLIT** – A lot divided by a zone district boundary.

**MARINA** – Premises used for wharves, docking, boat liveries, boat yards, yacht clubs, sale of marine equipment, but excluding the sale of boats and the processing or sale of fish.

**MANUFACTURED HOME** – A dwelling fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards.

**MIXED USE DEVELOPMENT** – A development seeking a density bonus pursuant to **Article IX** characterized by two (2) or more significant revenue producing uses, such as retail, office, residential, hotel/motel, entertainment/cultural/recreational which are mutually supporting, exhibit physical and functional integration and are developed in conformance with a coherent plan.



**MOBILE HOME** – Any vehicle or object whether resting on wheels, jacks or other foundation and having no motive power of its own, but which is drawn by, or used in connection with a motor vehicle, and which is so designed and constructed as a dwelling unit which permits its transportation and relocation as a complete unit on its own wheels; and containing complete electrical, plumbing and sanitary facilities; and designed to be installed on a temporary or permanent foundation for permanent living quarters. This shall not include the type of vehicle know as a travel trailer or travel coach.

**MOTOR VEHICLE REPAIR** – A building for the storage, repair or servicing of motor vehicles, not including auto body repairs, and may include dispensing to the public of gasoline, oil, or other similar products for such vehicles by an attendant and/or by self-service.

**NON-ACCESSORY PARKING** – A parking facility designated and operated as a predominant, or main use of land.

**NONCONFORMING USE OR STRUCTURE** – An activity use, structure or a portion thereof which does not conform to all of the regulations contained in this Ordinance, or amendments thereto.

**NONCONFORMING USE OF SIMILAR NATURE** – A change in a privileged nonconforming use to a nonconforming use of a similar nature is a change to any other use that would lawfully be permitted in the same zoning district in which the first use would fully be permitted.

**NONCONFORMING USE, PRIVILEGED** – A nonconforming use which was lawfully in existence on the effective date of this Ordinance but only to the extent to which it had been used or developed on said effective date.

**NURSING HOME/INSTITUTION** – A building or structure other than a hospital or convalescent home used for twenty-four (24) hour care of chronically ill or disabled persons and staffed as a skilled nursing facility.

**OFFICE** – A place in which business activities are conducted.

**OFFICE, PROFESSIONAL** – An office primarily devoted to professional activities, including: real estate, insurance or other agency offices, accountant, architect, artist, attorney, clergyman, dentist, engineer, home builder, musician, optometrist, photographer, physician, psychiatrist, or psychologist, teacher or other recognized professional person.

**OPEN LOT STORAGE** – A location providing storage, handling or bailing of second hand lumber or other used building materials, metals, junk, scrap, paper, rags, unrepaired or uncleaned containers, or other articles of salvage; wrecking and/or dismantling of motor vehicles.

**OPEN SPACE** – The space on a lot, unoccupied by structures and/or other site improvements, unobstructed to the sky by man-made objects other than walks, swimming pools and terraced areas, not devoted to streets, driveways or off-street parking and loading spaces.

**OPEN SPACE ZONES** – Publicly owned property such as parks, conservation areas and great ponds which are open subject to special land use restrictions for open space protection under state law. These properties are designated on the Zoning Map under the provisions of **M.G.L. Chapter 40, Section-32B. OS-P – Parks and OS-C – Conservation Areas.**

**OVERLAY ZONE** – Areas designated by the City of Worcester in this Ordinance for the purpose of preserving the resources of the area while simultaneously promoting development there, including but not limited to Mixed Use, Floodplain, and Water Resources Protection.

**OWNER** – The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure or lot in question.

**PARKING AREA AISLES** – A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**PARKING FACILITY** – An area of land (not on a way), or a structure, that is used for the temporary placement of motor vehicles, including parking lots, spaces, open parking structures, driveways and aisle areas.

**PARKING SPACE** – A portion of a parking facility set aside for parking one (1) vehicle.

**PARKING STRUCTURE** – A structure designed for the parking of vehicles wherein no provision for the repairing or servicing of such vehicles is made.

**PERFORMANCE STANDARDS** – A minimum requirement or maximum allowable limit on the effects or characteristics of a use.

**PERMIT, SPECIAL** – A permit issued by the Zoning Board of Appeals or other Special Permit Granting Authority (SPGA) that authorizes the recipient to make use of property in accordance with this Ordinance as well as any additional requirements imposed by the SPGA.

**PERSON** – Shall include any individual, group of individuals, business organization, trust, estate, partnership, association, company, corporation, department, agency, group, society or other legal entity, public or private (including a city, town, county, state, or other governmental unit), its legal representative, agents or assigns responsible in any way for an activity subject to this Ordinance.

**PORCH** – A structure attached to a building that has no solid walls or windows other than those of the main building to which it is attached; includes a deck.

**RECREATION, ACTIVE** – Leisure activities, usually performed with others, often requiring equipment and taking place at prescribed places, sites, or fields. The term active recreation includes, but is not limited to swimming, tennis, and other court games, baseball and other field sports, golf and playground activities.

**RECREATION, PASSIVE** – Recreation activities not requiring any alteration of the existing topography. Such passive recreation shall include, but not be limited to, hiking, picnicking and bird watching.

**RECREATIONAL VEHICLE** – A portable vehicular structure designed for travel, recreational camping or vacation purposes, either having its own motor power or mounted onto or drawn by another vehicle. Including but not limited to travel and camping trailer, truck campers and motor homes.

**REFUSE** – Putrescible (decayable) or non-putrescible solid waste materials, consisting of all combustible and noncombustible solid wastes including garbage and rubbish, but not including sewage or liquid wastes.

**REFUSE TRANSFER STATION FACILITY** – A solid waste handling facility used for the loading of solid waste (refuse) from one container or vehicle to another prior to transporting to the location of further processing or treating or ultimate disposal. Refuse or dumpster type containers physically located on the premises they serve and used by the occupants of the premises shall not be considered a transfer station under this ordinance.

**RESIDENCE, FRATERNITY, SORORITY, COOPERATIVE** – A building whose primary purpose is to provide living accommodations of individuals affiliated with a fraternal, sororal or cooperative organization, said organization being in turn associated with an educational institution.

**RESTAURANT** – A licensed food service establishment in which food and beverages are served by a restaurant employee to the consumer at a table or counter and said food and beverage are consumed within the restaurant building.

**RETAIL FOOD SALES** – A retail market selling food and household goods, including accessory uses such as a bank or pharmacy.

**RUBBISH** – Combustible or noncombustible solid waste materials, except garbage and sewage, including but not limited to such materials as paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, grass clippings, tin cans, metals, minerals matter, glass, crockery, dust, ashes, construction wastes, industrial wastes, commercial wastes, demolition wastes, agricultural wastes, abandoned vehicles, street sweepings, bulky wastes, the residue from the burning of wood, coal, coke or other combustible materials and any other unwanted or discarded material.

**SEDIMENTATION** – The deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a result of erosion.

**SERVICE SHOP** – A retail establishment providing services to individuals.

**SERVICE SHOP, PERSONAL** – A service shop providing personal services, such as barber or beauty shop, tailor, shoe repair and milliner.

**SIGN** – Any device, excluding its supporting structure, consisting of any letter, figure, character, mark, point, marquee sign, design, poster, mural, stroke, stripe, line, trademark, banner, insignia, or other reading matter that is used to attract or direct attention of the public to any object, product, place, activity, facility, event, attraction, person, institution, service organization or business displayed out-of-doors for recognized advertising or identification purposes.

**SIGN, ACCESSORY** – A sign that conveys a message that bears some relationship to the particular location upon which the sign is located. A sign that advertises, directs attention to, or identifies the entity, products or activities located or offered at the same location as the sign. Also known as an on-site or on-premises sign.

**SIGN, AREA OF** – (1) The area of a sign, other than a free standing or ground sign, shall be considered to be that of the smallest rectangle, circle or triangle which encompasses all of the individual works and symbols. In the case of a solid unit wall sign the sign area shall be considered to include the background on which the lettering, wording and accompanying design and symbols are displayed, except where the background is intended to serve as the façade of the building. (2) The area of a free standing or ground sign shall be considered to include all the lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, any frame around the sign and any extensions, excluding the necessary supports or uprights on which the sign is placed.

**SIGN, AWNING** – A sign painted on, printed on or attached flat against the surface of an awning which is constructed of non-rigid materials on a supporting framework.

**SIGN, BANNER** – A piece of cloth or similar material hung and/or projecting, the purpose of which is primarily decorative and aesthetic.

**SIGN, FREESTANDING** – A sign supported permanently upon the ground by poles or braces and not attached to any building.

**SIGN, GROUND** – A sign, also called a blade sign, which is anchored to the ground similar to a pylon or freestanding sign but which has a monolithic or columnar line and which maintains essentially the same contour from grade to top. Height and setbacks are to be the same for freestanding signs.

**SIGN, ILLUMINATED** – A sign which is lighted, whether internally or externally.

**SIGN, MOTION** – Any sign containing moving parts, flashing action and/or intermittent lighting.

**SIGN, MURAL** – A picture or decoration, usually large, applied directly to a wall, which is primarily for aesthetic and/or cultural purposes.

**SIGN, NON-ACCESSORY** – A sign that conveys a message unrelated to the particular location upon which the sign is located. A sign that advertises, directs attention to, or identifies entities, products or activities located or offered at a different location. Also known as an off-site or off-premises sign.

**SIGN, PORTABLE** – Any sign capable of readily being moved from one location to another and having no permanent or in-ground supporting structures or braces. This includes wheeled trailers whose primary function is to carry a sign which can be loaned, rented or leased. It excludes signs on cars, trucks, buses or trailers that identify the owner or products of the owner and whose function is other than pure advertising.

**SIGN, PROJECTING** – (1) A sign which is affixed to a building or structure (including signs affixed above the roof line of a one story building) and extends fourteen (14) inches or more beyond the building wall, structure or parts thereof; or (2) A free-standing sign which is supported by one or more uprights or braces that are in or upon the ground and projects into or over a public way.

**SIGN, ROOF** – A sign which is erected, constructed or maintained above the roof or architectural projection of a building and does not project beyond the wall line of the building.

**SIGN, TEMPORARY** – Any sign intended to be maintained for a continuous period of not more than one (1) year, including contractors', engineers', architects' and political signs.

**SIGN, WALL** – A sign which is applied, painted on, or supported wholly or partially by an exterior wall of a building or structure and does not extend more than fourteen (14) inches therefrom and does not extend above the top nor beyond the ends of the wall to which it is attached.

**SIGN, WINDOW** – A sign permanently affixed to a window, including by paint or other means.

**SITE PLAN REVIEW** – A process designed and carried out by the City of Worcester for evaluating the impact and benefits to the City of a development proposal, as provided in **Article V** of this Ordinance.

**SOLID WASTE** – Unwanted or discharged solid material with insufficient liquid content to be free flowing. This includes, but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, sanitary landfill, junkyard, salvage, yard/automobile graveyard. Solid wastes are classed as refuse.

**SPECIAL EVENT** – Circuses, fairs, carnivals, festivals or other types of special events that: (1) run for longer than one (1) day but not longer than two (2) weeks; (2) are intended to or likely to attract substantial numbers of people; and (3) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

**SPECIAL PERMIT GRANTING AUTHORITY (SPGA)** – Those bodies which are authorized to grant special permits under the terms of this Ordinance and as provided in **M.G.L. c. 40A**.

**STABLE** – Any building, lot, structure, enclosure, premises or portion thereof where livestock are kept or maintained for any purpose.

**STORY** – That part of a building above the basement or cellar, between the upper surface of floor and the upper surface of the next floor or roof above.

**STORY, FIRST** – The lowest story wholly above ground or the lowest story having more than two-thirds (2/3) of its entire wall area above ground.

**STREET** – A street shall be (a) an approved public way laid out by the City of Worcester or the Commonwealth of Massachusetts; or (b) a way shown on a plan previously approved and endorsed under the Subdivision Control Law, provided further, however, that the security required under **G. L. c. 41, § 81U** is in effect, or (c) a private way otherwise shown on the City of Worcester Official Map, provided such way has sufficient grading, surfacing, drainage and adequate construction to provide for the vehicular traffic anticipated by reason of the proposed use to be conducted on the property abutting thereon or to be served thereby and for the installation of municipal services to serve such land and the building(s) to be erected thereon. A public or private way shall not be deemed to be a **STREET** as to any lot of land that does not have rights of access and passage over said way.

**STRUCTURE** – A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, tank, tunnel, tent, stadium, reviewing stand, platform, bin, sign, flagpole, antenna and the like. A fence or wall over six (6) feet high is considered to be a structure.

**SUBDIVISION** – The division of a tract of land into two (2) or more lots as defined in **M.G.L. c. 41 § 81L**.

**SUBSTANTIAL IMPROVEMENTS** – Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the assessed value of the structure either (1) before the improvement or repair is started or (2) if the structure has been damaged and is being restored, before the damage occurred. This includes the first alteration of any wall, ceiling, floor or other structural part of the building whether or not that affects the external dimensions of that structure. The term does not include any project for improvement of a structure to comply with existing state and local health, sanitary or safety code specifications which are solely necessary to assure habitable living conditions.

**TEEN/YOUTH CENTER** – A place, structure, area or other facility used for and providing a program mix of recreational, educational and drop-in programs generally open to the teen/youth public and designed to accommodate and serve significant teen/youth segments of the community.

**TELECOMMUNICATIONS** – The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS FACILITY** – A building or structure with or without office space wherein is located racks, routers, modems, servers and such other switching or networking equipment and cabling customarily utilized by telecommunications companies and Internet Service Providers for the transmission of telecommunications services.

**TEMPORARY SHELTER** – A building or portion of a structure set aside for the provision of overnight accommodations for the homeless, which may also provide incidental food service and/or other social services.

**THEATER** – A structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service allowed.

**TOXIC/NOXIOUS SUBSTANCE** – Any solid, liquid, or gaseous matter including but not limited to gases, vapors, dusts, fumes, and mists containing properties that by chemical means are inherently harmful and likely to destroy life or impair health or capable of causing injury to the well-being of persons or damage to property.

**TRAILER** – A vehicular portable structure with wheels and having no motive power of its own, but which is designed to be pulled by an automobile, truck or tractor for hauling freight, animals or boats.

**TRUCK SERVICE/REPAIR** - A building used for the storage, repair and servicing of all commercially registered vehicles and motorized equipment designed for on or off road use excluding passenger vehicles and pickup trucks and vans of 3/4 ton capacity and less. This use does not include truck or equipment body repairs and/or refueling.

**USE** – Synonymous with land use. The manner in which a parcel of land or structures on the land are used by parties in possession of the land. Any use not defined or otherwise provided for within this ordinance shall be deemed not allowed except by such variance and/or special permit procedures as herein provided.

**VARIANCE** – Such departure from the terms of this Ordinance as the Zoning Board of Appeals is empowered to authorize. **(See Article II).**

**VENDING MACHINE** – Any self-service device offered for public use which, upon insertion of a coin, coins, token, paper currency, computer or magnetic tape card, or by other means dispenses servings of food or beverage, either in bulk or in package, or dispenses cash, products or services, except newspapers and publications protected by the privileges of the First Amendment of the United States Constitution; or which orders, instructs, or authorizes a financial institution to debit or credit an account or provide financial information relating to an account.

**WETLANDS** – Any marsh, swamp, bog, meadow or other low-lying area which is covered in part by natural non-flood water during a portion of the year and as further specified by the Massachusetts Wetlands Protection Act, and/or the Worcester Wetlands Protection Ordinance, as amended.

**YARD, FRONT** – An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the principal building.

**YARD, REAR** – An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the principal building.

**YARD SALE** – The sale or offering for sale to the general public of over five items of personal property on any portion of a lot in a residential district, whether within or outside any building. Yard sales may be conducted on the premises of the owner or tenant, provided said sale does not occur more than three (3) days per year and all sale goods shall be limited to personal property used previously by the occupant.

**YARD, SIDE** – An open space between the principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot to the nearest point of the principal building.



## ARTICLE II ADMINISTRATION AND PROCEDURE OF ENFORCEMENT

### **Section 1 – Administrative Authority**

This Ordinance shall be interpreted, administered and enforced by the Director of Code Enforcement. The interpretation and application of the provisions of this Ordinance shall be held to be the minimum requirements adopted.

### **Section 2 – Building Permits**

- A. The Director of Code Enforcement shall withhold a permit for the construction, alteration or moving any building or structure if the building or structure as constructed, altered or moved would be in violation of this Ordinance or any amendment thereof. No permit or license shall be granted for a new use of a building, structure or land which would be in violation of this Ordinance. No permit or license shall be granted for use of a building, structure or land which requires site plan review unless such approval has been secured in accordance with **Article V** Site Plan Review.
- B. All applications for building permits shall be accompanied by such plan or plans drawn to scale and showing the locations and dimensions of the lot to be built upon and such other information as may be deemed necessary by the Director of Code Enforcement to determine compliance with the provisions of this Ordinance. The Director of Code Enforcement shall promulgate regulations relative to this authority and shall file a copy of the regulations with the City Clerk.
- C. Construction or operations under a building permit shall conform to any subsequent amendment(s) of this Ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the building permit and unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- D. In the determination of whether a private way qualifies as a STREET under clause (c) of the definition in Article I, the Director of Code Enforcement may require the building permit applicant to first obtain the Worcester Planning Board's approval of the way pursuant to **G. L. c. 41, §81G**, if the Planning Board has not previously ruled thereon. The Planning Board's decision in such matter shall be binding on the Director of Code Enforcement.

### **Section 3 – Violations**

- A. If the Director of Code Enforcement shall be informed, or have reason to believe that any provision of this Ordinance or any permit issued there-under has been, is being, or is likely to be violated, he shall make or cause an investigation to be made of the facts,

including an inspection of the property where the violation may exist. If he finds any violation, he shall give immediate notice in writing to the owner or his duly authorized agent, and to the occupants of the premises, and order that such violation immediately cease. Where it becomes necessary to effectively enforce this Ordinance, he may institute such legal process as deemed advisable. In the prosecution of any such action he shall be given the services of the city law department. The Director of Code Enforcement may take any other action as provided by law.

- B. If the Director of Code Enforcement is requested in writing to enforce a zoning ordinance against any person allegedly in violation of the same and the Director of Code Enforcement declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons thereof, within fourteen (14) days of receipt of such request. Any such request not acted upon within 14 days shall be deemed denied.

#### **Section 4 – Penalty**

Any person violating any provisions of this Ordinance, or amendments thereof, or any of the conditions under which a special permit or variance is issued, may be fined not more than three hundred dollars (\$300.00) for each offense. Each day that such a violation continues shall constitute a separate offense.

#### **Section 5 – Zoning Coordination**

The zoning coordination function shall be performed by the Executive Office of the City Manager Planning & Regulatory Services Division, or such other city agency or officer as may from time to time be designated in the Revised Ordinances, Part II, Organization of City Agencies. The zoning coordination function shall include such duties, responsibilities and powers as are herein provided, including serving as Keeper of the Records for the Zoning Board of Appeals and Planning Board for their respective functions under this Ordinance and amendments thereto, and such other duties as determined by the Zoning Board of Appeals.

#### **Section 6 - Zoning Board of Appeals**

**Establishment** – References in this Ordinance to the Zoning Board of Appeals shall mean the agency of the City established under **Article VI** of the Home Rule Charter and codified in the “*Organization of City Agencies*” portion of the Revised Ordinances of 1996.

- A. Duties of the ZBA – The ZBA is authorized to do the following:

1. Appeals

The ZBA shall hear and decide appeals by (i) any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under the provisions of **M.G.L. c. 40A**, and this Ordinance, (ii) the Central

Massachusetts Central Regional Planning Commission, (iii) any person, including an officer or board of the City or of an abutting city or town, aggrieved by an order or decision of the inspector of buildings, or other administrative official in violation of any provision of **M.G.L. c.40A** or this Ordinance.

2. Special Permits

Except for those special permits expressly assigned to the Planning Board in **Article II, Section-7**, The Zoning Board of Appeals shall be the Special Permit Granting Authority (SPGA) for all special permits.

Said permits may be issued only for uses that are in harmony with the general purpose and intent of this Ordinance provided that the following conditions are met:

- a) The specific site is an appropriate location for such use.
- b) The use as developed will not adversely affect the neighborhood.
- c) There will be no nuisance or serious hazard to vehicles or pedestrians.
- d) Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

All such permits shall be subject to general or specific provisions, if any, set forth therein, and may contain conditions, safeguards and limitation of time or use. **(See M.G.L. Ch. 40A, § 9)**

3. Variances

The ZBA, as Permit Granting Authority, may grant upon appeal or petition with respect to particular land or structures, a variance from the dimensional terms of this Ordinance. The ZBA may grant a variance only when all statutory requirements are met, including the following findings:

- a) A literal enforcement of the provision of this Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
- b) The hardship is owing to circumstances relating to the soil conditions, shape and/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.
- c) Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Ordinance.

- d) The extent of the dimensional variance granted as it relates to floor space, bulk, number of occupants or other relevant measures shall be no greater than the minimum necessary to provide relief from the statutory hardship.

4. Pre-Existing Nonconforming Uses

The ZBA, as Permit Granting Authority, may permit the alteration, extension or change of a pre-existing nonconforming use or structure pursuant to **Article XV**.

B. Filing of Appeals and Petitions to the ZBA

1. Appeals to the ZBA shall be taken within thirty (30) days from the date of the order or decision which is being appealed, by filing a notice of appeal (in as many copies as are required by the ZBA) specifying the grounds thereof, with the City Clerk and the Executive Office of the City Manager Planning & Regulatory Division. The Planning & Regulatory Division shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to the ZBA. Such officer or board shall forthwith transmit to the ZBA all documents and papers constituting the record of the case in which the appeal is taken.
2. All appeals, applications, or petitions to the ZBA shall be in writing and in such form as prescribed by the ZBA. All applications, or petitions shall contain a written statement from the Director of Code Enforcement detailing why the petition or application is being filed, what sections of the Zoning Ordinance apply, and if a special permit and/or variance is required.
3. Upon receipt of any filed documents, the Planning & Regulatory Division shall transmit seven (7) copies of each appeal, application or petition to the ZBA, one (1) copy to the Director of Code Enforcement, [Deletion] one (1) copy to the Director of Public Health, two (2) copies to the Department of Public Works & Facilities: one (1) copy to the Engineering Services Division, and one (1) copy to the Parks and Recreation Division, one (1) copy to the Planning Board, one (1) copy to the Conservation Commission, not more than three (3) days after the date of filing for such appeal, application or petition.

**Section 7 – Planning Board**

**Establishment** – References in this Ordinance to the Planning Board shall mean the agency of the City established under **Article VI** of the Home Rule Charter and codified in the “*Organization of City Agencies*” portion of the Revised Ordinances of 1996.

A. Duties of the Planning Board – The Planning Board is authorized to do the following:

1. Special Permits

The Planning Board shall be the Special Permit Granting Authority (SPGA) for all special permits issued under **Article IV, Section-8(F)–Private Driveways, and Articles VII, VIII, IX, X, XII, XIII, XIV and XV.**

The Planning Board, in exercising its role as an SPGA, shall be governed by the criteria set forth in **Article II, Section-6(A)(2)** relative to special permit applications reviewed by the ZBA.

2. Site Plan Review

The Planning Board shall review and approve site plan applications as designated under Article V in accordance with the terms therein.

**Section 8 – Rules, Regulations and Fees**

The ZBA and/or any SPGA are authorized to adopt such other rules and regulations as are not inconsistent with this Ordinance or **M.G.L. c. 40A** and as are deemed appropriate to the faithful execution of their duties, including a determination of fees.

**Section 9 – Meetings, Notices, Hearings and Decisions**

A. Meetings

Meetings of the ZBA and/or any SPGA shall be held at the call of the chairperson, or when called in such other manner as the ZBA or SPGA shall determine in its rules. The chairperson, or in his/her absence the acting chairperson, may administer oaths, summon witnesses, and call for the production of papers.

B. Notices

In all cases, notice of a public hearing shall be given by the Executive Office of the City Manager Planning & Regulatory Division by publication in a newspaper of general circulation in the city once in each of two (2) successive weeks; the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen (14) days before the day of such hearing. In all cases, notice to parties of interest shall be sent by mail, postage prepaid. “Parties of interest” as used herein shall mean (i) the petitioner or appellant, (ii) abutters, (iii) owners of land directly opposite on any public or private street or way, and (iv) abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, (v) the Director of Code Enforcement, (vi) the Department of Public Works & Facilities Engineering Services Division and Parks and Recreation Division, (vii) the Planning Board, if applicable, and (viii) the planning board of every abutting city or town. The

required publications and notices shall contain the name of the petitioner, a description of the area or premises, street address, or other adequate identification of the location, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested.

C. Hearings

1. Special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application or petition with the relevant SPGA through the City Clerk. The SPGA shall render a decision within ninety (90) days following the close of said public hearing for which notice has been given, as set forth in the preceding **Section-9(B)**. Failure of the SPGA to take final action (filing decision in the City Clerk's office, **see Section-9(D)(2)**) within said ninety (90) days of the close of the public hearing may be deemed a grant of the special permit applied for. These time limits may be extended by written agreement, which shall be filed in the City Clerk's office.
2. Variances shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the ZBA through the City Clerk. The ZBA shall render a decision within one hundred (100) days after the filing of an application for a variance. In accordance with **M.G.L. c. 40A, § 15**, failure of the ZBA to take final action (filing decision in the City Clerk's office) within said one hundred (100) days, may be deemed to be a grant of the variance applied for. These time limits may be extended by written agreement, which shall be filed in the City Clerk's office.
3. Authorization for the alteration, extension or change of a pre-existing nonconforming use or structure shall only be issued following public hearings held within sixty-five (65) days after filing of a petition by the applicant with the ZBA through the City Clerk. The ZBA shall render a decision within one hundred (100) days after the filing of the petition for such authorization. In accordance with **M.G.L. c. 40A, § 15**, failure of the ZBA to take final action (filing decision in the City Clerk's office) within said one hundred (100) days, may be deemed to be a grant of the petition. These time limits may be extended by written agreement, which shall be filed in the City Clerk's office.

D. Decisions

1. The ZBA may, in conformity with the Massachusetts General Laws and the provisions of this Ordinance, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
2. The ZBA or SPGA shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to

vote, indicating such fact and setting forth clearly the reason or reasons for its decision and of its official actions, copies of all of which shall be filed within fourteen (14) days of its decision in the office of the City Clerk and shall be a public record, and notice of decisions shall be mailed forthwith by the ZBA or SPGA to the petitioner, applicant or appellant and to the parties of interest as listed in **Section-9(B)** and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice is to be sent. Each notice shall specify that appeals, if any, shall be filed within twenty (20) days after the date of filing of the decision in the office of the City Clerk.

3. Upon the granting of a variance, special permit or any extension, modification, or renewal thereof, the ZBA or SPGA shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the ZBA or SPGA 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 and/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 the City Clerk. No variance, special permit or any extension, modification or renewal thereof shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the City 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 permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit or petition for the variance accompanied by the certificate of the City Clerk stating the fact that the permit granting authority or special permit granting authority 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 Worcester District Registry of Deeds and indexed in the grantor index under the name of the owner of record or, in the case of registered land, is recorded and noted on the owner's certificate and a copy of such recordation is filed with the Director of Code Enforcement.
4. Upon the approval of a petition to alter, extend or change a pre-existing nonconforming use or structure, the ZBA shall issue to the owner and to the applicant, if other than the owner, a copy of its decision, certified by the ZBA containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the approval of such petition and certifying that copies of the decision and all plans referred to in the decision have been filed with the City Clerk. No approval to alter, extend or change a pre-existing nonconforming use or structure shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the City 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 petition which has been approved by reason of the failure of the ZBA to act thereon within the time prescribed, a copy of the petition accompanied by the certificate of the City Clerk stating the fact that the ZBA failed to act within the time prescribed and no appeal has been filed and that the grant of the 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.

5. If the activity authorized by a special permit granted by the ZBA or SPGA is not initiated within one (1) year of the date of grant of such special permit except in the case of phased construction as approved by the ZBA or SPGA and/or if the activity is not completed within two (2) years, then the special permit shall lapse unless the Director of Code Enforcement makes a determination that the failure to complete was for good cause. Otherwise, after a lapse, the special permit may be re-established only after notice and a new hearing pursuant to this Ordinance. The foregoing timeframes shall be extended to include such time as required to pursue or await the determination of an appeal referred to in **Section-9(E)**, below.
6. Construction or operations authorized by a building or special permit shall conform to any subsequent amendment(s) of this Ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit and in the case of construction, it is continued through to completion as continuously and expeditiously as is reasonable.
7. Variances shall only be issued following public hearings by the ZBA. Said variance shall deal with respect to particular land or structures where the ZBA specifically finds that owing to circumstances relating to the 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 Ordinance would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Ordinance. If the rights authorized by a variance are not exercised within one (1) year of the date of grant of such variance they shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six (6) months; and provided further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the expiration of the date of application therefore, and upon the expiration of the original one year period, such rights may be re-established only after notice and a new hearing pursuant to this Ordinance, (see M.G.L. Ch. 40A, §10).



E. Judicial Review

Any person aggrieved by a decision or the failure to take final action by the ZBA or SPGA, may seek judicial review pursuant to **M.G.L. c. 40A, § 17**.

## ARTICLE III ZONING DISTRICTS

### Section 1 – Districts

For the purpose of this Ordinance the City of Worcester is hereby divided into the following districts.

#### RESIDENCE DISTRICTS

#### MINIMUM LOT SIZE

RS-10:	Residence, Single Family	10,000 square feet
RS-7:	Residence, Single Family	7,000 square feet
RL-7:	Residence, Limited	7,000 square feet
RG-5:	Residence, General	5,000 square feet

#### BUSINESS DISTRICTS

#### FLOOR AREA RATIOS

(Building/land)

BO-1.0:	Business, Office	1 square foot/ 1 square foot
BO-2.0:	Business, Office	2 square feet/ 1 square foot
BL-1.0:	Business Limited	1 square foot/ 1 square foot
BG-2.0:	Business, General	2 square feet/ 1 square foot
BG-3.0:	Business, General	3 square feet/ 1 square foot
BG-4.0:	Business, General	4 square feet/ 1 square foot
BG-6.0:	Business, General	6 square feet/ 1 square foot

#### INDUSTRIAL PARK DISTRICTS

IP-0.33:	Light Industrial	1 square foot/ 3 square feet
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#### MANUFACTURING DISTRICTS

ML-0.5:	Manufacturing, Limited	1 square foot/ 2 square feet
ML-1.0:	Manufacturing, Limited	1 square foot/ 1 square foot
ML-2.0:	Manufacturing, Limited	2 square feet/ 1 square foot
MG-0.5:	Manufacturing, General	1 square foot/ 2 square feet
MG-1.0:	Manufacturing, General	1 square foot/ 1 square foot
MG-2.0:	Manufacturing, General	2 square feet/ 1 square foot

#### INSTITUTIONAL DISTRICTS

IN-S:	Institutional, Educational
IN-H:	Institutional, Medical

## **AIRPORT DISTRICT**

A-1: Airport

## **OPEN SPACE ZONES**

OS-P: Parks  
OS-C: Conservation Areas

## **OVERLAY DISTRICTS**

*Overlay districts, as are provided for in other Articles of this Ordinance, are as follows:*

MU: Mixed Use Development  
FP: Floodplain  
AE: Airport Environs  
WR: Water Resources Protection  
FLP: Flexible Parking  
AOD: Arts Overlay District  
AROD: Adaptive Re-use Overlay District

## **Section 2 – Zoning Map**

The zoning districts are hereby established as shown on the Geographic Information System (GIS) map entitled “The Zoning Map of the City of Worcester,” dated February 6, 2007, and amendments thereto, which map, with all explanatory matter thereon and including amendments thereto, shall be deemed to be and is hereby made a part of this Ordinance.

## **Section 3 – Interpretation**

- A. Where the Zoning Map is not clear, the following priorities and interpretations shall control:
1. Where the district boundary is indicated as a street, it is the center line of the Street, provided however, that the depth of the district shall be measured from the right of way line of the street that existed at the time the district was created.
  2. Where the district boundary is indicated as a watercourse it is the centerline of the watercourse.
  3. Where a district boundary line divides a lot or crosses un-subdivided property, the origin and length of such boundary shall be determined by the Director of Code Enforcement utilizing the Geographic Information System (GIS) Map.
  4. The Zoning Map shall be considered accurate to the nearest foot.

5. If district or boundary's accuracy is challenged, or the Zoning Map thought to be in error, then the language of the City Council Ordinance, or any amendments thereto, shall hold.

## ARTICLE IV USE REGULATIONS

### **Section 1 – Application**

- A. No building, structure or land, in any district, may be used, erected, altered or expanded, in whole or in part, for any use not expressly permitted in that district unless as a permitted accessory use pursuant to **Article IV, Section-8**. Uses permitted in a district are permitted to occur together as primary uses for a building, structure or land with applicable regulations applied proportionally to each.
- B. Lots in two (2) or more districts may have uses permitted in the district only on that portion of the lot within the district.
- C. Those uses permitted in certain districts only upon grant of a special permit as specified herein may be carried on only upon grant of the special permit.
- D. Where a particular use does not, in the interpretation of the Director of Code Enforcement, fall within a permitted category for that district, it shall be excluded in that district unless it can be established to the satisfaction of the Director of Code Enforcement, that it falls within one or both of the following categories:
  - 1. Said use was lawfully in existence on the effective date of this Ordinance and can qualify as a privileged nonconforming use in accordance with law and the provisions of **Article XVI** of this Ordinance.
  - 2. Said use has been granted a special permit and all the conditions of the special permit or variance have been satisfied.

### **Section 2 – Permitted Uses**

In each zoning district, the use of land, buildings and structures shall be regulated as set forth in this Ordinance. A use listed in **Table 4.1** is permitted only in such district(s) under which such use is denoted by the letter “Y.” If denoted by the letters “SP”, a use may be permitted in such district upon the grant of a special permit. If denoted by the letter “N”, a use is not permitted in such district. The “Notes to **Table 4.1**”, provided at the end hereof, modify the permitted uses as shown on **Table 4.1** and have the same force for regulating uses in each zoning district that **Table 4.1** has.

**PERMITTED USES BY ZONING DISTRICTS – TABLE 4.1 RESIDENTIAL USE**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
1. Bed and Breakfast Establishment	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N	N	N	N	N	N
2. Continuing care retirement community	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	SP	SP	N
3. Dormitory	SP	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	Y	N
4. Family day care home	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
5. Fraternity/sorority/ cooperative residence	SP	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	Y	N
6. Group residence (general or limited)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
7. Limited Residential Hospice House	SP	SP	SP	SP	N	SP	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
8. Lodging house	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N	N
9. Mobile homes	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
10. Multi-family dwelling, high rise	N	N	N	Y	N	N	N	Y	Y	Y	Y	N	N	N	N	N	N	N	N	SP	N
11. Multi-family dwelling, low rise	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	SP	SP	N
12. Single-family attached dwelling	N	N	SP	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	Y	Y	N
13. Single-family detached dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	Y	Y	N
14. Single-family semi-detached dwelling	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	Y	Y	N
15. Temporary shelter	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
16. Three-family detached dwelling	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	Y	N
17. Two-family detached dwelling	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	Y	N
Y – Yes; N – No; SP – Special Permit																					

**PERMITTED USES BY ZONING DISTRICTS – Table 4.1  
GENERAL USE**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
1. Agriculture, horticulture, viticulture, flora culture on parcels less than five (5) acres	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
2. Cemetery, crematory, memorial park	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
3. Clinic	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	N	Y	N
4. Club, lodge, other private grounds (non-profit and private)	SP	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	N	N	N
5. Day Care Center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
6. Heliport	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Y
7. Library/Museum (non-profit)	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	Y	Y	N
8. Library/Museum (profit)	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	N	N	N
9. Licensed hospital, Sanitarium	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	Y	N
10. Non-accessory residential parking	SP	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
11. Non-residential parking facility (non-accessory)	N	N	N	N	SP	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
12. Nursing or convalescent home/institution/facility	N	SP	SP	SP	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	Y	N
13. Open lot storage of more than one (1) unregistered automobile in excess of (7) seven days	N	N	N	N	N	N	SP	SP	SP	SP	N	SP	SP	SP	SP	SP	SP	N	N	N	N
14. Personal Wireless Service Facilities Interior-Mounted and Side-Mounted	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
15. Personal Wireless Service Facilities Roof-Mounted, Ground-Mounted, and Structure-Mounted	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Y – Yes; N – No; SP – Special Permit																					

**PERMITTED USES BY ZONING DISTRICTS – Table 4.1  
GENERAL USE - Continued**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
16. Place of worship	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
17. Radio/TV Transmission Tower	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y	N	N	N	N
18. Recreational/service facility (non-profit)	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	Y	Y	N
19. Religious or educational use (EXEMPT)(See Art. XVII; M.G.L.c.40A, s.3)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
20. Schools (K-12, college, University, technical institute) non-profit	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
21. Schools (vocational, professional, other) profit	N	N	N	N	SP	SP	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	SP
22. Shooting Ranges – Indoor/Outdoor (see note 11)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
23. Teen/Youth Center	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
24. Transformer, pumping station, sub-station, telephone exchange	SP	SP	SP	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Y – Yes; N – No SP – Special Permit																					



**PERMITTED USES BY ZONING DISTRICTS – Table 4.1  
BUSINESS USES**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
1. Adult entertainment establishments	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N	N	N
2. Animal hospital, clinic, pet shop	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N
3. Bank, credit union	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	SP
4. Bank, credit union with drive thru	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
5. Bus station or terminal, RR passenger station	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
6. Food service (drive-thru)	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
7. Food service (excludes consumption/sale of alcoholic beverages)	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	SP	SP	Y
8. Food service (includes consumption/sale of alcoholic beverages) and/or providing dancing or entertainment	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	SP	SP	Y
9. Funeral undertaking establishment	N	N	SP	SP	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N
10. In-door recreation, health club-profit	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N
11. Indoor rental & service of equipment for home and recreational uses	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N
12. Kennel	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
13. Marina	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N	N	N	N	N	N	N
14. Motel, hotel, inn	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Y – Yes; N – No; SP – Special Permit																					

**PERMITTED USES BY ZONING DISTRICTS – Table 4.1  
BUSINESS USES - Continued**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
15. Motor vehicle/trailer/boat sales, rental	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
16. Motor vehicle service, repair, garage, display	N	N	N	N	N	N	SP	Y	Y	Y	SP	Y	Y	Y	Y	Y	Y	N	N	N	Y
17. Automobile Refueling Station	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	SP
18. Office, general (travel agency, auto driving school)	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y
19. Office, professional	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N
20. Outdoor recreation (for Profit)	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
21. Package store (alcoholic beverage sale not to be consumed on premise)	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N
22. Radio/TV studio	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
23. Research lab. w/o manufacturing abilities	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
24. Retail Food Sales	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	SP	SP	Y
25. Retail greater than 50% display space outdoors	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
26. Retail sales, including retail with incidental fabrication assembly	N	N	N	N	N	N	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	SP	SP	Y
27. Service shop, personal services	N	N	SP	SP	SP	SP	Y	Y	Y	Y	Y	SP	SP	SP	SP	SP	SP	N	SP	SP	Y
28. Theatre, motion picture theatre, concert hall	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	N
29. Wholesale business or storage conducted entirely within an enclosed structure (with noise, dust, fumes, gases and odors confined to the premises)	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
Y – Yes; N – No; SP – Special Permit																					

**PERMITTED USES BY ZONING DISTRICTS – Table 4.1  
MANUFACTURING USE**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
1. Accessory storage of flammable liquids/gases/ explosives (excluding residential use up to 1,000 gallons)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2. Auction house	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
3. Auto/truck body or paint shop	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N
4. Flea Market	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	N	N	N	N
5. Manufacturing, assembly, processing, packaging, research and other industrial operations provided standards in note to Table 4.1 (7) are met	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
6. Manufacturing, assembly, processing, packaging or other industrial operations not otherwise permitted above, provided there will not be a nuisance of such magnitude as to prevent a reasonable use of nearby premises for the purpose for which they are zoned	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	N	N	N
7. Motor freight terminal; truck/trailer/bus storage or servicing	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	Y	Y	Y	N	N	N	SP
8. Open lot storage, underground storage, salvage recycling operations, refuse transfer station facility: includes flammable liquids/gas	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N	N	N	SP
9. Rail freight terminal & accessory storage place	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N
Y – Yes; N – No SP – Special Permit																					

**PERMITTED USES BY ZONING DISTRICTS – Table 4.1  
MANUFACTURING USE - Continued**

	<b>RS 10</b>	<b>RS 7</b>	<b>RL 7</b>	<b>RG 5</b>	<b>BO 1</b>	<b>BO 2</b>	<b>BL 1</b>	<b>BG 2</b>	<b>BG 3</b>	<b>BG 4</b>	<b>BG 6</b>	<b>ML 0.5</b>	<b>ML 1</b>	<b>ML 2</b>	<b>MG 0.5</b>	<b>MG 1</b>	<b>MG 2</b>	<b>IP 0.33</b>	<b>IN S</b>	<b>IN H</b>	<b>A 1</b>
10. Rendering works and slaughter house	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
11. Stable	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	N	N	N	N
12. Steam laundry, dry cleaning, rug cleaning establishment or plant	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	N
13. Storage of materials and equipment not enclosed buildings (excluding flammable liquids, gas and/or explosives)	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N
14. Truck sales/agencies/showroom	N	N	N	N	N	N	N	SP	SP	SP	N	Y	Y	Y	Y	Y	Y	N	N	N	N
15. Truck servicing and repair garages	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	N
Y – Yes; N – No SP – Special Permit																					

## TABLE 4.1

### Permitted Uses by Zoning Districts

#### Notes to Table 4.1

- Note 1.** A machine shop or other noisome activity accessory to a school or education center building, which is located in, or within two hundred (200) feet of a Residential or Business Zoning District, shall confine its noise substantially on-site.
- Note 2.** In Residence or Business Office districts no commercial greenhouse or outdoor storage of fertilizer may be within fifty (50) feet of any lot line.
- Note 3.** Where public garages, auto-body shops or paint shops are allowed, all washing, lubricating and repairs must be carried on inside a building. All outside storage of wrecked vehicles or parts shall be screened from the street and neighborhood. Any structure housing repairs shall be designed to confine noise substantially to the premises; any flashing, fumes, gases, smoke and vapor shall be effectively confined to the premises.
- Note 4.** Where an animal hospital, clinic or shelter, kennel or pet shop is allowed, no outdoor animal runs may be located within two hundred (200) feet of a Residential District.
- Note 5.** Where open lot storage of new building materials, contractor's equipment, machinery or similar materials is allowed, any material, except equipment or machinery stored in unenclosed premises to a height greater than four (4) feet above grade level, shall be surrounded by a visual barrier.
- Note 6.** Where open lot storage of coal, coke, sand or other solid fuel, or similar material, or storage of such material in a silo or hopper, or open lot storage, handling or bailing of second hand lumber or other used building materials, metals, junk, scrap, paper, rags, un-repaired or un-cleaned containers, or other articles of salvage wrecking or dismantling of motor vehicles, or wholesale storage of flammable liquids or gas is allowed, all dust and dirt incident to storage or handling shall be effectively confined to the premises. All storage of salt must be under waterproof cover and placed upon an impervious surface to prevent leaching.
- Note 7.** In ML, MG, BG and IP districts where manufacturing, assembly, processing, packaging, research or other industrial operations are allowed as a matter of right, all resulting odors, gases and particulate matter must be effectively confined to the premises or so disposed of so as to avoid any air pollution; and that all noise, vibration or flashing should not be perceptible normally without instruments either at a point more than three hundred and fifty (350) feet from the premises at any point within the nearest residential district or more than one hundred fifty (150) feet beyond the nearest residential district boundary, whichever point is nearer to the premises.

- Note 8.** In all districts, permitted uses involving biomedical research must conform to City of Worcester Revised Ordinances of 1996, Chapter 8 – Regulations relative to Biomedical Research in the City of Worcester. This Chapter applies to all institutions which experiment with Recombinant DNA (RDNA) technology. All use of RDNA by institutions in the city of Worcester shall be undertaken only in conformity with current and applicable National Institutes of Health (NIH) of the U.S. Department of Health and Human Services guidelines.
- Note 9.** For licensed group homes under **M.G.L. Chapter 40A, Section-3**, the City must adhere to State mandates relative to their siting and control. Notwithstanding any provisions to the contrary, group homes for mentally and physically disabled persons shall be permitted in all zones in accordance with State law.
- Note 10.** In addition to the special permit review criteria in **Article II**, a Limited Residential Hospice House shall also conform to the following conditions in order to be eligible for grant of a special permit; a) no more than two (2) persons unrelated by marriage may live in each bedroom within the Limited Residential Hospice House; b) there shall be a maximum of ten (10) bedrooms in the Limited Residential Hospice House; c) no external signs shall be placed on the property, except with the approval of the Board of Appeals; and d) the maximum number of hospice residents in the limited residential hospice house shall not exceed sixteen (16) in number.
- Note 11.** No shooting range or gallery, whether indoor or outdoor, licensed under the provisions of General Laws, **Chapter 140, Section-56A and/or Section-131**, shall be located within one thousand feet of any exterior property line of the real property comprising a public elementary, vocational or secondary school or within one hundred feet of a public park or playground.

### **Section 3 – Regulatory Provisions for Air Pollution**

No person shall construct, substantially reconstruct or alter any facility that may cause or increase a condition of air pollution without the approval of the Massachusetts Department of Environmental Protection. (See M.G.L. Ch. 111)

### **Section 4 – Dimensional Controls**

The dimensional controls set forth in **Table 4.2** shall apply to land uses in each district, except in the case of uses specifically exempted or excepted therefrom by law or by applicable provisions of this Ordinance.

**PERMITTED DIMENSIONS BY DISTRICT TABLE 4.2**

DISTRICT	USE	LOT		YARD SETBACKS			HEIGHT		FLOOR TO AREA RATIO (Maximum)
		AREA (Minimum SF)	FRONTAGE (Minimum linear ft.)	FRONT	SIDE <sup>1</sup>	REAR	Maximum in stories <sup>2</sup>	Maximum in ft.	
				Minimum depth (linear ft.)					
RS-10	Single-family detached	10,000	80	25	10	20	2+	35	NA
	Single-family semi-detached	6,000 per du	45 per du						
	Limited Residential Hospice House	40,000	80						
	Other permitted	10,000	80	25	20	50			0.3 to 1
RS-7	Single-family detached	7,000	65	20	8	20	2+	35	NA
	Single-family semi-detached	4,000 per du	35 per du						
	Limited Residential Hospice House	30,000	65	25	10	20			
	Other permitted	7,000	65	25	20	50			
RL-7	Single-family detached	7,000	65	20	8	20	2+	35	NA
	Single-family semi-detached	4,000 per du	35 per du						
	Single-family, attached	3,000 per du	25 per du						
	Two-family dwelling	8,000	70				3+	50	
	Three-family dwelling	9,000	75						

<sup>1</sup>Not applicable to that portion of a semi-detached or attached single-family dwelling, where permitted, that shares a party wall or a double wall on or along a common side lot line with an adjacent unit.

<sup>2</sup> These designations indicate a height in stories plus an attic, as herein defined. The designation 2+ indicates a maximum of 2 habitable stories with a non-habitable attic and garage underneath, if provided. The story containing the garage is not considered habitable if the garage area occupies 50% or more of the entire story.



**PERMITTED DIMENSIONS BY DISTRICT**

**TABLE 4.2 - Continued**

DISTRICT	USE	LOT		YARD SETBACKS			HEIGHT		FLOOR TO AREA RATIO (Maximum)
		AREA (Minimum SF)	FRONTAGE (Minimum linear ft.)	FRONT	SIDE <sup>1</sup>	REAR	Maximum in stories <sup>2</sup>	Maximum in ft.	
				Minimum depth (linear ft.)					
RL-7 Cont.	Multi-family dwelling, low rise - first unit	7,000	65	20	10	20	NA	NA	NA
	MFD, additional unit, low rise	2,000 per du	plus 5' per du to total of 140'	NA	NA	NA	3+	50	
	Limited Residential Hospice House	20,000	65	25	10	20	3+	50	NA
	Other residential permitted	7,000		20	10	20		45	
	Other non-residential	7,000		20	20	20		0.5 to 1	
RG-5	Single-family detached	5,000	50	15	8	15	2+	35	NA
	Single-family semi-detached	3,000 per du	30 per du						
	Single-family, attached	2,200 per du	20 per du						
	Two-family dwelling	6,000	55	15	8	8	3+	50	
	Three-family dwelling	7,000	60						
	Multi-family dwelling, first unit	5,000	50	15	10	15	NA	NA	
	MFD, additional unit, low rise	1,000 per du	plus 5' per du to total of 125'	NA	NA	NA	3+	50	
	MFD additional unit, high rise	750 per du	plus 5' per du to total of 100'				8+	90	

<sup>1</sup>Not applicable to that portion of a semi-detached or attached single-family dwelling, where permitted, that shares a party wall or a double wall on or along a common side lot line with an adjacent unit.

<sup>2</sup> These designations indicate a height in stories plus an attic, as herein defined. The designation 2+ indicates a maximum of 2 habitable stories with a non-habitable attic and garage underneath, if provided. The story containing the garage is not considered habitable if the garage area occupies 50% or more of the entire story.

**PERMITTED DIMENSIONS BY DISTRICT**

**TABLE 4.2 - Continued**

DISTRICT	USE	LOT		YARD SETBACKS			HEIGHT		FLOOR TO AREA RATIO (Maximum)
				FRONT	SIDE <sup>1</sup>	REAR			
		AREA (Minimum SF)	FRONTAGE (Minimum linear ft.)	Minimum depth (linear ft.)			Maximum in stories <sup>2</sup>	Maximum in ft.	
RG-5 Cont.	Limited Residential Hospice House	15,000	50	20	10	10	3+	50	NA
	Other residential permitted	5,000	50	15		15		45	
	Other non-residential	5,000	50						
BO-1.0	Residential <sup>3</sup> . Non-residential	5,000	40 per du <sup>4</sup>	15	10	10	3+	40	1 to 1
BO-2.0		NA	NA						
BL-1.0	Residential <sup>3</sup> . Non-residential	5,000 NA	40 per du <sup>4</sup> NA	10	10	20	3+	40	1 to 1
BG-2.0	Residential <sup>3</sup> . Non-residential	5,000 NA	40 per du <sup>4</sup> NA	NA	NA	15	NA	50	2 to 1
BG-3.0								100	3 to 1
BG-4.0						10		150	4 to 1
BG-6.0								NA	6 to 1

<sup>1</sup>Not applicable to that portion of a semi-detached or attached single-family dwelling, where permitted, that shares a party wall or a double wall on or along a common side lot line with an adjacent unit.

<sup>2</sup> These designations indicate a height in stories plus an attic, as herein defined. The designation 2+ indicates a maximum of 2 habitable stories with a non-habitable attic and garage underneath, if provided. The story containing the garage is not considered habitable if the garage area occupies 50% or more of the entire story.

<sup>3</sup> In BO, BL, BG - 2 and BG - 3 Districts, for brand new residential uses, at least 10% of the lot area must be set aside for recreational purposes, excluding the required five foot buffer.

<sup>4</sup> But not more than two hundred (200) feet.

**PERMITTED DIMENSIONS BY DISTRICT**

**TABLE 4.2 – Continued**

DISTRICT	USE	LOT		YARD SETBACKS			HEIGHT		FLOOR TO AREA RATIO (Maximum)
		AREA (Minimum SF)	FRONTAGE (Minimum linear ft.)	FRONT	SIDE <sup>1</sup>	REAR	Maximum in stories <sup>2</sup>	Maximum in ft.	
				Minimum depth (linear ft.)					
<b>IP-0.33</b>	All	75,000	200	25	25	25	NA	50	0.33 to 1
<b>ML-0.5</b>	All	NA	NA	25	NA	25	NA	50	0.5 to 1
<b>ML-1.0</b>				10		15			1 to 1
<b>ML-2.0</b>				25		2 to 1			
<b>MG-0.5</b>	All	NA	NA	25	NA	25	NA	50	0.5 to 1
<b>MG-1.0</b>				15		15			1 to 1
<b>MG-2.0</b>				2 to 1					
<b>IN-S</b>	All	NA	NA	15	10	10	NA	NA	NA
<b>IN-H</b>									
<b>A-1</b>									

1 Not applicable to that portion of a semi-detached or attached single-family dwelling, where permitted, that shares a party wall or a double wall on or along a common side lot line with an adjacent unit

2 These designations indicate a height in stories plus an attic, as herein defined. The designation 2+ indicates a maximum of 2 habitable stories with a non-habitable attic and garage underneath, if provided. The story containing the garage is not considered habitable if the garage area occupies 50% or more of the entire story.

**TABLE 4.2**

**Permitted Dimensions by District**

**Notes to Table 4.2**

**Note 1** Lot or yard areas may not be transferred from one (1) parcel of land to another in such a manner as to make either parcel nonconforming dimensionally.

**Note 2.** Lot or yard areas required for new buildings may not include lot or yard areas needed for the dimensional conformance of other buildings.

**Note 3.** Where minimum frontages are required, either of the following may be used, though in no case may any part of a lot have less than twenty (20) feet of access in any dimension.

- a) The width of the lot as measured along the street right of way line.
- b) In the case of a cul-de-sac, the width of the lot measured at the point of the least setback and on a line parallel with the street right of way line.

**Note 4.** On a lot where the frontage is on one (1) side of the street between two (2) intersecting streets and is part in a Residence District and part in a Business or Manufacturing District, the front yard depth in the Business or Manufacturing District for a distance of one hundred (100) feet from the district boundary shall not be less than the front yard depth specified for the Residence District.

**Note 5** Substantial irregularity – No lot shall be created that is substantially irregular in shape. For the purposes of this section, a lot is “substantially irregular” if it has a regularity factor that is less than 0.4 as determined by the following formula:

$$R=16A/p^2$$

Where: R = regularity factor; A = area of the lot (in square feet); and p = perimeter of the lot (in feet).

The provisions of this section shall not apply to lots shown on plans recorded at the Worcester District Registry of Deeds before January 12, 2005. Lots shown on such plans shall not be considered to be nonconforming for the Article IV, Section 4, Table 4.2, Permitted Dimensions By District, Table 4.2, is hereby amended by purposes of this Ordinance.

**Note 6.** Alignment – Where the average front yard of two (2) or more existing buildings fronting on the same street on the same block and within a distance of one hundred fifty (150) feet of the applicant’s lot is five (5) feet less than the required front yard

depth, then the average of the existing alignments shall be the required front yard depth for the applicant's lot.

**Note 7.** The owner of a corner lot may designate either street lot line as the front lot line. Once so designated, it shall apply for all dimensional purposes. The exterior side yard of a corner lot shall not be less than:

In RS and RL districts	fifteen (15) feet
In RG districts	ten (10) feet
In BO districts	ten (10) feet
In BL, ML and MG districts,	one half (.5) the respective front yard requirements.

**Note 8.** Clear View of Intersecting Streets – In all districts with front yard set back requirements, in order to provide a clear view of intersecting streets to vehicles, there shall be a triangular area of clear vision formed by the two intersecting streets. The size of the triangular area is to be the minimum front set back for the district. On any portion of a lot that lies within the triangular area, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2.5) feet and ten (10) feet above the grade at the two street centerlines. The triangular area shall be formed by connecting three (3) points: the intersection of the two street right of way lines and the two (2) points along each street right of way line, at a distance from the intersecting point which is equal to the required front yard set back.

**Note 9.** In Business or Manufacturing districts where a side lot line abuts a Residence district, the side yard requirements of the Residence district shall apply.

**Note 10.** Waiver – The Zoning Board of Appeals may, by special permit, waive or modify the requirements for street access, the location of accessory parking and spacing and dimensional controls for a group of buildings designed and intended to remain under the same ownership and management where it is demonstrated that with such modification there will be provided light, air, sunlight, and amenities of a standard no lower than would be provided under said requirements.

**Note 11.** In BG-6.0 districts an additional floor space premium is allowed where off street parking is provided on-site of the building or within one thousand (1,000) feet of the facility it is to serve. The premium, six hundred (600) square feet of floor space for each parking space provided, may be used in computing the floor area ratio.

**Note 12.** Any new building, addition or substantial renovation of a building in the ML and MG use bordering an RS/RL/RG district must have a buffer to each abutting property of at least fifty (50) feet. Uses within the buffer shall be at an intensity no greater than fifty percent (50%) of that permitted in the district. Commencing on April 2, 1991, all subdivision of land for MG and ML purposes, which are border lots, must provide the fifty (50) feet buffer at the perimeter(s) of the parcel being subdivided.

**Note 13.** In Institutional Zones for educational institutions (IN-S), structures are required to be set back fifty (50) feet from the nearest property line. Any structure constructed between fifty-one (51) and one hundred (100) feet from the nearest property line, shall be no higher than the height limitation imposed by the abutting zoning district nearest to the structure to be built. The property line, for purposes of this note, shall be defined as the exterior boundary line of the Institutional property, as recorded on the deed, which separates the Institutional property from adjacent properties or streets.

**Note 14.** Any group home for mentally and physically disabled persons shall meet all the dimensional requirements of a single-family dwelling.

### **Section 5 – Filling and Excavating of Earth**

#### **A. Filling or Dumping of Earth**

1. The placing, filling or dumping of snow and ice or earth, including soil, loam, sand, gravel, clay, stone, quarried rock or other subsurface products, except water, is permitted in all districts if such placing, filling or dumping is entirely incidental to:
  - a) The construction of any structure for which a building permit has been issued.
  - b) The construction of ways within subdivisions and “more than one (1) building on a lot” projects, which have been approved by the Planning Board.
  - c) Utility construction in public and private ways and private property.
  - d) The routine landscaping (not including significant changes in topography) of a lot with a one (1) or two (2) family residence thereon by the owner thereof so long as the existing topography of the parcel in no location exceeds a 15% grade.
  - e) The construction of parking lots as approved under **Article IV, Section-7**.
2. During construction for any of the activities in **Section-5(A)(1)** above, all disturbed areas of land shall have erosion control to prevent damage to any adjacent properties. Erosion control methods shall be approved by the Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, and shall be installed prior to construction. The Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, may require certification by a registered professional engineer of erosion control methods prior to the issuance of any building permit.

3. All earth placing, filling or dumping incidental to the activities in **Section-5(A)(1)** above, shall have finished slopes at no greater than two and one half to one (2.5:1) without providing some form of slope protection or retaining walls. Any slope protection method or retaining wall shall receive the approval of the Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, prior to its installation. The Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, may require certification by a registered professional engineer of such protection prior to the issuance of any building permit.
4. All other earth placing, filling or dumping, including snow and ice, shall be permitted only upon grant of a special permit from the Zoning Board of Appeals. The Zoning Board of Appeals may issue a special permit for the placing, filling or dumping of earth or other material, including ice and snow, after a report by the Director of Public Health and the Conservation Commission subject to the following conditions:
  - a) Establishment of a time period to complete the filling operations but not more than two (2) years.
  - b) Not more than two (2) entrances-exits shall be allowed onto any one street.
  - c) At all stages of operation, proper drainage shall be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties. During construction or filling operations on sites adjacent to or where drainage and runoff will enter any natural stream, pond or culvert connected thereto, a berm will be constructed between the stream or pond and the construction site, with drainage channeled through a settling pool or catch basin to trap silt prior to entering the water body. If, when complete, the site is to be paved, all drainage shall be channeled through an approved catch basin before entering the water body.
  - d) During the period of placing, filling or dumping, all necessary precautions shall be taken as deemed necessary by the Zoning Board of Appeals for the protection of pedestrians and vehicles.
  - e) When the placing, filling and/or dumping of earth are completed, the area is to be graded so that no finish grade shall be steeper than a slope of 2.5 horizontal to 1 vertical.
  - f) A layer of arable topsoil of a quality approved by the Director of Code Enforcement shall be spread over the clean fill to a minimum of four (4) inches in accordance with the approved contour plan. The area shall be

seeded with a suitable cover crop and maintained until the area is stabilized and approved by the Director of Code Enforcement.

- g) All necessary precautions shall be taken to protect against any damage being done to surrounding land and to ensure that no dangerous conditions are created after completion.
  - h) Prior to any placing, filling or dumping of earth, site plans shall be submitted to the Zoning Board of Appeals containing the following:
    - i) Existing and proposed contours at intervals of two (2) feet.
    - ii) Estimated volume of earth to be dumped.
    - iii) Proposed truck access to the excavation.
    - iv) Names of abutters.
5. The Zoning Board of Appeals shall make a finding of approval, approval with conditions or disapproval. Any finding shall be in writing and shall be directed to one (1) or more of the standards provided above.

**B. Earth Excavation**

- 1. The removal of earth, including soil, loam, sand, gravel, clay, stone, quarried rock or other subsurface products except water, is permitted in all districts if such material is entirely incidental to:
  - a) The construction of any structure for which a building permit has been issued which specifies nature and extent of such earth removal.
  - b) The construction of ways within subdivisions and “more than one (1) building on a lot” projects, which have been approved by the Planning Board.
  - c) Utility construction in public and private ways and private property.
  - d) The routine landscaping (not including significant changes in topography) of a lot with a one (1) or two (2) family residence thereon by the owner thereof, so long as the existing topography of the parcel in no location exceeds a 15% grade.
  - e) The construction of parking lots as approved under **Article IV, Section-7**.
- 2. During construction for any of the activities in **Section-5(B)(1)** above, all disturbed areas of land shall have erosion control for the protection of adjacent



properties. Erosion control methods shall be approved by the Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, and shall be installed prior to construction. The Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, may require certification by a registered professional engineer of the erosion control methods prior to the issuance of any building permit.

3. Any earth removal incidental to the activities in **Section-5(B)(1)** above, shall have finished slopes of no greater than two and one half to one (2.5:1) without providing some form of slope protection or retaining wall. Any slope protection method or retaining wall shall receive the approval of the Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, prior to its installation. The Director of Code Enforcement or the Commissioner of the Department of Public Works & Facilities, as applicable, may require certification by a registered professional engineer of slope protection prior to the issuance of any building permit.
4. All other earth removal shall be permitted only upon grant of a special permit from the Zoning Board of Appeals. The Zoning Board of Appeals may issue a special permit for removal of earth after a report by the Commissioner of Public Health and the Conservation Commission subject to the following conditions:
  - a) Establishment of a time period to complete the removal operations but not more than two (2) years.
  - b) Existing topsoil not to be removed from the site until the area from which it was removed has been restored.
  - c) Not more than two (2) entrances – exits shall be allowed onto any one (1) street.
  - d) At all stages of operation proper drainage shall be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties. During construction or soil removal, on sites adjacent to or where drainage and runoff will enter any natural stream, pond or culvert connected thereto, a berm will be constructed between the stream or pond and the construction site with drainage channeled through a settling pool or catch basin to trap silt prior to entering the water body. If when complete, the site is to be paved, all drainage shall be channeled through an approved catch basin before entering the water body.
  - e) During the period of excavation and removal, barricades and/or fences shall be erected as are deemed necessary by the Zoning Board of Appeals for the protection of pedestrians or vehicles.

- f) When excavations and removal operations or either of them is completed, the excavated area shall be graded so that no gradients in disturbed earth shall be steeper than a slope 2.5 horizontal to 1 vertical.
- g) In restoring the excavated areas, topsoil shall be spread to a depth of four (4) inches and shall be seeded with a suitable cover crop and maintained until the area is stabilized and approved by the Director of Code Enforcement.
- h) Prior to any earth excavation, site plans shall be submitted to the Zoning Board of Appeals containing the following:
  - i) Existing and proposed contours at intervals of two (2) feet.
  - ii) Estimated volume of earth to be removed.
  - iii) Proposed truck access to the excavation.
  - iv) Names of abutters.
  - v) Ground water levels shall be indicated.
  - vi) Details of re-grading and re-vegetation of the site at conclusion of operations.

5. The Zoning Board of Appeals shall make a finding of approval, approval with conditions or disapproval. Any finding shall be in writing and shall be directed to one (1) or more of the standards provided above.

C. Stripping and Stockpiling

On-site stripping and stockpiling of topsoil, loam, sand, gravel and other forms of earth is not allowed unless it is incidental to the activities listed in **Section-5(A)(1)** and **Section 5(B)(1)** or as provided for in a special permit issued by the Zoning Board of Appeals under **Section 5(A)(4) and/or Section 5(B)(4)**.

**Section 6 – Signs**

It shall be the purpose of this section to promote proper maintenance and thoughtful placement of signs designed to fit with the surrounding environment and to allow sign messages to efficiently transfer information to the public; to allow creative and innovative design; to establish a variance and special permit system that recognizes changes in life style, travel patterns and land use philosophy; and a set of record keeping procedures that provide for equal treatment of all parties involved by regulation of the posting, displaying, erecting, use and maintenance of signs. No signs shall be permitted on any property, either as a primary or accessory use, except in accordance with the provisions of this Ordinance.

## General Applications For All Signs In All Districts

### A. Administration

#### 1. Permits and Inspections

- a) Signs shall not be erected, enlarged or relocated until an application for a permit, together with plot plans and specifications, has been filed with and approved by the Director of Code Enforcement.
- b) Outdoor advertising subject to the rules and regulations of the Outdoor Advertising Board of the Commonwealth of Massachusetts requires a special permit from the Zoning Board of Appeals, subject to **Article V** Site Plan Review, prior to the building permit issuance.
- c) Any sign twelve (12) feet or over in height above adjoining grade, or any free standing sign with an area over sixty (60) square feet, or any roof sign, projecting sign, or marquee sign shall have structural drawings and specifications, including foundations, prepared by a registered professional engineer.

#### 2. Exemptions

- a) This Article shall not regulate signs erected by the City for the control and direction of traffic or parking; signs or banners erected by the City; signs erected by other authorized governmental agencies or departments; signs not intended to be viewed from a public way; temporary signs placed in windows; window displays; national flags, flags of political subdivisions and symbolic flags of an institution or business; historical site plaques or other signs of a non-commercial nature.
- b) The following temporary signs are permitted, providing that each sign conforms with the requirements set forth below as well as other applicable requirements herein provided, especially as to type:
  - i) Real Estate Signs – Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease or rent, together with information identifying the owner or agent. Such signs for residential properties shall not exceed twelve (12) square feet in area. The limitation for a real estate sign for business, industrial, manufacturing, mixed use, institutional and all other non-residential properties shall be thirty-two (32) square feet in area and three hundred (300) square feet in area for a banner. Said sign shall not be situated nearer to any lot line than one-half (0.5) the depth of the required setback of the lot.

- ii) Construction Site Identification Signs – Such signs may identify the project, the owner and/or developer, architect, agent, engineer, contractor and subcontractors, funding sources and may contain related information including but not limited to sale or leasing information. Only one (1) such sign may be erected per site. It may not exceed thirty-two (32) square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within ten (10) days after the issuance of the final certificate of occupancy.
- iii) Holiday Displays – Displays, including lighting, erected in connection with the observance of holidays. Such signs/displays shall be removed within ten (10) days following the holiday.
- iv) Political Signs – Signs erected in connection with elections or political campaigns must be removed within ten (10) days following the election.
- v) Special Event Signs – Signs indicating that a special event (such as a grand opening, fair, carnival, circus, festival or similar) is to take place on the lot where the sign is located. Such signs may be erected not sooner than fourteen (14) days before the event and must be removed not later than three (3) days after the event.
- vi) Other – Temporary signs not covered in the above categories are permitted so long as such signs meet the following regulations:
  - (aa) No more than one (1) such sign may be located on any lot.
  - (bb) No such sign may exceed six (6) square feet in surface area.
  - (cc) Such sign may not be displayed for longer than three (3) consecutive days nor more than ten (10) days out of any three hundred sixty-five (365) day period.
- vii) Wall murals and/or banners shall be allowed upon the issuance of a special permit by the Zoning Board of Appeals. There shall be no maximum size for a wall mural or banners. The Director of Code Enforcement shall promulgate regulations for application and review of wall mural and banner permits.

### 3. Pre-existing Signs

Signs legally erected before the adoption of this Ordinance may be repaired and maintained, provided however, that when they are enlarged or relocated they must

conform to the requirements of this Ordinance. Any exemption provided in this section shall terminate with respect to any sign which:

- a) Shall have been abandoned for one (1) year.
- b) Advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises.
- c) Shall not have been repaired or properly maintained within sixty (60) days after written notice to that effect has been given by the Director of Code Enforcement.

4. Illuminated or Motion Signs

All lighting used to illuminate signs shall be installed so that direct or reflected rays from such lighting shall not cause a public nuisance to adjacent properties or abutting streets. Signs in BL-1.0 zones may be illuminated during business hours only. No open spark or flame may be used for lighting purposes. Motion Signs containing moving parts, flashing action and intermittent lighting are permitted in BL, BG and manufacturing districts only.

5. Obstructions to Traffic

Signs shall not be erected or maintained in any location which will unduly obstruct traffic visibility or reduce visibility at entrances, exits and intersections. No sign or device of any part thereof may be affixed within, placed upon or above the surface of any part of the traveled way of a street except for decorations or holidays as permitted under **M.G.L.** except as permitted under **D(6)** below.

6. Projecting Signs

Projecting signs require approval from the License Commission and/or DPW, as applicable under other city ordinances. Signs may not project into the right of way of a street more than six (6) feet, or two-thirds (2/3) the width of the sidewalks whichever is less. Projecting signs are not permitted in residential districts.

B. Enforcement

- 1. The Director of Code Enforcement is authorized to order the compliance or removal of any sign, which is erected or maintained contrary to this Ordinance. He shall serve a written notice, by registered mail, and order upon the owner of record of the premises where a sign is located and any advertiser, tenant or other person having control of, or a substantial interest in said sign, directing it be brought into compliance or removal of the sign within sixty (60) days from the date of receipt of such notice.

2. If such sign is not removed or brought into compliance within sixty (60) days provided hereof, the Director of Code Enforcement shall be authorized to enter upon the premises on which such sign is located and remove said sign. All reasonable expenses incurred by the City in removing any sign shall be accessible against any person who failed to comply with such notice and order and shall become a lien on the property upon which the sign is located.
3. This Article shall not be construed to prevent the repair or restoration of any part of a legally existing sign when damaged by natural deterioration, storm or other accidental emergency.

C. Signs in Residence and Business Office Districts

In Residence (RS, RL, RG) and BO districts, signs are permitted as provided in **Table 4.3**, with the following further provisions:

1. One (1) bulletin or announcement board or identification sign or device for a permitted nonresidential building or use, not exceeding fifteen (15) square feet in area and twelve (12) feet in height above the ground. No such sign may be located nearer to a street lot line than one-half (0.5) the depth of the required setback at that location.
2. Signs in connection with a nonconforming use in RS, RL, RG and BO districts shall be subject to these limitations except that nonconforming business uses shall be governed by the regulations for signs in BL districts.
3. One (1) identification sign at any public entrance to a subdivision, multi-family residential development, church, house of worship or other institutional use shall not exceed thirty-two (32) square feet in area nor over sixteen (16) feet in height above the ground.
4. One (1) sign with an area not exceeding eight (8) square feet and a height no greater than ten (10) feet above ground, designating each entrance or exit of an off-street parking area.

D. Signs In Business Limited, Business General, Airport, Institutional, Industrial Park and Manufacturing Districts

In BL, BG, A, ML, MG, IN and IP districts, signs are permitted as provided in **Table 4.3**, with the following further provisions:

1. Signs permitted in Residence and BO districts. **(See C(2). above)**
2. The outermost projection of a ground sign or a free-standing sign shall be set back from the lot line a minimum of five (5) feet.

No part of such sign may be located nearer to a lot line than five (5) feet.

3. Each business establishment on a public way shall be entitled to maintain one (1) double faced panel on a free standing sign not to exceed one hundred (100) square feet per face. These panels may be part of a multi-faced sign or an individual sign. The height of said sign shall not exceed thirty (30) feet or one-half (0.5) the maximum building height in feet in the district, whichever is less.
4. Where there are four (4) or more businesses on any one (1) lot, there may be one (1) free standing sign on said lot.
  - a) One (1) double-faced panel on said sign may be used to identify the lot or premises, the size of each panel not to exceed the maximum sign size for the district.
  - b) Each business occupying the premises shall be allowed a double-faced panel on said sign not to exceed forty (40) square feet per face.
  - c) There may also be one (1) double-faced panel on said sign to be used as designated by the owner of the lot, such as a message board. This panel may be up to one-half (0.5) the maximum sign size (per face) for the district.
5. Where a lot has greater than three hundred (300) feet of linear frontage along the same public way, two (2) free standing signs shall be permitted. The height of each said sign shall be a maximum of twenty-five (25) feet or one-half (0.5) the maximum above ground building height in feet in the district, whichever is lesser. Said signs shall be at least two hundred (200) feet apart.
6. Where a business or group of businesses, on one (1) lot, have frontage on two (2) or more public ways, one (1) free standing sign is permitted on each public way as regulated by **4(a), 4(b), and 4(c) above**.
7. One (1) free- standing sign to an Industrial Park in an IP or A district shall be allowed to identify the park and the business located therein. Said sign shall not exceed one hundred fifty (150) square feet per face.

E. Portable Signs

1. A portable sign may not be located nearer than five (5) feet from any lot line.
2. Shall not exceed fifty (50) square feet.

3. Each business establishment shall be entitled to one (1) portable sign for a period of ninety (90) consecutive days in one (1) year commencing from the issuance of the permit.
4. Before a portable sign is displayed there shall be deposited with the Director of Code Enforcement a sum (to be determined by the Director of Code Enforcement) in surety for the removal of the sign. This deposit shall be refunded upon the removal of the sign by the permit expiration date.
5. A portable electric sign must be inspected and approved by the Director of Code Enforcement immediately upon installation.

F. Non-accessory Signs

**Non-accessory signs and advertising devices are permitted as follows:**

1. All non-accessory signs and other advertising devices must comply with **M.G.L. Chapter 93, Sections 29-33** and amendments thereto.
2. Such non-accessory signs and other advertising devices shall be permitted in MG and ML districts.

3. Size of Non-accessory Signs

- a) The maximum area for any sign shall be twelve hundred (1200) square feet; the maximum length shall be sixty (60) feet; the maximum height shall be twenty-five (25) feet.
- b) All dimensions shall include border, trim, cutouts or extensions, but shall exclude base, apron, supports and structural members.
- c) Adding temporary cutouts shall not be considered enlarged under **Section-6(A)(1)(c)**.
- d) Back-to-back and V-type signs will be considered as one (1) structure with the maximum area, length and height permitted for each side.
- e) A sign structure may contain one (1) or two (2) signs facing the same direction if the total combined areas, combined lengths and heights do not exceed the maximum area, length or height permitted on a single sign.

G. Spacing of Non-accessory Signs

1. Signs or sign structures may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or



device, or obstruct or interfere with the driver's visibility of approaching, merging or intersecting traffic.

2. Spacing between sign structures along each side of a street shall be a minimum of three hundred (300) feet.
3. Wall signs shall not be erected to extend above the top of the wall, not extend beyond the ends of the wall to which they are attached unless meeting all the requirements for roof signs or projecting signs as the case may be.

H. Other

1. There may be one (1) exterior wall sign for each business establishment on each wall that can be viewed from a different traveled way, plus, if there is more than one (1) public entrance to any such business there may be one (1) additional secondary sign for each such entrance provided that the aggregate area of all such secondary signs does not exceed fifty (50) percent of the maximum size normally permitted.
2. One (1) directory of the establishments occupying a building may be located at each public entrance to the building. Such directory shall not exceed an area determined on the basis of one (1) square foot for each establishment occupying the building.
3. Any shooting range or gallery, whether indoor or outdoor, licensed under General Laws, **Chapter 140, Section-56A and/or Section-131**, shall comply with the dimensional requirements for signs as established by this zoning ordinance for signs in Residential zones.

**SIGNS PERMITTED, BY DISTRICT, BY SIZE AND TYPE TABLE 4.3**

<b>ZONING DISTRICT</b>	<b>RS</b>	<b>RL</b>	<b>RG</b>	<b>BO</b>	<b>BL</b>	<b>BG</b>	<b>ML</b>	<b>MG</b>	<b>IN</b>	<b>IP</b>	<b>A</b>
<b>MAXIMUM SIZE (in square ft.)</b>	<b>6</b>	<b>6</b>	<b>12</b>	<b>12</b>	<b>100</b>	<b>150</b>	<b>200</b>	<b>200</b>	<b>150</b>	<b>150</b>	<b>150</b>
<b><u>TYPES OF SIGNS:</u></b>											
1. Free-standing	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES
2. Ground	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES
3. Illuminated	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	SP
4. Motion	NO	NO	NO	NO	NO	YES	YES	YES	NO	YES	NO
5. Mural/Banner	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
6. Non-accessory	NO	NO	NO	NO	NO	YES	YES	YES	NO	NO	NO
7. Portable	NO	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES
8. Projecting	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES
9. Roof	NO	NO	NO	NO	YES	YES	YES	YES	YES	YES	NO
10. Wall	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
11. Window	NO	NO	NO	YES	YES	YES	YES	YES	YES	YES	YES

*\*NOTE: Further specifications as to size, type, location; and exemptions within districts are provided within the text of Article IV, Section- 6.*

## **Section 7 – Off-Street Parking and Loading**

### **A. General Provisions for Off-Street Accessory Parking and Loading**

#### **1. Application**

It is the intent of this Ordinance that all new buildings and land uses be provided with sufficient space located off-street for:

- a) the accessory parking of motor vehicles, and
- b) the standing, loading and unloading of motor carriers, to meet the needs of persons employed at or otherwise making use of such building or land under normal conditions.

Any application for a permit for the erection of a new building, or for an alteration or change of use of an existing building that provides additional accommodations, or for the development of a land use that requires parking, or the modification of an existing parking area or structure, shall include a plan for parking and loading for the new or expanded facilities or areas in accordance with this Article.

Where a building or land area is used by two (2) or more categories of uses as defined above, the off-street parking and loading facilities required shall not be less than the sum of the requirements for the individual uses computed separately.

Notwithstanding anything above to the contrary, in all IN-S Zones, the educational institution's off-street parking requirements shall be calculated solely upon classroom and dormitory uses.

Buildings and land uses legally in existence on the effective date of this Ordinance are not subject to these off-street parking and loading requirements, provided that any parking or loading facilities now serving such buildings or uses may not in the future be reduced below these requirements.

Additions to existing buildings and land uses are subject to these off-street parking and loading requirements. If existing parking or loading spaces exceed the requirements of this Ordinance, any excess shall be applied to the requirements for additions. If existing parking or loading spaces are less than the requirements of this Ordinance, only the requirements for any such additions need to be fulfilled with additional spaces. Common driveways may be used to serve both parking and loading spaces, but no part of a designated loading space may be extended into a designated parking space or into a common driveway.

2. Jurisdiction

The Zoning Board of Appeals by special permit shall have the authority to modify parking, loading requirements, dimensional requirements, layout, and the number of required spaces up to one (1) space or a maximum of ten percent (10%), whichever is greater, where it is demonstrated that with such modification there will be adequate space for off-street parking and/or loading to provide for the needs of the subject building or use.

The Planning Board shall be the approving authority for parking lots with 9 or more spaces. Such approval shall be required prior to the issuance of the building permit. The Planning Board shall examine said parking plans with respect to access, drainage, capacity, circulation, compatibility, safety to pedestrians and vehicles using the facilities and using abutting streets and shall integrate such considerations into the review process.

Any projects that have received approval under the site plan review procedures, **Article V**, shall be deemed to have received parking lot approval under this Article.

Parking plans and loading plans submitted for approval should identify elevations and contours of the finished site, existing rights of way, entrances and exits, driveways, aisles, parking spaces, loading spaces, circulation, capacity, drainage, lighting, berms, curbing, fences, walkways, landscaped areas and other design features.

The procedures provided in **Article V**, including those for administration, fees, powers, hearing, and time limits shall apply to approvals by the Planning Board for parking lots under its jurisdiction.

The Director of Code Enforcement shall be responsible for the enforcement of the Planning Board approval to ensure that the parking lot is constructed and maintained in accordance with that approval. Lots shall be re-examined periodically commensurate with the certificate of inspection (as required by the State Building Code) or not less than once every two (2) years where a certificate of inspection is not required.

3. Design Standards

In review of a plan with respect to parking and/or loading plan, the Planning Board shall review the plan in respect to access, drainage, including detention/retention ponds, capacity, circulation, safety to pedestrians and vehicles using the facility and the abutting streets, finished grades, lighting, berms, curbing, fencing, walkways and landscaping.

All off-street parking and loading facilities shall be provided with adequate vehicular access. Backing directly onto a street shall be prohibited except for single, two, and three family residences. Adequate ingress and egress to the parking facilities by means of clearly limited and defined drives shall be provided for all vehicles. Said access should be limited to well defined locations away from street intersections, and in no case shall there be unrestricted access along the length of a street.

Parking and loading areas shall be arranged for convenient access, egress and safety to pedestrians and vehicles. All lighting used to illuminate any off-street parking or loading facility shall be installed so that direct rays from such lighting shall not cause a public nuisance to adjacent property. All off-street parking and loading facilities shall be maintained by the owner or operator in good repair, neat orderly in appearance and free from refuse and debris. Storage of snow in parking or loading facilities shall be arranged so as not to unduly reduce sight distances and visibility at entrances and exits and aisle intersections.

4. Decisions

The Planning Board shall act on applications for projects not otherwise subject to site plan approval under Article V within sixty-five (65) days of filing, unless a time extension is mutually agreed to by an applicant and the Planning Board.

5. Off-Street Parking

Off-street parking spaces are to be provided according to the units of measurement as shown in **Table 4.4** except as otherwise provided in this Ordinance. Multiple uses require space calculations for each applicable use. Capacities and areas include outdoor use where applicable. In computing required spaces, any fraction thereto shall require a full parking space. Utility, energy, corridor, stairway, restroom, and building maintenance areas are exempt from space assignment.

6. Off-street Loading

Off-street loading is to be provided for Business, Manufacturing, Institutional and high-rise Residential uses according to the units of measurement as shown in **Table 4.5**. Loading spaces shall not conflict with the area used for parking.

7. Drive-through Service

- a) All buildings and uses that provide drive-through service shall provide at least one escape lane adjacent to the drive-through service lane(s). The escape lane shall be designed to allow vehicles to exit and bypass the drive-through service lane(s). The length of the escape lane must be no less than the length of the adjacent drive-through service lane. The length

of a drive-through service lane shall be determined by measuring the linear distance from the point of the lane's beginning to the point of service.

- b) Drive-through and escape lanes shall have a minimum width of ten (10) feet for their entire length. Notwithstanding the foregoing, the Special Permit Granting Authority (if a Special Permit is required), or the Planning Board in reviewing a site plan or parking plan, as the case may be, may require drive-through and escape lanes to have a width of up to twelve (12) feet along curved sections.
- c) Drive-through and escape lanes shall comply with the following minimum length requirements to assure sufficient vehicle stacking:

**USE** **DRIVE-THROUGH SERVICE  
LANE AND ESCAPE LANE MINIMUM  
LENGTH**

Fast Food /Restaurant / Coffee Shop	Two Hundred Forty linear feet (240)
Bank /Credit Union / ATM	One Hundred Eighty linear feet (180)
Pharmacy / Convenience Store	One Hundred Twenty linear feet (120)
Dry Cleaner / Laundry	Eighty linear feet (80)

- f) Drive-through and escape lanes must be laid out such that they do not interfere with the internal traffic circulation of parking lots and so as not to block access to, or egress from, parking spaces.

**B. General Provisions for Off-Street Non-accessory Parking and Display Lots**

- 1. Prior to any construction, reconstruction, alteration or extension of a non-accessory parking lot or display lot, a plan thereof shall be reviewed for compliance with the requirements of this ordinance. Plans of non-accessory parking lots or display lots containing nine (9) or more total spaces shall be reviewed and approved by the Planning Board.
- 2. The Planning Board shall examine non-accessory parking lot plans and display lot plans with respect to the following:
  - a) Ingress and egress for those areas of parking or display which have direct access onto an abutting street. Except as may be pre-existing on the effective date of this provision, no such access drive shall be located within fifty feet of street intersections. Access drives shall be clearly limited and defined, and in no case shall there be unrestricted access along the length of street.
  - b) All lighting used to illuminate the non-accessory parking lot or display lot shall be installed so as to direct the light away from any abutting streets

and away from adjoining property used for residential purposes. The maximum spillover illumination to adjacent properties used for residential purposes shall be 1.0 foot-candle.

- c) Where customer vehicular traffic will integrate with and pass through the display lot, the Planning Board shall review the adequacy of the layout for circulation, compatibility with non-display lot areas, safety to pedestrians and vehicles using the facilities and abutting streets and, shall integrate such considerations into the review process. Where any required off-street parking and loading areas are included in the area for the display lot, such parking and loading areas shall comply with **Article IV, Section-7(A)(1)**.
  - d) The non-accessory parking lot or display lot shall provide adequate grading and drainage so that surface runoff is properly disposed of and does not increase run-off onto abutting street or properties. Unless otherwise waived by the Planning Board, the non-accessory parking lot or display lot shall be surfaced with bituminous cement or concrete material. Where applicable, the Planning Board may require the installation of berm or bumpers at the edge of the surfaced area to protect abutting properties, streets, or landscaped areas.
  - e) Non-accessory parking lots and display lots shall be set back a minimum of five (5) feet from property lines. Such setback areas shall be appropriately landscaped, however, while no interior landscaping of display lots is required, the Planning Board may require installation of screening materials such as fencing, shrubbery, walls or a combination of such devices as a visual buffer to adjoining properties.
3. Display lot plans and non-accessory parking lot plans submitted for approval shall be prepared by a Professional Engineer, unless this requirement is waived by the Planning Board. The Planning Board shall adopt reasonable rules and regulations governing the submission, form and content of display lot plans and non-accessory parking lot plans.
  4. Whenever a project involving the construction, reconstruction, alteration or expansion of a display lot otherwise requires Site Plan Review under **Article V** of this ordinance, such review shall incorporate the requirements of this subsection, and approval under **Article V** shall be deemed approval hereunder as well.
  5. Where a project requires review and approval under both **Subsections A and B** of **Article IV, Section-7**, only one filing shall be made and only one fee shall be assessed.
  6. The Planning Board shall act on applications hereunder, not otherwise subject to **Article V**, within sixty-five (65) days of filing, unless a time extension is mutually agreed to by an applicant and the Planning Board.

7. An applicant for approval hereunder shall be the owner, lessee or other person with lawful authority to use the property, or a duly authorized agent of any of the foregoing. An applicant, if requested by the Planning Board shall submit proof of authority to make such improvements or alterations to the site as the Planning Board may require as a condition to its approval. If an applicant does not have such authority, the property owner or other appropriate person shall be added as a co-applicant.
8. Where fifty percent (50%) or more of an existing display lot or non-accessory parking lot is reconstructed or altered, or where an existing display lot or non-accessory parking lot is extended by fifty percent (50%) or more, the entire lot is subject to review and approval hereunder. Otherwise, only the reconstructed, altered or extended area of the display lot shall be reviewed by the Planning Board.
9. Plans of display lots or non-accessory parking lots containing under nine (9) spaces shall be reviewed and approved administratively by the Director of Code Enforcement, who shall also act within the time frame set for the in paragraph (6), above. In all cases, the review and approval of display lots and non-accessory parking lots shall be in conformance with the foregoing design requirements, so far as applicable.
10. The Director of Code Enforcement shall be responsible for enforcement of the Planning Board approval to ensure that the display lot or non-accessory parking lot is constructed and maintained in accordance with that approval. Any deviation or alteration from an approved plan shall require an amendment to the original approval.



**OFF-STREET ACCESSORY PARKING REQUIREMENTS - TABLE 4.4**

<b>USE</b>	<b>PRIMARY SPACES</b>
<b><u>RESIDENTIAL</u></b>	
	<b><u>Number per Measurement Unit</u></b>
Single, two or three family dwelling	2 Dwelling unit
Multi-family dwelling	2 Dwelling unit
Group Residence	0.25 Bed
Lodging House	0.5 Bed
Housing for elderly (subsidized)	1 Dwelling unit
Dormitory	0.33 Dwelling unit
Continuing Care Retirement Community	1 Dwelling unit
CCRC Associated Medical Facilities	0.5 Bed
Temporary Shelter	0.1 Bed
All other Residential, including Hotel & Motel	1 Bedroom
Limited Residential Hospice House	0.5 Per bed, plus (1) per employee living on the premises
<b><u>GENERAL</u></b>	
	<b><u>Number per Measurement Unit</u></b>
Nursing, Convalescent Home/Facility	0.33 Bed
Hospital	
In-Patient	1 Bed
Out-patient	3 Treatment room/space
Clinic	4 Treatment room/space
Educational Institution	10 Classroom, plus residential above
Places of Assembly (non-profit or profit)	0.25 Person accommodated
Day care center/Adult Day Care Center	1 Teacher or staff person
Library, museum, recreation/service facility	1 350 sf. Gross floor area
Club, lodge, other (non-profit and profit)	2.5 350 sf. Gross floor area
Health club (profit)	1 350 sf. Gross floor area
Agricultural, commercial	1 350 sf. Gross floor area
Heliport	1 350 sf. Gross floor area

## OFF-STREET ACCESSORY PARKING REQUIREMENTS - Table 4.4

USE	PRIMARY SPACES	
<b><u>BUSINESS</u></b>		
	<b><u>Number per Measurement Unit</u></b>	
Office, Professional/General	1	300 sf. Gross floor space
Bank	1	Teller station (includes ATM)
plus	1	300 sf. gross floor area
Radio/TV studio	1	300 sf. Gross floor area
Funeral/undertaking establishment	1	250 sf. Gross floor area
Research laboratory (no manufacturing)	1	300 sf. Gross floor area
Retail sales	1	300 sf. Gross floor area
Services (personal, animal and other)	1	300 sf. Gross floor area
Food Service/Lounge/Nightclub	0.5	Person rated occupancy
Fast food/drive thru	1	60 sf. Gross floor area
Bus/rail station	1	350 sf. Gross floor area
Wholesale sales/storage/display	1	1,000 sf. Gross floor area
Retail storage	1	750 sf. Gross floor area
Marina, excluding retail space	0.25	Slip
Public garage, body or paint shop (auto-truck)	3	Bay/stall used for service/repair
Drive-up service, lubritorium	1	Bay/stall used for service/repair plus three (3) off-street waiting spaces leading to entrance/island and one (1) space beyond service exit
Telecommunications Facility	1	3,000 sf. Gross floor area +1 space/employee
<b><u>MANUFACTURING</u></b>		
	<b><u>Number per Measurement Unit</u></b>	
Manufacturing area	1	1,000 sf. Gross floor
Warehousing/storage (enclosed/open) area	1	3,000 sf. Gross floor
Freight handling area	1	1,000 sf. Gross floor

## OFF-STREET ACCESSORY PARKING REQUIREMENTS

### Notes to Table 4.4

**Note 1.** Number of Spaces

- a) In no event shall the parking requirements for a group residence housing mentally or physically disabled persons exceed two (2) spaces per dwelling unit.
- b.) No accessory parking is required in a BG-6.0 district.

**Note 2.** Location and Dimensions

- a) Required parking shall be provided on the same lot with the main use it is to serve. In Business and Manufacturing districts, required parking may be provided through the same ownership and/or through long-term lease agreements (of a minimum of five (5) years, with renewal options) within one thousand (1000) feet of the use it is to serve.
- b) Aisles in a ninety (90) degree layout shall be twenty-four (24) feet wide to provide adequate width for vehicles to enter or leave parking space in a single motion. All vehicles must be parking completely within the property line. Aisles in a parking lot using other than ninety (90) degree angles shall provide adequate width for vehicles to enter or leave the parking spaces in a single motion.

**Note 3.** Dimensions of Parking Space

- a) Conventional Spaces – Each parking space shall not be less than nine (9) feet in width and eighteen (18) feet in length.
- b) Compact Spaces – In parking lots containing more than ten (10) spaces, up to twenty-five percent (25%) of the required parking may be set aside for compact cars as a matter of right. Upon grant of a special permit, the percentage of parking spaces for compact cars may be increased to not more than fifty percent (50%). Each compact space shall be not less than (8) feet in width and sixteen (16) feet in length.

**Note 4.** Handicapped Parking

Parking lots containing fifteen (15) or more spaces shall be subject to the Architectural Access Board Regulations for parking lots and must provide handicapped spaces in accordance thereto.

**Note 5.** Setbacks, Buffers and Landscaping

- a) Except for Single-Family Detached, Single-Family Semi-Detached, Three-Family Detached and Two-Family Detached uses, parking areas shall be set back a minimum of five (5) feet from boundary lines. Such setback areas shall be appropriately landscaped in accordance with the landscape design standards set out in **Article V, Section-5(C)**, so as to provide visual buffering and an aesthetic parking area design in harmony with the purpose and intent of this Ordinance. For all uses in residential zones, no off street parking shall be located within the required minimum front yard depth (or the minimum exterior side yard depth of a corner lot).
- b) In an Industrial Park District all parking, except for those areas specifically reserved for visitor parking, should be located either beside or behind the main building, but not within the required side and rear yard setbacks.
- c) Driveways may occupy any part of a required front yard or exterior side yard in Industrial Park Districts.
- d) Public fuel garages shall be so constructed that the center lines of the fuel pumps shall be at least fifteen (15) feet from any street right of way in districts where no front yard is required or less than a fifteen (15) foot front yard is required. In districts where a twenty-five (25) foot front yard is required, the centerlines of the fuel pumps shall be twenty-five (25) feet from any street right of way

**Note 6.** Interior Landscaping

Parking lots with more than sixteen (16) parking spaces shall have landscaping in the interior of the parking lot in addition to landscaping along the edges of the lot. No interior landscaping is required, however, for parking lots where all spaces abut a landscaped setback area as described in **Note 5**, above, and the parking lot is in compliance with **Article V, Section-5(C)** of this Ordinance. At least one (1) tree shall be planted within the parking lot (interior for every ten (10) proposed and existing spaces. Such interior trees shall be in addition to trees required along the edges of the lot. Interior trees shall be planted in planting beds no smaller than five feet by five feet (5' x 5'). Parking spaces abutting a landscaped setback area (as described in **Note 5**, above) and in compliance with **Article V, Section-5(C)** of this Ordinance, however, shall not be counted in the calculation when determining the number of interior trees required. Trees shall be located in such a manner as to provide shade over the greatest number of parking spaces practicable. Notwithstanding any of the foregoing to the contrary, the Planning Board may waive or modify these interior landscaping requirements upon a specific finding, in writing, that a substantial hardship would result or would otherwise cause the parking area to be in noncompliance with this Ordinance.

**Note 7.** Notwithstanding anything to the contrary contained in **Article IV, Section-7**, an establishment, licensed by the Worcester License Commission as a common victualer or common victualer alcohol pouring establishment, may from March 1<sup>st</sup> through November 1<sup>st</sup> , of right, expand its seating capacity to provide additional outside seating for the purpose of outdoor dining/café use or alter its parking lot to provide additional outside seating for the purpose of outdoor dining/café use. Provided, however, that said expansion shall be approved by the Worcester License Commission and, where said expansion encroaches on an off-street parking area, said expansion shall not decrease parking by more than three spaces and not increase occupancy more than twelve persons; and where the expansion does not affect an off-street parking area, said expansion shall not exceed an additional occupancy of twenty persons; and, provided further that the proposed outside dining/café use is contiguous to the main, existing use.

**TABLE 4.5 LOADING REQUIREMENTS**

<u>Gross Floor Area of Structure (Square feet)</u>	<u>Number of Required Loading Spaces</u>
0 – 10,000	0
10,001 – 50,000	1
50,001 – 100,000	2
100,001 – 200,000	3
200,001 – 400,000	4
Each additional 200,000	1

1. Dimensions of a Loading Space:

Each loading space shall be twelve (12) feet in width and fifty (50) feet in length and shall be located entirely within the property lines.

2. Location:

Loading spaces located within one hundred (100) feet of a Residence district shall have all material handling activities relating thereto enclosed. In an Industrial Park district all loading and delivery facilities shall be located either at the side or rear of the building(s) they are designed to serve but not within the required side and rear yard setbacks. Loading areas shall be set back a minimum of five (5) feet from boundary lines. Such setback areas shall be appropriately landscaped, so as to provide visual and auditory bufferings.

## **Section 8 – Accessory Uses**

### **A. General Rule**

1. A land use not otherwise allowed as a predominant or main use in the zoning district under the applicable use regulations of this ordinance shall be allowed as an accessory use, provided:
  - a) The accessory use is customarily subordinate to and incidental to an allowed predominant or main use within the applicable zoning district; and
  - b) The accessory use is located entirely within the same use district as the allowed predominant or main use to which the accessory use is subordinate and incidental; and
  - c) The accessory use is located entirely on the same lot as the allowed predominate or main use to which the accessory use is subordinate and incidental.
2. In any district the total area devoted to accessory uses excluding parking, may not exceed the following:
  - a) More than twenty-five (25) percent of the floor area in a main building; or
  - b) More than twenty-five (25) percent of the entire un-built area of a lot.
3. The Director of Code Enforcement may grant a permit for a nonconforming temporary structure or use incidental to a building development, where reasonably required for such development. Such permit may be issued for an initial period of not more than one (1) year and may be renewed by the Director of Code Enforcement for successive periods of not more than one (1) year each.
4. A mobile home used as a dwelling may be permitted by the Director of Code Enforcement on a temporary basis, for a period not to exceed ninety (90) days, while a permanent dwelling or other building is being built. Such permit may be renewed by the Director of Code Enforcement for successive periods of not more than ninety- (90) days each. Said permit may not be renewed more than three (3) times.

B. Limitation in Residential Districts

1. The total area devoted to accessory uses, excluding parking, private garages, and swimming pools, may not exceed the following:
  - a) More than ten (10) percent of the floor area in a main building; or
  - b) More than ten (10) percent of the entire un-built area of a lot.
2. A private unattached garage located on the same lot with the building to which it is accessory may be provided with a maximum floor area of ten (10) percent of the lot area or seven hundred fifty (750) square feet whichever is larger. Larger private garages may be allowed by special permit of the Zoning Board of Appeals.
3. A private swimming pool may be constructed within a required rear yard having an area in excess of the maximum coverage of ten (10) percent allowed above for an accessory building provided that such pool shall be no closer than six (6) feet to the property lines and is enclosed by a separate four (4) foot high fence. Any structure built in conjunction with a swimming pool shall be classified as an accessory building unless it is a part of the main building on the lot.
4. No accessory building or use may occupy any part of a required front yard or exterior side yard for other than driveways in Residential districts, except as provided for in **Article XVI, Section-3**.
5. In RL and RG residence districts only one (1) commercial vehicle may be kept on one (1) lot and it may not exceed  $\frac{3}{4}$  ton in carrying capacity. The same may be allowed in RS districts if garaged.
6. Animals or birds, other than customary household pets, are excluded in all residential districts, provided however, that Racing/Carrier pigeons shall be an allowed accessory use in RS-7 districts.
7. A newsstand, barber shop, dining room, or similar service for resident occupants and guests may be allowed in any multiple unit residential development of not less than twenty (20) units; an inn with more than eight (8) rooms; hotel or motel with more than fifty (50) rooms; or hospital.
8. The renting of rooms by a resident family may be allowed in a Residential District to not more than two (2) non-transients provided that no more than three (3) persons, who are not within the second degree of kinship, are living in a dwelling unit.



9. Yard sales may be conducted on the premises of the owner or tenant, provided said sale does not occur more than three (3) days per year and all sale goods shall be limited to personal property used previously by the occupant.
10. Unless provided herein, no accessory building or structure separate from the main building, including a private swimming pool may exceed fifteen (15) feet in height, nor be located closer to any lot line than five (5) feet.

C. Home Occupations in Residential Districts as Accessory Uses

1. A home occupation shall be allowed in Residential districts subject to the following limitations:
  - a) The person uses the structure as his or her principal dwelling.
  - b) There is no more than one (1) non-resident employee.
  - c) The home occupation shall be conducted only within the closed living area of the principal dwelling or existing accessory building and occupy no more than twenty-five (25) percent of the floor area of the main building, or no more than fifty (50) percent of an accessory structure.
  - d) There shall be no change in the outside appearance of building or premises, or other visible evidence of such home occupation, other than one (1) sign as provided in **Section-6** of this Article.
  - e) Electrical or mechanical equipment which creates visible or audible interference, causes fluctuations in line voltage, or which creates noise not normally associated with residential uses and are discernible beyond the limits of the lot which the home occupation is situated shall be prohibited.
  - f) No storage or display of materials, goods, supplies, or equipment related to the operation of a home occupation shall be visible from the outside of any structure on the premises. No sales and/or distribution of goods or materials may be made from any structure on the premises.
  - g) The establishment and conduct of a home occupation shall not change the character or use of the principal dwelling or existing accessory building involved.

D. Limitations in Business, Industrial and Manufacturing Districts

1. No accessory building or use may occupy any part of a required front yard or exterior side yard for other than driveways.

2. A dwelling structure accessory to an industrial use may be allowed in a manufacturing district but only for such persons as may be required to reside on the premises for the safe and proper operation of the primary use.

E. Refuse Transfer Station Facilities as Accessory Uses

1. Refuse transfer station facilities are considered accessory uses provided the following requirements are met:
  - a) The handling of solid waste is not a primary use on the property.
  - b) No more than 100 cubic yards of solid waste are stored on the property at any given time.
  - c) Solid waste storage containers, including dumpsters and compactors, shall not exceed 50 cubic yards.
  - d) An opaque visual barrier (e.g. vegetation, walls and/or fencing) must be placed around all solid waste storage containers so as to block the view of the containers from adjacent residential uses in residential areas. The visual barrier shall be constructed and placed to a maximum height as appropriate to protect the view of abutters.
2. Refuse transfer station facilities are not allowed as accessory uses in residential zones, except during demolition and construction.
3. Refuse transfer station facilities as accessory uses shall be set back a minimum of 50 feet from any adjacent residential zone.

F. Common Driveways in All Districts

1. Common driveways that serve three (3) or more lots are prohibited except through the issuance of Special Permit by the Planning Board.
2. Common driveways cannot be used to satisfy or calculate frontage requirements.
3. The construction of common driveways must be in accordance with the standards outlined in the City of Worcester Subdivision Control Regulations.
4. Common driveways must access the lots over approved frontage.
5. Common driveways may not exceed three hundred (300) feet in length.

**Section 9 – Residential Conversions**

- A. In RL and RG districts, residential structures in existence on March 21, 1989, may be converted to provide additional dwelling units if the following are met:

1. Limited in RL districts, provided the structure as converted contains no more than two (2) units.
2. External appearance of the structure remains unchanged except for new doors and windows, fire escapes and stairways. Fire escapes and stairways must be in the rear of the structure where practical.
3. The structure, as converted, satisfies the dimensional standards and parking requirements of this Ordinance.
4. The dimensional standards in **A(3)** above may be altered by special permit of the Zoning Board of Appeals.

B. In Business, Manufacturing and Industrial Park Zones, residential structures in existence on the effective date of this Ordinance may be converted to provide additional dwelling units if the following are met:

1. External appearance of the structure remains unchanged except for additional doors and windows, fire escapes and stairways. Fire escapes and stairways must be in the rear of the structure where practical.
2. The structure, as converted, satisfies the dimensional standards and parking requirements of this Ordinance.
3. The dimensional standards in **B(2)** above, may be altered by special permit of the Zoning Board of Appeals.

## **Section 10 – Adult Entertainment Establishments**

### **A. Definitions**

**ADULT BOOKSTORE** – A establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in **G.L. c.272, §31**.

**ADULT ENTERTAINMENT ESTABLISHMENT** – An establishment or venue whereby one or more of the following uses, as defined under this ordinance, is conducted, sponsored, produced or otherwise allowed to take place upon the property: adult bookstore, adult motion picture theatre, adult establishment which displays live nudity for its patrons, adult paraphernalia store, adult video store.

**ADULT MOTION PICTURE THEATRE** – An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in **G.L. c.272, §31**.

**ADULT PARAPHERNALIA STORE** – An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in **G.L. c. 272, §31**.

**ADULT VIDEO STORE** – An establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in **G.L. c. 272, §31**.

**ESTABLISHMENT WHICH DISPLAYS LIVE NUDITY FOR ITS PATRONS** – Any establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in **G.L. c. 272, §31**.

B. An adult entertainment establishment may be operated only in the zoning district(s) determined by **Table 4.1** and only then upon the issuance of a special permit by the Zoning Board of Appeals acting in accordance with this ordinance and the standards set forth in this section.

C. No special permit shall be granted for any adult entertainment establishment located within five hundred linear feet, measured from any exterior property line of the property said use is to be located upon, to any exterior property line of any:

1. property zoned or used for residential purposes; or
2. other adult entertainment establishment; or

3. establishment licensed under the provisions of **G.L. c. 138, §12**; or
  4. day care center, municipally-owned property, public or private elementary or secondary school; or
  5. church/place of worship, clinic, convalescent home/institution, funeral undertaking establishment, hospital or sanatorium, library or nursing home/institution.
- D. No special permit shall be granted for any adult entertainment establishment owned, controlled or managed by any person convicted of violating the provisions of **G.L. c. 119, §63, or G.L. c. 272, §28**.
- E. No special permit shall be granted for any adult entertainment establishment unless the Zoning Board of Appeals shall have made detailed findings, based upon the required submissions in the following **Sections E and F**, that:
1. The specific site is an appropriate location for such use in accordance with the standards set forth in the foregoing **Subsection B**;
  2. The use as developed and carried on will not adversely affect the neighboring properties or people.
  3. The use as developed and carried on will not create a nuisance or serious hazard to vehicles or pedestrians traveling into, out of and about the premises.
  4. The use as developed shall provide adequate and appropriate facilities for its proper operation, taking into account the public health and welfare of its patrons and the surrounding environs of the property.
- F. In addition to the submittal requirements and review standards pertaining to administration, application and submission requirements, fees, powers, hearings and time limits, provided in **Article II** of this ordinance, each applicant for a special permit under this section shall submit:
1. A security plan detailing how the property will be policed so as to avoid unruly and/or illegal activities from taking place upon the applicant's property and to deter and prevent incidents of vandalism, loitering and other associated activities upon its property.
  2. A plan to protect adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
  3. Evidence that adequate storm-water and drainage facilities are available or will be provided to service the use; this information shall be contained on the site plan

submitted under **subsection F**. The site plan shall also demonstrate the adequacy of water supply and sewerage disposal facilities to service the site and the proposed use.

4. Evidence that the adult entertainment establishment will not generate excessive noise so as to create a disturbance and nuisance to adjacent or neighboring properties.

G. Each application for a special permit under this section shall include a site plan showing:

1. The location, arrangement, appearance and sufficiency of off-street parking and loading. In computing the required off-street parking under **Article IV**, the proposed adult entertainment establishment shall calculate its required parking pursuant to the category entitled, "Food Service/Lounge/Nightclub" set forth in **Table 4.4**.
2. The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. The location and adequacy of fire lanes and other emergency zones, and the location of fire hydrants, where applicable.
4. The locations, arrangement, size, design and general site compatibility of lighting and signs to be erected thereon. Any outdoor lighting used to advertise the business operated on the premises, and/or to illuminate the off-street parking areas, shall not cause a nuisance to adjacent properties.
5. A plan detailing the adequacy, type, and arrangement of trees, shrubs and other landscaping which shall constitute a visual and/or noise buffer between the applicant's land and the adjoining lands. Wherever possible, the maximum retention of existing vegetation shall be required.

H. The site plan required under **subsection F** above, shall be drawn to a scale of not less than forty feet to the inch, on one or more sheets, prepared by a professional engineer, and a professional land surveyor, when applicable, illustrating the information to identify location, applicant, owner and party responsible for preparing the plan.

I. Any special permit granted under this section shall lapse and become null and void:

1. If a substantial use thereof has not commenced within six months from the date of the grant thereof, including such time required to pursue or await the determination of an appeal, except for good cause; or, in the case of a permit for construction, if construction has not begun by such date, except for good cause; or,

2. Thirty days after the date of a conviction under the provisions of **G.L. c. 119, §63, or G.L. c. 272, §28** by any person having an interest in said adult entertainment establishment, unless said person divests him or herself of such interest by such date; or,
  3. Immediately whenever any person having been convicted of violating **M.G.L. c. 119, §63, or G.L. c. 272, §28** shall acquire an interest in said adult entertainment establishment.
- J. Every adult entertainment establishment lawfully in existence as of the date of adoption of this section shall apply for a special permit as a condition of its continued operation at such location, within ninety days of the effective date of adoption of this **Section-10**; provided, however, that any adult entertainment establishment in operation and holding a license granted under **M.G.L. c. 138, §12**, as of the date of adoption of this section shall not be subject to **subsections A and B** of this section, but shall be grand-fathered as to its location and considered a nonconforming use with respect thereto; and provided, further, that any of the particular requirements contained in **subsections D, E, F, G or H** of this section may be waived upon a finding that the literal enforcement of any of the particular requirements of these subsections upon such existing adult entertainment establishment would result in an extreme hardship.

### **Section 11 – Bed and Breakfast Establishment**

#### **A. General Conditions and Requirements:**

1. No bed and breakfast establishment shall be operated without first being granted a special permit from the Zoning Board of Appeals and a certificate of occupancy pursuant to the Massachusetts State Building Code.
2. Within each detached single-family dwelling issued a special permit for a bed and breakfast establishment, there may be a maximum of six (6) guestrooms that are rented as bed and breakfast units. The bed and breakfast establishment shall not occupy more than 50 percent of the gross floor area of the residence, excluding closet space, storage space, and hallways.
3. A special permit shall be issued only to the owner of the property and shall not be transferable. Any changes in ownership of the property shall require a new special permit.
4. Food for a fee may be served only to overnight guests.
  - a) Bed and breakfast establishments with three or fewer guestrooms and serving continental breakfast are not considered food establishments and need not obtain a food establishment permit. For the purpose of this section, continental breakfast is defined as: beverages; fresh, frozen, and commercially processed fruits; baked goods; cereals; homemade or



commercial jams, jellies, honey, and maple syrup; cream; butter; and commercially manufactured hard cheeses, cream cheese, and yogurt.

- b) Bed and breakfast establishments with three or fewer guestrooms and serving full breakfast shall obtain a residential kitchen permit as required by the State Sanitary Code.
- 5. Notwithstanding any provisions to the contrary in **Article IV, Section-6** (Signs), signage shall be limited to one attached wall or window sign, not to exceed three (3) square feet, mounted on the building and one ground sign, single- or double-faced, permanently anchored five (5) feet or less above grade, as approved by the Director of Code Enforcement, not to exceed three (3) square feet per face, not to be internally illuminated, not located so as to obstruct traffic visibility across street corners, and located no closer than five (5) feet to any lot line.
- 6. The architectural character of the dwelling shall be maintained or designed in the case of new construction as a single-family dwelling unit.

**B. Procedures**

Each application for a special permit shall be accompanied by fifteen (15) copies of a site plan including the following information:

- 1. A plot plan certified by a registered engineer or registered professional land surveyor locating all existing and proposed structures and appurtenances, any changes to existing grade, and all boundary/property lines and easements.
- 2. A floor plan, drawn to scale, of the single-family dwelling showing each of the bed and breakfast guestrooms and the access to, and egress from, each such guestrooms and each guestroom's relationship to an adequate bathroom. The area(s) where breakfast is to be prepared and served shall be designated.
- 3. An off-street parking plan showing that one off-street parking space per bed and breakfast guestroom, in addition to the number of parking spaces required for the existing dwelling, shall be provided without causing undue burden on the neighborhood. Off-street parking shall be prohibited from the prescribed building front yard and restricted to the sides and rear of the premises.
- 4. A presentation of all proposed exterior structural changes sufficient to show that the architectural character of the dwelling is maintained as a single- family dwelling unit.

C. Review Standards

In addition to its special permit review criteria under **Article II**, the Zoning Board of Appeals shall also consider the bed and breakfast establishment's conformance with the following planning and design objectives:

1. The relationship of the proposal to other planning considerations of the area and the city of Worcester as a whole, including the plans, programs, and policies of other departments and agencies of the government;
2. The proposed site plot plan, including the relationship of different uses on the site and any other matters that are within the Zoning Board of Appeals' jurisdiction;
3. The location and design of vehicular access and parking facilities;
4. The number of parking and loading facilities;
5. The impact of outdoor lighting.

**Section 12 – Personal Wireless Service Facilities**

A. Purpose and Intent

It is the express purpose of this Ordinance to minimize the adverse visual impacts of Personal Wireless Service Facilities, to avoid damage to adjacent properties, to lessen impacts on surrounding properties, to lessen traffic impacts, to minimize use of towers, to reduce the number constructed and to limit emissions in order to minimize potential adverse effects on human and animal health. This ordinance is intended to be used in conjunction with other regulations adopted by the city of Worcester, including historic district regulations, site plan review, and other local ordinances designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the city of Worcester.

The regulation of Personal Wireless Service Facilities is consistent with the authorization of the City of Worcester Zoning Ordinance to regulate uses in harmony with the general purpose and intent of the Ordinance.

B. Definitions

**ABOVE GROUND LEVEL (AGL)** – A measurement of height from the natural grade of a site to the highest point of a structure.

**ANTENNA, WIRELESS** - The surface from which wireless signals are sent and received by a Personal Wireless Service Facility.

**CAMOUFLAGED** – Within the context of a Personal Wireless Service Facility, such a facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure.

**CARRIER** – A company that provides wireless services.

**CO-LOCATION** – The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

**CROSS-POLARIZED (or DUAL-POLARIZED) ANTENNA** – A low mount that has three panels flush mounted or attached very close to the shaft.

**ELEVATION** – The measurement of height above sea level.

**ENVIRONMENTAL ASSESSMENT (EA)** – An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a Personal Wireless Service Facility is placed in certain designated areas.

**EQUIPMENT SHELTER** – An enclosed structure, cabinet, shed, or box, at the base of a mount within which are housed batteries and electrical equipment.

**FALL ZONE** – The area on the ground within a prescribed radius from the base of a Personal Wireless Service Facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

**FUNCTIONALLY EQUIVALENT SERVICES** – Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.

**GUYED TOWER** – A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

**LATTICE TOWER** – A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

**LICENSED CARRIER** – A company authorized by the FCC to construct and operate a commercial mobile radio services system.

**MONOPOLE** – The type of mount that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top.

**MOUNT** – The structure or surface upon which antennas are mounted, including the following four (4) types of mounts.

1. Roof-mounted: Mounted on the roof of a building.
2. Side-mounted: Mounted on the side of a building.

3. Ground-mounted: Mounted on the ground.
4. Structure-mounted: Mounted on a structure other than a building.
5. Interior-mounted: Mounted within a building such that the Personal Wireless Service Facility is not visible from the exterior of the building/structure.

**OMNIDIRECTIONAL (WHIP) ANTENNA** – A thin rod that beams and receives a signal in all directions.

**PANEL ANTENNA** – A flat surface antenna usually developed in multiples.

**PERSONAL WIRELESS SERVICE FACILITY** – Facility for the provision of personal wireless services.

**PERSONAL WIRELESS SERVICES** – Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services [47 U.S.C. Section 332 (c)(7)(C)(i)].

**RADIO FREQUENCY (RF) ENGINEER** – An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

**RADIO FREQUENCY RADIATION (RFR)** – The emissions from Personal Wireless Service Facilities.

**SECURITY BARRIER** – A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

**SEPARATION** – The distance between one (1) carrier's array of antenna and another carrier's array.

C. Use Regulations

1. Use Regulations - A Personal Wireless Service Facility shall be permitted as follows:
  - a) A Personal Wireless Service Facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new Personal Wireless Service Facility does not increase the height of the existing structure except as provided in **Section C(2)** below.
  - b) Interior-Mounted and Side-Mounted Personal Wireless Service Facilities may be located as provided in **Section (B)**, above. Except for the fact that a Special Permit is not required for such Personal Wireless Service

Facilities, all other relevant provisions of this **Article IV, Section-13** shall apply.

2. Location

Applicants seeking approval for Personal Wireless Service Facilities shall comply with the following:

- a) The applicant shall submit documentation of the legal right to install and/or use the proposed Personal Wireless Service Facility mount at the time of application for a building permit and/or special permit.
- b) If feasible, Personal Wireless Service Facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more Personal Wireless Service Facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
- c) If the applicant demonstrates that it is not feasible to locate on an existing structure, Personal Wireless Service Facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within clusters of trees.

3. Dimensional Requirements

Personal Wireless Service Facilities shall comply with the following requirements:

- a) Height, Roof-Mounted Facilities - Roof-mounted Personal Wireless Service Facilities shall not project more than ten (10) feet above the height of the existing building upon which the Personal Wireless Service Facility is proposed to be located. Said Personal Wireless Service Facilities may be located on a building that is legally non-conforming with respect to height, providing that the Personal Wireless Service Facilities do not project more than ten (10) feet above the existing building height.
- b) Height, Structure-Mounted Facilities - Structure-mounted Personal Wireless Service Facilities shall not project more than ten (10) feet above the height of the existing structure upon which the Personal Wireless Service Facility is proposed to be located. Said Personal Wireless Service Facilities may locate on a structure that is legally nonconforming with

respect to height, providing that the Personal Wireless Service Facilities do not project more than ten (10) feet above the existing structure height.

- c) Height, Side-Mounted Facilities - Side-mounted Personal Wireless Service Facilities shall not project above the height of the existing building or structure upon which the Personal Wireless Service Facility is proposed to be located. Said Personal Wireless Service Facilities may locate on a building or structure that is legally nonconforming with respect to height, providing that the Personal Wireless Service Facilities do not project above the existing building or structure height.
- d) Height, Interior-Mounted Facilities - Interior-Mounted Personal Wireless Service Facilities shall not exceed the height of the building or structure upon which the Personal Wireless Service Facility is proposed to be located and shall be completely camouflaged such as within a flagpole, steeple, chimney or similar structure.
- e) Height, Ground-Mounted Facilities - Ground-mounted Personal Wireless Service Facilities shall comply with the following requirements:

**LIMITATIONS**

<u>ZONE</u>	<u>HEIGHT</u>
RS-10	Not Allowed
RS-7	Not Allowed
RL-7	Not Allowed
RG-5	Not Allowed
BO-1.0	40
BO-2.0	40
BL-1.0	40
BG-2.0	50
BG-3.0	100
BG-4.0	150
BG-6.0	75
ML-0.5	50
ML-1.0	50
ML-2.0	100
MG-0.5	50
MG-1.0	100
MG-2.0	100
IP-0.33	50
IN-S	40
IN-H	40
A-1	100

- f) Setbacks - All Personal Wireless Service Facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the Personal Wireless Service Facility is located. In addition, the following setbacks shall be observed:

In order to ensure public safety, the minimum distance from the base of any ground-mounted Personal Wireless Service Facilities to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the facility/mount including any antennas or other appurtenances. This setback shall be referred to as the “fall zone”.

D. Special Permit Regulations

All Personal Wireless Service Facilities shall comply with the Performance Standards set forth in this section.

1. Design Standards

Visibility/Camouflage. Personal Wireless Service Facilities shall be camouflaged as follows:

a) Camouflage by Existing Buildings:

- i) When a Personal Wireless Service Facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the Personal Wireless Service Facility within or behind existing architectural features to limit its visibility from adjoining ways. Personal Wireless Service Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building’s silhouette.
- ii) Personal Wireless Service Facilities which are side mounted shall blend with the existing building’s architecture and, if over five (5) square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

b) Camouflage by Vegetation:

All ground-mounted Personal Wireless Service Facilities and equipment shelters shall be surrounded by buffers of tree growth and under-story vegetation in all directions to create an effective visual buffer at the street level. Ground-mounted Personal Wireless Service Facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the Personal Wireless Service Facility at the street level. Trees and vegetation

may be existing on the subject property or installed as part of the proposed Personal Wireless Service Facility or a combination of both. The Special Permit Granting Authority (SPGA) shall determine the types of trees and plant materials, depth and overall appropriate design of the needed buffer on site conditions.

c) Color:

- i) Personal Wireless Service Facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
- ii) To the extent that any Personal Wireless Service Facilities extend above the height of the vegetation immediately surrounding it, they shall be painted in a light gray or light blue hue which blends with the sky and clouds.

2. Equipment Shelters

Equipment shelters for Personal Wireless Service Facilities shall be designed consistent with one of the following design standards:

- a) Equipment shelters shall be located in underground vaults; or
- b) Equipment shelters shall be designed in accordance with architectural styles and materials reflective of the uses within a 300 foot radius of the location acceptable to the Special Permit Granting Authority (SPGA); or
- c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Special Permit Granting Authority (SPGA) shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

3. Lighting and Signage

- a) Personal Wireless Service Facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0.0 initial foot-candles when measured at grade.
- b) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of **Article IV, Section-6**.



- c) All ground mounted Personal Wireless Service Facilities shall be surrounded by a security barrier of a design and material acceptable to the Special Permit Granting Authority (SPGA).

4. Historic Buildings and Districts

- a) Any Personal Wireless Service Facilities located on or within an historic structure or Local Historic District shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- b) Any alteration made to an historic structure to accommodate a Personal Wireless Service Facility shall be fully reversible.
- c) Personal Wireless Service Facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from adjoining ways and viewing areas within the district.

5. Environmental Standards

- a) Personal Wireless Service Facilities shall not be located in wetlands. Locating of Personal Wireless Service Facilities in wetland buffer areas as defined by the Wetlands Protection Act (**M.G.L. c.131, Section-40**) and the City of Worcester Wetlands Protection Ordinance shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.
- b) No hazardous waste shall be discharged on the site of any Personal Wireless Service Facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- c) Storm-water run-off shall be contained on-site or adequately disposed of off-site via connection to an existing storm-water drainage system.
- d) Ground-mounted equipment for Personal Wireless Service Facilities shall not generate noise in excess of 50 decibels at the property line.
- e) Equipment for Personal Wireless Service Facilities shall not generate noise in excess of 50 decibels at ground level at the base of the building closest to the antenna or at any neighboring structure.

6. Safety Standards

- a) Radio Frequency Radiation (RFR) Standards. All equipment proposed for a Personal Wireless Service Facility shall comply with the Federal Communications Commission Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines) and shall be maintained so as to remain in compliance with such guidelines as they may be amended.

7. Application Procedures

- a) The Special Permit Granting Authority (SPGA) for Personal Wireless Service Facilities shall be the Zoning Board of Appeals.

- b) Optional Pre-Application Conference

Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed Personal Wireless Service Facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within twenty-one (21) days following a written request submitted to the SPGA.

- c) Pre-Application Filing Requirements

The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed Personal wireless Service Facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare preliminary architectural and/or engineering drawings sufficient to inform the SPGA of the location of the proposed Personal Wireless Service Facility, as well as its scale and overall design.

- d) Application Filing Requirements

The following shall be included with an application for a Special Permit for all Personal Wireless Service Facilities:

- i) General Filing Requirements

Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.

Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the Personal Wireless Service Facility.

A licensed carrier shall either be an applicant or a co-applicant.

Original signatures for the applicant and all co-applicants applying for the special permit. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant. Photo-reproductions of signatures will not be accepted.

ii) Location Filing Requirements

Identify the subject property by including the name of the nearest road or roads, and street address, if any.

Tax map and parcel number of subject property.

Zoning district designation for the subject parcel (Submit color copy or color grid section of City Zoning Map with parcel identified).

A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.

A city-wide map showing the other existing Personal Wireless Service Facilities in the City and outside the City within one mile of its corporate limits.

The proposed locations of all existing and future Personal Wireless Service Facilities in the City on a city-wide map for this carrier.

iii) Siting Filing Requirements

(aa) A one-inch-equals-forty-feet vicinity plan showing the following:

Property lines for the subject property.

Property lines of all properties adjacent to the subject property within 300 feet.

Vegetative cover on the subject property and immediately abutting adjacent properties.

Outline of all existing buildings, including purpose (e.g., residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.

Proposed location of antenna, mount and equipment shelter(s).

Proposed security barrier, indicating type and extent as well as point of controlled entry.

Location of all roads, public and private, on subject property and on all adjacent properties within 300 feet including driveways proposed to serve the Personal Wireless Service Facility.

Distances, at grade, from the proposed Personal Wireless Facility to each building on the vicinity plan.

Contours at each two feet AMSL (Above Mean Sea Level) for the subject property and adjacent properties within 300 feet.

All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.

Architectural or graphic representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the Personal Wireless Service Facility.

Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" subsection below.

(bb) Sight lines and photographs as described below:

Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet.

Proposed (after condition) photographs. Each of the existing condition photographs shall have the proposed

Personal Wireless Service Facility superimposed on it to show what will be seen from public roads if the proposed Personal Wireless Service Facility is built.

- (cc) Sitting elevation or views at-grade from the north, south, east and west for a 50-foot radius around the proposed Personal Wireless Service Facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

Antennas, mounts and equipment shelter(s) with total elevation dimensions and AGL (Above Ground Level) of the highest point.

Security barrier. If the security barrier will block views of the Personal Wireless Service Facility, the barrier drawing shall be cut away to show the view behind the barrier.

Any and all structures on the subject property.

Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot topographical contours.

iv) Design Filing Requirements

- (aa) Equipment brochures for the proposed Personal Wireless Service Facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (bb) Materials of the proposed Personal Wireless Service Facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

- (cc) Colors of the proposed Personal Wireless Service Facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- (dd) Dimensions of Personal Wireless Service Facility specified for all three directions: height, width, and breadth. These shall be provided for the antennas, mounts, equipment shelters, and security barrier, if any.
- (ee) Appearance shown by at least two photographic superimpositions of the Personal Wireless Service Facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any, for the total height, width and breadth.
- (ff) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
- (gg) Within 30 days of the pre-application conference, or within 21 days of filing an application for a Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed Personal Wireless Service Facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.
- (hh) If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

v) Noise Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed Personal Wireless Service Facilities, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

- (aa) Existing, or ambient: the measurements of existing noise.
- (bb) Existing plus proposed Personal Wireless Service Facilities: maximum estimate of noise from the proposed Personal Wireless Service Facility plus the existing noise environment.

Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance.

vi) Radio Frequency Radiation (RFR) Filing Requirements

The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed Personal Wireless Service Facility, for the following situations:

- (aa) Existing, or ambient: the measurements of existing RFR.
- (bb) Existing plus proposed Personal Wireless Service Facilities: maximum estimate of RFR from the proposed Personal Wireless Service Facility plus the existing RFR environment.
- (cc) Certification, signed by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Radiation Standards subsection of this Ordinance.

vii) Federal Environmental Filing Requirements

- (aa) The National Environmental Policy Act (NEPA) applies to all applicants for Personal Wireless Service Facilities. NEPA is administered by the FCC via procedures adopted as **Subpart 1, Section-1.1301 et seq. (47 CRF Ch. I)**. The FCC requires that an Environmental Assessment (EA) be filed with the FCC prior to beginning operations for any Personal Wireless Service Facility proposed in or involving any of the following:

- Wilderness areas
- Wildlife preserves
- Endangered species habitat
- Historical site

Indian religious site  
Floodplain  
Wetlands  
High intensity white lights in residential neighborhoods  
Excessive radio frequency radiation exposure

- (bb) At the time of application filing, an EA that meets the FCC requirements shall be submitted to the City for each Personal Wireless Service Facility site that requires such an EA to be submitted to the FCC.
  - (cc) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the Personal Wireless Service Facility that are considered hazardous by the federal, state or local government.
  - (dd) At the time of application filing, the applicant shall file an approval letter from the Massachusetts Department of Public Health confirming that the proposed filing meets the requirements of Massachusetts Department of Public Health regulation 105 CMR 122.000 for Personal Wireless Service Facilities with respect to emissions.
8. The Special Permit Granting Authority (SPGA) may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed Personal Wireless Service Facility.
9. Co-Location
- a) Licensed carriers may share Personal Wireless Service Facilities and sites where feasible and appropriate, thereby reducing the number of Personal Wireless Service Facilities that are stand-alone Personal Wireless Service Facilities. All applicants for a special permit for a Personal Wireless Service Facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:
    - i) A survey of all existing structures that may be feasible sites for co-locating Personal Wireless Service Facilities;
    - ii) Contact with all the other licensed carriers for commercial mobile radio services operating in Worcester County; and



- iii) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- b) In the event that co-location is found to be not feasible, a written statement of the reasons for the non-feasibility shall be submitted to the Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Special Permit Granting Authority (SPGA) may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
- c) If the applicant does intend to co-locate or to permit co-location, the Special Permit Granting Authority (SPGA) shall request drawings and studies which show the ultimate appearance and operation of the Personal Wireless Service Facility at full build-out.
- d) If the Special Permit Granting Authority (SPGA) approves co-location for a Personal Wireless Service Facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit.

Estimates of RFR emissions will be required for all Personal Wireless Service Facilities, including proposed and future Personal Wireless Service Facilities.

#### 10. Modifications

A modification of a Personal Wireless Service Facility may be considered equivalent to an application for a new Personal Wireless Service Facility and will require a special permit when the following events apply:

- a) The applicant and/or co-applicant wants to alter the terms of the special permit by changing the Personal Wireless Service Facility in one or more of the following ways:
  - i) Change in the number of Personal Wireless Service Facilities permitted on the site;
  - ii) Change in technology used for the Personal Wireless Service Facility.

- b) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

11. Monitoring and Maintenance

- a) After the Personal Wireless Service Facility is operational, the applicant shall submit, within 90 days of beginning operations, and at annual intervals from the date of issuance of the special permit, existing measurements of RFR from the Personal Wireless Service Facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Standards section of this Ordinance.
- b) After the Personal Wireless Service Facility is operational, the applicant shall submit, within 90 days of the commencement of operations, and at annual intervals from the date of issuance of the special permit, existing measurements of noise from the Personal Wireless Service Facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Ordinance.
- c) The applicant and co-applicant shall maintain the Personal Wireless Service Facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

12. Abandonment or Discontinuation of Use

- a) At such time that a licensed carrier plans to abandon or discontinue operation of a ground-mounted or free-standing Personal Wireless Service Facility, such carrier will notify the Special Permit Granting Authority (SPGA) by certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the Personal Wireless Service Facility shall be considered abandoned upon such discontinuation of operations.
- b) Upon abandonment or discontinuation of use, the carrier shall physically remove the Personal Wireless Service Facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
  - i) Removal of antennas, mount, equipment shelters and security barriers from the subject property.

- ii) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c) If a carrier fails to remove a Personal Wireless Service Facility in accordance with this section of this Ordinance, the City of Worcester shall have the authority to enter the subject property and physically remove the Personal Wireless Service Facility. The applicant and/or the landowner shall be responsible for such cost of removal. The Special Permit Granting Authority (SPGA) may require the applicant to post a bond at the time of construction to cover costs for the removal of the Personal Wireless Service Facility in the event the City of Worcester must remove the Personal Wireless Service Facility.

13. Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the Special Permit Granting Authority (SPGA) finds that such reconstruction, alteration, extension, or replacement will not be substantially more detrimental to the neighborhood and/or the City than the existing structure. In making such a determination, the Special Permit Granting Authority (SPGA) shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing Personal Wireless Service Facility by more than twenty (20) feet.

14. Term of Special Permit

A special permit issued for any Personal Wireless Service Facility over fifty (50) feet in height shall be valid for no more than fifteen (15) years as determined by the Special Permit Granting Authority (SPGA).

## ARTICLE V SITE PLAN REVIEW

### **Section 1 – Purpose**

The purpose of this section is to provide for individual detailed review of development proposals which have an impact upon the natural and built environments of the City and upon the nature and provision of public services including but not limited to transportation, utilities, ways, public safety and education, and upon the general and specific character of the City. The review process is intended to promote the purposes listed in **Article I** of this Ordinance.

### **Section 2 – Uses Requiring Site Plan Review**

- A. Any structure and/or outdoor use and/or any substantial improvement, as herein defined, which requires a building permit under the State Building Code and which meets one (1) or more of the threshold standards for scale as set forth in **Table 5.1** shall be subject to the site plan review standards and procedures hereinafter specified. This approval must be obtained prior to issuance of the building permit but is not a requirement for the grant of a special permit or variance. Any exterior alterations, exterior additions and exterior changes including fences, walls and driveways, to residential uses which are permitted by right in Residential districts shall be exempt
- B. Each lot created on a subdivision plan approved by the planning board under the Subdivision Control Law, shall be subject to the site plan review standards and procedures hereinafter specified, notwithstanding anything in Table 5.1 to the contrary.
- C. Notwithstanding the site plan review thresholds set forth in **Table 5.1**, any structure and/or substantial improvement which requires a building permit and will be used and operated as a lodging house shall be subject to the site plan review standards and procedures hereinafter specified. In addition to the threshold standards in **Table 5.1**, any application for a building permit for the erection of a new building, or for any substantial improvements or rehabilitation of an existing building, which is or is intended to be used as a licensed lodging house, shall require site plan review.
- D. Improvements related solely to interior work within the structure, façade renovations and the replacement of windows and doors shall be exempt from this Article.
- E. In addition to the threshold standards in **Table 5.1**, Site Plan Review must otherwise be obtained when any other provision of this Ordinance expressly requires it.
- F. Notwithstanding any provisions of this Article to the contrary, site plan review shall not be required for any project or land use for which a Final Environmental Impact Report, filed with the Massachusetts Executive Office of Environmental Affairs,

has been certified by the Secretary of Environmental Affairs prior to April 2, 1991 as complying with the Massachusetts Environmental Policy Act.

**TABLE 5.1 SITE PLAN REVIEW THRESHOLDS**

CATEGORY	SCALE
1. Residential	5 or More Dwelling Units (DU)
2. Manufacturing	20,000 sq. ft.
3. Business	10,000 sq. ft.
4. General	15,000 sq. ft.
5. Slope*	15% or greater
6. Properties listed on the National Registry of Historic Places and Properties abutting National Register sites	

\* The slope threshold is triggered in the following manner:

1. Within any area of earth moving and/or earth alteration which contains a slope of 15% or greater.

### **Section 3 – Procedure**

#### **A. Administration**

1. The Planning Board shall review and approve all uses and structures subject to **Section-2** above. Approvals require an affirmative vote of three (3) members of the Planning Board. The Planning Board shall adopt reasonable rules and regulations governing the submission, form and procedures for site plan review and shall make them readily available to the public. These rules and regulations shall in no way conflict with other provisions of the laws of the City of Worcester or the Commonwealth of Massachusetts. These rules and regulations shall be guided by the requirements and standards as enunciated in this Article with the Planning Board specifically provided with the necessary latitude to devise such rules and regulations it deems appropriate to achieving the purposes and intent herein provided. These rules and regulations may also provide for time periods for the review of and action on applications, which differ according to the degree of complexity of the application, except that no time period may exceed sixty-five (65) days (excepting an extension mutually agreed upon with the applicant). It is the intent of this provision to ensure timely review for applications.

#### **B. Coordination**

There shall be a site plan review coordination responsibility to assist the Planning Board in carrying out its responsibilities under this Article. The designee of the city manager shall have the responsibility of keeping all records, providing those records for public display, arranging meetings with interested parties and any other duties the Planning Board may wish.

#### **C. Fees**

1. The Planning Board may establish and charge as needed fees for the review of site plan review proposals. These fees shall reflect the time and detail required by the Planning Board and/or its designee(s) to responsibly conduct its review and may include provisions requiring the applicant to bear the costs of any and/or all of the ordinary and/or unusual time and/or services associated with the review.
2. The Planning Board may waive fees or site plan approval when such approval is done in conjunction with applications for approval under the Subdivision Control Law.

#### **D. Powers**

In reviewing applications under this Article, the Planning Board may require modification, conditions and safeguards reasonably related to the standards of this Article. The Planning Board may waive and/or modify provisions of its rules and

regulations under **Section-4(A)**, where such waivers and/or modifications of these rules and regulations will better achieve the purposes and intent of this Article. The Planning Board shall also have the power to modify or amend its approval of a site plan development proposal upon application of the person owning or leasing the premises or upon its own motion in the event of changes in the physical condition of the site sufficient to justify such action consistent with the intent of this Article. The provisions of this Article shall be applicable to any modifications or amendment of such plan.

E. Public Meetings

Approval for a site plan may be issued only after a public meeting held within sixty-five (65) days of the filing of an application with the Planning Board. The procedure for public meeting shall be as provided in Massachusetts General Law with the provision that all abutters be notified by mail and as may be further specified in the rules and regulations adopted hereunder by the Planning Board with the following specific provisions:

1. It shall be the applicant's responsibility to prepare the list of names and addresses of all parties of interest to be certified by the City Assessor as defined in Article II, Section 9(B).
2. The applicant shall pay the cost of mailing the meeting notices, which shall be done by the city.

F. Time Limits

Approval under this Article shall become invalid unless the work or action authorized by it shall commence within one year after the Planning Board has granted such approval and thereafter shall proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances. If the work or action so authorized will not have commenced for good cause within one (1) year of its granting, the Planning Board, upon written application and after due notice and a public meeting may grant one (1) or more extensions for time for periods not to exceed two (2) years for each extension.

**Section 4 – Application and Submission Requirements**

A. Preliminary Application

At the option of the Applicant, a preliminary application for site plan review shall be submitted for consideration by the Planning Board. A preliminary application shall demonstrate, by a narrative report or schematic drawings, how the proposed development impacts upon each of the standards for review provided herein, with particular reference to the following:



1. Any significant natural, topographical or physical features of the property, including but not limited to wetland resource areas as defined in **M.G.L. Ch. 131, Section-40**;
2. The number, use and description of proposed buildings and existing buildings, including height, floor area ratio, total ground coverage and number of dwelling units;
3. Dimensions and number of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking spaces, loading spaces, access aisles, sidewalks, walkways and pathways;
4. All existing and proposed surface and subsurface drainage facilities, including detention or retaining ponds;
5. The total area of all useable open space or common property and the extent to which it is to be improved;
6. Impact upon traffic and pedestrian movement, police and fire protection, water and sewer and public roadways;
7. Such other and further information or documentation as the Planning Board may deem to be necessary and appropriate to a full and proper consideration and disposition of the particular application;

Within forty-five (45) days of submission of a preliminary application, the Planning Board shall specify in writing that the preliminary application has been approved, that the plan has been approved with modifications suggested by the Planning Board, or the specific issues of potential adverse impacts to the standards set forth for site plan review not resolved by the preliminary application.

The Planning Board shall further specify the issues to be addressed by the formal application for site plan review, which description shall supercede the requirement for submittal of a formal application for site plan review.

**B. Definitive Application**

An application for definitive site plan review shall be submitted in such form and numbers as required by the Planning Board's rules and regulations promulgated pursuant to **Section-3(A)** above. The rules and regulations shall provide, in part, that sufficient copies be filed with the Planning Board for distribution to the following departments, boards and commissions: Executive Office of the City Manager, Planning & Regulatory Division; Department of Health & Human Services, Code Enforcement Division; Department of Public Works & Facilities, Engineering Services Division, Parks and Recreation Division, Traffic Engineering Division and Conservation Commission;

School Department; Law Department; Fire Department; and any other departments, boards and commissions deemed appropriate by the Planning Board. Unless expressly excused in writing by the Planning Board, each application shall contain at least the following information:

1. The applicant's name, address, and interest in the subject property.
2. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
3. The street address and/or legal description of the property.
4. The zoning classification and present use of the property.
5. The proposed use or uses and a description of the proposed development, including as appropriate, descriptions of development, scheduling, operation upon completion and method of maintaining any designated open space.
6. An Impact Statement analyzing how the proposed development impacts upon each of the standards for review provided herein, with particular reference to how the proposed development will impact upon the natural, built and operating systems of the City including open space, housing, traffic and pedestrian movement, education, police and fire protection, water, sewer, roads, recreation and other similar amenities.
7. A site plan drawn to a scale of not less than forty (40) feet to the inch, on one or more sheets, prepared by a registered engineer, illustrating the proposed development and use with appropriate title block information to identify location, applicant, owner and party responsible for preparing the plan and including the following:
  - a) The boundary lines and dimensions of the subject property, existing subdivision lots, available utilities, easements, roadways, railroads, rail lines and public rights of way, crossing and adjacent to the subject property, a Locus Plan showing the site of the proposed development in relation to the immediate and general street network and such other features of the natural and/or built environment as are relevant to the review of the site plan and a summary of zoning classification and requirements.
  - b) Any proposed regrading of the subject property and any significant natural, topographical or physical features of the property including, at least, watercourses, marshes, floodplain and wetlands, trees in excess of nine (9) inches in diameter, soil types and existing contours at two (2) feet in one hundred (100) feet.

- c) The location, size, use attributes and arrangement, including height in stories and feet, floor area ratio, total floor area, total square feet of ground area coverage, number and size of dwelling units by number of bedrooms, exterior materials and elevations at appropriate scale, of proposed buildings and existing buildings which will remain, if any.
- d) Minimum yard dimensions and, where relevant, relation of yard dimensions to the height of any building or structure.
- e) Location, dimensions, number and construction materials of all vehicular and pedestrian circulation elements, including streets and roadways, driveways, entrances, curbs, curb cuts, parking spaces, loading spaces, access aisles, sidewalks, walkways and pathways.
- f) All existing and proposed surface and subsurface drainage facilities, including detention or retaining ponds. Drainage calculations with data on pre-development and post-development conditions to be provided.
- g) Location, size and arrangement of all signs and lighting.
- h) Proposed landscaping (noting how the existing vegetation is to be retained and used) including the type, location and quantity of all plant materials, location and height of fences or screen plantings and the type or kind of building materials or plantings to be used for fencing and screening.
- i) Location, designation and total area of all useable open space or common property and the extent to which it is to be improved.
- j) Methods and location of erosion and sedimentation control devices for controlling erosion and sedimentation during the construction process as well as after.
- k) Such other and further information or documentation as the Planning Board may deem to be necessary and appropriate to a full and proper consideration and disposition of the particular application. As part of the rules and regulations to be promulgated for this Article, the Planning Board shall identify, by development scale and lot characteristics, the type and form of such information or documentation.

**Section 5 – Application Approval Process**

A. Procedure

The Planning Board shall examine the application for site plan review and all other pertinent information including that which is gathered in meeting(s) on the application

and shall consider the recommendations and/or comments of City departments, commissions and/or other agencies.

B. Standards For Review

The following standards shall be used by the Planning Board in reviewing all applications for site plan review. These standards are intended to provide a frame of reference for the applicant in development of applications. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention or innovation. Applicants are encouraged to evaluate the extent to which the site plan, its immediate and general locus and the City more generally can tolerate the development being proposed and adjust their proposals accordingly.

1. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers and traffic controls.
2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
5. Adequacy of stormwater and drainage facilities.
6. Adequacy of water supply and sewerage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping elements in accordance with the Landscaping Design Standards set forth in **Article V, Section-5(C)**.
8. In the case of an apartment complex or other multiple dwelling, the adequacy of useable common property or open space.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
10. Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
11. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

12. Adequacy of erosion and sedimentation control measures to be utilized during and after construction.
13. Conformance of the site design with the purposes and intent of the Worcester Zoning Ordinance.
14. Conformance and compatibility of the site plan design with structures listed in the most recent State Register of Historic Places.
15. Adequacy and impact on the regional transportation system.
16. Adequacy of plans and protective measures to ensure minimal risk of contamination to surface or ground water.

C. Landscaping Design Standards

1. Landscape Screening

- a. Landscape screening shall be required along the sidewalk edge and side lot lines where the parking, work or service area of a proposed project abuts a street, public park or residential property.
- b. Landscaping screening shall consist of planting areas at least five (5) feet wide located along the sidewalk edge and/or side lot lines of a proposed use. Landscape screening areas shall be separated from parking areas by a six-inch high curb. Trees shall be the major elements of landscape screening. A combination of plant materials, trees and shrubs shall be included in landscape screening areas. Fencing may be used, in combination with trees and shrubs, when appropriate.

i) Trees

Trees shall be planted every twenty (20) to twenty-five (25) feet on center. Trees to be planted shall have trunks at least three (3) to three and one-half (3 1/2) inches in diameter when measured six (6) inches above the ground. Recommended species of trees include, but are not limited to:

Acer Pseudoplatanus (Sycamore Maple)  
Acer rubrum (Red Maple)  
Pyrus calleryana 'Aristocrat' (Aristocrat  
Callery Pear)  
Gleditsia tricanthos var. Inermis (Honey Locust)  
Gingko biloba, 'Magyar' or 'Sentry' varieties  
(Maidenfern Tree)  
Platanus acerifolia x hybrida 'bloodgood'  
(Bloodgood London Plane)

Tila tomentosa (Silver Linden)  
Sophora japonica (Scholar Tree)  
Zeklova serrata (Zelkoiva)

ii) Shrubs

Shrubs shall be planted along with trees in a landscape screening area. Shrubs may be deciduous or evergreen, or a mixture of both types, and shall be densely planted to provide a mature appearance within three (3) years. For landscape screening areas along a sidewalk edge, shrubs shall be no taller than four (4) feet high. Recommended species include, but are not limited to:

Euonymous alatur (Winged Euonymous)  
Taxus x media (Hicksii or Hatfield Yew)  
Prunus x cistena (Purple Leafed Sand Cherry)  
Ilex crenata 'Convexa' (Japanese Holly)

For landscape screening areas which abut adjacent residential uses, shrubs may be up to seven (7) feet in height to provide a more effective buffer between land uses. Recommended species include, but are not limited to:

Viburnum trilobum (American Cranberry Bush)  
Ligustrum amurense (Privet)  
Thuja occidentalis (Evergreen Eastern Arborvitae)  
Philadelphus coronarius (Mock Orange)  
Tsuga canadensis (Eastern Hemlock)

iii) Fencing

Fencing in a landscape screening area along a sidewalk edge shall be installed just inside the property line. Such fence shall be three (3) to four (4) feet in height and at least fifty percent (50%) perforated. Decorative appropriate for sidewalk edges.

A landscape screening area adjacent to an abutting residential use shall be four (4) to seven (7) feet in height. Fencing shall be located up to or within a three-foot distance from the property line. Such fencing shall be opaque. High fences that cover long distances shall have surface textures to minimize their size. A wooden shadowbox fence is an effective screen between properties.

In general, chain link fencing is to be discouraged. If chain link fencing is used, it shall be limited to small areas and shall be vinyl-coated chain link.

The Planning Board shall determine the color of the vinyl coating to be used.

iv) Maintenance of Landscaped Areas

Required landscaping shall be maintained in a healthy growing condition, free of refuse and debris, and any plantings that do not survive shall be replaced in kind by the applicant or property owner within a reasonable period of time. All plant material and fencing shall be arranged and maintained so as not to obscure the vision of traffic. There shall be no parking of vehicles or snow storage in areas used for screening and buffering.

D. Standards For Approval Or Disapproval

The Planning Board shall make a finding of approval, approval with conditions or disapproval. The Planning Board shall not disapprove an application for site plan review except on the basis of specific written findings directed to one (1) or more of the standards as provided above. To the maximum extent possible an applicant shall be provided an opportunity to supply corrections and/or additions on development proposal particulars, especially those which contain or reveal violations of this Ordinance or other applicable regulations.

## ARTICLE VI FLOODPLAIN OVERLAY DISTRICT

### Section 1 – Purpose

- A. The purposes of this Article are as follows:
1. To preserve, protect and maintain floodplains.
  2. To protect the public health and safety, persons and property against the hazards of flooding.
  3. To control land uses which cause damaging increase in erosion, siltation, turbidity, flood heights and flood velocities.
  4. To preserve the natural flow pattern of watercourses providing safe and adequate flood water storage and runoff capacity.
  5. To protect, preserve and maintain the water table and water recharge areas.
  6. To encourage a suitable system of ponding areas to permit the temporary retention of water runoff.
  7. To prevent the development of structures unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazards.
  8. To consider floodplain management programs in neighboring areas.
  9. To help preserve and enhance property values.
  10. To provide for public awareness of the flooding potential.
  11. To require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
  12. To minimize the need for rescue and relief efforts associated with flooding.
  13. To prohibit nonessential or improper installation of public facilities and utilities in flood prone areas.
  14. To divert development to areas safe from flooding in order to reduce flood damages and prevent environmentally incompatible floodplain uses.
  15. To preserve flood prone areas for open space purposes.



16. To insure that potential buyers are notified that property is in a flood prone area.
17. To protect the community from additional costs of flood control.
18. To achieve these purposes in a manner consistent with all other applicable ordinances of the City of Worcester, the General Laws of the Commonwealth of Massachusetts and laws of the United States of America.

## **Section 2 – Definitions**

- A. FLOOD OR FLOODING – A general and temporary condition of partial or complete inundation of normally dry land from: (1) the overflow of inland waters; or (2) the unusual and rapid accumulation of runoff of surface waters from any source.
- B. FLOOD, AREA OF SPECIAL HAZARD – The land in the floodplain within the community subject to a one (1) percent or greater chance of flooding in any given year.
- C. FLOOD, BASE – A flood having a one (1) percent chance of being equaled or exceeded in any given year. Also known as the one hundred (100) year flood in this Ordinance.
- D. FLOOD FRINGE, REGULATORY – The portion of the regulatory floodplain outside the regulatory floodway. Flood waters in this area are usually shallow and slow moving.
- E. FLOOD HAZARD BOUNDARY MAP – An official map of the community issued by the Federal Emergency Management Agency (FEMA) on which areas of special flood hazards and risk premium zones applicable to the community have been delineated.
- F. FLOOD INSURANCE STUDY – The official report of the community provided by the Federal Emergency Management Agency (FEMA) which contains flood profiles, water surface elevations of the base flood and the Flood Hazard Boundary Floodway Map.
- G. FLOOD, ONE HUNDRED YEAR – A flood having a one (1) percent chance of being equaled or exceeded in any given year. Also known as the base flood in this Ordinance.
- H. FLOODING, AREA OF SHALLOW – An area of special flood hazards having shallow water depths and/or unpredictable flood paths between one (1) and three (3) feet, and where velocity of flow may be evident. Said area also does not have a clearly defined channel.
- I. FLOODPLAIN – Any normally dry land susceptible to being periodically inundated by water.
- J. FLOODPLAIN DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

K. FLOODPLAIN DEVELOPMENT PERMIT – Any permit issued by the City of Worcester for development in the floodplain.

L. FLOODPROOFING – Any combination of structural and non-structural additions, or adjustments to structures or land which reduce or eliminate flood damage to real estate, or improved real property, water and sanitary facilities, structures and their contents.

M. FLOODWAY, REGULATORY – 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 more than one (1) foot.

### **Section 3 – General Provisions**

All applications for building permits shall insure that such activity as proposed is consistent with the need to minimize flood damage.

Any new construction or substantial improvement to be undertaken in the Floodplain Overlay District shall be in accordance with the State Building Code and such other controls as are herein provided.

### **Section 4 – Definition and Establishment of the Floodplain Overlay District**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated as Zone A., AH, AO, AE on the Worcester Flood Insurance Rate Map (FIRM), which indicates the 100-year regulatory floodplain dated January 16, 2003 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). 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 Flood Insurance study booklet dated January 16, 2003. The FIRM, Floodway Maps and Flood Insurance Study booklet are incorporated herein by reference and are on file with the City Clerk, Planning Board, Conservation Commission and the Code Enforcement Division within the Department of Health & Human Services.

### **Section 5 – Administrative Authority of the Director of Code Enforcement in the Floodplain Overlay District**

A. The Director of Code Enforcement of the City of Worcester is hereby authorized to do the following:

1. Review permits for proposed development to assure that all other necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
2. Notify adjacent communities and the State coordinator at the Division of Water Resources, Water Resource Commission, Massachusetts Department of Environmental Management and the Worcester Conservation Commission prior

to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

3. Assure that maintenance is provided within the altered or relocated position of any watercourse so that the flood carrying capacity is not diminished.
4. Obtain and maintain records of elevations and floodproofing levels for all new or substantially improved structures, whether or not such structures contain a basement.
5. Obtain certification from a registered professional engineer when floodproofing is used for a particular structure.
6. Determine the exact location of the Floodplain Overlay District and the areas of special flood hazards, particularly where there is a conflict between a mapped boundary and actual field conditions.
7. Obtain and review any base flood elevation data available from a Federal, State or other source in order to administer the provisions of this article.
8. Submit an annual report to FEMA as required.

#### **Section 6 – Development Permit Application**

Each application for a building permit subject to the provisions of this Article shall be made to the Director of Code Enforcement on forms furnished by him and shall include the following:

##### A. Site Plan

A site plan drawn to a scale not less than forty (40) feet to the inch which is prepared by a registered professional engineer or professional land surveyor shall be submitted by the applicant. The site plan shall show at least the following information:

1. The location, boundaries, elevations and dimensions of each lot.
2. North-point-basis of bearing, date, scale and legend.
3. The name and address of the record owner, developer and the registered professional civil engineer or professional land surveyor.
4. Names and addresses of owners of adjacent lots as disclosed by the most recent records of the Department of Administration & Finance, Assessing Division.
5. Location, names, elevations and dimensions of adjacent streets.
6. Two (2) foot contours of the existing and proposed land surface.

7. Locations and elevations of existing and proposed structures, fill, storage of materials, watercourses, drainage easements, means of access, water supply, drainage and sewage disposal facilities.
8. The locations and elevations of existing flood boundary and floodway.

B. Specific Standards For Flood Hazard Reduction In Special Flood Hazard Areas Where Base Flood Elevation Data Has Been Provided

1. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement, elevated to not less than base flood elevation.
2. Any new construction or substantial improvements of non-residential structures shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood-proofed so that below the base flood level the structure is water tight with walls substantially permeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer shall certify that the flood-proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. Such certification shall be provided to the Director of Code Enforcement.
3. No encroachment, including fill, new construction, substantial improvement or other development shall be permitted within the adopted regulatory floodway as designated on FIRM that would result in any increase in flood levels during the base flood discharge.

C. Specific Standard For Flood Hazard Reduction In Areas Of Shallow Flooding

1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the Flood Insurance Rate Map of Worcester.
2. All new construction and substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the Flood Insurance Rate Map of Worcester or, together with attendant utility and sanitary map facilities, be completely flood proofed to or above that level so that any space below that level is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer shall certify that the flood-proofing methods are adequate to withstand the flood

depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. such certification shall be provided to the Director of Code Enforcement.

1. All new construction and substantial improvements on slopes shall be constructed with adequate drainage paths around the structures to guide floodwaters around and away from the structures.

D. Compliance

All development in the Floodplain Overlay District, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with **Chapter 131, Section-40** of the Massachusetts General Laws and with the following:

1. that section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 2102.2, “Flood Resistant Construction”);
2. the state Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);
3. the Inland Wetlands Regulations, Department of Environmental Management (DEM) (currently 302 CMR 6.00);
4. the minimum requirements for the Subsurface Disposal of Sanitary Sewage Regulations, DEP (currently 319 CMR 15, Title 5).

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

**Section 7 – Use Regulations**

A. Permitted Uses

The following uses shall be permitted within the Floodplain Overlay District provided they do not require any construction of new primary or existing structures, substantial alterations to existing primary or existing structures, dumping, filling, excavating, earth transfer or storage of materials or equipment. Said uses shall not adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch or any other drainage facility or system. Said uses shall be compatible with the policies expressed in this Article.

1. Outdoor recreation, including but not limited to driving ranges, archery ranges, picnic grounds, boating, swimming areas, parks, nature preserves, fish hatcheries,

target ranges, hunting and fishing areas, foot paths, horseback riding trails and bicycle trails. Said uses must be otherwise legally permitted.

2. Agricultural uses including grazing, outdoor plant nurseries, crop farming, horticulture, truck gardening, pasture and harvesting of crops.
3. Forestry, including landscaping, and accessory uses such as flower or vegetable gardens and lawns.

**B. Other Uses Permitted in the Underlying Zoning District**

Any uses other than those provided for in **Section-7(A)** of this Article, permitted in the portions of the zoning districts which are overlaid by the Floodplain Overlay District, are permitted, provided the following criteria are met:

1. Said use shall not adversely affect life and property due to water or erosion hazards, or which cause damaging increase in erosion, flood heights or flood velocities.
2. Said use shall not overload any public water, drainage or sewer system or any other municipal system to such an extent that these systems are hindered from promoting the health, safety and general welfare of the community.
3. Said use has received from the Conservation Commission an Order of Conditions or a negative Determination of Applicability which establishes that the use meets the standards administered by that body.

## **ARTICLE VII DENSITY BONUSES TO PROMOTE AFFORDABLE HOUSING**

### **Section 1 – Purpose**

It is the purpose of this Article to promote the provision of safe, sanitary and affordable housing for all sectors of the population of Worcester.

### **Section 2 - Definition of Affordable Housing Units and Income Eligible Households**

An affordable housing unit for the purpose of this Article means a unit for sale or lease that is affordable to households earning at or below eighty (80) percent of median income, adjusted for family size, for the Metropolitan Worcester Area (PMSA) as published by the U.S. Department of Housing and Urban Development (HUD). For leased units (rental units) affordable means that the contract rents and utilities and fees combined must not exceed thirty (30) percent of an income eligible household's adjusted gross income definition from the Internal Revenue Service's Form 1040. Utility allowance standards published by HUD for the Metropolitan Worcester Area shall be used to factor the thirty (30) percent affordability threshold. Housing units for sale must have a sale price that the Planning Board deems will not exceed the amount that an income-eligible household can obtain financing for through prevailing conventional or affordable mortgage products available to the general public. Income eligibility of both prospective tenant or purchaser households means the anticipated income of all adults in the household.

### **Section 3 – Application**

#### **A. Requirements**

For any proposed development of twelve (12) or more dwelling units, the developer may elect to provide affordable housing units and receive a density bonus upon grant of a special permit by the Planning Board. The Planning Board shall require as a condition of such a density bonus the following:

1. The provision within the development of affordable housing units amounting to a minimum of ten (10) percent of the development's total number of dwelling units. The affordable units to be provided shall be equivalent in size, quality, and characteristics to the other units in the development. The units shall not be grouped together; they shall be distributed among all units.

#### **B. Conditional Density Bonuses**

The Planning Board may allow, as a condition of said density bonus that, in lieu of all or some of the affordable housing units being provided within the development, the developer shall:

1. Provide all or some of the affordable housing on a site different from the development; or

2. Provide all or some of the affordable housing through an alternative means other than those already listed in this Article; or
3. Provide all or some of the affordable housing through a combination of any or all of the methods in this Article.

C. Density Bonus

The Planning Board may permit an increase in the maximum number of units permitted in the zoning district (the base number of units) of an additional percentage equal to the percentage of affordable units plus five (5) percent up to a maximum twenty-five (25) percent density bonus for twenty percent (20%) affordable housing. In RG-5 zones the maximum density bonus shall be limited to fifteen (15%) percent to prevent overcrowding. The following example illustrates the application of a twenty-five (25) percent density bonus to a proposed development where the maximum number of units permitted in the zoning district (the base) is thirty (30):

**EXAMPLE:**

**25% density bonus for 20% affordable housing applied to base of 30.**

**30 base units x .25 (20 % of base affordable bonus + .5% of base) equals  
7 units (number rounded down from 7.5 to 7 units).**

**Of the 7 bonus units allowed by applying the above density bonus, six  
(6), 20% of the base, must be affordable, and the balance, one (1) unit  
may be a market unit.**

In determining the total number of density bonus units a fractional unit shall be rounded down to the nearest whole number (7.1 to 7; 7.8 to 7,etc.). In determining the number of affordable units as a percentage of the base a fractional unit shall be rounded up to the nearest whole number (7.1 to 8; 7.8 to 8.0,etc.).

The provision of these units must be made according to the method set forth in **Section-3(B)** above.

1. If the Planning Board allows the provisions of some or all of the affordable housing by a method different from **Section-3(B)**, above, the Planning Board shall first find that such alternative method will help alleviate the undue concentration of population and encourage housing for persons of all income levels; and will encourage the most appropriate use of land and buildings, and/or avoid undue hardship to land and buildings.
2. Whenever the Planning Board authorizes the provision of off-site affordable housing units in accordance with **Section-3(B)** and the petitioner offers existing, rehabilitated or substantially rebuilt housing units to the City, he or she shall



certify to the Director of Code Enforcement that at the time of the developer's acquisition none of these units had been occupied at any time during the preceding twenty-four (24) months.

3. Any affordable housing unit to be provided offered for sale or rent to the general public shall have deed restrictions or some other legally enforceable instrument acceptable to the Planning Board ensuring its continuing affordability. The developer also may choose to offer the affordable housing units for sale to the City of Worcester, or to a municipal or non-profit agency designated by the City. Should no outside funding be available, the City, at its option, may choose to appropriate the necessary funds. Should there be no outside funding, and the City chooses not to appropriate any funds, the developer shall make the units available for lease for a period of twenty (20) years to eligible tenants under any State or Federal rent subsidy program which might be applicable. The City shall have the right to purchase all such units on the expiration of the twenty (20) year agreement at a price equal to the fair market value of said unit as established by an independent appraiser, paid for by the property owner, selected by the City. Should there be no rent subsidy program, the developer or his/her designee shall select tenants from the Worcester Housing Authority waiting lists or other waiting lists maintained by area Community Development Corporations, and Community Housing Development Organizations recognized by the U.S. Department of Housing and Urban Development, the City or the State Department of Housing and Community Development; and may not charge, as rent, including utilities, an amount exceeding thirty (30) percent of the tenant's gross, adjusted income as defined from IRS Form 1040. Should the Worcester Housing Authority, area Community Development Corporations and Community Housing Development Organizations not have a waiting list or any eligible tenants, the landlord shall annually certify that the income of the low and/or moderate income tenants otherwise found does not exceed eighty (80) percent of the median family income for the Worcester Metropolitan Area. The deeds conveyed to the City of Worcester or its designated agency shall provide good and clear record and marketable title, free from mortgages and any taxes, betterments, city services, fees or other similar financial encumbrances then due and owing. Such units shall be conveyed prior to the issuance of occupancy certificates for more than twenty-five (25) percent of the project's total number of units. In the event that all housing units in a development are to be rental units, the units required shall be provided to the City of Worcester under an agreement for a term of twenty (20) years (in five (5) year increments which are automatically renewable). The agreement shall be recorded by the developer (with a copy as recorded and filed with the Director of Code Enforcement) in the Worcester County Registry of Deeds as a municipal lien running with the property for its entire term. Should any rental development be converted to cooperative or condominium ownership the City shall be given an option to purchase its units. If the City does not acquire the units, the obligation for the remaining term of the original twenty (20) years shall continue.

4. In the case of a development of fifteen (15) or fewer dwelling units or a development sponsored and operated by a registered non-profit or charitable organization, the Planning Board may in its discretion, modify the requirements of **Section-C(1)** through **Section-C(5)** to avoid economic hardships. Such modifications shall be limited to a reduction in the number of affordable housing units to be provided to the City of Worcester.
  
5. A development project may not be segmented to avoid or take advantage of the provisions or alternatives above, nor may a developer or petitioner divide or subdivide property or establish surrogate or subsidiary business entities to take advantage of these alternatives. Determination of the applicability of this section shall be the responsibility and at the sole discretion of the Planning Board.

Nothing in this Article shall require a developer to provide affordable housing within any development unless a density bonus under the provisions of this Article is sought.

## ARTICLE VIII CLUSTER ZONING

### **Section 1 – Purpose**

The purpose of this section is to provide for cluster subdivision developments and cluster developments of designed groups of single family dwellings as a means for more efficient and effective development of Worcester while also protecting its sensitive natural environment and providing for preservation of open space in both natural and improved states.

### **Section 2 – Cluster Subdivisions**

- A. In lieu of a subdivision under conventional dimensional controls as provided in **Articles III and IV**, a cluster subdivision may be developed upon the granting of both a special permit and site plan review by the Planning Board using the following standards:
1. The number of lots may not exceed the number permitted on the parcel determined by dividing the parcel size minus land subject to the Wetlands Protection Act and minus twenty-five (25) percent of the lot, by the minimum lot area per proposed use in zoning district. Where the applicant provides sufficient active and/or passive recreation area on the site, as determined by the Planning Board, that portion of the parcel subject to the Wetlands Protection Act utilized in this calculation may be reduced fifty (50) percent, but in no case shall total density exceed fifteen (15) percent of that allowed at the one hundred (100) percent level.

#### **Gross Sq. Footage – Ch. 131 Land – 25% of site** **Minimum Lot Area per Proposed Use in Zoning District**

2. The cluster lots may be no less than fifty (50) percent of the minimum lot size in the zone.
3. Frontage, setback and side and rear yard dimensions shall be guided by the characteristics of the site, proposed structures and nature of the existing built environment in the area of the proposed cluster subdivision. Zero lot line development is permitted.
4. A maximum of forty (40) percent of each developed lot may be impervious surface.
5. A least twenty-five (25) percent of the net site (calculated as the gross area minus the area dedicated to road right of way) must be permanently committed as open space. The designated open space must be accessible and capable of being used. It cannot be constituted only of “unbuildable land”. Where density bonuses are given, the open space requirement may be proportionally decreased to twenty (20) percent of the net site. Such open land shall either be conveyed to the City and

accepted by it for park or open space use, or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space or be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the subdivision. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the City, a restriction enforceable by the City shall be recorded providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway. Said land shall not be used in any other project or for calculation of units, area, setback requirements or any other purpose.

6. The submittal requirements and review standards including administration, application, submission requirements, fees, powers, hearings and time limits shall be those as provided in **Article II** and **Article V**. In addition, such subdivision rules and regulations as may be in force are applicable relative to standards for roadways, utilities, drainage and other aspects of site development and submittal format.

### **Section 3 – Cluster Groups Of Single Family Dwellings**

- A. In lieu of a subdivision under conventional dimensional controls as provided in **Articles III** and **IV**, a cluster group of single family dwellings may be developed upon the granting of a special permit and site plan review by the Planning Board under the following standards:

1. The number of dwellings may not exceed the number permitted on the parcel determined by dividing the parcel size minus land subject to the Wetlands Protection Act and minus twenty-five (25) percent of the lot, by the minimum lot area per proposed use in zoning district.

#### **Gross Sq. Footage – Ch. 131 Land – 25% of site** **Minimum Lot Area per Proposed Use in Zoning District**

2. The single-family units may be attached, detached or a combination of both as permitted in the underlying zone. For the purposes of this section, a use allowed by special permit in the underlying zone shall be considered a use *permitted* in the underlying zone. Each unit must have private/direct entries and yard areas immediately adjacent to the unit for the private use of the unit occupants.
3. The entire site shall be designed to and shall remain in one ownership and shall be developed and maintained as a unit, excepting for units, private yards and other similarly designated spaces for private use and/or ownership. The Planning Board shall determine that the design and ownership scheme assures unified control and maintenance of all land not so individually owned.

4. Unit placement and configuration shall be guided by the characteristics of the site, proposed structures and nature of the existing built environment in the area of the proposed cluster subdivision.
5. A maximum of forty percent (40%) of the site may be impervious surface.
6. A contiguous portion of at least (40) forty percent of the net site (calculated as the gross area minus the area dedicated to roadway) must be permanently committed as open space. The designated open space must be accessible and capable of being used. It cannot be constituted only of “unbuildable land”. Where density bonuses are given, the open space requirement may be proportionally decreased to thirty-five (35) percent of the net site. Such open land shall either be conveyed to the City and accepted by it for park or open space use or be conveyed to a non-profit organization the principal purpose of which is the conservation of open space or to be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. If such a corporation or trust is utilized, ownership thereof shall pass with conveyances of the lots or residential units. In any case where such land is not conveyed to the City, a restriction enforceable by the City shall be recorded providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway. Said land shall not be used in any other project or for calculation of units, area, setback requirements or any other purpose.
7. The submittal requirements and review standards including administration, application and submission requirements, fees, powers, hearings and time limits, shall be those as provided in **Article II** and **Article V**. In addition, such subdivision rules and regulations as may be in force are applicable relative to standards for roadways, utilities, drainage and other aspects of site development and submittal format.

#### **Section 4 – Other Objectives**

- A. The following objectives are important in the development of a cluster:
  1. It is desirable to decrease municipal costs and environmental impacts through reduction in the length of streets, utilities and drainage systems per dwelling unit served.
  2. It is desirable to increase the scale of contiguous area assured of preservation in a natural state, off street pathways and trails, recreation areas open at least to all residents of the cluster and wilderness areas.
  3. It is desirable that all existing scenic vistas be respected and preserved and that new scenic vistas be created.

4. It is desirable to increase vehicular safety by having fewer, better located and designed egresses onto existing streets.
5. It is desirable to preserve environmental quality by reduction of the total area over which vegetation is disturbed by cut or fill or displacement; by reduction in critical lands (slopes in excess of fifteen percent (15%), land within 100 feet of a water body, wetlands or streams having outstanding or rare vegetation) disturbed by construction; reduction of the extent of waterways altered or relocated; reduction in the volume of cut and fill for roads and construction sites.
6. It is desirable to have the design and location and materials of the structure(s) on the site be sensitive to the natural environmental conditions, vistas and abutting properties.
7. There should be positive benefit to the City in some important respects, such as reduction of environmental damage, better controlled traffic, and preservation of current character through location of reserved open space.

## **ARTICLE IX MIXED USE DEVELOPMENT OVERLAY ZONE**

### **Section 1 – Purpose**

- A. The purpose of the Mixed Use (MU) Development Overlay Zone is intended to provide for the coordinated and mixed development of residential, business, institutional and open/recreational space uses the City of Worcester by:
1. Creating major new mixed-use areas in planned locations at appropriate densities, heights and mixture of uses;
  2. Encouraging the preservation and rehabilitation of structures of historic or architectural merit in the overlay zones;
  3. Encouraging flexibility in architectural design and building bulk;
  4. Making recreation areas accessible to residents and visitors;
  5. Creating environments conducive to a higher quality of life and environment for residents, businesses, employees and institutions.

Mixed Use Developments in the overlay zone shall require a special permit from the Planning Board.

### **Section 2 – Establishment of Mixed Use Zones**

Mixed Use (MU) Overlay Zones are hereby established. The boundaries of the MU zones are shown on the Official Zoning Map. In these areas as designated now or in the future by public plans and policies, a mixture of uses and building densities shall be intended to promote and protect public health, safety, convenience, order, prosperity and general welfare of the community as best accomplished by the MU Overlay Zone.

### **Section 3 – Permitted Uses in a Mixed Use Development Overlay Zone**

All uses permitted in the underlying zones as provided in **Article IV (Table 4.1)** are permitted uses in the Mixed Use Overlay Zone, except as otherwise provided in this Article.

### **Section 4- Mixed Use Development Overlay Zone**

- A. It is intended that each Mixed Use Development in the overlay zone contain a variety of land uses and may not be used solely to increase the allowable floor area of a single use permitted in the underlying district. The following uses may be permitted by special permit by the Planning Board within the Mixed Use Development Overlay Zone; provided the following standards are met:

1. Each Mixed Use Development within the overlay zone shall contain at least two (2) uses permitted in **Article IV, Table 4.1**.
2. The total residential use shall not comprise more than fifty (50) percent of the gross floor area of the development.
3. Any single non-residential use shall not comprise more than seventy-five (75) percent of the gross floor area of the development.
4. In a combined residential and non-residential structure the floor area ratio and square footage requirements per unit established for the underlying zone shall be satisfied within the Mixed Use Development.
5. In a multi-story mixed-use development no residential use shall be located on the first floor.
6. Each proposed use within the mixed-use development must be an allowed use in the underlying zones. Different uses within the mixed-use development may be apportioned between two (2) or more buildings provided all the buildings are functionally integrated through the use of open space and pedestrian walkways. The determination of applicability of uses is the sole discretion of the Planning Board.

#### **Section 5 – Prohibited Uses in a Mixed Use Development**

- A. The following are prohibited uses within Mixed Use Developments in Mixed Use Development Overlay Zones:
  1. Automobile related facilities, including but not limited to, repair shops, car washes, gasoline stations, auto body shops, and lubrication;
  2. Retail sales of motor vehicles, boats, mobile homes and house trailers;
  3. Warehouse;
  4. Trucking company/freight terminal;
  5. Public utility;
  6. Wholesale business;
  7. Heavy industry;
  8. Single and two family dwellings;
  9. Animal hospital, kennel or veterinarian office;



10. Hospitals;
11. Sanitarium or nursing home;
12. Funeral home;
13. Adult entertainment establishments;
14. Drive-in establishments where goods or services are rendered directly to the occupants of motor vehicles.

**Section 6 – Dimensional Controls**

- A. The dimensional controls of the underlying zoning district (as provided in **Article IV, Table 4.2**) shall apply in each Mixed Use Development Overlay Zone, excepting as hereinafter provided.
- B. If a mixed use development in a MU Development Overlay Zone is proposed and the proposal meets the thresholds of **Section-4** of this Article, than the permitted use intensity regulations herein described shall apply:
  1. Permitted uses, as outlined in **Article IV, Table 4.1** as single uses within the mixed use development, shall not constitute more than seventy-five (75) percent of the gross floor areas; provided further that a permitted residential use may not constitute more than fifty (50) percent of the gross floor area;
  2. Space, measured in square feet, devoted to recreation and open space shall be equal to or greater than five (5) percent of the gross floor area devoted to the other proposed uses. At least one-half (1/2) of the recreation and open space must be built as part of the proposed structure(s);
  3. Recreation and open space includes the provisions of places, activities and/or amenities, either built or natural, which are free and accessible to the public.

**Section 7 – Mixed Use Development Overlay Zone Intensity Regulations**

- A. The dimensional regulations for height and floor area ratio (FAR) for uses provided in Section 4 may exceed the maximum of the underlying district by twenty (20) percent.
- B. The gross floor space (in square feet) may be increased on a 1:1 ratio above the maximum provided in **Section-4**, above, for each square foot of space devoted to a child day care center, provided however that the developer must submit a plan which ensures to the satisfaction of the Planning Board, the initial and continuing operation of the day care facility.

- C. Where two (2) or more principal buildings are proposed to be built upon property in one (1) ownership, required front, side and rear yards shall be provided between each building and assumed lot lines shall be shown on the site plan.

### **Section 8 – Review Standards**

- A. In addition to its special permit review criteria under **Article II**, the Planning Board shall also consider the Mixed Use Development's conformance with the following planning and design objectives:
1. Whether the proposed use furthers the objectives of the mixed use districts;
  2. The relationship of the proposal to other planning considerations for the area and the City of Worcester as a whole, including the plans, programs and policies of other departments and agencies of the government;
  3. The impact of the proposed site plan on neighborhood properties;
  4. The proposed site plan including the relationship of different uses on the site and any other matters that are within the Planning Board jurisdiction;
  5. Consideration of the traffic to be generated and its impact;
  6. The location and design of vehicular access and parking facilities;
  7. The number of parking and loading facilities;
  8. The treatment of public space;
  9. The availability of sewer and water capacity;
  10. The impact of air quality;
  11. The impact of noise.

## **ARTICLE X CONTINUING CARE RETIREMENT COMMUNITY**

### **Section 1 – Intent and Applicability**

The intent of this section is to allow flexibility in development of parcels for housing and related services of retired and aging persons, with particular interest in meeting the needs of residents of Worcester. A Continuing Care Retirement Community (CCRC), as defined herein, may be allowed upon grant of a special permit by the Planning Board. Said CCRC shall include a constellation of services on site for those retired and aging persons residing in the CCRC. Facilities without services shall not be considered to meet the intent of this article.

### **Section 2 – Definitions**

A. As used in this Ordinance, Continuing Care Retirement Community (CCRC) shall mean a development on a parcel of land five (5) acres or greater, comprised of a dwelling or dwellings with a minimum of three (3) residential services operated or sponsored as a coordinated unit, by a corporation or organization having among its principal purposes, the provision of housing and associated services for retired and aging persons with occupancy of dwelling units limited to persons, at least one of whom shall have attained the age of fifty-five (55) years. Coordinated unit means a building or group of buildings under common management and serving purposes which assist retired and aging persons in maintaining an independent lifestyle. The program of resident services may include, but is not limited to:

1. Restorative care center/skilled nursing facility
2. Transportation
3. Financial
4. Barber/beautician
5. Medical evaluation/health care maintenance
6. Home health
7. Assisted care
8. Adult day care and respite care services
9. Food services
10. Cleaning services
11. Exercise, recreational, education and social services
12. Other services, activities and accessory uses incidental to the operation of a Continuing Care Retirement Community.

These services will be primarily for the benefit of residents of the Continuing Care Retirement Community.

### **Section 3 – Types of Dwellings and Facilities Permitted**

Notwithstanding any restriction on uses permitted in the underlying zoning district, a special permit granted by the Planning Board may allow the construction of detached or attached dwellings of any combination, and may also allow the construction of a restorative care center/skilled nursing facility/clinic, assisted living facility and buildings to accommodate resident services. There shall be provided in appropriate cases suitable means of access and egress to, from and within dwellings for handicapped persons. Enclosed walkways and/or unenclosed walkways connecting buildings shall be permitted.

#### **Section 4 – Specific Restrictions**

A. In lieu of a development under conventional dimensional controls as provided in **Article IV**, a Continuing Care Retirement Community (CCRC) as provided herein shall also be subject to the following specific restrictions.

1. Density and Parcel Size

A CCRC shall have a parcel of five (5) acres or greater. The allowable number of dwelling units in a CCRC shall be determined, using the following formula:

$$\text{Maximum Units} = 2 \times [(\text{Parcel Size} \times .8) / \text{Minimum Lot Size Permitted In Zoning District of Parcel}]$$

(rounded to next lowest integer)

An increase in the number of units of up to twenty-five (25) percent of the number of maximum units calculated by the above formula may be allowed. Such an increase will be based upon each unit so granted being affordable housing. In RG 5-0 zones the maximum density bonus shall be limited to fifteen (15%) percent to prevent overcrowding. In granting such increases the Planning Board shall require that the developer provide legally enforceable assurances that the units so granted will continue to be affordable housing, as herein defined.

In addition the number of beds, exclusive of existing beds, in the restorative care center/skilled nursing facility development density shall not exceed thirty-three percent (33%) of the numbered units in the CCRC. The gross acreage of the parcel shall be used in calculating the density.

2. Lot Coverage and Open Space Requirements

Buildings shall be sited using cluster principles. At least twenty-five (25) percent of the site shall be preserved as open space. A minimum of seventy-five (75) percent of the open space shall be maintained as a natural vegetation area except that plantings, passive recreational uses (as may be permitted and/or required by the Planning Board under the provisions of Site Plan Review, **Article V**), the installation, repair and maintenance of footpaths, underground utilities, access ways (if required by the City of Worcester or other governmental agency), drainage structures and facilities and such other construction as may be permitted

and/or required by the Planning Board under the provisions of **Article V**, Site Plan Review are permitted. However, such portions of the open space as shall have been disturbed for purposes so permitted shall be restored to former conditions as nearly as may be reasonably practicable. The open space shall be protected by a recorded restriction enforceable by the City of Worcester.

3. Parking

There shall be at least one (1) off-street parking space per dwelling unit. Any restorative care center/skilled nursing facility shall have at least point three off-street parking spaces for each bed.

4. Roads and Utilities

Roads and utilities shall be designed and constructed in conformance with the City of Worcester Subdivision Rules and Regulations. The Planning Board may modify said rules and regulations if it determines that such action will more acceptably meet the purposes of the Article.

**Section 5 – Other Objectives**

A. The following objectives are important in the development of a Continuing Care Retirement Community (CCRC):

1. It is desirable to minimize municipal costs and environmental impacts through reduction, to the extent reasonable, in the length of streets, utilities and drainage systems per dwelling unit served.
2. It is desirable to increase the size of contiguous area assured of preservation in a natural state and the number of off-street pathways and trails, recreation areas and wilderness area open to all residents of the CCRC.
3. It is desirable that all existing scenic vistas be respected and preserved and that new scenic vistas be created.
4. It is desirable to increase vehicular safety by having fewer, better located and designed egresses onto existing streets.
5. It is desirable to preserve environmental quality by reduction of the total area over which vegetation is disturbed by cut or fill or displacement; by reduction in critical lands (slopes in excess of fifteen percent (15%), land within one hundred (100) feet of a water body, wetland or stream having outstanding or rare vegetation) disturbed by construction; reduction of the extent of waterways altered or relocated; reduction in the volume of cut and fill for roads and construction sites.

6. It is desirable to have the design and location and materials of the structure(s) on the site be sensitive to the natural environmental conditions, vistas and abutting properties.
7. There should be positive benefit to the City in some important respects, such as mitigation of environmental damage, better controlled traffic, preservation of current character through location of reserved open space, meeting the shelter and/or health needs of special populations of the City and so on.

### **Section 6 – Procedure**

The procedures to obtain approval for a Continuing Care Retirement Community, including administration, fees, powers, hearings and time limits, shall be those set forth in **Article II** for the Special Permit and in **Article V** for Site Plan.

### **Section 7 – Application and Submission Requirements**

The application and submission requirement, including informal review and formal application, shall be those as set forth in **Article II** for a Special Permit.

### **Section 8 – Application Review Process**

The special permit review process, standards for review and standards for approval shall be those as set forth in **Article II**. In applying those standards the Planning Board shall take into account all provisions of **Article II**.

## **ARTICLE XI AIRPORT ENVIRONS OVERLAY DISTRICT**

### **Section 1 – Purpose and Definition**

The purpose of this section is declared to be the promotion of land uses in the Airport Environs Overlay District that are compatible with the current and future use of the Worcester Regional Airport, are in harmony with the Master Plan and promote the purposes of this Ordinance. The Airport Environs Overlay District is as shown on the Zoning Map of the City.

### **Section 2 - Application**

A. It is the intent of this ordinance that all new residential buildings and or land uses within the Airport Environs Overlay District be constructed and operated in a manner consistent with respect to the normal operations now and in the future of the Worcester Regional Airport.

B. All residential building permit applications for activities covered by Section B-1 shall include a certificate, by an architect or professional engineer registered by the Commonwealth of Massachusetts or a third party approval agency, recognized by the Commonwealth of Massachusetts or the United States Department of Housing and Urban Development, that the building as designed will achieve an interior noise reduction level of 25 dba as defined by the Worcester Airport's Noise Compatibility Program conducted under Part 150 of Federal Aviation Administration (FAA) regulations.

C. Any application for a building permit for the erection of a new residential building, or land use within the Airport Environs Overlay District shall require site plan approval under Article V. In addition to the general requirements for approval under Article V, all approvals required by this Article shall be subject to the following supplemental criteria:

Where applicable, in the opinion of the planning board, the deed to such parcel or parcels shall include the following:

1. A statement indicating that any proposed structure on the lot shall comply with F.A.A. height restrictions.
2. Notification that the lot is located within an Airport Environs Overlay District and is subject to aircraft overflights.

## ARTICLE XII WATER RESOURCES PROTECTION OVERLAY DISTRICT

### **Section 1 – Purpose**

- A. The purposes of this Water Resources Protection Overlay District (WRPOD) are:
1. To promote the health, safety and general welfare of the community;
  2. To preserve and maintain the existing and potential groundwater supplies, aquifers and groundwater recharge areas of affected municipalities and to protect them from adverse development or land use practices;
  3. To preserve and protect present potential sources of drinking water supply for the public health and safety;
  4. To prevent blight and the pollution of the environment.

### **Section 2 – Application**

For all construction, reconstruction or expansion of existing buildings or uses within the Water Resources Protection Overlay District the provisions of this article shall apply.

### **Section 3 – Definitions**

A. **AQUIFER** – a geological formation composed of rock, sand and gravel that is potentially capable of producing a minimum of four hundred (400) gallons per minute of potable water.

B. **DISCHARGE** – the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of toxic or hazardous material upon or into any land or waters within the City of Worcester. Discharge includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site sewage disposal system, dry-well, catch basin or unapproved landfill. The term “*discharge*” as used and applied in this Ordinance does not include the following:

1. Proper and approved disposal of any material in a sanitary or industrial landfill within the Water Resources Protection Overlay District which has and maintained all necessary approvals for that purpose.
2. Application of road salts in conformance with the Snow Ice Control Program of the Massachusetts Department of Public Works and Worcester’s Department of Public Works Snow Manual, or for private purposes.



3. Disposal of sanitary sewerage to subsurface sewage disposal systems as defined and permitted by **Title V** of Massachusetts Environmental Code, and any amendments made thereto by City Ordinance or Health Regulation.

**C. DISPOSAL** – the deposit, injection, dumping, spilling, leaking, incineration or placing of any hazardous material into or on any land or water so that hazardous material or any constituent thereof may enter the environment or be emitted into the air resulting in discharge to any waters, including ground water.

**D. EARTH EXCAVATION** – the removal of earth including soil, loam, sand, gravel, clay, stone, quarried rock or other subsurface products except water.

**E. GROUNDWATER** – all the water beneath the surface of the ground.

**F. HAZARDOUS MATERIALS** – as defined in **M.G.L. Ch. 21E**, means material including but not limited to any material, in whatever form, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare or to the environment when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term shall also include those substances which are included under **42 USC Sec. 9601 (14)**, but is not limited to those substances. Any substance deemed a “*hazardous waste*” in Mass. General Laws **Ch. 21C** shall also be deemed a hazardous material for purposes of this Ordinance.

**G. HAZARDOUS WASTE** – as defined in **M.G.L. Ch. 21C** means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare of the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed, however not to include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under **Section-402** of the Federal Water Pollution Control Act of 1967 as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy acts of 1954.

**H. IMPERVIOUS SURFACE** – material above or on the surface of or immediately occurring within twelve (12) inches of the surface of the ground, that does not allow water to penetrate into the soil below. An impervious surface shall include but not be limited to all buildings, parking areas, driveways, roads, sidewalks and areas of concrete or asphalt, except where runoff from impervious surfaces is recharged on-site and diverted to areas allowing for surface infiltration to the maximum extent possible.

**I. RECHARGE AREAS** – areas composed of permeable, porous material that allow significant infiltration and collection of precipitation or surface water and thereby transmit this water to aquifers.

**J. SANITARY SEWAGE** – any water carried putrescible waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, showers, dishwashers or any other source.

**K. SOLID WASTE** – Unwanted or discharged solid material with insufficient liquid content to be free flowing. This includes, but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material, landscape refuse, sanitary landfill, junkyard, salvage, yard/automobile graveyard. Solid wastes are classed as refuse.

#### **Section 4 – Delineation of Water Resources Protection District**

- A. For the purpose of this Ordinance, there is hereby established within the City of Worcester an overlay district consisting of certain aquifer protection areas including zones of contribution and secondary recharge areas which are delineated on the zoning map and based on Aquifer Land Acquisition Maps, Delineation of Zones, Shrewsbury Well and Coal Mine Brook Wells, by IEP, Inc. dated October, 1983, at a scale of one (1) inch equals eight hundred (800) feet.
- B. Uses otherwise not permitted in the portions of a zoning district as superimposed shall not be permitted in this district.
- C. The Water Resources Protection Overlay District is defined as the aquifer zone of contribution and secondary recharge areas associated with the Coal Mine Brook Well (Quinsigamond Well) and Shrewsbury Well groundwater supplies.
1. The Zone of Contribution or GP-2 area is defined as the surface area which contributes water to each well under the most severe recharge and pumping conditions:
    - a) One hundred and eighty (180) days of continuous pumping at the safe yield during drought conditions. This area includes the “Cone of Depression” limits (where draw-down does not exceed 0.1 feet) and all up-gradient aquifer areas extended to the glacial till bedrock contact. This area also incorporates the area typically known as Zone 1, defined as the four hundred (400) foot radius located adjacent to each well.
  2. The Secondary Recharge area or GP-3 area is defined as the surface and/or groundwater drainage area as determined by topography and geology which contributes surface and/or groundwater flow into the GP-2 or Zone of Contribution area.
- D. For parcels located partially in the Water Resources Protection Overlay District or split between two (2) zones, the provisions of Section 5 apply to the individual portion of the parcel affected.

**TABLE 12.1-WATER RESOURCES PROTECTION OVERLAY DISTRICT USE REGULATIONS**

	<b><u>REGULATED USE</u></b>	<b>ZONE</b>	
		<b><u>GP-2</u></b>	<b><u>GP-3</u></b>
1.	Disposal of Hazardous Materials	N	N
2.	Manufacture, generation or storage of hazardous materials in containers greater than five (5) gallons, except for indoor storage of liquid petroleum products for heating or power generation purposes within the same building.	N	SP
3.	Generation, treatment or storage of hazardous waste	N	SP
4.	In-ground storage of hazardous materials.	N	SP
5.	Sanitary landfill, junkyard, salvage yard/or other Solid waste disposal.	N	SP
6.	Uses which discharge processed wastewater on-site, any commercial or service use discharging on-site wastewater containing contaminants other than sanitary sewerage.	N	N
7.	Application of pesticides and herbicides for non-agricultural and non-residential uses.	SP	SP
8.	Open storage of ice control chemicals in quantities greater than one (1) ton.	N	SP
9.	Disposal of snow containing deicing chemicals.	N	SP
10.	Commercial earth excavation.	SP	SP
11.	Rendering impervious more than 20% of lot area.	SP	Y
12.	Public garage or commercial garage, car washes automotive paint shops and automotive shops.	N	SP
13.	Motor freight terminal.	N	SP
14.	Commercial boat service, repair and storage facilities.	N	SP
15.	Storage or landfilling of sludge or septage.	N	SP

16. Storage of commercial fertilizers and soil conditioners, including animal manures, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff and leachate. N SP

**Section 5 – Use Regulations**

- A. Within the Water Resources Protection Overlay District, the underlying district continue to apply, except that certain uses are prohibited where indicated by no (N) in **Table 12.1**, and require a special permit where indicated by an “SP” in **Table 12.1**, even where the underlying district is more permissive. Where there is no entry or a yes (Y) in the schedule, the underlying district requirements are controlling.
- B. Water Resources Protection Overlay District Summary of Use Regulations

*Refer to Table 12.1*

**Section 6 – Pre-existing Nonconforming Uses**

Notwithstanding any prohibition contained in the use regulations set forth in **Section-5**, any structure or use lawfully in existence on the effective date of this Article may be expanded, reconstructed, altered or changed by special permit issued by the Planning Board provided the Board finds that the expanded, reconstructed, altered or changed portion of the building meets the approved criteria set forth in **Section-7(C)**; provided that any such special permit shall be granted with the condition that any existing underground storage tanks located on the entire site shall be removed and may be replaced with above ground storage facilities that meet the approved criteria set forth in **Section-7(C)(5)(c)**.

**Section 7 – Special Permits**

A special permit shall be granted if the Planning Board determines that the intent of this Ordinance, as well as the specific criteria set forth below, are met. In making such determination, the Planning Board shall give consideration to simplicity, reliability and feasibility of the control measures proposed and the degree of threat to surface and groundwater quality which would result if the control measures were to fail.

A. Application

1. Each application for a special permit shall be filed with the Planning Board and in the manner and form indicated in its rules and regulations governing special permits. In addition, the applicant shall distribute copies of the application to the Department of Health & Human Services, Public Health Division and Code Enforcement Division, Department of Public Works & Facilities, Water Operations Division, Conservation Commission; Fire Department, and the Executive Office of the City Manager, Economic Development Division. The

applicant shall file with the City Clerk's Office an affidavit signed under the pains and penalties of perjury indicating the dates and departments to which the application was delivered.

2. In addition to the information required by the Planning Board's rules and regulations for special permits, each application shall also include the following:
  - a) A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, along with a description of measures proposed to protect from vandalism, corrosion, leakage and counter-measures.
  - b) A description of potentially toxic or hazardous wastes to be generated, indicating storage and disposal method.
  - c) Evidence of approval by the Massachusetts Department of Environmental Protection (DEP) of any industrial waste treatment or disposal system and of any wastewater treatment system over fifteen thousand (15,000) gallons per day capacity.
  - d) For in-ground storage of hazardous materials, evidence of qualified professional supervision of the system design and installation.
  - e) Evidence of approval and recommendations by the Chief of the Worcester Fire Department for the above ground or underground storage of any flammable, hazardous or toxic materials.
3. A site plan at a scale within the range of one (1) inch equals twenty (20) feet to one (1) inch equals one hundred (100) feet. The plan or plans shall be prepared by a Registered Professional Engineer or Professional Land Surveyor and shall include but not be limited to the following:
  - a) Existing property boundaries.
  - b) Existing and proposed topography at two (2) foot contour intervals.
  - c) Existing and proposed structures and buildings.
  - d) All facilities for surface drainage and erosion control, and calculations for the volume and rate of pre – construction and post – construction runoff from the site using either the Rational Method or Soil Conservation Service Method.
  - e) All impervious areas and those left in a natural state.

- f) Maximum seasonal groundwater elevation.
  - g) The type of all potential fill to be used on site.
4. The application shall contain an analysis of the site conditions and potential impact of the proposed project, the Zone of Contribution (GP-2) and/or Recharge Area (GP-3) by a qualified engineer or hydro-geologist.

B. Procedures

- 1. The following departments shall review, either jointly or separately, the application and shall submit its recommendations to the Planning Board: Department of Health & Human Services, Public Health Division and Code Enforcement Division; Department of Public Works & Facilities, Water Operations Division and Conservation Commission; Fire Department; and the Executive Office of the City Manager, Economic Development Division.
- 2. The Planning Board may retain the services of a qualified professional to determine what information is deemed necessary to reach a decision on an application, or to review information submitted by the owner or applicant and charge the owner or applicant for the cost of the investigation.

C. Approval Criteria

After notice and public hearing and after due consideration of the reports and recommendations of the Department of Health & Human Services, Public Health Division and Code Enforcement Division; Department of Public Works & Facilities, Water Operations Division and Conservation Commission; Fire Department; and the Executive Office of the City Manager, Economic Development Division, the Planning Board, in addition to the standards of review required under Article II, may grant such a special permit provided that it finds that the proposed use:

- 1. Will not degrade the groundwater quality at the boundaries of the premises below existing levels.
- 2. Is in harmony with the purpose and intent of this Ordinance and does not denigrate from the purposes of the Water Resources Protection Overlay District.
- 3. Will not, during construction or thereafter, have an adverse environmental impact on the Zone of Contribution (GP-2) or Secondary Recharge Area (GP-3)
- 4. Will not adversely affect an existing or identified potential public water supply within the Water Resources Protection Overlay District.
- 5. Will meet the following standards:

- a) Any earth removal or land disturbing activity within the GP-2 zone of the overlay district may not be closer than four (4) feet above the historic high water elevation. Such earth removal or grading must employ appropriate measures to control erosion and siltation.
- b) All fill material must be clean and free from hazardous materials, construction debris and other material whose leachate would be a potential contamination hazard to ground or surface waters.
- c) Hazardous materials stored aboveground must be located on an impervious surface. The storage area must be equipped with a secondary containment system to prevent the material from reaching ground or surface water in the event of a leak or spill. The containment system must be able to contain one hundred and ten (110) percent of the tank's contents.
- d) Appropriate measures must be taken to ensure that any increase in storm-water runoff is artificially recharged into the ground. This may be done through such methods as dry wells, infiltration trenches, retention basins, etc.
- e) All storm-water management facilities must be designed for the twenty-five (25) year storm and designed to ensure that the rate and amount of runoff leaving the site does not exceed the rate and amount of runoff in the predevelopment state. Facilities for runoff from paved areas shall include structures for trapping oil, gas and other containments before recharge into the ground. These facilities shall be maintained by the owner on a not less than an annual basis.

## **ARTICLE XIII FLEXIBLE PARKING OVERLAY DISTRICT**

### **Section 1 – Purpose**

- A. The purposes of the Flexible Parking Overlay District (FPOD) are:
1. To promote the health, safety and general welfare of the community.
  2. To promote the concentration of restaurants as a compatible land use by establishing a flexible off-street parking approval procedure.
  3. To reduce the amount of land devoted to restaurant parking areas in a manner that is compatible with abutting uses.
  4. To enhance the pedestrian environment and improve site layouts of restaurant properties.

### **Section 2 – Application and Jurisdiction**

- A. The provisions of this article apply to all restaurant uses within the FPOD.
- B. The planning board, by special permit, shall have the authority to modify the number, dimensions, layout, and landscaping requirements for off-street parking, off-street loading requirements, and/or authorize shared parking arrangements with non-residential uses subject to the provisions of Section 3.
1. The number of required off-street parking spaces may be reduced up to a maximum of seventy-five percent of the requirements otherwise required by Article IV, Table 4.4.
  2. An application for a special permit to reduce the number of required parking spaces shall be accompanied by a parking analysis that demonstrates, to the satisfaction of the planning board, that a sufficient number of on-street parking spaces are available to support the applicant's requested reduction.
  3. All restaurants utilizing a significant number of on-street or remote off-site parking spaces may be required to provide valet parking during peak hours of operation.

### **Section 3 – Shared Off-Street Parking**

- A. Notwithstanding anything to the contrary in Article IV, Section 7(1)(E)(1), the planning board, by special permit, either in conjunction with a request for a reduction in the number of required off-street parking spaces hereunder or independent thereof, shall have the authority to



allow a restaurant use within the FPOD to share the off-street parking facilities of a non-residential use within the FPOD subject to the following restrictions.

1. On-site Shared Parking

Where multiple uses occupy the same lot, a restaurant use may utilize the off-street parking spaces otherwise require for the non-restaurant use(s) upon a finding by the Planning Board that the peak parking demand of the uses sharing parking spaces are sufficiently staggered to provide adequate off-street parking for each use.

2. Off-site Shared Parking

A restaurant use may utilize the off-street parking spaces of a non-residential use located within one thousand feet of the restaurant use upon the following findings by the Planning Board:

- a) The restaurant use provides a minimum of twenty-five percent of its required off-street parking dedicated solely to the restaurant use (i.e., non-shared parking).
- b) The hours of operation of the uses sharing the parking facility are staggered such that the shared parking arrangements provide adequate off-street parking for each use.
- c) The restaurant use either owns or has, at a minimum, a five year lease agreement to use the lot for shared parking. Proof of ownership or lease shall be presented to the Planning Board.
- d) Existing legally permitted restaurants, as of right, may utilize shared parking arrangements provided that they yield a net increase in the number of parking spaces, and that they are in accordance with Section 3(A)(2)(a) and (b) of this Article. Documentation of these arrangements must be filed with the Division of Planning & Regulatory Services.

**Section 4 – Special Permit Duration**

- A. Where shared parking is provided on a separate lot owned by the restaurant use, the special permit shall be conditioned on the restaurant use’s continued ownership of such lot.
- B. Where shared parking is provided on a separate lot pursuant to a lease agreement, the special permit shall be conditioned subject to a time limit that is co-terminus with the lease term.

## **Section 5 – Establishment of Flexible Parking Overlay District Zones**

A Flexible Parking Overlay district (FPOD) is hereby established. The boundaries of the FPOD are shown on the Official Zoning Map.

## **Section 6 – Review Standards**

- A. In addition to the special permit review criteria under **Article II** of this Ordinance, the Planning Board shall also review the special permit application for conformance with the following planning and design objectives.
1. Whether the proposed modifications furthers the objectives of the FPOD.
  2. The relationship of the modifications to other planning considerations for the area and the city of Worcester as a whole, including the plans, programs and policies of the various departments and agencies of the city.
  3. The impact of the required modifications on neighborhood properties.
  4. Whether the restaurant use, with the requested modifications, will have adequate parking, through a combination of on-street and off-street parking.
  5. Whether any shared off-street parking arrangements will effectively provide sufficient parking for the uses proposed.
- B. An application for a special permit shall be accompanied by such plans and information as are otherwise required in connection with the parking plan approval process set forth in **Article IV, Section-7**. Any project which receives a special permit under this article shall be deemed to have also received, where applicable, its parking plan approval for purposes of **Article IV, Section-7**.

## ARTICLE XIV ARTS OVERLAY DISTRICT

### **Section 1 – Purpose**

- A. The purposes of the Arts Overlay District (AOD) are:
1. To promote the health, safety and general welfare of the community.
  2. To promote the expansion of commercial art and craft activities as a compatible land use within the AOD.
  3. To enhance the environment and improve site opportunities for commercial art and craft activities within the AOD.

### **Section 2 – Establishment of Arts Overlay District Zone**

An Arts Overlay District (AOD) is hereby established as an overlay district. The boundaries of the AOD are shown on the Official Zoning Map.

### **Section 3 – Application and Jurisdiction**

The provisions of the Arts Overlay District (AOD) apply to all uses that produce works of art or craft within the AOD, as specified in the Loft, Commercial Artist definition in **Article I, Section-2** of this ordinance.

### **Section 4 – Permitted Uses in Arts Overlay District Zone**

All uses permitted in the underlying zone whether in Manufacturing (MG-2.0), Business (BG-3.0, BL-1.0) or Residential (RG-5) zones, as provided in **Article IV (Table 4.1)** are permitted uses in the Arts Overlay District Zone, except as otherwise provided in this article. Works of art or crafts may be sold from all commercial artist lofts in the Arts Overlay District, regardless of the underlying zone.

Dimensions, Non-conforming Structures and Change of Use-Within the Arts Overlay District, in buildings in which a minimum of 50% of the building gross floor area is devoted to Commercial Artist Loft usage as defined in **Article I, Section-2** of this Ordinance, interior and structural alterations and repairs may be made even though at the time of the application for the building permit for the alteration or repair, the lot or structure do not conform to one or more of the dimensional requirements in this Ordinance; provided, however, that the alteration does not amount to an extension or expansion of the exterior of the structure except for alterations to conform to the building code for safety purposes.

Adult Entertainment Establishments as defined as in **Article I, Section-2**, of this Ordinance are prohibited in the Arts Overlay District Zone unless allowed in the underlying district.

## **Section 5 – Parking Requirements**

Required parking for buildings in the Arts Overlay District of which a minimum of 50% of the building gross floor area is devoted to Commercial Artist Loft usage, as defined in **Article I, Section-2**, in this Ordinance, shall be not less than one (1) parking space per 1,000 square feet of gross floor area.

In addition, notwithstanding anything to the contrary contained in **Article IV, Section-7**, the Planning Board shall be authorized to grant a special permit to modify parking, loading requirements, dimensional requirements for off-street parking at loading areas, layout requirement and the number of required spaces, up to a maximum of seventy-five percent of the requirements otherwise set forth herein. This provision shall only apply to buildings in the Arts Overlay District of which a minimum of 50% of the building gross floor area is devoted to Commercial Artist Loft usage as defined in **Article I, Section-2**, of this Ordinance.

## ARTICLE XV ADAPTIVE REUSE OVERLAY DISTRICT

### **Section 1 - Purpose**

- A. The purposes of the Adaptive Reuse Overlay District (AROD) are:
1. Provide for the coordinated and mixed development of residential, business, industrial, manufacturing and institutional uses;
  2. Encourage adaptive reuse of abandoned, vacant or underutilized business or manufacturing buildings or structures;
  3. Create major new mixed used areas in planned locations at appropriate densities, heights and mixtures of use; and
  4. Encourage flexibility in architectural design, restoration and building bulk.

### **Section 2 - Establishment of Adaptive Reuse Zones**

The Adaptive Reuse Overlay District is hereby established as an overlay district. The boundaries of the Adaptive Reuse Overlay District are shown on the official Zoning Map.

### **Section 3 - Permitted Uses in the Adaptive Reuse Overlay District**

- A. The following uses are permitted in the Adaptive Reuse Overlay District:
1. All uses permitted in the underlying zones whether in Manufacturing (MG, ML), Residential, General - 5.0 (RG-5.0), Business (BO, BL, BG), or Institutional (IN) zones, as provided in **Article IV (Table 4.1)** are permitted uses in the Adaptive Reuse Overlay Zone;
  2. Multi-family dwelling, high rise;
  3. Multi-family dwelling, low rise;
  4. Dormitories; and
  5. Single family semi-detached dwelling and by Special Permit:
    - a) Food service excluding consumption/sale of alcohol beverage
    - b) indoor recreation, health club – profit
    - c) retail sales, including retail with incidental fabrication assembly.

Adaptive Reuse Developments which utilize the provisions of this Article relative to use, parking or dimensional controls shall require a special permit from the Planning Board.

#### **Section 4 - Non-conforming Structures**

Within the Adaptive Reuse Overlay District, interior and structural alterations and repairs may be made to existing buildings or structures even though at the time of the application for the building permit for the alteration or repair, the lot, building or structure does not conform to one or more of the dimensional requirements in this Ordinance; provided, however, that the alteration does not amount to an extension or expansion of the exterior of the structure except for alterations to conform to the building code for health and safety purposes. For all new structures or buildings, the dimensional requirements of the underlying zoning district shall apply and, if applicable, to the extent that the dimensional requirements vary dependent upon the use of the building, the predominant use based upon gross floor area utilized shall govern.

#### **Section 5 - Parking Requirements**

A. For all new buildings and structures, the parking requirements of **Table 4.4** of this Ordinance shall apply;

B. For reuse or substantial restoration of existing buildings or structures within the Adaptive Reuse Overlay District, the parking requirement of **Table 4.4** of this Ordinance shall apply with the following exceptions:

1. All residential parking shall require 1.5 parking spaces for each dwelling unit; and
2. Office, professional/general shall require one (1) parking space for every 500 square feet of gross floor area.

C. In addition, notwithstanding anything to the contrary contained in **Article IV, Section-7**, the Planning Board shall be authorized to grant a special permit to modify parking, loading requirements, dimensional requirements for off-street parking and loading areas; layout requirements and the number of required spaces in conjunction with the grant of a special permit pursuant to **Section-3** of this Article. This provision shall only apply to uses in the Adaptive Reuse Overlay District which are located in buildings or structures in existence as of October 22, 2002. Per the **Article IV, Table 4.4 Notes** the required number of spaces cannot be reduced below (1) space per dwelling unit.

## ARTICLE XVI GENERAL APPLICATION OF REGULATIONS

### **Section 1 – General Applicability**

- A. The provisions of this Ordinance shall apply to all buildings, structures and land uses; provided, however, that as specified in **M.G.L., Ch. 40A**, nothing herein contained shall regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a non-profit educational corporation, or by a non-profit corporation with educational purposes, provided, however, that such land or structures shall be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements as provided herein, including the Institutional District and the application of such other dimensional controls as are applicable in other districts. Nor shall anything in this Ordinance be deemed or construed to apply to or control land uses, buildings, or structures otherwise, exempted by law from the application of zoning regulations. Except as may be otherwise specified herein, no building, structure or lot may be maintained or used unless in conformity with the provisions of this Ordinance.
- B. No building, structure or part thereof may be erected, reconstructed, extended, enlarged, or altered within the exterior lines of existing public rights of way, proposed new or widened public rights of way or municipal parks as shown on the Official Map of Worcester. For the purposes of determining yard depth such exterior lines shall be considered as the street lines. This section shall not apply to the location of voting booths, fire escapes and buildings on land owned by the United States or the Commonwealth of Massachusetts.

### **Section 2 – Exemptions**

- A. Single Lots  
Any increase in area, frontage, width, yard or depth requirements of this Ordinance shall not apply to a lot for single and two family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage. The provisions of this paragraph shall not be construed to prohibit a lot being built upon, if at the time of the building, building upon such lot is not prohibited by the Ordinance in effect in the city of Worcester.
- B. Definitive Plans  
If a definitive plan, or preliminary plan (as defined in **M.G.L. Ch. 41**) followed within seven (7) months by a definitive plan, is submitted to the Planning Board for approval under the Subdivision Control Law, and written notice of such submission has been given to the City Clerk before the effective date of this Ordinance or any subsequent

amendments hereto, the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of the first such submission while such plan or plans are being processed under the Subdivision Control Law, and, if such definitive plan or an amendment thereof is finally approved, for eight (8) years from the date of the endorsement of such approval.

C. Approval Not Required Plans

When a plan referred to in **Section 81P of MGL Chapter 41** (approval of plans not subject to subdivision control law procedure) has been submitted to the Planning Board and written notice of such submission has been given to the City Clerk, the use of the land shown on such plan shall be governed by applicable provisions of the Zoning Ordinance in effect at the time of the submission of such plan while such plan is being processed under the Subdivision Control Law including the time required to pursue or await the determination of an appeal referred to in said section, and for a period of three (3) years from the date of endorsement by the Planning Board that approval under the Subdivision Control Law is not required, or words of similar import.

D. The provisions of this Ordinance shall not apply to the City of Worcester in the carrying out of any of its functions except for the provisions of **Article XII**, Water Resources Protection Overlay District.

**Section 3– Exceptions**

A. Provided it is not otherwise nonconforming, a structural alteration, repair or extension of an existing one (1), two (2) or three (3) unit residential use may be made although at the time of application for the building permit for said alteration, repair or extension, the lot or building do not conform to one (1) or more of the dimensional requirements of this Ordinance; provided, however, that there be no change of use and, in the case of extension (except for the enclosure of a porch in existence on the effective date of this Ordinance) no such extension shall be located nearer than eight (8) feet from any side or rear lot line, and no such extension shall be erected within a required front yard.

B. Provided it is not otherwise nonconforming, an institutional or public service building or group of such buildings on one lot may be altered, enlarged or supplemented by a new building to a floor area ratio fifty percent (50%) greater than the maximum permitted in **Article IV** and subject to Site Plan Review under **Article V**.

C. Provided it is not otherwise nonconforming, any business or manufacturing building or group of such buildings on one lot in existence on the effective date of the Ordinance, may be altered, enlarged or supplemented by a new building to a floor area ratio fifty percent (50%) greater than the maximum permitted in **Article IV** and subject to Site Plan Review under **Article V**.

D. Adjoining land, provided it is in the proper zone, may be used for the expansion of commercial and industrial properties lawfully in existence on the effective date of this



Ordinance, subject to the dimensional controls of **Article IV** and subject to Site Plan Review under **Article V**.

- E. An extension of a residential use in a Manufacturing district may be made provided that such extension or enlargement shall be located no nearer than eight (8) feet from any side lot line or rear lot line.
- F. A bay window, balcony, open porch not over one-half (1/2) the length of the wall, chimney, flue or fire escape may project into a required yard up to four (4) feet. Belt courses, leaders, sills, pilasters or similar features may project not more than one (1) foot, and cornices, eaves, and gutters not more than two (2) feet into the required yard. In no case, however, may any such projection come within ten (10) feet of a side lot line in the case of a wood frame building in the fire district, otherwise, no closer than within five (5) feet of a side lot line, or ten (10) feet from a rear lot line, or in accordance with the State Building Code, whichever is greater.
- G. Private garages (separate from main building) are permitted within the required front yard area in Residence districts by special permit when the difference in grade between the street and a conforming location for said private garage on the lot would require a driveway grade in excess of ten (10) percent, such determination to be made by the Director of Code Enforcement.
- H. The provisions of this Ordinance governing the height of buildings do not apply to chimneys, water tanks or towers, cooling towers, elevator bulkheads, skylights, ventilators and other necessary appurtenant features usually carried above roofs, excluding signs; nor to domes, towers, stacks or spires if such features are not used for human occupancy; nor to ornamental, observation, broadcasting and other like structures. Such structures may be erected in excess of height limits only to such height and to such extent as are necessary to accomplish the purposes they are normally intended to serve. They may not occupy in the aggregate more than ten (10) percent of the lot area nor twenty (20) percent of the roof area at the level on which they are built. In Residence districts they may not be erected closer to any lot line than one-third (1/3) of the height of the structure above grade at that point on the lot line nearest to such structure.
- I. A campus or a contiguous area of land may be considered as one lot and under one ownership for the purposes of compliance with the dimensional parking, loading and other requirements of this Ordinance where there is management, lease or ownership control that will provide evidence sufficient in the opinion of the Director of Code Enforcement that a grouping of contiguous tracts of real estate is designed, constructed and will continue to be operated and maintained as a single unit in accordance with an agreement executed by all parties having an interest in the parcel of land which agreement will be filed with the Director of Code Enforcement and recorded in the Worcester County Registry of Deeds as part of the deed for each element of the tract.
- J. Provided it is not otherwise nonconforming, where a lot or structure is reduced by a taking by eminent domain to a size not in conformity with the dimensional requirements

of this Ordinance, said use shall not be deemed nonconforming by reason thereof, and shall be treated as a dimensionally conforming use under this Ordinance.

- K. For each foot by which a recorded lot in existence on the effective date of this Ordinance is narrower than the required width or narrower than fifty (50) feet where no minimum frontage is required, three (3) inches may be deducted from the required side yard setback provided that no side yard setback be less than seven (7) feet where a side setback is required by this Ordinance. For each foot by which a recorded lot in existence on the effective date of this Ordinance is less than one hundred (100) feet deep, one (1) foot may be deducted from the required rear yard set back provided that no rear yard setback may be less than ten (10) feet.
- L. In districts of a 2.0 or greater floor area ratio, where a rear lot line abuts a public street, private street, or a way at least ten (10) feet wide, no rear setback is required.

#### **Section 4– Nonconforming Uses and Structures**

- A. This Ordinance, and any amendment hereto, shall not apply to pre-existing lawfully created uses or structures, but shall apply to:
  - 1. any change or substantial extension of such use; and
  - 2. any building or special permit issued after the first advertisement of the public hearing required under **M.G.L. c. 40A, § 5**; and
  - 3. to any reconstruction, extension or structural change of a structure; and
  - 4. to any alteration of a structure begun after the first advertisement of the public hearing required under M.G.L. c. 40A, §5 to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.
- B. Provided, further, that this Ordinance, and any amendment hereto, shall not apply to:
  - 1. any alteration, extension or structural change to a single or two-family residential structure where such action(s) does not increase the nonconforming nature of said structure; and
  - 2. any building permit issued for the purpose of strengthening or restoring to a safe condition any building or part thereto declared unsafe by the Director of Code Enforcement.
- C. Privileged Nonconforming Uses (Nonconforming because the activities or operations on the property are not allowed in the zoning district)

1. Privileged nonconforming uses may be extended, altered or changed upon the grant of a special permit by the Zoning Board of Appeals that:
    - a) the extension, alteration or change itself complies with the current requirements of this Ordinance; and
    - b) the use, as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing nonconforming use; and
    - c) in residential districts, the use as extended, altered or changed shall meet the off-street parking requirements of this Ordinance.
  2. Notwithstanding anything to the contrary in the preceding Section-4(C)(1) a privileged nonconforming use may be changed to provide for a different nonconforming use but such change shall be limited to nonconforming uses of a similar nature and the provisions of Sections 4(C)(1) and 4(C)(3) must be satisfied, as applicable.
  3. The change of a privileged nonconforming use to a use that is an allowed use (not specially permitted) in the zoning district is a change that is allowed as of right, provided it is not a change to a privileged nonconforming structure as well. If the locus is also a privileged nonconforming structure, the provisions of Section D, below, must be satisfied.
  4. The change of a privileged nonconforming use to a use that is allowed in the zoning district by special permit shall require the grant of such special permit by the applicable special permit granting authority.
- D. Privileged Nonconforming Structures (Nonconforming due to a failure to satisfy the dimensional requirements of the zoning district, including off-street parking requirements.)
1. Privileged nonconforming structures may be extended, altered or changed upon the grant of a special permit by the Zoning Board of Appeals that,
    - a) the extension, alteration or change itself complies with the current requirements of this Ordinance; and
    - b) the structure, as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing nonconforming structure; and
    - c) in residential districts, the continued use of the privileged nonconforming structure as extended, altered or changed shall meet the off-street parking requirements of this Ordinance.

E. Termination of Privilege

1. By Revision – If a privileged nonconforming use reverts to a use permitted in the district in which it is located, it may not be changed again to any use prohibited in the district. If a privileged nonconforming use is changed to a more restricted use, it may not be changed back to the previous use or to another nonconforming use.
2. By Destruction – If a privileged nonconforming use or structure is damaged or destroyed by explosion or other natural or non-natural disaster, such use or structure may be rebuilt or restored and used again as previously, provided the rebuilding or restoration is completed within two (2) years after the damage occurred. The structure as rebuilt may not be greater in volume or floor space than the original structure.
3. By Abandonment of Use or Structure – If a nonconforming use or structure is abandoned, it may not be rehabilitated thereafter. Unless the Director of Code Enforcement shall determine sooner, a use or structure shall be presumed abandoned if over a period of two (2) years the use and/or use of the structure has discontinued, except as to agriculture, horticulture, or floriculture where abandonment must be at least five (5) years.

F. Revival of the Privilege

Lawful nonconforming uses or structures which have lost their privilege by reason of destruction as set forth above, may be renewed upon the grant of a special permit from the Zoning Board of Appeals. Any such revival shall be limited in scope to the extent of the nonconforming use or structure at the time of its termination.

## ARTICLE XVII LEGAL EFFECT

### **Section 1 – Word Application**

1. For the purposes of this Ordinance, verbs used in the present include the future; the singular noun includes the plural and plural the singular; masculine pronouns include the feminine and the neuter.
2. The word “*building*” includes “*structure*” and shall be construed as being followed by the words “*or part thereof*”; the verb “*occupied*” includes the words “*designed, arranged or intended to be occupied.*” Where the verb “*use*” is employed, it shall be construed as if followed by the words “*or is intended, arranged designed, built, altered, converted, rented or leased to be used.*”
3. The word “*shall*” is mandatory and not directory.
4. All distances and areas refer to measurements in a horizontal plane and are to be accurate only to the nearest foot for distance measurement.
5. The words “*this Article*” and/or “*this Ordinance*” shall include amendments including amendments to the Zoning Map.

### **Section 2 – Amendments**

No change or amendment to this Ordinance shall be adopted until after the Planning Board and the City Council (or a committee of the same designated or appointed for the purpose) have held hearings required by law. (M.G.L. Ch. 40A, §5) Following hearings, no change shall be adopted except by a two-thirds (2/3) vote of all the members of the City Council; provided, that if there is filed with the City Clerk prior to final action by the City Council written protest against such change, stating the reasons, duly signed by the owners of twenty percent (20%) or more of the area proposed to be included in such change, or of the area of the land immediately adjacent, extending three hundred (300) feet there-from, no such change of the Ordinance shall be adopted except by a three-fourths (3/4) vote of all the members of the City Council. (M.G.L. Ch. 40A, §5)

When an amendment to this Ordinance or a change in the districts or their boundaries occurs subsequent to the date this Ordinance becomes effective, the right to continue to use or maintain any building, structure or premises which was lawful when such amendment or change became effective shall not be impaired by any such amendment or change, except as provided in Chapter 40A of the General Laws.

### **Section 3 – Repeal/Validity of Prior Action**

As of the effective date of this Ordinance the previously existing Zoning Ordinance of the City of Worcester is hereby repealed. Any existing Ordinances or such parts thereof as may be inconsistent herewith are also hereby repealed. Except as otherwise provided in **Chapter 40A** of the General Laws, the adoption of this Ordinance shall not affect the validity of any action lawfully taken under the provision of the Ordinance in effect prior to the date this Ordinance becomes effective.

#### **Section 4 – Statutory References**

References to the Massachusetts General Laws, wherever they appear in parentheses in this Ordinance, are not a part of this Ordinance, but are inserted for purposes of assistance and reference only.

#### **Section 5 – Marginal Notes and Illustrations**

Marginal notes and illustrations, wherever they appear in this Ordinance, are not a part of this Ordinance, but are inserted for purposes of assistance and reference only.

#### **Section 6 – Severability**

It is hereby declared to be the intention of the City of Worcester that nothing in this Ordinance shall be construed to conflict with the laws of the Commonwealth of Massachusetts or to limit additional requirements, if any, imposed by law. This Ordinance and the various Articles, sections, paragraphs, sentences, clauses or phrases are severable. If any Article, section, paragraph, sentence, clause or phrase of this Ordinance shall be declared unconstitutional by the decree of any court of competent jurisdiction, such constitutionality shall not affect any of the remaining Articles, sections, paragraphs, sentences, clauses or phrases of this Ordinance.