

**City of Methuen, Massachusetts**  
**Comprehensive Zoning Ordinance**



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\* Editor's note—City Ordinance No. 823 Comprehensive Zoning Ordinance of 2008, was passed on July 28, 2008, and its effective date is July 28, 2008. Amendments to this Zoning Ordinance, if any, are listed in Appendix E.

## **Section I TITLE, AUTHORITY, AND PURPOSE**

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### **Section I-A – Short Title**

This Ordinance shall be known and may be cited as the “Comprehensive Zoning Ordinance of 1989”, hereinafter referred to as “this Ordinance”.

### **Section I-B - Authority**

This Zoning Ordinance is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto.

### **Section I-C - Purpose**

These regulations are enacted to promote the general welfare of the City of Methuen, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the City, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the City and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by, but not limited to, the provisions of the Zoning Act, G.L. c. 40A, as amended, Section 2A of 1975 Mass. Acts 808, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### **Section I-D - Scope**

For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the City are regulated hereinafter provided.

Whenever any requirements hereunder differ from those prescribed by any statute, ordinance or other regulation, the provision which imposes the greatest restriction or higher standard shall govern.

### **Section I-E - Applicability**

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the City, shall be in conformity with the provisions of the Zoning Ordinance. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Where the application of this Ordinance imposes greater restrictions than those imposed by any

## SECTION I: TITLE AUTHORITY AND PURPOSE

other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this Ordinance shall control.

### **Section I-F - Amendments**

This Ordinance may from time to time be changed by amendment, addition, or repeal by the City Council in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

### **Section I-G - Separability**

The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision herein.

## **SECTION II** **DEFINITIONS**

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### **Section II-A - General**

The intent of this section is to provide definitions for certain terms, words and/or series of words which are to be utilized in the interpretation of this ordinance, whether or not the definition stated herein is contrary to common usage or contrary as quoted in a dictionary.

For the purpose of this Ordinance and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended", or "offered", to be used or occupied; the words "building", "structure", "lot", "land", or "premises" shall be construed as though followed by the words "or any portion thereof"; and the words "shall" is mandatory and directory, and "may" is permissive. Any word indicating sex, such as he or she, shall be construed to mean both sexes.

Terms and words not defined herein but defined in the Commonwealth of Massachusetts Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either this Ordinance or the Building Code shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary. Uses listed in the Table of Use Regulations under the classes Retail and Service Trades and Wholesale Trade and Manufacturing shall be defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

#### **The defined words and phrases are as follows:**

**Abandonment:** The cessation of an existing use of a structure or lot for twenty-four consecutive months; or the replacement of a non-conforming use or structure by a conforming use or structure.

**Accessory Dwelling Unit (ADU):** A self-contained housing unit, inclusive of sleeping, cooking, and sanitary facilities on the same Lot as a Principal Dwelling, subject to otherwise applicable dimensional and parking requirements, that maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the Principal Dwelling sufficient to meet the requirements of the Building and Fire Code for safe egress. ADUs may be detached, attached, or internal to the Principal Dwelling.

**Accessory Structure:** A structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot. An Accessory Structure, except for a Shed, is limited to a maximum area size of 900 square feet and a maximum of one (1) story in height. Note that the one-story height restriction does not apply to an Accessory Dwelling Unit (ADU).

**Accessory Use:** A use customarily incidental to, and on the same lot, as a use permitted in a district, provided the accessory use is not injurious, noxious, or offensive to nor inconsistent with the character of said district.

**Adult Bookstore:** An establishment having a substantial or significant portion of its stock in trade, books, magazines, and other matters which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in Section Thirty-One of Chapter Two Hundred and Seventy-Two of the Massachusetts General Laws.

**Adult Entertainment Establishment:** Adult entertainment establishments are those establishments which feature live entertainment which consists of entertainers engaging in “sexual conduct” or “nudity” as defined in General Laws, Chapter 272, Section 31.

**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 General Laws, Chapter 272, Section 31.

**Alteration:** Any construction, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use or location of a building or other structure.

**Animal Groomer:** A place where animals are groomed and cared for on a daily basis but not boarded overnight.

**Animal Clinic or Veterinary Hospital:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the clinic or hospital use.

**Animal Kennel, Commercial:** A commercial establishment, in which four (4) or more dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold.

**Apartment Building:** A building designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways.

**Assisted Living Facility:** Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational activities, financial services, and transportation.

**Attic:** The part of a building, which is immediately below and wholly or partly within the roof framing.

**Automotive Car and/or Small Truck Rental Facility:** The use of any building or land area or other premises for the display and rental of new or used cars and/or small trucks not exceeding two (2) tons for rental to individuals or entities for short term use.

**Automobile, Driver Instruction School:** A facility training or instructing individuals to drive a motor vehicle of not more than four students at the same time.

**Automobile Wash:** Any building or premises or any portion thereof used for washing automobiles.

**Average Finished Grade:** The average of the finished ground elevation as measured at the corners of the structure. Only a maximum of four (4) main corners of the structure shall be used to determine the grade.

**Awning:** A roof-like covering, such as canvas, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from rain or sun.

**Basement** (*see Appendix A for diagram*): A portion of a building, partly below grade, which has more than one-half of its height, measuring from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four (4) feet six (6) inches or more above the average finished grade. A basement may be used for human occupancy.

**Bed and Breakfast Establishment:** Accommodations with not more than six (6) bedrooms occupied by Bed and Breakfast guests in which the owner of the establishment resides. Bed and Breakfasts are intended for guests on intermittent visits and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

**Billboard:** An off-premises sign controlled by the outdoor advertising board, which is used for the display of printed or painted advertising matter. No off-premises billboard, sign or advertising device shall be erected or maintained unless the height, setback and illumination requirements set forth herein are met and unless a permit therefore has been granted by the outdoor advertising authority in accordance with G.L. c. 93, ss. 29 through 33, as from time to time amended, and such permit is valid and outstanding.

**Boarding House:** A dwelling or part thereof in which lodging is provided by the owner or operator to at least three, but not more than six, boarders.

**Borrow Pit:** The excavation resulting in the removal of organic, inorganic or any other substance for use off-site.

**Buffer Screen:** See Landscape Requirements in section XII.

**Buffered Strip:** A strip of land intended to buffer uses on one lot from uses on an adjoining lot. Such strip shall include natural or planted vegetation sufficient to provide a visual and noise buffer satisfactory to the reviewing authority.

**Building:** A combination of any materials, whether portable or fixed, having a roof, enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons, animals or property. For purposes of this definition, "roof" shall include an awning or any similar covering, whether or not permanent in nature.

**Building Area:** The aggregate of the maximum horizontal cross sectional footprint area of all buildings on a lot, exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies, and terraces. Such cornices, eaves, gutters, chimneys, steps, unenclosed and uncovered porches, bay windows, balconies and terraces may extend beyond the minimum yard requirements as established in Section VI-D, but in no case shall such extension be in excess of five (5) feet beyond the minimum yard requirements.

**Building Coverage:** The building area expressed as a percent of the total lot area.

**Building, Detached:** A building having open space on all sides.

**Building Floor Space Area:** The cumulative gross floor space of all floors of all buildings on a lot.

**Building Commissioner:** The officially established zoning and building enforcement officer for the City of Methuen. The Building Commissioner may be appointed Zoning Administrator by the Board of Appeals in accordance with Section 13, Chapter 40A of the Massachusetts General Laws.

**Building Setback Line:** The line established by this ordinance, beyond which a building shall not extend, except as specifically provided by this ordinance.

**Building/Structure Non-conforming:** Any building or structure which does not conform to the dimensional requirements in this ordinance or to the parking and loading requirements of this ordinance for the district in which it is located; provided, that such building or structure was in existence and lawful at the time the applicable provisions of this or prior zoning ordinances became effective.

**Building, Principal:** A building in which is conducted the principal use of the lot on which it is located.

**Business Complex:** One or more buildings containing more than one type of allowed or allowable business uses more than 50,000 square feet or more of building floor space.

**Bus Station:** A Bus Station includes any location serving as a point of embarkation for any bus operated by a transit authority.

**Carport:** A roofed structure, unenclosed on two or more sides, which may serve as a shelter for motor vehicles.

**Cellar (see Appendix A for diagram):** A portion of a building, partly or entirely below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story and shall not be used for human occupancy.

**Certificate of Occupancy:** A statement signed by a Building Official, setting forth either that a building or structure complies with the Zoning Ordinance or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

**Clinic:** A facility used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room or are not kept overnight on the premises.

**Commercial Recreation and Entertainment, Indoor:** Theater or other place of commercial entertainment completely enclosed. A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly

shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit

**Commercial Recreation and Entertainment, Outdoor:** Drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, [not including sports producing noise and] except those activities more specifically designated in this ordinance.

**Commercial Greenhouse:** A building, whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

**Commercial Vehicle:** For the purpose of this Ordinance, any cart or wagon or any vehicle which is included in the definition of a motor vehicle given in Chapter 90 of the Massachusetts General Laws including but not limited to a passenger car or van on which is permanently affixed any writing to designate the business, or professional use or affiliation of said car or van, or any truck or other vehicle which would be classified other than a passenger vehicle for purposes of registration in the Commonwealth of Massachusetts, or an auto home or bus, but excluding a passenger car not marked for business use.

**Common Land:** A parcel or parcels of land within the site designated for a Planned Unit, Multi-Family or Attached Dwellings development, maintained and preserved for open uses, and designed and intended for the use or enjoyment of residents of such a development, but not including public or private parking areas or ways. Common land may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of such a development including walks, patios, benches, playground facilities, and terraced areas. Common Land may include a combination of Useable Open Space and Open Space Land, as defined herein.

**Community Development Board:** The Community Development Board is created under Section 3-11E(1) of the City of Methuen Code and serves as the Planning Board in accordance with G.L.c. 41 § 81K and under the provisions of G.L. c 40A in such instances as Planning Boards would act.

**Contractor's Yard:** A facility or area for storage, open or enclosed, for construction, landscaping or other related business, equipment or materials and commercial vehicles associated therewith.

**Court** (*see Appendix A for diagram*): An open, uncovered unoccupied space partially or wholly surrounded by the walls of a structure.

**Cutoff Angle:** The angle formed by a line drawn from the direction of the direct light rays at the light source with respect to the vertical, beyond which no direct light is emitted.

**Day Care Center:** A day care center or school age childcare program, as those terms are defined in M.G.L. c. 28A, s. 9. or any facility servicing seven or more clients and operated on a regular basis whether known as an elderly day care facility; or as a day nursery, nursery school,

kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name.

**Density Bonus:** The right to develop additional dwelling units per acre in exchange for providing affordable housing pursuant to a Special Permit issued by the Community Development Board as required hereunder.

**Direct Light:** Light emitted from the lamp, off the reflector or reflector diffuser or through the refractor or diffuser lens of a luminaire.

**District:** A zoning district as established by Section III of this Ordinance.

**Dormitory:** A dwelling, under the ownership or control of an educational, charitable or philanthropic organization which provides separate rooms or suites for the semi-permanent occupancy of individuals or groups of up to four individuals per room, with common bath and toilet facilities and without individual cooking facilities.

**Drive-Up Retail, Business or Service Establishment:** A business or commercial establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

**Driveway:** A portion of a lot, which may be paved, which is not more than twenty (20) feet in width and is built for access to a garage or off-street parking or loading space.

**Duplex House:** A house containing two dwelling units adjoining side by side; that is, in which no part of one dwelling unit is over any part of the other dwelling unit and which is totally separated from each other by an unpierced wall extending from the ground to the roof. A duplex house shall be considered as one (1) principal building occupying one (1) lot for the purpose of determining yard requirements.

**Dwelling, Family:**

- a. **Dwelling:** A structure or portion thereof that is used exclusively for human habitation. The terms “single-family”, “two-family”, or “multi-family” dwelling shall not include hotel, lodging house, hospital, membership club, mobile home, or dormitory.
- b. **Dwelling Unit:** A single-housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. This can include a housing unit within a single-family, duplex, or multi-unit development.
- c. **Single-Family Residential Dwelling Unit:** a structure on a Lot containing not more than one Dwelling Unit.
- d. **Single-Family Dwelling (without a separate lot):** a detached dwelling designed for single-family occupancy and developed on an approved special permit lot in conjunction with other detached and/or Attached Dwellings.
- e. **Two-Family Dwelling:** A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from the ground to roof or any unpierced ceiling and floor extending from exterior wall to exterior wall,

except for a common stairwell exterior to both units or a pair of semi-detached single-family dwellings.

- f. **Multi-Family Housing:** A building with three or more residential dwelling units in each building.
- g. **Attached Dwelling:** a building arranged, intended and designed to be occupied as a residence and separated from another Attached Dwelling on one or both sides either by a vertical party wall or walls without side yards. Also referred to as town houses or row houses.

**Educational Use, Exempt:** Use of land or structures for educational purpose exempt from regulation pursuant to M.G.L. c. 40A, s. 3. Those educational facilities that are located on land owned or leased by the Commonwealth, or any of its agencies or subdivisions or body politic, or by a religious sect of denomination, or by a nonprofit educational corporation.

**Educational Use, Nonexempt:** Educational facilities not exempted from regulation by M.G.L. c. 40A, s. 3.

**EOHLC:** The Executive Office of Housing and Livable Communities.

**Erected:** The word erected shall include the words attached, built, constructed, reconstructed, altered, enlarged and moved.

**Essential Services:** Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply or disposal systems whether underground or overhead. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith.

Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety, or general welfare.

**Family:** Any number of persons related to one another by blood, marriage, adoption, or foster care placement, including spouses, children, parents, and grandparents, or no more than four unrelated individuals, all residing together in a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**Family Day Care Home, Small:** Any private residence operating a facility as defined in M.G.L. c. 28A,§9, as amended. Any private residence which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence. Small Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

**Family Day Care Home, Large:** Any private residence operating a facility as defined in M.G.L. c. 28A, s.9, as amended, which, on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs, and receives for temporary custody and care for a limited number of hours, children of school age in accordance with regulations promulgated by the office; provided, however, that the number of children under the age of sixteen in a large family day care home shall not exceed ten, including participating children living in the residence. Large family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore.

**Fixture:** The assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor, lens, or diffuser lens.

**Flood line:** The limits of flooding from a particular body of water caused by a 100 year storm event. Said flood line to be relocated by the Federal Emergency Management Agency or like agency.

**Frontage, Lot:** The continuous portion of the line separating a lot from a street to which the owner of the lot has a legal right of access and to which the owner could provide for vehicular access from the principal building or a required parking space. When a lot is bounded by more than one street, both frontages and setbacks shall meet the minimum frontage and front yard setbacks. However, in the case of a lot bounded by two streets forming an interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

**Frontage, Street:** A Street that provides the required lot frontage for a building. When a lot is bounded by more than one street any one of them, but only one, shall be designated as the frontage street by the Building Commissioner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two streets forming on interior angle or more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirements.

**Garage, Private:** Any building or portion of a building, accessory to and located upon the same lot as a residential building or upon a lot in the same ownership and adjacent to the lot on which the served residential building is located, which is used for keeping of a motor vehicle or motor vehicles and is limited to a maximum area size of 900 square feet and a maximum of one (1) story in height. If the buildable area of the property is 3 acres or more and does not have more than 25% lot coverage, the detached garage, in a rear yard, is allowed to be up to 2000 square feet. The structure is to be used for residential use only.

**Garage, Public:** Any building used for the keeping of motor vehicles in which a business dealing with the storage of such vehicles is maintained either for profit or public service. Such business shall not involve the repair or servicing of any motor vehicles.

**Glare:** Light emitted from a luminaire with intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

**Gross Floor Area:** The sum of the areas of all stories of the building of compliant ceiling height pursuant to the Building Code, including basements, lofts, and intermediate floored tiers, measured from the interior faces of exterior walls or from the centerline of walls separating buildings or dwelling units but excluding crawl spaces, garage parking areas, attics, enclosed porches, and similar spaces. Where there are multiple Principal Dwellings on the Lot, the GFA of the largest Principal Dwelling shall be used for determining the maximum size of a Protected Use ADU.

**Gym/Health Club:** A facility for the purpose of athletic fitness and/or exercise in which individuals can participate singularly or in a group activity.

**Height of Building:** The vertical distance of the highest point of the roof above the average grade of the curb line abutting the property. However, in residential zoning districts where the lot has a slope in excess of five (5) percent, the height is the vertical distance of the highest point of the roof above the average finished grade of the ground adjoining the building, as computed before the building is actually erected. This definition excludes penthouses, bulkheads, and other allowable superstructures above the roofline.

**Heliport:** An area either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling and maintenance equipment.

**Historic District:** A district in a municipality established pursuant to M.G.L. 40C or other State Law that is characterized by the historic or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the municipality pursuant to M.G.L.c. 40C or other state law.

**Home Occupation:** An accessory use carried on entirely within a dwelling unit that is incidental and subordinate to the dwelling use. In connection with such use, there shall be no retail sale of merchandise on the premises. Such use shall be carried on only by the occupant of the dwelling unit in compliance with the provisions of the Use Regulations, Section V-F (Customary Home Occupations) and shall not in any manner change the residential character of the building.

Home occupations include, but are not limited to, beauty parlors, fine art studios, dressmaking, teaching of not more than four pupils simultaneously, real estate, insurance, attorney's, architect's, or engineer's offices, automobile drivers instruction schools, internet consulting and sales, mail order businesses, sales representatives, manufacturers representatives, sale of home party products, home electronics and small appliance repair and other recognized professions. Any and all of the foregoing only so long as there is no exchange of tangible goods on the premises. Home occupations do not include barbershops, funeral homes, commercial stables or kennels, the conducting of a convalescent or nursing home for more than four persons, restaurants, motor vehicle repair, landscaping yards or contractor's yards, or small engine repair.

**Hospice Facility:** A facility occupied by frail and terminally ill individuals that provides rooms, meals, personal care and health monitoring services with an emphasis on pain

management/relief, emotional support for both patients and families provided by an integrated team of medical professionals. Accommodations for families and caregivers to stay overnight with patients may also be provided.

**Hotel, Motel:** A building in which lodging, in lodging units, is regularly offered to the general public for compensation and which is customarily open to transient guests.

**Laundry or Dry-Cleaning Plant:** An offsite facility for bulk dry-cleaning and laundry services to be delivered to a retail or subscribers premises, not available for retail or rental to the general public.

**Light Trespass:** The shining of direct light produced by a luminaire beyond the boundaries of the lot or parcel on which it is located.

**Loading Space:** An off-street space at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area or not less than one thousand three hundred (1,300) square feet which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Building Commissioner to not less than three hundred (300) square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.

**Lodging Unit:** One or more rooms for the semi-permanent use of one, two or three individuals not living as a single housekeeping unit and not having cooking facilities. A “Lodging Unit” shall include rooms in boarding houses, Bed and Breakfasts, tourist homes or rooming houses. It shall not include convalescent, nursing, rest homes; dormitories of charitable, educational or philanthropic institutions; or apartments.

**Lot:** An area of land with definite boundaries that is used or available for use as the site of a structure, or structures, regardless of whether the site conforms to requirements of zoning.

**Lot, Corner** (*see Appendix A for diagram*): A lot at the junction of and abutting on two or more intersecting streets of ways, the interior angle or intersection of street lot lines or, in the case of curved street, extended lot lines, being not more than one hundred thirty-five (135°) degrees.

**Lot, Coverage:** The maximum area of the lot that can be attributed to the footprint of the building (principal and accessory) on that lot. Lot Coverage does not include surface parking.

**Lot, Interior** (*see Appendix A for diagram*): A lot, the sidelines of which do not abut on a street.

**Lot Line, Front** (*see Appendix A for diagram*): The property line dividing a lot from a street right-of-way.

**Lot Line, Rear** (*see Appendix A for diagram*): Any lot line which is parallel to or within 45 degrees of being parallel to a front lot line, except for a lot line that is itself a front lot line, and except that in the case of a corner lot, the owner shall have the option of choosing which of the two lot lines that are not front lot lines is to be considered the rear lot line. In the case of a lot having no street frontage or a lot of odd shape, only the one lot line furthest from any street shall be considered a rear lot line.

**Lot Line, Side** (*see Appendix A for diagram*): Any lot line not a front or rear lot line.

**Lot, Non-conforming**: Any Lot which does not conform to the dimensional and area requirements in this ordinance for the district in which it is located; provided, that such Lot was in existence and lawful at the time the applicable provisions of this or prior zoning ordinances became effective, has at least 50 feet of frontage and contains 5,000 square feet of area and was not held in common ownership at the time the lot became nonconforming.

**Lot Shape**: See table of dimensional controls.

**Lot, Through** (*see Appendix A for diagram*): A lot, the front and rear lot lines of which abut streets; or a corner lot, two opposite lines of which abut streets.

**Lumen**: A measure of light energy generated by a light source. One-foot candle is one lumen per square foot. For the purposes of this section the lumen output shall be the initial lumen output of a lamp, as rated by the manufacturer.

**Luminaire**: A complete lighting system, including a lamp or lamps and a fixture.

**Manufacturing, Food Products**: Any use engaged in the basic processing and manufacturing of food and/or dairy and/or drink products, whether from raw materials or from previously prepared products, including the packaging, storage, sales and distribution of such products.

**Manufacturing, Industrial**: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

**Manufacturing, Light**: Fabrication, processing, or assembly employing only electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration or hazardous materials and/or chemicals.

**Manufacturing, Masonry Material**: The processing and manufacturing of brick, tile, terra cotta, and cinder block and similar substances to create and/or destroy masonry or stone materials.

**Membership Club**: A social, sports, or fraternal association or organization that is used exclusively by members and their guests.

**Mixed Use**: Development containing a mix of residential uses and non-residential uses, including commercial, institutional, industrial, or other uses.

**Modular Dwelling Unit**: A pre-designed Dwelling Unit assembled and equipped with internal plumbing, electrical or similar systems, in compliance with the Building and Fire Code, prior to movement to the site where such Dwelling Unit is affixed to a foundation and connected to external utilities; or any portable structure with walls, a floor, and a roof, designed or used as a Dwelling Unit, transportable in one or more sections and affixed to a foundation and connected to external utilities.

**Motel:** *See Hotel, Motel.*

**Motor Vehicle Body Repair:** An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage of vehicles for the cannibalization of parts and no sale of parts.

**Motor Vehicle General Repairs:** Premises for the servicing and repair of autos, but not to include fuel sales.

**Motor Vehicle Light Service:** Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include bodywork, painting, or major repairs.

**Nursery, Exempt:** Land or greenhouses used to raise flowers, shrubs, and plants for sale and which is on a parcel of over 5 acres and which is exempted by M.G.L. c. 40A, s. 3.

**Nursery, Non- Exempt:** Land or greenhouses used to raise flowers, shrubs, and plants for sale and which is on a parcel of 5 acres or less and which is not exempted by M.G.L. c. 40A, s. 3.

**Nursing/Rest Home Long Term Care Facility:** An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for twenty-four or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoptions.

**Office, General:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government and generally furnished with desks, tables, files and communication equipment but not including sales with the presence of merchandise.

**Office, Medical:** General Offices used primarily for physicians and other medical related professionals.

**Open Space:** An unoccupied space open to the sky on the same lot as a building. This area must be free of all structures, parking, pavement or other uses that preclude landscaping.

**Open Space, Useable:** Open Space Land within a lot that has a shape, slope, location and condition that is useable and suitable as a place for active and/or passive recreation uses in the opinion of the Community Development Board. Useable Open Space Land shall contain no wetlands as defined by the Wetland Protection Act, Chapter 131, Section 40, M.G.L. and Department of Environmental Protection regulations made thereunder; and the Wetland Protection Ordinance, Chapter 12, Methuen Municipal Code. Each Useable Open Space shall be a minimum of one thousand (1,000) square feet in area and shall have a minimum width of twenty (20) feet.

**Outdoor Storage Area:** A space outside of a building which is used to keep merchandise for use, goods to be processed or machinery for use, but none of which is open to or available to the public.

**Owner:** Any person listed in the most recent real estate records or their duly authorized agent, attorney, purchaser, devisee, trustee, lease, or any duly authorized person having vested or equitable interest in the use, structure or lot in question.

**Parking Lot/Garage Commercial:** A deck, building, or parking structure or lot, or part thereof, used or intended to be used for the parking and storage of vehicles which is operated as a for profit venture.

**Parking Lot/Garage Municipal:** A deck, building, or parking structure or lot, or part thereof, used or intended to be used for the parking and storage of vehicles owned by the general public and which the municipality operates.

**Personal Services Establishment:** A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like

**Piggery:** The keeping of pigs for any and all purposes.

**Planned Unit Development:** See Section XI-D hereof.

**Pre-Existing Nonconforming Structure:** A structure that does not conform to zoning.

**Principal Dwelling:** A structure, regardless of whether it, or the Lot it is situated on, conforms to zoning, including use requirements and dimensional requirements, such as setbacks, bulk, and height, that contains at least one Dwelling Unit and is, or will be, located on the same Lot as a Protected Use ADU.

**Protected Use ADU:** An attached, detached or internal ADU that is located, or is proposed to be located, on a Lot in a Single-Family Residential Zoning District and is not larger in Gross Floor Area than  $\frac{1}{2}$  the Gross Floor Area of the Principal Dwelling or 900 square feet, whichever is smaller, provided that only one ADU on a Lot may qualify as a Protected Use ADU. An ADU that is nonconforming to zoning shall still qualify as a Protected Use ADU if it otherwise meets this definition.

**Recreational Trailer or Vehicle:** A Vehicular, portable unit designed for travel, camping, or recreational use, including but not limited to the following:

- a. **Travel Trailer:** A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed forty-five hundred (4,500) pounds, or being of any weight provided its overall length does not exceed twenty-eight (28) feet.
- b. **Pick-Up Camper:** A portable dwelling unit designed to be mounted on a pick-up truck or chassis, whether or not so mounted.
- c. **Motorized Camper:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- d. **Tent Trailer:** A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.
- e. **Boat or Utility Trailer:** A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other materials.

**Repair:** With respect to a building or structure, any construction which replaces materials and does not change the height, number of stories, size, use or location of a structure.

**Research and Development Facility, Non-Hazardous:** An establishment or other facility for carrying on investigation in the natural, physical or social sciences, which may include engineering and product development.

**Restaurant:** A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjunct to the main indoor restaurant facility.

**Restaurant, Drive-up or -through:** A restaurant establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services and/or obtain food while remaining in their motor vehicles.

**Retail, Large:** A facility selling goods, including but not limited to a bank or financial institution, but not specifically listed in the Table of Use Regulations and which is not in excess of 140,000 square feet. The facility shall include the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

**Retail, Medium:** A facility selling goods, including but not limited to a bank or financial institution, but not specifically listed in the Table of Use Regulations and which is in excess of 5,000 square feet but less than 20,000 square feet. The facility shall include the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

**Retail, Small:** A facility selling goods, including but not limited to a bank or financial institution, but not specifically listed in the Table of Use Regulations and which is not in excess of 5,000 square feet. The facility shall include the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

**Rooming or Lodging House:** A building containing four or more lodging units.

**Setback:** Setback is the horizontal distance measured perpendicularly from the property line to the building line.

**Shed:** An accessory detached structure that is not habitable, is not larger in Gross Floor Area than 500 square feet and one story in height. The maximum shed height allowed is ten (10) feet from grade to soffit.

**Shopping Center:** A grouping of retail business and/or service uses, allowed by right or by special permit, on a single site with common parking facilities which is planned, constructed and managed as a total entity.

**Short-Term Rental:** An owner-occupied, tenant-occupied, or non-owner occupied property as defined in M.G.L. c. 64G § 1, including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant for a period of 31 consecutive days or less; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

**Signs:** Any word, letter, symbol, drawing, picture, design, or any combination of one or more of the foregoing, located out-of-doors, which identifies or calls attention to any premises, person, product, activity or political activity.

**Sign, Accessory:** Any sign bearing the name of the person or business occupying the premises on which the sign is erected or the business or activity transacted or products sold therein or advertising the property itself or any part thereof as for sale or rent and which contains no other advertising matter.

**Sign, Area of:** The area contained by the edges of a sign where it is placed on a separate surface, or the surface, or the smallest area which can be drawn around the textual, symbolic and illustrative matter of the sign when it is applied directly to a wall.

**Sign, Directional:** Any sign whose only purpose is to direct traffic to the proper entrance or exit within the premises.

**Sign, Identifying:** Any sign giving no more than the name and address of the occupant of the premises and of his business thereon, if any, with the hours open for business.

**Sign, Non-Accessory:** Any sign that does not come within the foregoing definition of any sign.

**Sign, Projecting:** A sign affixed to a wall, but not parallel thereto.

**Sign, Temporary:** Any sign constructed of light materials, which is intended to be displayed for a short period of time only.

- a. **Temporary Accessory Sign:** one which is accessory to an activity on the premises, such as the temporary sign of a real estate agent, architect, contractor, painter, or other artisan, or a sign advertising a sale or other temporary activity in progress.
- b. **Temporary Non-Accessory Sign:** one referring to an event or activity not related to the premises.

**Sign, Standing:** Any sign except a temporary sign, erected on or affixed to the land and not attached to a building.

**Sign, Wall Area:** For the purpose of calculating the permitted area of wall signs, the wall area shall be deemed to be that of the portion of the exterior wall facing the street yard which encloses the business to which the sign is accessory.

**Sign, Wall:** A sign attached and parallel to the wall of a building, but not projecting by more than 12 inches therefrom, and not including signs attached to fences unless set back from all lot lines as required for a building in the district.

**Single-Family Residential Zoning District:** Any zoning district where Single-Family Residential Dwellings are permitted or an allowable use, including any zoning district where Single-Family Residential Dwellings are allowed as of right, or by Special Permit.

**Story:** The space between the upper surface of a floor and the floor or roof next above.

**Special Permit:** A use of a structure or lot or any action upon a premises that may be permitted under this Ordinance only upon application to and the approval of the appropriate board and in accordance with provisions of Section XI.

**Stand Alone Kiosk, Drive-through or Walk-up:** A kind of open and available facility, either standing alone or attached to a main building, used to provide immediate automated service to customers of an institution which may be accessed by driving through or walking up to the facility.

**Storage Facility, Self or Mini-Warehouse:** A facility where individual portions of the space are rented to consumers for the temporary indoor storage of business or personal items.

**Story:** The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its' ceiling is four (4)' feet six (6)" inches or more above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and not used for human occupancy.

**Street** (*see Appendix A for diagram*): An accepted city way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law built to specifications or construction guaranteed by adequate security, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

**Street Line:** The outside limit of a street layout or way either existing or contemplated, to which the public and/or abutters' have rights, dividing the street and the lots, which abut the street.

**Structure:** A combination of materials for permanent or temporary occupancy or use, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelters, piers, wharves, bin, fence, sign, or the like.

**Town House Structure:** A row of at least three (3) one-family Attached Dwelling units whose sidewalls are separated from other dwelling units by a firewall or walls. Each unit in the row, or town house, may be owned by a separate owner and shall have its own access at grade level.

**Trailer:** Any vehicle, which is immediately portable, and is arranged, intended, designed, or used for sleeping, eating, or business, or is a place in which persons may congregate, including a mobile home, house trailer or camper. A trailer, whether immediately portable or no longer immediately portable by virtue of having its wheels removed or skirts attached, shall be considered a building for the purpose of this Ordinance.

**Truck, Freight or Bus Terminal:** Terminal facilities and/or yard for storage or servicing trucks and/or freight trains and/or buses with or without a warehouse for the temporary storage of goods in transit and with or without maintenance facilities and shall include only the overnight parking and servicing of buses but not for the boarding of passengers.

**Unimproved Way:** Please see section XI-D.3.

**Use:** The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

**Use, Accessory:** A use incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure.

**Use, Non-conforming:** Any Use which does not conform to the use requirements in this ordinance for the district in which it is located; provided, that such use was in existence and lawful at the time the applicable provisions of this or prior zoning ordinances became effective.

**Use, Principal:** The main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this Ordinance.

**Warehouse:** A building used primarily for the storage of goods and materials by the owner of the goods operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

**Wetland:** For the purposes of this Ordinance, wetland includes all resource areas subject to protection under the Wetlands Protection Act (M.G.L. c. 131 Section 40) as defined under 310 CMR 10.54, 10.55, 10.56, and 10.57 and the City of Methuen Wetland Protection Ordinance.

**Wholesale:** The sale of commodities, primarily in large quantities, on wholesale terms for resale by a retailer or other wholesaler.

**Wind Energy Conversion Facility:** All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**Wireless Communication Facilities:** Facilities used for the principal purpose of commercial or public wireless communication uses; such as cellular telephone services, enhanced specialized mobile radio services, microwave communications, personal wireless communications services, paging services and the like, as defined in Section 70A of the Federal Telecommunications Act of 1996, as amended. Such facilities would encompass frequencies licensed by the FCC as Cellular and PCS providers and shall include towers, antennae, antennae support structures, panels, dishes and accessory structures. For purposes of this ordinance, wireless communications facilities do not include the following accessory uses or structures: antennae or dishes use solely for residential household television and radio reception; antennae or dishes used for commercial or public purposes which are not visible from any neighboring property or public way or dishes used for those purposes measuring two (2) meters less in diameter; nor amateur radio facilities, amateur radio service license issued by the Federal Communications Commission (FCC), provided that the tower is not used for any commercial use.

**Yard:** The area on the same lot with a principal building, extending along a lot line or front lot line and inward to the principal building. The size of a required yard shall be measured as the shortest distance between the outer face of the building foundation wall and a lot line or front lot

line. Structures, which are below the finished lot grade, including shelters for nuclear fallout, shall not be deemed to occupy required yards.

**Yard, Front** (*see Appendix A for diagram*): A yard extending for the full width of the lot between the front line of the nearest building wall or building part and the front lot lines.

**Yard, Rear** (*see Appendix A for diagram*): A yard unoccupied, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

**Yard, Side** (*see Appendix A for diagram*): A yard unoccupied, except by an accessory structure or use as herein permitted, between a building and a side lot line extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

**ZBA**: The Zoning Board of Appeals of the City of Methuen, Massachusetts.

**Zoning Administrator**: The Board of Appeals, in accordance with Section 13, Chapter 40A, of the Massachusetts General Laws, may appoint, subject to confirmation by the City Council, a Zoning Administrator. The Board of Appeals may delegate to said Zoning Administrator some of its powers and duties. The Building Commissioner may also serve as Zoning Administrator if so appointed.

## **SECTION III      ESTABLISHMENT OF DISTRICTS**

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### **Section III-A - Purpose & Intent**

The intent of this section is to provide for the division of the City of Methuen into districts of such number, shape, and area as best suited to carry out the purpose of this Ordinance, and to provide guidelines for the interpretation of the location of the district boundary line indicated upon the zoning map.

### **Section III-B - Establishment of Districts**

For the purpose of this Ordinance, the City of Methuen is hereby divided into the following classes of districts:

<b>FULL NAME &amp; CLASS</b>	<b>ABBREVIATION</b>
CN Conservancy	CN
RR Rural Residential	RR (Formerly Agricultural Conservation)
RA Single Residence	RA
RB Single Residence	RB
RC Single Residence	RC
RD Single Residence	RD
RG Single Residence	RG
MA Multi-Family Residence A	MA
MB Multi-Family Residence B	MB
BN Neighborhood Business District	BN
CBD Central Business District	CBD
BH Highway Business District	BH
BL Limited Business District	BL
IL Limited Business District	IL
H Hospital District	H
MCSGOD Methuen Center Smart Growth Overlay District	MCSGOD
MFOD Multi-family Overlay District	MFOD

In addition, the Flood Plain Overlay District (FOD) as established in V-W shall overlay the above districts.

## **Section III-C - Description of Districts**

**CN Conservancy District.** The Conservancy District is composed of all those areas so designated on the official zoning map. This district is intended to serve a dual purpose. It is Methuen's intent to adhere to the Commonwealth of Massachusetts policy of preserving agricultural land. All existing agricultural land is therefore designated CN when its designation is in keeping with Methuen's long-range plans. The CN district is also intended as a public use district in which the predominant purposes for the land are for recreational, educational, institutional and municipal uses. The district is also intended to preserve and increase the amenities of the City; to provide a specially suitable setting for public and quasi-public buildings and structures; to restrict residential uses of the land; to prohibit commercial, industrial, and other uses of the land which would diminish its value in providing the foregoing setting of said buildings and in serving the conservational, educational and recreational needs of Methuen. In addition, the district is specifically intended for the preservation and maintenance of the ground water table; for the protection of persons and property against the hazards of flood water inundation; for the protection of the community against the costs which may be incurred when unsuitable development occurs in swamps, along watercourses, or in areas subject to floods (as indicated on Flood Insurance Rate Maps); and for the conservation of natural conditions, wildlife, and open spaces for the education , recreation and general welfare of the public.

**RR Rural Residential.** The RR district has the lowest residential density of all districts and is generally served by local streets only. Intensive land uses, uses that would detract from the desired agricultural/open nature of the district, and uses that would otherwise interfere with the intent of this Ordinance are not permitted.

**RA Single-Family Residence District.** The Single-Family Residence District RA is composed of all those areas so designated on the official zoning map and like the RR District is generally served by local streets only.

**RB Single-Family Residence Districts.** The Single-Family Residence District RB is composed of all those areas so designated on the official zoning map and is served by collector and local streets.

**RC Single-Family Residence District.** The Single-Family Residence District RC is composed of all those areas so designated on the official zoning map. Such areas are generally served by minor arteries, collectors and local streets.

**RD Single-Family Residence District.** The Single-Family Residence District RD is composed of developed lots approximately 10,000 square feet in size.

**RG General Residence Districts.** The General Residence District RG is composed of all those areas so designated on the official zoning map, and like the preceding districts is generally served by local streets and collectors. The predominant land uses are intended to be single- and two-family homes. Any other uses that would otherwise interfere with the intent of this Ordinance are discouraged.

**MA Multi-Family Residence A.** The Multi-Family Residence A District is composed of all those areas so designated on the official zoning map. Single- and Two-Family Dwellings are allowed in this district; Attached Dwellings, Multi-Family and Planned Unit Developments are allowed by Special Permit.

**MB Multi-Family Residence B.** The Multi-Family Residence B District is composed of all those areas so designated on the official zoning map. Single-Family and Two-Family Dwellings are allowed in this district. Attached Dwellings, Multi-Family and Planned Unit Development are allowed by Special Permit. This district is primarily established to accommodate the urbanized areas of Methuen.

**BN Neighborhood Business District.** The Neighborhood Business District is composed of all those areas so designated on the official zoning map. Predominant uses include small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. Uses, which would detract from this small-scale business character, or otherwise interfere with the intent of the ordinance, are prohibited.

**CBD Central Business District.** The Central Business District is composed of all those areas so designated on the official zoning map. It includes retail, service, office and residential uses. It is the intent of this ordinance that the CBD be a place of diversity and a mixture of uses, provided public health and safety are protected.

**BH Highway Business District.** The Highway Business District is composed of all those areas so designated on the official zoning map. Uses include retail, wholesale, office and service uses.

**BL Limited Business Districts.** The Limited Business District is composed of all those areas so designated on the official zoning map. It is established primarily to accommodate uses such as offices, smaller scale retail and general business, research and development laboratories, and light assembly. Attached Dwellings, Multi-Family Developments and Planned Unit Developments (PUD's) are also allowed by a special permit.

**IL Limited Industrial District.** The Limited Industrial District is composed of all those areas designated on the official zoning map. It is intended to accommodate light industrial uses. Residential uses are prohibited, and retail uses are permitted by special permit only.

**H Hospital District.** The intent and purpose of the Hospital District is to allow, by right or by Special Permit, those uses that would serve a hospital.

**MFOD Multi-family Overlay District.** The Multi-family Overlay District (MFOD) is an overlay district which allows multi-family housing as of right in accordance with section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A) and Section V-X of this Zoning Ordinance.

### **Section III-D - Official Zoning Map**

The Zoning Districts described heretofore in Section III-C, as detailed on a set of assessors' maps entitled "Official Zoning Map of the City of Methuen", with all boundary lines designated

thereon, shall hereby be part of this Ordinance and said Zoning Map shall be on file in the office of the City Clerk.

### **Section III-E - Changes to Zoning Map**

Any change in location of boundaries of a Zoning District hereafter made through the amendment of this Ordinance shall be indicated by the alteration of such map; and the map, thus altered, is declared to be a part of this Ordinance thus amended.

### **Section III-F - Interpretation of District Boundaries**

The following guidelines shall apply where any uncertainty exists with respect to the boundary of any district as delineated on the Zoning Map:

1. Where district boundaries apparently follow property lines, they shall be so interpreted.
2. Where a boundary is indicated upon a street or similar feature such as a highway, railroad right of way, electric transmission, easement or a watercourse, the centerline of said feature shall be interpreted as the district boundary.
3. Where a boundary is indicated as approximately parallel to a street or similar feature, it shall be taken as parallel thereto.
4. When any uncertainty exists as to the exact location of a boundary, its location shall be determined by the Building Commissioner; provided, however, that any person aggrieved by this decision may appeal to the Board of Appeals.

### **Section III-G - Lots in Two Districts**

1. Where a district boundary divides an existing lot and the major portion of said lot is in the less restricted district, the regulations relating to the latter district may extend as well to such portion of said lot as is not more than twenty (20) feet within the more restricted district.
2. The order of restrictiveness shall follow that given in Section III - C, the most restrictive district being CN and the least restrictive being IL.

### **Section III-H - Lot Split by City Line**

When a lot, in one ownership, is situated only in part in the City of Methuen, this Ordinance shall be applied to Methuen's portion of the lot in the same manner as if the entire lot were situated therein.

## **SECTION IV**

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### **RESERVED**

## **SECTION V USE REGULATIONS**

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### **Section V-A - Purpose & Intent**

It is the purpose and intent of this section of the ordinance to list those uses, which are specifically allowed or specifically prohibited in the various zoning districts listed in Section V-D of this ordinance. Any use not listed herein shall be prohibited.

### **Section V-B - Applicability of Use Regulations**

Except as provided in this ordinance, no building, structure, or land shall be used except for the purposes permitted in the district, by right or by special permit, as described in this ordinance. There shall be no use variances allowed.

### **Section V-C - Uses Subject to Other Regulations**

Uses permitted by right or by special permit shall be subject, in addition to use regulations, to all other provisions of this ordinance.

In case of mixed occupancy, the regulation for each use shall apply to the portion of the building or land so used. Combinations of permitted uses within a single building are permitted provided that health and safety regulations are followed. Mixed-use buildings are subject to a Special Permit from the Community Development Board.

### **Section V-D - Table of Use Regulations**

See Table of Use Regulations that is declared to be a part of this ordinance.

In the following Table of Use Regulations, the uses permitted by right in the district shall be designated by the letter "Y". Those uses that may be permitted as a Special Permit in the district in accordance with Section XI shall be designated by the letters "SP". Any special permit under the authority of the Community Development Board shall be indicated by using the letters "CD" with SP and those special permits under the authority of the Zoning Board shall be indicated by using the letters "ZBA". These uses and other similar type uses that are not permitted in the district shall be designated by the word "No".

TABLE OF USE REGULATIONS

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
<b>AGRICULTURAL USES:</b>															
Any exempt agricultural use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Commercial Crop & Tree Farming	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Commercial greenhouse, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Commercial greenhouse, non-exempt	SP CD	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	NO	Y	Y	NO
Commercial nursery, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Exempt Accessory Road Side Stand	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Keeping of chickens	NO	Y	Y	Y	Y	Y	Y	NO	NO	NO	NO	NO	NO	NO	NO
Keeping of livestock excluding a piggery (on parcels less than five acres)	Y	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Keeping of livestock (on parcels greater than five acres)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Keeping of up to two horses (on parcels of two to five acres)	Y	Y	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Keeping of more than two horses (on parcels of two to five acres)	SP ZBA	SP ZBA	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Processing: own farm products only (dairy, sawmill)	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	NO

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
and the like) on parcel less than five acres															
Sale of Garden supplies or equipment or agric. Products raised or made elsewhere but not motorized, farm equipment, except for seasonal sales	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	NO	NO	Y	NO
Seasonal sales of garden supplies, equipment, agricultural products and produce raised or made elsewhere, but not motorized farm equipment, to be conducted twenty (20) or fewer days per calendar days (Sec. V-N.3.)	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	NO	NO	NO
Single-Family dwelling as an accessory use to an exempt agricultural use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>RESIDENTIAL USES</b>															
Assisted Living facility	SP CD	SP CD	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD
Attached dwelling	NO	NO	NO	NO	NO	NO	Y	SP CD	SP CD	NO	NO	SP CD	NO	NO	NO
Beauty Parlor	NO	N	N	N	N	N	N	SP CD	SP CD	Y	Y	Y	Y	Y	SP CD
Dormitory	SP ZBA	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA
Family Day Care Home, Small	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
Family Day Care Home, Large	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Multi-family (allowed as of right in MFOD, Section V-X)	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	NO	NO	SP CD	SP CD	NO	NO
Nursing, rest or Long term care facility	SP CD	SP CD	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD
Open Space Residential Development	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	NO	NO	NO	NO	NO	NO	NO	NO
Planned Unit Development	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	NO	NO	SP CD	SP CD	NO	NO
Residential Golf Course Development	NO	SP CD	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Single-Family detached	NO	Y	Y	Y	Y	Y	Y	Y	Y	NO	NO	NO	NO	NO	NO
Two-family or semi-detached	NO	NO	NO	NO	NO	NO	Y	Y	Y	NO	NO	NO	NO	NO	NO
<b>RESIDENTIAL ACCESSORY USES</b>															
Accessory Dwelling Unit	NO	Y	Y	Y	Y	Y	Y	Y	Y	NO	NO	NO	NO	NO	NO
Home Occupation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Private Swimming Pools (see Accessory Uses)	Y	Y	Y	Y	Y	Y	Y	Y	Y	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA
<b>PUBLIC AND SEMI-PUBLIC USES</b>															
Day Care Center	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Educational, exempt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Educational, non-exempt	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO	NO
Cemetery	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	NO	NO	NO	NO	SP CD	SP CD
Heliport	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
Exempt Church or other religious purpose.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Municipal, fire or police station	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Municipal recreation areas, outdoors and indoors	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>MUNICIPAL OR PUBLIC UTILITY</b>															
Public Utility, Without storage yard or sales office	Y	Y	Y	Y	Y	Y	Y	Y	Y	SP CD	Y	Y	SP CD	NO	
Public Utility, With storage yard, sales office	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	Y	SP CD	SP CD	Y	N	
Wireless Communication Facilities with Antenna	SP CD	SP CD	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD
<b>HOSPITAL /MEDICAL</b>															
Clinic	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	Y	Y
Hospital	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y
Hospice Facility	SP CD	SP CD	SP CD	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD	Y
Methadone clinics including mobile units	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD
<b>ACCESSORY USES TO MEDICAL / HOSPITAL</b>															
Retail, service, storage, restaurant, day care center, parking garage, nursing home, or temporary lodging use accessory to hospital use	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
<b>RETAIL, SERVICES AND OFFICE USES</b>															
Adult Bookstore	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	SP ZBA	NO
Adult Entertainment Establishment	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	SP ZBA	NO
Adult Motion Picture	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	SP ZBA	NO
Animal Clinic, Veterinary Hospital	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	NO	NO
Animal Groomer	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	NO	NO	NO	NO
Animal Kennel, Commercial	NO	SP ZBA	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	NO	SP ZBA	SP ZBA	NO
Auto or other driving instruction school	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	NO	NO
Bar, drinking club, private, no food except on special occasions, social club.	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO	NO
Business Complexes	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO
Commercial Recreation and Entertainment, Indoors	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO
Commercial Recreation and Entertainment, Outdoor	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO
Funeral parlor, undertaker	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO	NO
Gym, Health Club	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD
Medical Marijuana Dispensary, Off-Site (OMMD)	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
Mixed Use	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	Y	SP CD	NO	NO
Office, General	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	Y	Y
Office Medical	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	Y	Y
Personal Service Establishment	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	Y	Y	Y	Y	NO	Y
Restaurant	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	Y	SP ZBA	SP ZBA	NO
Restaurant, drive up or drive through	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	NO
Retail, Large	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	NO	SP CD	SP CD	SP CD	NO
Retail, Medium	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	Y	SP CD	SP CD	SP CD	NO
Retail, Small	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	Y	Y	SP CD	Y	Y	SP CD
Shopping Center	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	NO	NO	NO	NO
Stand Alone Kiosk, Drive through or Walk up	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD
<b>RETAIL SERVICE AND OFFICE ACCESSORY USES</b>															
Drive-up retail, business, or service establishment	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	NO
<b>GENERAL BUSINESS</b>															
Automobile and/or small truck rental	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA	NO
Automobile Wash	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	NO	SP ZBA	NO	NO
Electric Vehicle Charging Station – Level 1 and 2	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
Electric Vehicle Charging Station – Level 3	Y	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	Y	Y
Commercial parking lot, garage	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	SP CD
Hotel, motel	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	SP CD	SP CD	NO
Laundry or dry cleaning plant	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	NO
Motor Vehicle, Body Repair	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	SP ZBA	SP ZBA	NO
Motor Vehicle, General Repair	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	NO	SP ZBA	SP ZBA	SP ZBA
Motor Vehicle Light Service (including supplying of fuel)	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	NO	SP ZBA	SP ZBA	NO
Motor Vehicle sales new and used	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	NO	SP ZBA	SP ZBA	NO
Municipal parking lot, garage	Y	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	Y	NO
Outdoor storage for bulk materials (lumber, fuel, feed, gravel) & contractor's yard, not for sales or open to the public.	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	SP ZBA	SP ZBA	NO
Outdoor storage for bulk materials (lumber, fuel, feed, gravel) & contractor's yard , open for wholesale purposes only, not to general public.	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	SP ZBA	SP ZBA	SP ZBA	NO
Outdoor storage for bulk materials (lumber, fuel, feed, gravel) & contractor's yard,	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	SP ZBA	SP ZBA	SP ZBA	NO

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
open for retail sales to the general public.															
Outdoor storage or sale of vehicles or boats in operable condition or under repair but not include outdoor storage or sale of junked vehicles or parts thereof.	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	NO	NO
Printing, publishing	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	NO
Truck or freight terminal	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	NO	NO	SP CD	NO
Storage Facility, Self or Mini-Warehouse	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	NO	NO	SP ZBA	NO
Warehouse, Indoor	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	Y	Y	NO
Wholesale establishment, Indoor	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y	NO
<b>INDUSTRIAL USES:</b>															
Commercial & industrial research & development and testing lab	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	SP CD	SP CD	Y	NO
Manufacturing, Food Products	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	NO
Manufacturing, Industrial	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	SP CD	NO	SP CD	Y	NO
Manufacturing, Light	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	SP CD	SP CD	Y	NO
Manufacturing, masonry materials	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	Y	NO

	CN	R/R	RA	RB	RC	RD	RG	MA	MB	BN	BH	CBD	BL	IL	H
Research and development laboratory for non-hazardous materials	NO	SP CD	NO	SP CD	SP CD	SP CD									
Registered Marijuana Dispensary (RMD)	NO	NO	NO	SP CD	NO										
Large-scale ground-mounted solar photovoltaic installations	Y	NO	Y	Y	NO	Y	Y	Y							
<b>INDUSTRIAL ACCESSORY USES</b>															
Accessory retail	NO	Y	NO	SP ZBA	Y	NO									
Employee services	NO	Y	NO	NO	Y	NO									
Outdoor storage (without retail)	NO	Y	NO	NO	Y	NO									
Wind Energy Conversion Facility	SP CD	SP CD	SP CD	SP CD	SP CD										
Billboards	N	N	N	N	N	N	N	N	N	N	SP ZBA	N	N	SP ZBA	N

## **Section V-E - Trailers and/or Mobile Homes**

Trailers and/or mobile homes are allowed in the City of Methuen with the following restrictions:

1. Trailers and/or mobile homes are not to be used for the purpose of dwellings, places of business or places of storage except as allowed below.
2. All legally existing trailers and/or mobile homes may be continued as a non-conforming use on the existing site.
3. Trailers and/or mobile homes used on construction projects as offices or places of storage, or when used as a temporary dwelling on the site of a Single-Family residence which has been destroyed or rendered uninhabitable by fire or other catastrophe, must have a permit from the Building Commissioner to be used as such and may be used only for the time limit stated on the permit. If the time expires, a new permit will be needed.

## **Section V-F - Customary Home Occupations**

For the use of a dwelling in any residential district or multi-family district for a home occupation the following conditions shall apply:

1. One non-resident may be employed therein so long as the purpose for which the non-resident is present is related to the home occupation.
2. The use is carried on strictly within the principal building.
3. There shall be no exterior alterations or accessory buildings on display that are not customary with residential buildings.
4. Not more than twenty-five (25) percent of the existing gross floor area of the dwelling unit, not to exceed seven hundred (700) square feet, is devoted to such use. In connection with such use, there is to be kept no stock in trade, commodities or products that occupy space beyond these limits.
5. There will be no display of goods or wares visible from the street.
6. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, omission of odor, gas, smoke, dust, noise, disturbance, or in any other way become objectionable or detrimental to any residential use within the neighborhood.
7. Any such building shall include no feature of design not customary in buildings for residential use.
8. Off-street parking must be available for any employees, clients or pupils in accordance with Section VIII.

## Section V-G - Accessory Dwelling Units

1. **Purpose.** The purpose of this Section V-G is to allow for Accessory Dwelling Units (ADUs), as defined under M.G.L. c. 40A, §1A, to be built as-of-right in Single-Family Residential Zoning Districts in accordance with Section 3 of the Zoning Act (M.G.L. c. 40A), as amended by Section 8 of Chapter 150 of the Acts of 2024, and the regulations under 760 CMR 71.00: Protected Use Accessory Dwelling Units. This zoning provides for by-right ADUs to accomplish the following purposes:
  - a. Increase housing production to address local and regional housing needs across all income levels and at all stages of life.
  - b. Develop small-scale infill housing that fits in context of zoning districts that allow single-family housing while providing gentle/hidden density.
  - c. Provide a more moderately priced housing option to serve smaller households, households with lower incomes, seniors, and people with disabilities.
  - d. Enable property owners to age in place, downsize, or earn supplemental income from investing in their properties.
2. **Regulations.**
  - a. General Provisions for All ADUs:
    - i. Code Compliance
      - (1) ADUs shall maintain a separate entrance from the Principal Dwelling sufficient to meet safe egress under the Building Code and Fire Code.
      - (2) ADU construction shall comply with 310 CMR 15.000: The State Environmental Code, Title 5 regulations for a Single-Family Residential Dwelling in the Single-Family Residential Zoning District in which the Protected Use ADU is located.
      - (3) **Short-Term Rentals prohibited:** An ADU permitted under this section shall not be used for Short Term Rental as defined by M.G.L. c. 64G.
    - b. **Protected Use ADUs.** The Inspector of Buildings shall approve a Building Permit authorizing Protected Use ADU installation and use within, or on a Lot with, a Principal Dwelling in a Single-Family Residential Zoning District, including within, or on a Lot with, a Pre-Existing Nonconforming Structure, if the following conditions are met:
      - i. Dimensional Standards
        - (1) A Protected Use ADU shall not be larger than a Gross Floor Area of 900 square feet or ½ the Gross Floor Area of the Principal Dwelling, whichever is smaller.
        - (2) A Protected Use ADU on a Lot with a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for the Single-Family Residential Dwelling or Accessory Structures within the same district, whichever results in more permissive regulation.

(3) A Protected Use ADU on a Lot with a Principal Dwelling that is not a Single-Family Residential Dwelling Unit shall not have more restrictive dimensional standards than those required for its Principal Dwelling or Single-Family Residential Dwelling, or accessory structure within the same district, whichever results in more permissive regulation.

c. **Pre-existing Accessory Apartments.** An Accessory Apartment that was properly permitted, constructed, and all conditions of the permit met prior to February 2, 2025, is now considered a protected use Accessory Dwelling Unit (ADU) according to MA 760 CMR 71.00: Protected Use Accessory Dwelling Units. (See Definition of Accessory Dwelling Unit- ADU).

3. **Off-Street Parking.** Up to one additional off-street parking space shall be required for Protected Use ADUs located outside the ½-mile radius of a Bus Station. No off- street parking is required for Protected Use ADUs located within a ½-mile radius of a Bus Station.

4. **Nonconformance.**

- a. A Protected Use ADU shall be permitted within, or on a Lot with, a Pre-Existing Nonconforming Structure so long as the Protected Use ADU can be developed in conformance with the Building Code, 760 CMR 71.00, and state law.
- b. A Protected Use ADU shall be exempt from any required finding under M.G.L. c. 40A.
- c. A finding under M.G.L. c 40A §6, that the extension or alteration of the pre-existing nonconforming structure is not substantially more detrimental than the existing nonconforming use to the neighborhood, shall be made by the Special Permit Granting Authority in an as-of-right process, without requiring a Special Permit or other discretionary waiver.

5. **Administration and Enforcement.**

- a. The Inspector of Buildings shall administer and enforce the provisions of this Section V-G.
- b. No building shall be changed in use or configuration without a Building Permit from the Inspector of Buildings.
- c. No building shall be occupied until a certificate of occupancy is issued by the Inspector of Buildings, where required.
- d. The Inspector of Buildings shall apply the Dover analysis as articulated in the standards in 760 CMR 71.03(3)(a), to any request for a Protected Use ADU Building Permit and shall waive any zoning requirement that the Inspector of Buildings finds to be unreasonable under the Dover analysis.

## **Section V-H - Seasonal Sale of Home Produce**

The seasonal outdoor display and sale of fresh fruits, vegetables and nursery plants which were raised on the premises, which premises are under five (5) acres, is permitted in the RR and CN

districts, provided such displays and sales are limited to the summer growing season and sufficient parking facilities for customers are available.

### **Section V-I - Private Swimming Pools**

Private swimming pools are allowed in all residential districts, provided those of permanent construction:

1. Conform to the yard requirements for other accessory buildings.
2. Conform with the fence requirements as set forth in Section 9-74 of the Methuen Municipal Code.
3. Are, if constructed below grade, equipped with a permanently installed drainage system designed to prevent overflow into adjacent ways.

### **Section V-J - Parking of Unregistered Vehicles**

The un-garaged parking of an unregistered car, truck or trailer is not permitted in any residential districts unless:

1. Authorized by the Board of Appeals by Special Permit.
2. No such vehicle shall be stored between the principal building and a street line.

This section shall not apply to the parking of one non-commercial motor vehicle parked on a driveway, if the same is in operable condition and meets standards as required under Massachusetts General Laws, Chapter 90, for inspection and registration.

### **Section V-K - Parking of Business Vehicles**

The parking of not more than one business vehicle for each dwelling unit on the lot is permitted in all residential districts provided such vehicle:

1. Does not exceed a gross vehicle weight of 1-ton capacity (manufacturer's rating).
2. Is used as a means of transportation to and from the resident's place of business.
3. Is not loaded with flammable, noxious, dangerous or unsightly materials.

### **Section V-L - Accessory Satellite Dish/Antenna**

An accessory satellite dish/antenna is permitted in all districts provided:

1. It is not located in a front yard.

2. It conforms to the setback requirements for structures in the Table of Dimensional Regulations in Section VI-D, and the yard requirements in Section VI-D.5.

Roof mounted satellite dishes/antennae are permitted in Limited Industrial (IL) districts by Special Permit.

## Section V-M - Residential Accessory Uses

1. **Single-Family.** Single-Family residential accessory uses shall include the following:
  - a. Home occupation as described in Section V-F.
  - b. Family day care home, Large and Small. (see Section II for definition).
  - c. Accessory Dwelling Unit (as described in Section V-G).
  - d. Private Garage (see Section II for definition).
  - e. Shed (see Section II for definition).
  - f. Accessory Structure (see Section II for definition)
  - g. In the RA, RB, RC, RD, and RG zoning districts, chickens are allowed so long as this use meets all current applicable state or Board of Health regulations regarding the raising of chickens.
2. **Multi-Family.** In multi-family developments, the following uses may be included if reserved for the occupants' use: administrative offices, clubrooms, and common laundry room.

## Section V-N - Agricultural Accessory Uses

1. **Agricultural Accessory Retail.** Except for the sale of items exempt under G.L. c. 40A § 3, the sale of natural products raised on the premises and of articles manufactured on the premises from such products is a permitted accessory use to commercial farming provided this shall not include any salesroom or other building for the sale or manufacture of such products unless specifically allowed by the Table of Permitted Uses.
2. **Roadside Stand.** The Building Commissioner shall grant a permit for a roadside stand in the districts where permitted provided:
  - a. the products and articles sold are limited to those permitted in Section V-H;
  - b. such stands are set back at least 50 feet from any lot line;
  - c. adequate provision is made for off-street parking on the premises;
  - d. such stands and displays are neatly maintained to the satisfaction of the Building Commissioner.
3. **Seasonal Sale.** The Building Commissioner shall grant a permit for seasonal sale of either garden supplies, equipment, agricultural products raised or made elsewhere, but not motorized farm equipment, in a Central Business District or Highway Business District provided that:
  - a. the products and articles sold are limited to those mentioned for the use category;

- b. such stands are set back at least ten (10) feet from any lot line;
- c. the Chief of Police shall certify to the Building Commissioner that adequate provision has been made by the applicant for off-street parking on the premises where the sales will occur and that the activity may occur without substantially interrupting traffic flow on the adjacent street(s); and
- d. such stands and displays utilized are neatly maintained to the satisfaction of the Building Commissioner.

## **Section V-O - Business Accessory Uses**

1. **Accessory Business Production.** Light manufacturing or preparation of products customarily sold on the premises by the producer to the consumer is permitted if limited to not more than 25 percent of the total gross floor area of the establishment and not engaging more than 5 employees at one time.
2. **Accessory Drive-up Services and Stand Alone Kiosks.** Drive-up Retail, Business or Service Establishments, Drive-up or drive-through Restaurants, and Stand Alone Kiosks shall require a Special Permit from the Community Development Board to ensure that moving or waiting cars create no hazard or obstruction on a street or parking lot used by the general public and access to such drive-up service shall conform to Section VI-B.5. Drive-up service shall not constitute a nuisance of any type and shall not operate after 12:00 A.M. Midnight. Refer to the Methuen Municipal Code, Article VI, Section 9-61.
3. **Accessory Outdoor Storage and Display.** Outdoor storage and display accessory to a business next to a residential district shall conform to the requirements for yards in Section VI-B.5 Yard Requirements in All Districts.
4. **Accessory Retail, Personal Service, Day Care, Eating and Drinking Uses.** Retail, personal service, day care, eating and drinking uses shall be permitted if they are accessory to the principal use and are primarily intended to service the principal use. No more than ten (10%) percent of the gross floor area of the principal use may be devoted to said accessory uses. Where there is more than one principal use, each use may only have ten percent (10%) of the gross floor area devoted to said accessory uses.

## **Section V-P - Industrial Accessory Uses**

1. **Accessory Outdoor Storage and Display.** The requirements of Section V-O.3 or business shall apply.
2. **Accessory Industrial Retail.** The finished products of an industrial establishment may be sold in the enclosed premises at retail, provided that:
  - a. the floor area devoted to such retail does not exceed 10 percent of the total gross floor area;
  - b. accessory retail parking, signs and illumination are regulated as for a BN district;

- c. the retail portion of the establishment is closed to the public during periods of change of shift.
3. **Accessory Employee Services.** Provision may be made on the premises of an industrial or office establishment or within an industrial park for the primary use of persons employed or having business there to serve food, sell small convenience articles, to provide areas for recreation and meeting and for the provisions of a day nursery, kindergarten or day care center.

## **Section V-Q - Hospital District Accessory Uses**

Uses accessory to permitted primary uses listed in the Table of Use Regulations for the Hospital District shall be permitted under the same conditions as the primary use.

## **Section V-R - Hours of Retail Food Stores**

1. No person shall sell any food at retail or via a drive-through between the hours of 12 Midnight and 6:00 A.M.
2. No store or place of business engaged in the retail sale of food shall be open for transaction of retail business between the hours of 12 Midnight and 6:00 A.M.
3. The term food used in this Ordinance shall include any article or commodity, however stored or packaged, intended for human consumption, and shall include alcoholic beverages to be consumed off the premises at which they are sold, unless any other law or permit or license granted to the seller of such beverages shall otherwise provide.
4. This section shall not apply to the sale of food or alcoholic beverages when such sale is by a common victualler or inn holder license under Chapter 140 of the General Laws, primarily engaged in the sale of food to be consumed on the premises where sold.
5. In cases where, in their opinion, the public good requires it, the Board of Appeals may issue a Special Permit allowing a store to remain open for the transaction of such business to an hour, specified in the Permit, later than 12 Midnight or to remain open 24 hours a day. Such Special Permits shall remain in effect for a period of one (1) year. There shall be an annual inspection to confirm continued conformance with said Special Permit.

## **Section V-S - Shopping Centers**

Any shopping center having previously received a special permit or one which was in business and continued in business subject to the special permit provisions of the City of Methuen, shall be allowed, without the necessity of a further application for a special permit, to conduct the following businesses: restaurant, eating places, fast order food establishments, education and accessory use (for profit), and laundry so long as same is operated and/or conducted within the same footprint of the structure or structures which were a part of the original special permit.

## Section V-T Electric Vehicle Charging Stations and Electric Vehicle Battery Exchange Stations

Reference should be made to the most recent addition of the Massachusetts Electrical Code

### 1. Definitions:

- a. **Battery charging station** means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth.
- b. **Battery electric vehicle (BEV)** means any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries and produces zero tailpipe emissions or pollution when stationary or operating.
- c. **Battery exchange station** means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meet or exceed any standards, codes, and regulations set forth.
- d. **Charging levels** means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. Levels 1, 2, and 3 are the most common EV charging levels, and include the following specifications:
  - i. Level 1 is considered slow charging.
  - ii. Level 2 is considered medium charging.
  - iii. Level 3 is considered fast charging.
- e. **Electric vehicle** means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, which is stored on-board for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.
- f. **Electric vehicle charging station** means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle. An electric vehicle charging station equipped with Level 1 or Level 2 charging equipment is permitted outright as an accessory use to any principal use.
- g. **Electric vehicle infrastructure** means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.
- h. **Electric vehicle parking space** means any marked parking space that identifies the use to be exclusively for an electric vehicle.
- i. **Non-electric vehicle** means any vehicle that does not meet the definition of "electric vehicle."
- j. **Rapid charging station** means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth.

**2. Applicability:**

- a. **Electric vehicle charging station(s) with a level 1 or 2 charging level** shall be permitted in a single-family or multi-family zone designed to serve the occupants of the home and in all other zones.
- b. **Electric vehicle charging station(s) with a Level 3 or greater charging level** must be installed in a parking lot at a commercial or municipal destination or located in a vehicle service station. These stations are expected to have intensive use and will be permitted to have multiple “rapid charging stations” to serve expected demand.
- c. **Battery exchange stations** are permitted in the BN, BH, BL and IL zoning districts with a special permit from the ZBA. This use is specifically prohibited in all residential zones.

**3. Process for review:**

- a. **Electric vehicle charging station:**
  - i. **New residential construction:** If associated with new residential construction, installation of a Level 1 or 2 battery charging station shall be processed in association with the underlying permit(s).
  - ii. **Retrofitting single-family or multi-family residential:** If retrofitting a single-family home for a battery charging station, an electric permit shall be required.
  - iii. **New commercial, industrial construction:** If associated with new construction, installation of a battery charging station shall be processed in association with the underlying permit(s).
  - iv. **Retrofitting a commercial site:** If retrofitting an existing commercial site for a battery charging station(s), an electric permit and review of a site plan by the Building Inspector to confirm the proposed locations will be required. Additional permits may be required based upon the location of the proposed station(s).
- b. **Battery Exchange Station(s):** A special permit from the ZBA is required in all zones. Additional permits may be required based upon the location and size of the proposed station(s).

**4. Design Criteria:** The following criteria shall be applied to the location and design of all electric vehicle charging facilities.

- a. Parking spaces for electric vehicles must not be located in the most convenient spots because this will encourage use by non-electric vehicles.
- b. Design should be appropriate to the location and use. Facilities should be able to be readily identified by electric cars users but blend into the surrounding landscape/architecture for compatibility with the character and use of the site.
- c. Where provided, spaces should be standard size parking stalls but designed in a way that will discourage non-electric car vehicles from using them.
- d. **Number:** No minimum number of electric vehicle charging spaces is required however, No more than 10% of the total number of parking spaces may be designated as electric vehicle charging stations.

- e. **Minimum Parking Requirements:** An electric vehicle charging space may count for  $\frac{1}{2}$  of a space in the calculation for minimum parking spaces that are required pursuant to other provisions of the Zoning Ordinance.
- f. **Signage:** Each charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. Days and hours of operations shall be included if time limits or tow away provisions are to be enforced by the owner. Information identifying voltage and amperage levels or safety information must be posted.
- g. **Accessibility:** Where Charging Station equipment is provided within an adjacent pedestrian circulation area, such as a sidewalk or accessible route to the building entrance, the charging equipment must be located so as to not interfere with accessibility requirements. Site plan of existing parking lot layout and proposed charging stations must be reviewed and approved by the Building Inspector.
- h. **Maintenance:** Charging station equipment shall be maintained in all respects, including the functioning of the charging equipment. A phone number or other contact information shall be provided on the charging station equipment for reporting when the equipment is not functioning, or other problems are encountered.

## **Section V-U Large-Scale Ground-Mounted Solar Photovoltaic Installations**

### **1. Purpose:**

- a. The purpose of this ordinance is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.
- b. The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

### **2. Applicability:**

- a. This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.
- b. Nothing in this article should be construed to prevent the installation of accessory roof mounted solar photovoltaic installations.

### **3. Definitions:**

- a. **Designated Location:** Ground - mounted large-scale solar photovoltaic installations may be sited as-of right on lots greater than or equal to 2 acres in size and located in the CN, BH, BN, BL, IL, or H Zoning District.

- b. **Large-Scale Ground-Mounted Solar Photovoltaic Installation:** A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted and has a minimum nameplate capacity of 250 kW DC.
- c. **On-Site Solar Photovoltaic Installation:** A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.
- d. **Rated Nameplate Capacity:** The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

4. **General Requirements for all Large-Scale Solar Power Generation Installations:** The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

- a. **Compliance with Laws, Ordinances and Regulations:** The construction and operation of all large scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- b. **Building Permit and Building Inspection:** No large scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining a building permit.
- c. **Fees:** The application for a building permit for a large-scale solar photovoltaic installation must be accompanied by the fee required for a building permit.
- d. **Site Plan Review:** Ground-mounted large scale solar photovoltaic installations with 250 kW or larger of rated nameplate capacity shall undergo site plan review by the Community Development Board prior to construction, installation or modification as provided in this section.
  - i. **General:** All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in Massachusetts.
  - ii. **Required Documents:** Pursuant to the site plan review process, the project proponent shall provide the following documents:
    - (1) A site plan showing:
      - (a) Property lines and physical features, including roads, for the project site.
      - (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
      - (c) Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures or vegetation.
      - (d) One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.
      - (e) Documentation of the major system components to be used, including the PV panels, mounting system, and inverter.

- (f) Name, address, and contact information for proposed system installer.
- (g) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
- (h) The name, contact information and signature of any agents representing the project proponent; and
- (i) Documentation of actual or prospective access and control of the project site (see also Section 5).
- (j) An operation and maintenance plan (see also Section 6).
- (k) Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose).
- (l) Proof of liability insurance; and
- (m) Description of financial surety that satisfies Section V-U.12.c.

(2) The Community Development Board may waive documentary requirements, as it deems appropriate.

5. **Site Control:** The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

6. **Operation & Maintenance Plan:** The project proponent shall submit a plan for the operation and maintenance of the large- scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

7. **Utility Notification:** No large- scale ground –mounted solar photovoltaic installation shall be constructed until evidence has been given to the Community Development Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner or operator’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this Section 7 requirement.

8. **Dimension and Density Requirements:**

- a. **Setbacks:** The purpose of setbacks is to mitigate adverse impacts on abutting properties. For large - scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:
  - i. Not less than fifty (50) feet from the property line.
  - ii. Every abutting property shall be visually screened from the project through any one or combination of the following: location, distance, plantings, existing vegetation, fencing (not to exceed 6 feet).
- b. **Appurtenant Structures:** All appurtenant structures to large- scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations, including those found in the zoning ordinance, concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities,

transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

**9. Design Standards:**

- a. **Lighting:** Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- b. **Signage:** Signs on large- scale ground-mounted solar photovoltaic installations shall comply with a municipality's sign ordinance. A sign consistent with a municipality's sign ordinance shall be required to identify the owner and provide a 24-hour emergency contact phone number.
  - i. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
- c. **Utility Connections:** Reasonable efforts, as determined by the Community Development Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**10. Safety and Environmental Standards:**

- a. **Emergency Services:** The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- b. **Land Clearing, Soil Erosion and Habitat Impacts:** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large – scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and ordinances.

**11. Monitoring and Maintenance:**

- a. **Solar Photovoltaic Installation Conditions:** The large - scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible

for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

b. **Modifications:** All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Community Development Board.

**12. Abandonment or Decommissioning:**

a. **Removal Requirements:** Any large- scale ground-mounted solar photovoltaic installation that has reached the end of its useful life or has been abandoned consistent with Section V-U.12.b of this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Community Development Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- i. Physical removal of all large- scale ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
- ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Community Development Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

b. **Abandonment:** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Community Development Board. If the owner or operator of the large- scale ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town may enter the property and physically remove the installation.

c. **Financial Surety:** Proponents of large-scale ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Community Development Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

## **Section V-V – Methuen Center Smart Growth Overlay District (MCSGOD)**

1. **Purpose.** It is the purpose of this Section to establish an Methuen Center Smart Growth Overlay District (MCSGOD) and to encourage smart growth in accordance with the purposes of G.L. c. 40R, and to foster a range of housing opportunities along with a mixed-use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, rehabilitation and reuse of existing historic structures and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this Section are to:
  - a. Promote the public health, safety and welfare by encouraging diversity of housing opportunities.
  - b. Provide for a full range of housing choices for households of all incomes, ages and sizes in order to meet the goal of preserving municipal character and diversity.
  - c. Increase the production of a range of housing units to meet existing and anticipated housing needs.
  - d. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing.
  - e. Establish requirements, standards and guidelines, and ensure predictable, fair and cost-effective development review and permitting.
  - f. Establish development standards to allow context-sensitive design and creative site planning; and
  - g. Enable the City to receive Zoning Incentive Payments and Density Bonus Payments in accordance with G.L. c. 40R, 760 CMR 59.06 and additional Chapter 70 aid in accordance with G.L. c. 40S arising from the development of housing in the MCSGOD.
2. **Definitions.** For purposes of this Section, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section V-V. To the extent that there is any conflict between the definitions set forth in this Section and the Enabling Laws, the terms of the Enabling Laws shall govern.

**Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP):** A plan that meets the requirements of the DHCD Affirmative Fair Housing and Resident Selection Plan Guidelines and that has been approved by DHCD.

**Affordable Homeownership Unit:** An Affordable Housing unit required to be sold to an Eligible Household.

**Affordable Housing:** Housing that is affordable to and occupied by Eligible Households.

**Affordable Housing Restriction:** A deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, § 31, the Enabling Laws and the requirements of Section V-V of this Ordinance.

**Affordable Rental Unit:** An Affordable Housing unit required to be rented to an Eligible Household.

**Artist Live/Work Unit:** A residential use that permits up to 50% of the gross floor area of a residential dwelling unit to be used for the production of, showing and sale of arts and crafts made on the premises by the occupant of said unit; alternatively, a building or buildings where a portion of the total space is used for residential purposes and other portion(s), not to exceed 50% of the gross floor area of the building(s), are used for the production, showing and sale of arts and crafts produced by the residents thereof. Notwithstanding the preceding allowances for art-related uses, where said building or buildings contains other types of non-residential uses, a minimum of 50% of total gross floor area must be devoted to residential use, excluding any percentage of the gross floor area that permits such art-related uses.

**As-of-right:** Allowable development of one or more units of housing hereunder without recourse to a special permit, variance, zoning amendment or other form of zoning relief.

**Design Guidelines:** Non-compulsory site and building design principles and guidance to applicants for Plan Approval, addressing site planning, architectural design, parking, accessibility, infrastructure and the natural environment.

**Developable Land:** All land within the MCSGOD that can be feasibly developed into residential or Mixed Use Projects, excluding Substantially Developed Land, Open Space, Future Open Space, the rights-of-way of existing public streets, ways and transit lines, land currently in use for governmental functions and other environmentally constrained land, all as defined or as further described herein or in the Enabling Laws.

**DHCD:** The Department of Housing and Community Development of the Commonwealth of Massachusetts or any successor agency.

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

**Enabling Laws:** G.L. c. 40R and 760 CMR 59.00, as they may be amended from time to time.

**Mixed Use:** Structure in which Multifamily Dwellings are permitted As-of-right with allowed commercial, institutional, industrial or other non-residential uses.

**Monitoring Agent:** The local housing authority or other qualified housing entity designated by the municipality [the PAA, chief executive, or other designated municipal official], pursuant to Subsection 4.f, to review and implement the Affordability requirements affecting Projects under Subsection 4.

**Multifamily Dwelling:** Dwelling containing four (4) or more dwelling units.

**PAA Regulations:** The regulations of the Community Development Board, approved and on file with DHCD and made applicable to Projects in the MCSGOD only insofar as they contain the submittal requirements and fee schedule for applications before said Board. Applicants and their applications may not be subject to any such regulations, submittal requirements, fee schedules and application forms that are not on file with and approved by

DHCD. Any subsequent amendments to such regulations, submittal requirements, fee schedules and application forms must also be on file with and approved by DHCD.

**Plan Approval:** Standards and criteria which a Project in the MCSGOD must meet under the procedures established herein and in the Enabling Laws.

**Plan Approval Authority or PAA:** For purposes of reviewing Project applications and issuing decisions on Projects within the MCSGOD, the Plan Approval Authority (PAA), consistent with G.L. c. 40R and 760 CMR 59.00 shall be the Community Development Board. The PAA is authorized to approve a Site Plan and issue a Plan Approval decision in order to implement a Project.

**Project:** A residential, commercial or mixed-use development undertaken under Section V-V. A Project shall be identified on the Site Plan which is submitted to the Plan Approval Authority for Plan Review.

**Site Plan:** A plan depicting a proposed Project for any portion of the MCSGOD and which is submitted to the Plan Approval Authority for its review and approval in accordance with the provisions of Section V-V.

**Substantially Developed Land:** Land within the MCSGOD that is currently used for commercial, industrial, institutional, or governmental use, or for residential use consistent with or exceeding the densities allowable under the underlying zoning, and which does not qualify as Underutilized Land.

**Underutilized Land:** Developable Land within the MCSGOD that would otherwise qualify as Substantially Developed Land but which is characterized by improvements that have a marginal or significantly declining use and which may have reasonable potential to be developed, recycled or converted into residential or Mixed Use Project(s) consistent with smart growth principles.

**Zoning Ordinance:** The Methuen Comprehensive Zoning Ordinance.

3. **Overlay District.** The MCSGOD is an overlay district having a land area of approximately 54.44 acres that is superimposed over the underlying zoning districts, as shown on the map entitled “Proposed Methuen Center Smart Growth Overlay District,” dated June 6, 2017 and attached hereto as Appendix A. Said map is hereby made a part of the Zoning Ordinance and of the City’s official zoning map and is on file in the Office of the City Clerk.

- a. **Underlying Zoning.** The MCSGOD is an overlay district superimposed on all underlying zoning districts. Except as limited herein, the underlying zoning shall remain in full force and effect.
- b. **Applicability of MCSGOD.** In accordance with the provisions of the Enabling Laws, an applicant for a Project located within the MCSGOD may seek Plan Approval in accordance with the requirements of this Section V-V. In such case, notwithstanding anything to the contrary in this Zoning Ordinance, such Plan Approval shall not be subject to any other provisions of this Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to

building permit or dwelling unit limitations. When a building permit is issued for any Project approved in accordance with this Section V-V, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the Site Plan which was submitted pursuant to Section V-V for such Project. Until such time that the City has demonstrated to DHCD that Certificates of Occupancy have been issued for at least 201 40R units within the MCSGOD, any amendments to other sections of the Zoning Ordinance or to any other municipal ordinances, guidelines, rules and regulations that are referred to in Section V-V but not contained directly within Section V-V and to which Projects are subject, shall not apply to the MCSGOD until DHCD has issued a determination in writing that such amendments are consistent with the Enabling Laws and can apply to the MCSGOD. Prior to such demonstration, if any such ordinances, regulations, rules, guidelines or amendments thereto are found by DHCD to be in conflict with the requirements of the Enabling Laws with respect to the allowable As of Right residential densities, economic feasibility or any other material provision, DHCD reserves the right to take appropriate action under 760 CMR 59.07(3). This provision applies to all municipal ordinances, guidelines, rules and regulations incorporated by reference including but not limited to Sections VII, III-B, III-D, III-E, Section V-W of the Zoning Ordinance, the Historic District Commission Rules and Regulations, the Searles Tenney Nevins Historic District Design Guidelines, the Methuen Sign Guide, the City's Demolition Delay Ordinance, the PAA Regulations, the MCSGOD Design Guidelines and application materials.

**4. Housing and Affordability.**

- a. **Marketing Plan.** Prior to granting Plan Approval for housing within the MCSGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to Subsection 11, below, shall include details about construction related to the provision, type and specific location, within the Project, of all Affordable Housing units as well as all units that are accessible to the disabled. The marketing plan must be approved by DHCD under the 40R Program prior to the issuance of a building permit for a Project.
- b. **Number of Affordable Housing Units.** For all Projects, not more than fifty percent (50%) but not less than twenty percent (20%) of the total housing units constructed in a Project shall be Affordable Housing. For all Projects where the Affordable Housing units proposed are Affordable Rental Units, not more than fifty percent (50%) but not less than twenty five percent (25%) of the total housing units in any building containing rental units shall be Affordable Housing; provided, however, that not more than fifty percent (50%) but not less than twenty percent (20%) of such units may be affordable where restricted to households earning less than 50% of area median income. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.
- c. **Requirements.** Affordable Housing shall comply with the following requirements:

- i. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one (1), unless other affordable program rent limits approved by the DHCD shall apply.
- ii. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one (1).
- iii. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- iv. The MCSGOD shall not include the imposition of restrictions on age upon the entire District or any portion thereof, but if proposed as part of one or more applications for Plan Approval, the PAA may allow the development of specific Projects within the MCSGOD that are exclusively for the elderly, persons with disabilities or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing.
- v. At least ten percent (10 %) of the Affordable Housing units shall be wheelchair-accessible for the physically disabled.

d. **Design and Construction.** Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be equitably integrated and dispersed proportionately throughout the Project of which they are part, including by unit type and, if applicable, by construction phase, and in accordance with an AFHMP approved by the Monitoring Agent and DHCD. Units of Affordable Housing shall be comparable in initial construction, quality and exterior design to other housing units in the Project. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all the units in the Project of which the Affordable Housing is part.

e. **Affordable Housing Restriction.** Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and prior to such recording has been approved by DHCD under the 40R Program. Such Affordable Housing Restriction shall contain the following:

- i. Specification of the term of the Affordable Housing Restriction which shall be the maximum period allowed by law but not less than ninety-nine (99) years.
- ii. The name and address of a Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction.
- iii. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically

identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project, with specific Affordable Rental Units identified and able to float as necessary and expressly approved on a unit-by-unit basis by the Monitoring Agent and DHCD and in accordance with the corresponding AFHMP and the most recently published version of DHCD's *Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines* or any successor document recognized for such purpose by DHCD.

- iv. Reference to an AFHMP, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. To the extent approved by DHCD therein, the AFHMP may provide for preferences in resident selection for the Affordable Housing units. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such unit shall be given to a household of the appropriate size;
- v. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan.
- vi. Reference to the formula pursuant to which rent of an Affordable Rental Unit or the maximum resale price of an Affordable Homeownership Unit will be set;
- vii. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of an Affordable Homeownership Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lender.
- viii. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the Monitoring Agent.
- ix. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent.
- x. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the City, in a form approved by municipal counsel, and shall limit initial sale and resale to and occupancy by an Eligible Household.
- xi. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and the City, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- xii. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report with the Monitoring Agent, in a form specified by that agent, certifying compliance with the affordability provisions of this Section V-V and containing such other information as may be reasonably requested in order to ensure affordability; and
- xiii. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

f. **Monitoring Agent.** A Monitoring Agent, which may be the local housing authority or other qualified housing entity, shall be designated by the PAA as the Monitoring Agent for all Projects in the MCSGOD. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA

or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a building permit for a Project within the MCSGOD, and on a continuing basis thereafter, as the case may be:

- i. Prices of Affordable Homeownership Units are properly computed, or rental amounts of Affordable Rental Units are properly computed.
- ii. Income eligibility of households applying for Affordable Housing is properly and reliably determined.
- iii. The AFHMP conforms to all requirements and is properly administered.
- iv. Sales and rentals are made to Eligible Households chosen in accordance with the AFHMP with appropriate unit size for each household being properly determined and proper preference being given; and
- v. Affordable Housing Restrictions meeting the requirements of this Section V-V are recorded with the proper registry of deeds or district registry of the Land Court.

g. **Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP).** The AFHMP shall make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements, as set forth in this Subsection 4.

h. **Phasing.** The PAA, as a condition of any Plan Approval, may require a Project to be phased in order to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the PAA shall assure the required number of Affordable Housing units in the Project. Such assurance may be provided through use of the security devices referenced in G.L. c. 41, § 81U, or through the PAA's withholding of certificates of occupancy until proportionality has been achieved. No Density Bonus Payment for the Project will be received by the City until such proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing units in the Project. In no case may a phase contain less than twenty percent (20%) Affordable Housing.

i. **Computation.** Prior to the granting of any Plan Approval of a Project, the applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the City.

j. **No Waiver.** Notwithstanding anything to the contrary herein, the affordability provisions in this Subsection 4 shall not be waived without the express written approval of DHCD.

5. **Permitted Uses.**

- a. **Residential Uses.** Multifamily Dwellings shall be permitted As-of-right in the MCSGOD, subject to Plan Approval by the PAA.
- b. **Non-residential Uses.** Non-residential uses shall be permitted in the MCSGOD in accordance with the underlying zoning and upon the receipt of any zoning relief required therefor; provided that, notwithstanding the provisions of the underlying zoning, the following uses shall be permitted As-of-right in the MCSGOD:

- i. Nursing, rest or long-term care facility;
- ii. Hospice Facility.
- iii. Retail, Small.

and further provided that, notwithstanding the provisions of the underlying zoning, the following uses shall be prohibited in the MCGOD:

- iv. Motor Vehicle, General Repair; and
- v. Warehouse, Indoor.

- c. **Mixed Use.** Mixed Use development shall be permitted in the MCGOD, subject to receipt of any zoning relief required for the non-residential component thereof and the limitations on non-residential use that can be approved under Section V-V as outlined below in Subsection 6.b.
- d. **Artist Live/Work Unit.** Artist Live/Work Units shall be permitted As-of-right in the MCGOD.
- e. **Accessory Uses.** Uses customarily incidental to the aforesaid, allowed uses shall be permitted as accessory uses As-of-right in the MCGOD.

**6. Density.**

- a. **Residential.** The permissible residential density in the MCGOD is thirty (30) dwelling units per acre of Developable Land or acre of Substantially Developed Land. For the purposes of Section V-V only, there are 13.42 acres of Developable Land and 17.69 acres of Substantially Developed Land in the MCGOD as shown on the map entitled "Developable Land Plan of the District", dated June 6, 2017 and attached hereto as Appendix C. Said map is hereby made a part of Section V-V of the Zoning Ordinance, and of the City's official zoning map, and is on file in the Office of the City Clerk. The aforesaid residential density shall also be applicable to Artist Live/Work Units.
- b. **Non-residential.** Total nonresidential development in the MCGOD pursuant to this Section V-V shall be capped at 80,000 square feet of aggregate gross floor area. Notwithstanding such allowance for non-residential use under Section V-V, non-residential development permitted under this Section V-V, including the non-residential portions of any already completed or permitted Mixed-Use Project, may not authorize non-residential development that, when the development potential of the remaining Developable Land within the District is calculated, would preclude the District as a whole from accommodating at least 201 40R Bonus Units, with such calculation taking into account those 40R Bonus Units completed or under construction as well as any units still developable based on the remaining Developable Land within the MCGOD.
- c. **Mixed Use.** For Mixed Use development, the permissible residential density per Subsection 6.a. above, shall apply to the Project so that the number of units allowed therein is equal to the number of units that would otherwise be allowed on the parcel if the Project was entirely residential multiplied by the percentage of the land or building area occupied by the residential portion of the Project; provided, however, that ground-floor nonresidential use(s) shall be excluded from the foregoing calculation, such that the permissible residential density shall be unaltered by the inclusion of said nonresidential use(s).

- d. **Integration of Uses.** Subject to the limits on non-residential use under Subsection 6.b, the PAA may require the integration of residential and nonresidential uses as a condition of Plan Approval for a Mixed-Use Project.
- e. **Substantially Developed Land.** The residential density permitted hereunder shall apply to all of the Substantially Developed Land within the MCGOD.

7. **Dimensional Regulations.** All buildings, development and redevelopment shall conform to the following dimensional requirements:

REQUIREMENT	MCGOD
Minimum Lot Area (sq. ft)	0
Maximum Density	30 dwelling units per acre of Developable Land or Substantially Developed Land
Minimum Frontage (ft.)	50
Minimum Width (ft.)	50
Minimum Yard Setback (ft.)	
Front	0
Side	10
Rear	10
Maximum Number of Stories	4
Maximum Height (ft.)	45
Maximum Lot Coverage	70%
Minimum Open Space	30%

8. **Development Controls.** All residential and nonresidential development in the MCGOD shall comply with the following requirements, as applicable, subject only to such waiver(s) as may be granted by the PAA in accordance with Subsection 13.a, below:

- a. Mixed Use buildings shall include a combination of nonresidential use(s) on the ground floor and residential use on upper floor(s). Nonresidential uses may include neighborhood retail, restaurants, cafes, art galleries, exhibition space, health care services, community services and/or other permitted uses that promote pedestrian activity while being compatible with residential use.
- b. Subject to the limitations on non-residential use contained in Subsection 6.b above, all buildings located along the frontage of lots along Broadway, Hampshire, Osgood, Lowell and Pelham Streets shall be Mixed Use, with their main elevation facing the street so as to allow direct public access to ground-floor nonresidential use(s). If more than one (1) building is proposed on a lot as part of a Mixed-Use Project, only the building(s) with direct frontage on and access to one of the aforesaid Streets shall be required to include ground-floor nonresidential use(s). Other buildings located in or alongside yards or

toward the rear of these lots, and buildings without direct frontage on or access to said Street(s), may be used as Multifamily Dwellings.

- c. Buildings with commercial use(s) on the ground floor shall have at least 40% of the ground-floor façade in transparent windows and storefronts along primary elevations that face the street.
- d. Buildings with commercial use(s) on the ground floor shall have at least 15% of the ground-floor façade in transparent windows and storefronts along secondary elevations that face pedestrian alleys or walkways.
- e. If existing buildings adjacent to a new Project are set back at a distance that exceeds the minimum front-yard setback requirement under this Section V-V, the new building(s) in the Project shall match the front-yard setback of the immediately adjacent existing building(s). If the setbacks of immediately adjacent buildings differ, new building(s) may match one or the other, or an average of the two (2) setbacks.
- f. If the existing sidewalk in front of a Mixed Use building with commercial use(s) on the ground floor is narrower than eight (8) feet, the building shall be set back from the property line at such a distance that the total width of the sidewalk plus the front yard equals no less than eight (8) feet.
- g. All site planning and building design for new construction and alterations shall comply with all state and federal laws, including, as applicable, the requirements of the American with Disabilities Act (ADA) Standards for Accessible Design and the Rules and Regulations of the Massachusetts Architectural Access Board (AAB).
- h. All new construction, alteration or demolition of an exterior building feature, building or structure that is visible from a public street, way, park or waterway within the Searles Tenney Nevins Historic District or the Spicket Falls National Register District shall be subject to design review and compliance with the corresponding Historic District Commission Rules and Regulations, the Searles Tenney Nevins Historic District Design Guidelines and/or the Methuen Sign Guide, all as in effect on April 11, 2016 unless otherwise expressly approved in writing by DHCD. Notwithstanding the foregoing, the requirements of the Historic District Commission Rules and Regulations and the Searles Tenney Nevins Historic District Guidelines, applicable to exterior and not interior features of structures contained within the District, shall not be applied so as to unduly restrict or unreasonably impair the economic feasibility of development within the MCSGOD of at least 201 40R Bonus Units at the as-of-right densities permitted hereunder.
- i. Any lot in the MCSGOD that contains one (1) or more existing historic buildings shall preserve, rehabilitate or adaptively reuse such building(s) for Multifamily Dwellings or Mixed-Use development, unless a waiver is granted by the PAA as aforesaid.
- j. Demolition of any building or existing structure within the MCSGOD shall be subject to compliance with the City's Demolition Delay Ordinance as in effect on April 11, 2016, unless otherwise expressly approved in writing by DHCD. See Chapter 25 of the Municipal Code.
- k. All new development, building and site alterations shall comply with the Sign and Illumination Regulations and Floodplain Overlay District requirements of the Zoning Ordinance as in effect on April 11, 2016, unless otherwise expressly approved in writing by DHCD. See Sections VII and Section V-W, respectively.

1. The location and design of off-street parking and loading spaces shall comply with the requirements of Sections VIII-B, VIII-D and VIII-E of the Zoning Ordinance as in effect on April 11, 2016

## 9. Design Guidelines.

- a. **Design Guidelines.** To promote the objectives enumerated therein, the Design Guidelines are incorporated as Appendix B hereto and are applicable to all Projects within the MCGOD. The Design Guidelines aim to advance compact development, historic preservation, walkable neighborhoods, and the protection of natural features in the design or redesign of Project sites, and to emphasize the importance of appropriate building scale, a relationship between historical and contemporary design and the renovation and adaptive reuse of existing buildings in the MCGOD. The Design Guidelines address site planning, architectural design, parking, accessibility, infrastructure, and the natural environment.
- b. **Non-compulsory.** The Design Guidelines are non-compulsory guidance only; their fulfillment is recommended but not mandatory. Because the Design Guidelines are advisory in nature, noncompliance therewith shall not constitute the basis for the denial of Plan Approval.
- c. **Amendments.** The PAA may adopt from time to time, by majority vote, amendments to the Design Guidelines. Until such time that the City has issued Certificates of Occupancy for at least 201 eligible units in the MCGOD, applications for Plan Approval shall not be subject to such amendments until they have received written approval by DHCD.

## 10. Off-Street Parking and Loading Regulations.

- a. **Minimum Requirements.** For any structure that is constructed, enlarged or extended or has a change of use which affects the computation of parking spaces, and for any use of land established, or any existing use changed, parking and loading spaces shall be meet the following requirements:

USE <sup>1</sup>	OFF-STREET PARKING SPACES
Multifamily residential	1 space per dwelling unit plus 1 guest space per every 5 regular spaces
Eating places serving food and/or beverages	1 space per 4 employees on maximum working shift plus 1 space per every 8 seats (or portion thereof)
Other non-residential use	1 space per 500 sq. ft. of gross floor area plus 1 space per 4 employees on maximum working shift

<sup>(1)</sup> For Mixed-Use development, these requirements shall apply proportionately to uses therein.

- b. **Computation of Spaces.** When the computation of required parking or loading spaces results in the requirement of a fractional space, any fraction over one-half shall require one (1) space.
- c. **Shared Parking.** The use of shared parking to fulfill parking demands noted above that occur at different times of day may be considered by the PAA. Minimum parking requirements may be reduced at the discretion of the PAA if an applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies, e.g. the Urban Land Institute's Shared Parking publication, the Institute of Transportation Engineers' Shared Parking Planning Guidelines.
- d. **Reduction of Parking Requirement.** The required amount of parking may be reduced at the discretion of the PAA upon a showing that the lesser amount of parking will not cause excessive congestion or endanger public safety, or that the lesser amount of parking will provide positive environmental, historic preservation or other benefits. The PAA may consider:
  - i. The availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus route.
  - ii. The availability of public or commercial parking facilities in the vicinity of the use being served.
  - iii. Shared use of off-street parking spaces serving other uses having peak user demands at different times.
  - iv. Age, income or other characteristics of the likely users which are likely to result in a lower level of vehicle usage; and
  - v. Prioritizing the preservation, rehabilitation and reuse of historic structures even where requisite parking cannot be accommodated on-site.
  - vi. Such other factors as may be deemed appropriate by the PAA, including whether a reduction of the parking requirement is likely to encourage the use of public transportation or encourage a proposed development to be more pedestrian-friendly.
- e. **Location of Loading Spaces.** Any loading spaces required shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this Section V-V.

## 11. Application for Plan Approval.

- a. **Pre-Application.** Prior to the submittal of a Site Plan, a concept plan, so-called, may be submitted to help guide the development of the definitive Site Plan for Project buildout and individual elements thereof. Such concept plan should reflect the following:
  - i. Overall building envelope areas.
  - ii. Areas which shall remain undeveloped.
  - iii. Historic sites or structures to be preserved, rehabilitated and/or reused; and
  - iv. General site improvements, groupings of buildings and proposed land uses.

The concept plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be compliant with the requirements of the MCSGOD and to assess/evaluate consistency with the Design Guidelines.

- b. **Application.** An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA. Such form must be approved by and on file with DHCD. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.
- c. **Required Submittals.** The application for Plan Approval shall be accompanied by the plans and documents further specified and, in such number, as is required by the PAA Regulations on file with DHCD. The application shall be submitted together with the application or filing fee, per the PAA Regulations or fee schedule contained or referenced therein.

**12. Procedures.**

- a. **Filing.** An applicant for Plan Approval shall file the application and all required submittals with the City Clerk and shall also file forthwith the requisite number of copies of the application and other required submittals with the PAA, including notice of the date of filing with the City Clerk.
- b. **Circulation to Other Boards.** Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the City Council, Zoning Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within sixty (60) days of its receipt of a copy of the plan and application for Plan Approval.
- c. **Hearing.** The PAA shall hold a public hearing for which notice has been given as provided in G.L. c. 40A, § 11. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by a written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and Site Plan.
- d. **Peer Review.** In addition to the application or filing fee, the applicant shall be required to pay reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R, § 11. This technical review fee shall be paid at the time of the application, as provided for and in the amount specified by the PAA Regulations or fee schedule contained or referenced therein. Such fee shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

**13. Decision.**

- a. **Waivers.** Except where expressly prohibited herein, upon the request of the applicant, the PAA may waive the dimensional and other requirements of this Section V-V in the interests of design flexibility and overall Project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCSGOD, or

if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses and/or physical character allowable hereunder.

- b. **Plan Review.** An application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, such Site Plan review to be construed as an As-of-right review and approval process as required by and in accordance with the Enabling Laws.
- c. **Plan Approval.** Plan Approval shall be granted by a simple majority where the PAA finds that:
  - i. The applicant has submitted the required fees and information as set forth herein; and
  - ii. The Project and Site Plan meet the requirements and standards set forth this Section V-V, or a waiver has been granted therefrom; and
  - iii. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Subsection 4, compliance with condition (ii) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with Subsection 4, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

- d. **Plan Disapproval.** A Site Plan may be disapproved only where the PAA finds that:
  - i. The applicant has not submitted the required fees and information as set forth herein; or
  - ii. The Project and Site Plan do not meet the requirements and standards set forth this Section V-V, and no waiver has been granted therefrom; or
  - iii. It is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.
- e. **Form of Decision.** All decisions of the PAA shall be by a majority vote of the members present and voting. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected and the plans that were the subject of the decision and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. A copy of the decision shall be provided to the Building Commissioner. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded with the district registry of the Land Court and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

#### 14. Change in Plans after Approval by PAA.

- a. **Minor Change.** After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, the provision of open space, number of housing units or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing thereon. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision and provide a copy to the applicant for filing with the City Clerk. A copy of the decision shall be provided to the Building Commissioner.
- b. **Major Change.** Those changes deemed by the PAA to constitute major changes because of the nature of the changes in relation to the prior approved plan or because such changes cannot be appropriately characterized as minor changes as described above shall be processed by the PAA as new applications for Plan Approval pursuant to this Section.

15. **Enforcement; Appeal.** The provisions of the MCSGOD shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding an application for Plan Approval for a Project shall be governed by the applicable provisions of G.L. c. 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G.L. c. 40A.

16. **Severability.** If any provision of this Section V-V is found to be invalid by a court of competent jurisdiction, the remainder of Section V-V shall remain in full force. The invalidity of any provision of this Section V-V shall not affect the validity of the remainder of the Zoning Ordinance.

## **Section V-W Floodplain Overlay District (FOD)**

1. **Stated local purpose for flood resistant standards:** The purpose of the Floodplain Overlay District is to:
  - a. Ensure public safety through reducing the threats to life and personal injury.
  - b. Eliminate new hazards to emergency response officials.
  - c. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
  - d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
  - e. Eliminate costs associated with the response and cleanup of flooding conditions.
  - f. Reduce damage to public and private property resulting from flooding waters.
2. **General Compliance Requirements:** 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 the following:

- a. 780 CMR 744.0, of the Massachusetts State Building Code which addresses floodplain areas.
- b. 310 CMR 10.00, Wetlands Protection, Department of Environmental Protection (DEP).
- c. 302 CMR 6.00, Inland Wetlands Restriction, DEP.
- d. Title 5, minimum requirements for the subsurface disposal of sanitary sewage, DEP.
- e. Methuen Municipal Ordinances Chapter 12 - Wetlands Protection.

3. **Use of FEMA maps and supporting studies:** The Floodplain Overlay District is herein established as an overlay district. The district includes all special flood hazard areas within the City of Methuen designated as Zone A, AE, AH, AO, or A99 on the Essex County Flood Insurance Rate Map (FIRM), dated July 8, 2025, issued by the Federal Emergency Management Agency (FEMA) (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the district shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the most recently issued Essex County Flood Insurance Study (FIS) report dated July 8, 2025 and are on file with the Building Department and the Conservation Commission.
4. **Designation of community Floodplain Administrator:** The City hereby designates the position of Conservation Officer to be the official floodplain administrator.
5. **Permits are required for all proposed development in the Floodplain Overlay District:**
  - a. A permit is required for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
  - b. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, § 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplain (currently 780 CMR 744).
6. **Proponent to Assure that all necessary permits are obtained:** The City's permit review process includes the requirement that the proponent obtain all local, state, and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits and must demonstrate that all necessary permits have been acquired. •
7. **Floodway encroachment:**
  - a. In Zones A, Al-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. No new construction, substantial improvement, or other development shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood discharge.

- b. In Zones Al-30 and AE, along watercourses that have a regulatory floodway designated on the City's FIRM, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- c. Existing contour intervals of the site and elevation of existing structures must be included on plan proposals.
- d. There shall be established a "routing procedure" which will require the Proponent to circulate or transmit one copy of the development plan to the Conservation Commission, Community Development Board, Board of Health, City Engineer, and Building Commissioner for comments which will be considered by the appropriate permitting board prior to issuing applicable permits. The routing procedure shall be established for informational purposes only.

8. **Unnumbered A Zones:** In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

9. **AO and AH zones drainage requirements:** Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

10. **Subdivision proposals:**

- a. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:
  - i. Such proposals minimize flood damage.
  - ii. Public utilities and facilities are located & constructed so as to minimize flood damage.
  - iii. Adequate drainage is provided.
- b. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

11. **Recreational vehicles:** In A and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

**12. Watercourse alterations or relocations in riverine areas:** In a riverine situation, the Floodplain Administrator shall notify the following of any alteration or relocation of a watercourse:

- a. Adjacent Communities, especially upstream and downstream
- b. Bordering States, if affected
- c. NFIP State Coordinator
  - i. Massachusetts Department of Conservation and Recreation
- d. NFIP Program Specialist
  - 
  - ii. Federal Emergency Management Agency, Region I

**13. Requirement to submit new technical data:** If the City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- a. NFIP State Coordinator
  - i. Massachusetts Department of Conservation and Recreation
- b. NFIP Program Specialist
  - ii. Federal Emergency Management Agency, Region I

**14. Variances to building code floodplain standards:**

- a. The City will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to any variance and will maintain this record in the community's files.
- b. The City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.
- c. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

**15. Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP):** A variance from these floodplain bylaws must meet the requirements set out by State law and may only be granted if:

- a. Good and sufficient cause and exceptional non-financial hardship exist;
- b. the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- c. the variance is the minimum action necessary to afford relief.

16. **Abrogation and greater restriction section:** The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances, or codes.
17. **Disclaimer of liability:** The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
18. **Severability section:** If any section, provision, or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.
19. **Definitions:**
  - a. The National Flood Insurance Program (NFIP) definitions found in Title 44 of the Code of Federal Regulations, section 59.1 are incorporated into this ordinance.
  - b. Definitions from the Massachusetts State Building Code (9th Edition) are incorporated into this ordinance.
  - c. The following additional terms are defined as follows:
    - i. **Development** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
    - ii. **Floodway.** The channel of the river, creek 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 a designated height.
    - iii. **Functionally Dependent Use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
    - iv. **Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
    - v. **Historic Structure** means any structure that is:
      - (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
      - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
      - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
      - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (5) By an approved state program as determined by the Secretary of the Interior or
  - (6) Directly by the Secretary of the Interior in states without approved programs.

vi. **New Construction.** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement.

vii. **Recreational Vehicle** means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

viii. **Regulatory Floodway** - see FLOODWAY.

ix. **Special Flood Hazard Area.** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, Al- 30, A99, AR, AO, or AH.

x. **Start of Construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

- (1) Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

xi. **Structure** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

xii. **Substantial Improvement** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building

commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either, (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

xiii. **Substantial Repair of a Foundation.** When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

xiv. **Variance** means a grant of relief by a community from the terms of a Floodplain management regulation.

xv. **Violation** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided.

Effective date: (August 5, 2024)

## Section V-X: Multi-family Overlay District

1. **Purpose.** The purpose of the Multi-family Overlay District (MFOD) is to allow multi-family housing as-of-right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for multi-family housing as-of-right to add options for different housing types that are attractive to seniors and young professionals in the city and to accomplish the following goals:
  - a. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels.
  - b. Locate housing within walking distance of commercial areas to promote public health, reduce the number of vehicular miles traveled, and support economic development.
  - c. Preserve open space in the community by locating new housing within or adjacent to existing developed areas and infrastructure.
  - d. Increase the municipal tax base through private investment in new and rehabilitated residential developments.
2. **Establishment and Applicability.** This MFOD is an overlay district with an area of approximately 111 acres that is superimposed over the underlying zoning district (s) and shown on the Zoning Map.

- a. **Applicability of MFOD.** An applicant may develop multi-family housing located within an MFOD in accordance with the provisions of this Section V-X.
- b. **Underlying Zoning.** The MFOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimensions, and all other provisions of the Zoning Ordinance governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as-of-right or by special permit in the MFOD. Uses that are not identified in Section V-X are governed by the requirements of the underlying zoning district(s).
- c. **Sub-districts.** The MFOD contains the following sub-districts, all of which are shown on the MFOD Boundary Map:
  - i. Colonial Village A subdistrict
  - ii. Colonial Village B subdistrict
  - iii. Riverside Drive A subdistrict
  - iv. Riverside Drive B subdistrict
  - v. Pleasant Valley Corridor subdistrict

3. **Definitions.** For this Section V-X, the following definitions shall apply and supersede those set forth in Section II.

- a. **Affordable unit.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
- b. **Affordable housing.** Housing that contains Affordable Units as defined by this Section V-X.
- c. **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Approval, or Special Permit.
- d. **Area Median Income (AMI).** The median family income for the metropolitan statistical region that includes the City of Methuen, as defined by the U.S. Department of Housing and Urban Development (HUD).
- e. **Artisanal Production.** Production of goods using hand tools or small-scale, light mechanical equipment occurring solely within an enclosed building where such production requires no outdoor operations or storage. Typical uses have minimal negative impact on surrounding properties and include, but are not limited to, woodworking and cabinet shops, ceramic studios, jewelry manufacturing and similar types of arts and crafts, production of alcohol, or food processing. Small-scale production shall be limited to 2,000 square feet of gross floor area or less per business.
- f. **Artists' Studio.** A space used by an artist for the creation of any visual art or craft, including but not limited to, the following: painting, drawing, photography, sculpture, jewelry-making, basket weaving, pottery, or other art or craft; of written works of fiction or nonfiction; or any performing art, whether for live or recorded performance, including music, dance, and theater. Retail sales of art produced on-site and arts instruction by the artist are allowable accessory uses.
- g. **Community space.** Rooms or outdoor spaces available for use by the public. Such space may be rented to individuals or local organizations. Access may be limited to business hours.

- h. **Co-working Space.** A building or portion thereof consisting of a shared office environment, which contains desks or other workspaces and facilities, including but not limited to the following: dedicated workstations, office suites, meeting rooms, event space, resource libraries, and business or administrative support services, and is used by a recognized membership who share the site to interact and collaborate.
- i. **Design Guidelines.** The Design Guidelines are applicable to all Projects within the Overlay District that are subject to Site Plan Approval by the Board.
- j. **Development standards.** Provisions of Section V-X General Development Standards made applicable to projects within the MFOD.
- k. **Landscape Buffer.** A planted area intended to provide, when mature, a visual screen around the perimeter of the MFOD where it abuts a residential zoning district. Landscape buffers may include existing vegetation, new plantings, and lawn areas. Fencing may form a part of the Landscaped Buffer where appropriate or dictated by topography or other considerations.
- l. **Landscaping.** Improvements to the land to enhance its attractiveness and facilitate its use and enjoyment. Landscaping may include walks, terraces and the like, fencing, stone walls or other decorative walls, site furnishings, grading and reshaping of earth contours, planting, and lawn areas. Landscaping may also include existing natural areas indicated to remain or be renovated.
- m. **Multi-family overlay zoning district.** A zoning district in which multi-family housing is allowed as of right.
- n. **Open Space.** The portion of the MFOD not occupied by buildings, parking areas or parking garages, roadways, or driveways, but shall include, among other areas, all landscaped, patio areas, all unbuilt areas, all sidewalks and walkways, and all swimming pools, tennis courts, and other recreational facilities primarily open to the sky whether or not landscaped.
- o. **Parking, surface.** One or more parking spaces without a built structure above that space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
- p. **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- q. **Residential Building.** A building in which only residential dwelling units and common space are allowed.
- r. **Site plan approval authority.** City of Methuen Community Development Board
- s. **Special permit granting authority.** City of Methuen Community Development Board and Zoning Board of Appeals as noted in this Section.
- t. **Sub-district.** An area within the MFOD that is geographically smaller than the MFOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.
- u. **Subsidized Housing Inventory (SHI).** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

**4. Permitted Uses.**

a. **Uses Permitted As of Right.** The following uses are permitted as-of-right within the MFOD.

i. **Colonial Village subdistrict:**

- (1) **Colonial Village A subdistrict.** Attached Dwelling
- (2) **Colonial Village B subdistrict.** Multi-family housing (limited to buildings of less than or equal to 25 units)

ii. **Riverside Drive subdistrict:**

- (1) **Riverside Drive A subdistrict.** Attached Dwelling
- (2) **Riverside Drive B subdistrict.** Multi-family housing (limited to buildings of less than or equal to 25 units)

iii. **Pleasant Valley Corridor subdistrict:**

- (1) Multi-family housing
- (2) Mixed-use building, which includes residential use on any floor above the ground level and one or more of the following ground-floor uses in building(s) with frontage on Pleasant Street:
  - (a) Community space.
  - (b) Medium Retail and Personal Service Establishments where the ground floor of the building is limited to one or more commercial spaces that total less than 5,000 SF.
  - (c) Experiential retail, including retail associated with dance or exercise studios, music studios, photography studios, or other combination of education, services, and retail.
  - (d) Office, professional office, medical and dental offices, and co-working space.
  - (e) Gym or Health Club.
  - (f) Artists' studios and artisanal production with retail associated with those uses.
- (3) Commercial building containing any combination of uses allowed in Section V-X.4.iii (2), above. The primary façade of the building must be oriented to and within 50 feet of the lot line with frontage on Pleasant Street.

b. **Uses Permitted by Special Permit.** The following uses are permitted by Special Permit only within the Pleasant Valley Corridor subdistrict of the MFOD.

- i. Restaurant within a Mixed-use building or Commercial building, by Special Permit from the Zoning Board of Appeals.
- ii. Restaurant with drive-through, by Special Permit from the Community Development Board.

5. **Dimensional Standards.**

DIMENSIONAL STANDARDS	COLONIAL VILLAGE A	COLONIAL VILLAGE B	RIVERSIDE DRIVE A	RIVERSIDE DRIVE B	PLEASANT VALLEY
Lot Size (sf - minimum) <sup>a</sup>	15,000	32,000	650,000	120,000	40,000
Dwelling Units per Acre (maximum)	19	25	12	12	30
Frontage (minimum – feet)	80	115	700	300	150
Yard Setbacks (minimum)					
Front	30	40	90	60	40 | 50 <sup>b</sup>
Side	25	25	30	30	25
Rear	30	30	30	30	30
Height (maximum) <sup>c,d</sup>					
Stories	3	3	3	4	3 | 4 <sup>b</sup>
Feet	35	35	35	45	35 | 50
Lot Coverage (maximum)	40%	40%	40%	40%	40%
Open Space (minimum)	30%	30%	30%	30%	30%

- (a) **Multi-Building Lots.** In the MFOD, lots may have more than one principal building.
- (b) **Height – Pleasant Valley subdistrict.** In the Pleasant Valley subdistrict, buildings with a principal façade within 50 feet of the front lot line shall be limited to a height of 3 stories. Buildings behind the 50-foot setback shall be limited to a height of no more than four (4) stories.
- (c) **Height Exceptions – General.** The limitation on the height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building. See also Section II Definitions – Height of Building in the City of Methuen Zoning Ordinance.
- (d) **Height Exceptions – Renewable Energy Installations.** The Site Plan Review Authority or Special Permit Granting Authority may waive the height and setbacks in Section V-X.5. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

6. **Off-Street Parking.** Section VIII. Parking and Loading Requirements of the City of Methuen Zoning Ordinance is applicable to all projects in the MFOD unless superseded within Section V-X.7. Development Standards below.

7. **Development Standards.**

- a. **Applicability.** Development standards in the MFOD apply to all multi-family developments with more than three units, mixed-use developments of more than 5,000 SF, or projects with more than one building on a lot within the MFOD. These standards are components of the Site Plan Review process in Section V-X.9. Site Plan Approval.
- b. **Design Guidelines.** The Site Plan Review Authority may adopt and amend, by simple majority vote, Design Standards, which shall be applicable to all rehabilitation, redevelopment, or new construction within the MFOD. Such Design Guidelines must be objective and not subjective. They may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off-street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. Design Guidelines may contain graphics illustrating a particular standard or definition to make such standard or definition clear and understandable.

c. **General Development Standards.**

- i. Notwithstanding anything in the Zoning By-Laws outside of this Section V-X, to the contrary, multi-family housing in this Multi-family Overlay District shall not be subject to any special permit requirement.
- ii. The development shall be subject, if applicable, to approval under the Methuen Subdivision Control Regulations. All roadways, drainage facilities, water lines, sewer lines, utilities, grading, and other site improvements shall be built in accordance with the subdivision control standards of Methuen unless waived by the Community Development Board. All roadways directly entering and serving Multi-Family and Attached Dwelling Developments shall be private ways and privately maintained.
- iii. The proposed development shall be served by both public water and sewerage systems.
- iv. The Community Development Board may require a Landscape Buffer of up to ten (10) feet in width and six (6) feet in height be installed and/or maintained around the perimeter of the development by the owner of the development.
- v. The applicant shall install street identification signs as approved by the Department of Public Works on all rights-of-way and drives within the development. Said signs shall be in place upon completion of binder paving of each respective drive.
- vi. The developer shall install street lighting of a type approved by the Department of Public Works on all rights-of-way and drives within the development. The lighting shall be in place upon completion of binder paving of each respective drive.

d. **Site Design.**

- i. **Connections.** Sidewalks shall provide a direct connection among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.

- ii. **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
- iii. **Open space.** The required open space shall be contiguous within the lot and landscaped according to the requirements of Section V-X.7 Development Standards.
- iv. **Screening for parking.** Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than 6 (six) feet. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
- v. **Plantings.** Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
- vi. **Lighting.** Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide the illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skylight.
- vii. **Mechanicals.** Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
- viii. **Dumpsters.** Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
- ix. **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the City of Methuen's MS4 Permit for projects that disturb more than one acre and discharge to the City's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

e. **Buildings: General.**

- i. **Position relative to the principal street.** The primary building, or row of Attached Dwellings, shall have its principal façade and entrance facing the principal street.
- ii. **Corner lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
- iii. **Façades.** All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
- iv. **Egress.** Fire exits serving more than one story shall not be located on a street-facing façade.

f. **Buildings: Infill Lots:** If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section V-X.5. Dimensional Standards. Otherwise, infill buildings may match the setback line of

either adjacent building or an average of the setback of the two buildings to provide consistency along the street.

g. **Buildings: Multiple buildings on a lot:**

- i. **Multi-Family buildings.** The minimum distance between multi-family housing buildings and/or Attached Dwelling buildings on the same lot or between two facing walls forming a court, which contain dwelling units, and which are not joined by a party wall, shall be (40) forty feet.
- ii. **Attached buildings.** The minimum distance between Attached Dwelling buildings and/or multi-family housing buildings on the same lot shall be forty (40) feet. Each Attached Dwelling shall be a minimum of twenty (20) feet wide, measured between party walls. Inner courts shall not be permitted in Attached Dwelling buildings. The maximum number of Attached Dwelling units per building shall be nine (9).
- iii. **Detached buildings.** The minimum distance between a detached dwelling building to another detached dwelling building shall be twenty (20) feet. The minimum distance between detached dwelling buildings and Multi-Family or Attached Dwelling buildings shall be forty (40) feet.
- iv. **Impervious surfaces.** Parking and circulation on the site shall be organized to reduce the amount of impervious surface.
- v. **Curb cuts.** Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
- vi. **Pedestrian network.** A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
- vii. **Building orientation.** The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
- viii. **Pedestrian entry.** The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

h. **Buildings: Mixed-use development:** Mixed-use development is allowed only in the Pleasant Valley subdistrict.

- i. **Location of uses in Mixed-use development.** Uses may be mixed within the buildings or in separate buildings.
- ii. **Residential access.** In a mixed-use building, access to and egress from the residential component shall be clearly differentiated from access to other uses. Such differentiation may occur by using separate entrances or egresses from the building or within a lobby space shared among different uses.
- iii. **Pedestrian access.** Paved pedestrian access from the residential component shall be provided to residential parking and amenities and the public sidewalk, as applicable. Paving materials may be permeable.
- iv. **Commercial storage.** Materials for non-residential uses shall be stored inside or under cover and shall not be accessible to residents of the development.
- v. **Parking and loading.** Parking and circulation on the site shall be organized to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.

- i. **Buildings: Shared Outdoor Space.** Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement.
- j. **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.
  - i. **Surface parking.** Surface parking shall be located at the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
  - ii. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
  - iii. **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
- k. **Waivers:** Upon the request of the Applicant, the Site Plan Review Authority may waive the requirements of this Section V-X.7. Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MFOD.

## 8. Affordability Requirements.

- a. **Purpose.**
  - i. Promote public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels.
  - ii. Provide a full range of housing choices for households of all incomes, ages, and sizes.
  - iii. Increase the production of affordable housing units to meet existing and anticipated housing needs.
  - iv. Work to overcome economic segregation, allowing the City of Methuen to be a community of opportunity in which low- and moderate-income households can advance economically.
- b. **Applicability.** This requirement is applicable to all residential and mixed-use developments with ten (10) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section. Section XI-D.7 Affordable Housing Density Bonuses does not apply to developments within this MFOD.
- c. **Subsidized Housing Inventory.** All units affordable to households earning 80% or less of AMI created in the MFOD under this section must be eligible for listing on EOHLC's Subsidized Housing Inventory.
- d. **Provision of Affordable Housing.** In Applicable Projects, not fewer than ten percent (10%) of housing units constructed shall be Affordable Housing Units. To calculate the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.

- e. **Development Standards.** Affordable Units shall be:
  - i. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots.
  - ii. Dispersed throughout the development.
  - iii. Located such that the units have equal access to shared amenities, including light and air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development.
  - iv. Located such that the units have equal avoidance of any potential nuisances as [market-rate units] within the development.
  - v. Distributed proportionately among unit sizes.
  - vi. Distributed proportionately across each phase of a phased development.
  - vii. Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development, provided that occupancy permits for Affordable Units are issued simultaneously on a pro-rata basis.
- f. **Administration:** The Zoning Enforcement Officer shall be responsible for administering and enforcing the requirements in this section

## 9. Site Plan Approval

- a. **Applicability.** Site Plan Review is required for all projects within the MFOD in accordance with the requirements of this Section V-X.9. Site Plan Approval and Section XII Site Plan Approval of the City of Methuen Zoning Ordinance.
- b. **Site Plan Approval.** Site Plan approval for uses listed in Section V-X.4. Permitted Uses shall be granted upon a determination by the Site Plan Review Authority that the conditions in **Section XII** of the City of Methuen Zoning Ordinance and the requirements of Section V-X.7. Development Standards have been satisfied.
- c. **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildup of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section V-X 8. Affordability Requirements.

Effective date: (December 2, 2024)

## **SECTION VI**

## **DIMENSIONAL CONTROLS**

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### **Section VI-A - Purpose & Intent**

The purpose & intent of this and the subsequent two sections is to provide adequate lot size, frontage, privacy, daylight, sunlight, and air in the city; to secure safety; to prevent overcrowding of land; to provide at least a minimum of useful outdoor space; to require provisions for off-street parking and loading and sign requirements in proportion to the need generated by the uses; and to establish a minimum and a maximum relationship between lot and structure for the purpose of retaining and preserving the amenities of the various areas of the City of Methuen.

### **Section VI-B - General Regulations**

#### **1. Reduction of Lot Areas and Separation of Lots:**

- a. The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any provisions of this ordinance, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this ordinance if such property was a part of the area required for compliance with the dimensional regulations applicable to the lot from which such transfer was made.
- b. No lot shall be made non-conforming under the requirements of this Ordinance and no lot shall be made more non-conforming than its status at the time it became non-conforming.

#### **2. Residential Building on the Same Lot with Another Principal Building:**

- a. Any one lot shall not contain more than one Single-Family or two-family dwelling.

#### **3. Exceptions to Minimum Lot Size, Frontage, Open Space, and Side Yard Requirements in RR and Residential (R) Districts for One-, Two-, & Three-Family Structures:**

- a. **Pre-Existing Lots:** See Section IX-E hereof.
- b. **Buildings in Flood Plains:** Dimensional controls shall apply to buildings located in flood plains. Additional regulations are contained in subsequent sections of this ordinance.
- c. **Compliance with Community Development Board Subdivision Regulations:** Not more than one principal structure designed or available for use for single-family dwelling purposes shall be erected or placed or converted to use as such on any lot without receiving a Special Permit from the Community Development Board.

#### **4. Lot and Frontage Requirements for All Districts:**

- a. **New Subdivision Lots:** As a part of a definitive subdivision approval, the Community Development Board may waive the required frontage for a newly created, but not irregularly shaped lot by up to fifty percent on curved streets where the radius of the arc

at its degree of greatest curve is less than 100 feet and lots on turning circles, provided that the required lot width is attained at the required minimum from setback line.

- b. **Prohibition on creating non-conforming lot:** No lot upon which any building or structure stands in conformance with this ordinance shall be changed for any reason in size or shape so as to violate the provisions of this ordinance except through an exercise of the powers of eminent domain.
- c. **Lot Area Calculation:** When the distance between any two points on lot lines is less than 20 feet measured in a straight line (the threshold line), the smaller portion of the lot which is bounded by such a straight line and such lots lines beyond the threshold line shall not be considered in computing the minimum lot area unless the cumulative distance (perimeter) along such lot line between such 2 points and including the threshold line is less than one hundred fifty feet.
- d. **Frontage Exception Lots:** The Community Development Board may grant a special permit for reduced frontage in any residential district except in the MA or the MB and except for duplexes in the RG district. See Special Permit Section XI (D)(11).

**5. Yard Requirements for All Districts:**

- a. Where a side yard is adjacent to a street, the side yard requirement shall be the same as the distance specified for front yard setback.
- b. Where a rear yard is adjacent to a street, the rear yard requirement shall be the same as the distance specified for front yard setback.
- c. No building, Accessory Structure, or subsurface structure, or portion thereof, shall be permitted within the required front setback or side yard areas or less than 10 feet from the rear lot line.
- d. No front yard shall be used for the open storage of boats, vehicles, travel trailers, or any other equipment. A fifteen (15') foot landscaped strip shall be provided adjacent to the street right-of-way line when a front yard is used for parking in business and industrial districts.
- e. Business structures or uses shall not display goods for sale purposes or display coin-operated vending machines of any type in any location, which would infringe upon the required yard areas specified in this ordinance.
- f. Except as provided below, an Accessory Structure attached to a principal building shall comply in all respects with the yard requirements of this ordinance for the principal building, shall be completely screened from adjacent properties, and shall not interfere in any way with access to parking spaces in off-street parking areas. An unattached Accessory Structure may be located in a rear yard within 10 feet of a side or rear lot line. No Shed shall be permitted within the required front setback or side yard areas, or less than 7.5 feet from the side and rear lot lines.
- g. No structure intended for agricultural use, such as a greenhouse, or a building, structure or pen for poultry (excluding chickens), or other livestock, shall be less than 50 feet from any lot line or one hundred (100) feet from any dwelling. No commercial farming establishment shall be allowed unless the parcel is over 5 acres, other than in a Rural Residential or Conservancy District.

**6. Reserved**

**7. Court Requirements for All Districts:**

A court shall be deemed to exist between portions of a principal building or structure and between a principal or accessory building or structure located upon the same lot. The minimum width of an outer or inner court shall be the greater of forty (40) feet or equal to the highest building or structure.

**8. Exemptions to Maximum Height Regulations:**

- a. The height limitations as set forth in the Table of Dimensional Controls shall not apply to chimneys, ventilators, skylights, water tanks, bulkheads, penthouses, and other accessory additions which are required or are customarily carried above the roofs of buildings, or to towers, spires, domes, cupolas, and similar additions to buildings if such additions do not exceed forty-five (45) feet in height, are not used for living purposes, and if such structures are not equal to more than twenty (20) percent of the space occupied by the ground floor of the building. Additionally, all farm accessory structures are exempt from the height requirements of this ordinance.
- b. Accessory buildings or structures used for accessory purposes in all RR and residential (R) districts shall not exceed a height of one story.

**9. Traffic Visibility Across Corners:**

Between the property lines of intersecting streets and a line joining points on such lines twenty (20) feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents, no building or structure in any residence district may be erected and no vegetation other than shade trees may be maintained between a height of three (3) feet and seven (7) feet above the plane through their curb grades.

**10. Traffic Visibility for Driveways:**

A fence, hedge, wall, sign or other structure or vegetation may be maintained on any lot provided that in the front yard area, no such structure or vegetation shall be over two and one-half (2 ½) feet in height above the adjacent ground within five (5) feet of the front lot line unless it can be shown that such vegetation or structure will not restrict visibility in such a way as to hinder the safe entry or exit of a vehicle from any driveway to the street.

**11. Fire Lanes:**

Fire lanes shall be provided in accordance with the regulations of the Massachusetts State Building Code and Board of Fire Prevention, and Methuen City Resolutions No. 145 and 275 and all subsequent amendments thereto.

**12. Screening & Space Buffers in Industrial and Business Districts:**

- a. Screening & space buffers shall be required in any industrial or business district which abuts residential districts. The minimum width of this strip shall be 30 feet in addition to the minimum yard setback requirements specified in the Table of Dimensional Regulations for that zone.
- b. The buffered strip shall contain a vertical screen of plantings not less than four (4) feet in width and five (5) feet in height at the time of planting and shall be evenly spaced,

planted no less than ten (10") feet on center. The owner or occupants shall maintain said buffered strip so as to maintain a dense screen year-round.

- c. At least fifty (50) percent of the plantings shall consist of evergreens.
- d. A solid wall or fence, five (5) to six (6) feet in height, complemented by suitable plantings, may be substituted for such buffered strip at the discretion of the permitting agent. The construction, height, and maintenance of fences shall conform to all other applicable ordinances and shall not exceed 6 feet in height. Shrubbery and other growth planted on property shall not be subject to 6-foot limits.
- e. The buffered strip shall not be closer than five (5) feet to a public or private street right-of-way line.
- f. The buffered strip as described above must be planted at the time of occupancy of such lot. If the weather conditions are not suitable for planting at the time of occupancy, a cash bond shall be posted with the City equivalent to the cost to the City installing the required plantings.
- g. The buffered strip may be reduced in size up to fifty (50%) percent by the Community Development Board through the site plan review or special permit process. The Board may reduce the buffer if the size and location of the lot are such that the size buffer may be reduced without negatively impacting abutting parcels. If the size of the buffered strip is reduced, additional landscaping, fencing, or berms may be required.

**13. Subdivision Exemption:**

See Chapter 40A, Section 6, of the Massachusetts General Laws addressing lots approved under previous zoning regulations.

**Section VI-C - Specific Intensity Regulations**

Any structure hereafter altered, constructed, erected, placed or converted for any use in any district shall be located on a lot only in conformance with the minimum requirements of the Table of Dimensional Regulations as found in Appendix B or the General Intensity Regulations in Section VI-B.

**Section VI-D - Table of Dimensional Regulations**

All buildings shall conform to the requirements of the Table of Dimensional Regulations as found in Appendix B (page 199) unless exempted by the exceptions to minimum lot size, frontage, open space, and side yard requirements for one, two, and three family structures as specified in Section VI and the Special Permits Section XI.

**Section VI-E - Neighborhood Consistency Requirements**

In any residentially zoned area where a new residential structure is to be constructed there shall be a requirement that curbing, underground utilities and sidewalk if existing on or in front of a lot within five-hundred feet (500') and on the same way to the lot to be built upon shall be

## SECTION VI: DIMENSIONAL CONTROLS

constructed on or in front of that lot as applicable. Such construction shall be performed under standards equivalent to those under the then existing subdivision rules and regulations, or which currently exist if no regulations were in place at the time of construction. Additionally, if the lots adjacent to the lot to be built upon have located thereon leaf bearing shade trees bordering on the way said lot to be built upon shall have planted a leaf bearing shade tree with a minimum breast height diameter of four or more inches.

## **SECTION VII SIGN AND ILLUMINATION REGULATIONS**

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### **Section VII-A - Intent & Purpose**

1. To regulate signs within the City of Methuen in order to protect and enhance the visual environment for the safety, convenience, information, and welfare of its residents.
2. To provide for the manner in which signs and lighting shall be constructed and/or altered.
3. To restrict signs and lighting that overload the public capacity to receive information, which violate privacy, or which increases the probability of accidents by distracting attention or obstructing vision.
4. To encourage signage and lighting which aid communication, orientation, identify activities, express local history and character, and serve educational purposes for the public good.
5. To reduce the visual and informational conflict among signs and lighting.

### **Section VII-B - Applicability**

1. **General Applicability:** All new or reconstructed or renovated signs shall conform to the provisions of this section, except as otherwise allowed or required by this section or as specifically exempted from City Ordinances by the Massachusetts General Laws, as amended. Signs in recognition of an occupant in a residential building will not be affected by this section, provided the sign area does not exceed two square feet.
2. **Permitted Changes to Existing Signs:** Existing signs which are accessory to an existing use or to a non-conforming use which is being continued or which has been replaced by another non-conforming use as provided in Section IX may be:
  - a. Continued unchanged except for required compliance to Section VII-D.3(c) regarding hours of illumination and to Section VII-C.2(c) regarding maintenance.
  - b. Altered or renovated, provided such sign does not thereby become more non-conforming as to use, placement, dimensions or illumination as regulated by this section.
  - c. Replaced by a sign conforming to the district.
  - d. A sign accessory to a non-conforming use may be replaced by a sign conforming to the regulations for the most restrictive district in which the non-conforming use is permitted by right, provided such sign complies with the regulations for illumination of the district in which it is located, and further provided that if the non-conforming use is permitted by Special Permit, such sign shall conform to the regulations for the most restrictive district permitted by Special Permit.
3. **Signs Under Construction:** Any sign, the erection of which has been lawfully begun and carried on in good faith before this section becomes operative, may be completed according to laws and regulations then in force, but shall conform hereto as far as practicable without hardship.

4. **Removal of Certain Discontinued Signs:** This section shall not apply to signs existing at the time of adoption of this ordinance except as noted in paragraph (a) below. The owner of a discontinued sign of the kind specified in paragraph (a) or (b) below, shall remove said sign, together with any separate supporting structure, within 60 days after written notification from the Building Commissioner. An existing non-permitted sign will not be considered an existing sign.
  - a. A sign accessory to a non-conforming use that has been abandoned as defined in Section II, Definitions.
  - b. A sign erected after adoption of this ordinance which, because of a change in occupancy, or because of non-use of the premises for twelve successive months, ceases to refer to a business conducted or product sold on the premises, unless such a sign has been altered so as to again be accessory to the premises.

## **Section VII-C - Administration**

1. **Required Permits:** A permit from the Building Commissioner is required before sign erection, removal, alteration, and enlargement or, except for ordinary maintenance or repair, for a permitted residential identifying sign or a permitted temporary sign.
2. **Manner of Construction and Maintenance:**
  - a. **Construction:** All signs other than permitted temporary signs shall be constructed of durable materials and no sign shall be painted or posted directly on the exterior surface of any wall or roof.
  - b. **Illuminated Signs:** Illuminated signs shall be constructed of non-combustible materials, except that facings, letters, figures, decorations, and structural trim therefore may be made of approved combustible plastic as defined in accordance with American Society for Testing Materials standard methods.
  - c. **Maintenance:** All signs, including temporary signs, shall be securely erected or affixed and kept safe, neat and clean and in good and safe repair and operating conditions, to the reasonable satisfaction of the Building Commissioner. If the owner of the sign has abandoned the use of the premises, or has changed the use of the premises so that the sign no longer refers to the use of the premises, then the sign shall be removed within one (1) year from the date of abandonment or within one month from the date of the change in use.
3. **Application for Permit:** The owner or lessee of the premises on which a sign is to be erected shall file the following with the Building Commissioner:
  - a. An Application in duplicate for a permit on appropriate blanks furnished by the Building Commissioner including the written consent of the owner of the premises concerned or of his authorized agent.
  - b. Full name, residence and business address of the owner of the property, of the lessee, if any, and of any authorized agent to whom notices may be sent.
  - c. Locations, position and dimensions of sign.

- d. Such plans, structural drawings and specifications as the Building Commissioner may require for temporary examination and permanent record.

**4. Powers of Building Commissioner Regarding Signs:**

- a. **Issuance of Permit:** The Building Commissioner shall, within 14 days, approve or reject any applications for a sign filed with him in accordance with all requirements of this section and all other applicable laws, ordinances, and regulations.
- b. **Electrical Inspectors:** If a sign contains any electrical devices, the exercise of such permit shall be conditioned upon receipt by the applicant of prior written approval of such sign from the City Electrical Commissioner given after physical inspection by him of all electrical devices contained in said sign.
- c. **Applicability of Building Code:** All of the provisions of the Building Code of the City having general application to the issue, publication of notice of revocation or refusal of permits, shall apply to the fullest reasonable extent. Signs shall be deemed to be structures subject to all applicable provisions of said building Code and to all of the powers thereby granted to the Code and to the Building Commissioner.

**Section VII-D - General Provisions for Signs and Lighting**

- 1. **Number of Signs:** No more than one sign of each type permitted in the district shall be placed in any street yard except as follows:
  - a. **Wall Signs:** The permitted aggregate area for a wall sign may be distributed among several smaller wall signs.
  - b. **Temporary Signs:** One additional temporary sign accessory to a non-residential use is permitted in each street yard.
  - c. **Directional Signs:** Directional signs are allowed up to the number reasonably necessary to the direction of traffic.
- 2. **Placement of Signs:**
  - a. **In Street Yards Only:** No standing signs, other than directional signs, shall be permitted in side or rear yards except for signs accessory to a business or industry whose only public entrance is from that side or rear yard.
  - b. **Standing Signs:** No part of any standing sign shall be placed closer to a street lot line than one half the minimum front yard required for the district, or one-half the actual yard between a street lot line and an existing building, whichever is less, but in no case less than 5 feet from the street lot line.
  - c. **Wall Signs:** No wall sign shall extend beyond the ends of the wall to which it is affixed nor rise above such wall more than 10 feet or one third the height of such wall, whichever is less.
  - d. **Projecting Signs:** No projecting sign which overhangs a sidewalk or the ends of a height of a wall to which it is affixed shall project beyond a line drawn 18 inches from the inside of the curb line or 12 inches from the face of the building. No projecting sign shall be affixed to the roof of a building.

**3. Illumination and Motion of Signs:**

- a. **Prohibition Animated or Flashing Signs:** Signs, any part of which move or flash, all signs of the traveling light or animated type, and all beacons and flashing devices are prohibited with the exception of Christmas lights during the period between Thanksgiving and New Year's Day.
- b. **Prevention of Glare:** All illumination of signs must be so arranged as to prevent glare onto any portion of any public way or into any lot used or zoned for residence. See Section VII-D. 5 for regulations affecting outdoor lighting.
- c. **Hours of Illumination:** No sign shall be illuminated between midnight and 6:00 a.m. on any day except for signs of businesses which are legally carrying on business at other times, which may be illuminated while said businesses are actually open to receive the public, and except for signs of medical doctors at their residence, which may be illuminated at any time.
- d. **In Rural Residential and Residential (R) Districts:** No signs in RR or residential (R) districts shall be illuminated, other than indirectly, and by a continuous white light from a source so placed that the lighted surface of the source is not visible from any lot line.

**4. Prohibited Signs:**

- a. **Signs Hazardous to Traffic:** No sign shall be so designated or colored or so placed as, in the opinion of the City Police Chief, to endanger, obscure, confuse, blind by glare, or otherwise create a hazardous condition to motor vehicle traffic.
- b. **In Public Right-of-Ways:** No sign shall be placed within or over a public right-of-way except with permission of the public agency having jurisdiction.
- c. **Off Premises:** No sign is permitted which indicates a use or product not specifically available on the property where the sign is located except for Billboards.

**5. Outdoor Lighting:**

- a. Any luminaire with a lamp or lamps rated a total of more than 2,000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.
- b. All luminaries, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel, reduce indirect light reflecting off of other surfaces not part of the luminaire, and to eliminate glare perceptible to persons on any street or abutting lot or parcel.
- c. Subsection (a) above, shall not apply to any luminaire intended solely to illuminate any freestanding sign or the walls of any building but such luminaire shall be shielded so that its direct light is confined to the surface of such sign or building.
- d. Outdoor lighting shall not be illuminated between midnight and 6:00 a.m. with the following exceptions:
  - i. If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hours prior to and after the activity ceases;

- ii. Low level lighting sufficient for the security of persons or property on the lot may be in operation *between midnight and 6:00 a.m.* provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.
- e. See also Section VII-D.3 for regulations affecting the illumination of signs.

## **Section VII-E - Special Provisions, Temporary and Directional Signs**

- 1. Temporary Signs
  - a. **During Construction:** During construction of a building or buildings, not more than one temporary sign may be erected on the premises where such construction is being carried on, identifying the buildings, the intended occupants and those engaged in the construction. All such signs shall be removed within 7 days after completion of construction.
  - b. **Temporary Accessory Sign:** Temporary signs relating to a business, service, product or activity on the premises on which the sign is located shall be removed from public view within 7 days after the activity has ceased, or after substantial damage to the sign, whichever comes first.
  - c. **Temporary Non-Accessory Signs:** Such signs shall be permitted only for non-commercial events, not including elections, and the organization sponsoring such signs shall be required to obtain a permit from the Building Commissioner. The display of such signs is limited to a period of thirty (30) days preceding and one (1) day after the relevant event, whereupon they shall be removed. No such sign shall be attached to a tree or utility pole.
  - d. **Temporary Non-Accessory Political Campaign Signs:** Signs announcing a person's candidacy for election to a municipal, county, state or federal office shall be allowed but exempt from the permit requirements, provided they comply with the following conditions:
    - i. **Time Limitation:**
      - (1) In the instance where there is a primary election, no sign shall be erected sooner than thirty (30) days before the primary election. As to those at-large or district races where there is no primary election, no sign shall be erected sooner than thirty (30) days before the general election.
      - (2) The signs of a candidate who is successful in a primary election may remain in place during the period between the primary election and the Election Day following.
      - (3) The signs of a candidate who was unsuccessful in a primary election shall be removed no later than seven (7) days after that primary election.
      - (4) All candidates' signs shall be removed no later than seven (7) days after Election Day.
      - (5) The authority for enforcement of this Ordinance shall be vested in the Inspectional Services Department staff who are empowered to enforce such violations and the Methuen Police Department, under the direction of the

Chief of Police whose Inspectional Services Department staff members, so empowered, shall work under the direction and supervision of the Inspectional Services Director and Director of the Department of Economic and Community Development for the City of Methuen.

(6) Enforcement shall include the removal of any and all signs, placards and/or other such items that are in violation of this Ordinance, immediately upon the discovery of the violation. When determined to be necessary, enforcement shall also include written notification to the sign owner or party responsible for the origination and/or placement of the sign.

ii. General Conditions:

- (1) No sign shall be erected upon, above or across any part of any highway, avenue, street, alley or trailer.
- (2) Signs located near a corner shall be subject to the traffic visibility across corners.
- (3) No sign shall be illuminated or electrified.
- (4) Exemption from the permit requirements shall not relieve the owner of a sign, or the owner of the premises upon which it is erected, from the responsibility for erecting and maintaining the same in a safe manner and the City shall not be held liable for any claims resulting from the existence of such sign.
- (5) Ground or pole signs shall not exceed an overall height of seven (7) feet above the underlying grade.
- (6) Wall signs shall not be so placed as to obstruct any opening required for ventilation.
- (7) Window signs shall not be so fixed as to impede the operation of the window upon which they are applied.
- (8) No sign shall be placed on Public Property, including, but not limited to properties, roadways, or public ways belonging to the City of Methuen, Commonwealth of Massachusetts or United States (Federal) Government.
- (9) No sign shall be placed on trees, telephone poles, electric light poles, cell tower poles (or cell towers in general), tree stumps, wetlands, traffic islands, traffic signal poles, traffic sign holders and/or markers (e.g. Stop signs; pedestrian way signs, etc.).
- (10) Residential (House) "For Sale" signs, located on or at an actual residence or contiguous premises shall be placed on the property for a time period that is deemed necessary to effectuate a sale of the residence by the real estate sales office or person; or the homeowner who is selling the residence without the aid of a realty sales professional. However, no sign shall be placed on a street; public way or public area, as described and designated 804 herein at paragraph (h). "Open House" signs are permitted and shall be removed at the end of the day or at the end of the time period for the "Open House;" whichever event shall occur earlier.
- (11) Yard, garage, estate, rummage, moving, or other like type signs shall be posted no earlier than twenty-four (24) hours prior to the named event, and shall be removed at the end of the posted time period for the sale's termination.

iii. Political Campaign Signs are allowed in all districts: In addition to the conditions above, the following shall apply:

- (1) No political sign shall be permitted in side or rear yards.
- (2) No political sign shall be placed closer to a street lot line than one-half the minimum front yard required for the district, or one-half the actual yard between a street lot line and an existing building, whichever is less, but in no case less than five (5) feet from the street lot line.

Violation of any of the provisions of this section shall render the owner of a sign, or the owner of the premises upon which it is affixed, subject to an action under Section X-G.

2. **Directional Signs:** Directional Signs accessory to a use on the premises are not limited as to number or placement on the lot provided:
  - a. Such signs contain no words or symbols other than those required for the direction of traffic.
  - b. The signs are not so placed or designed as to obscure approaching traffic or pedestrians.
  - c. Signs, such as street signs, traffic signs and safety lights, erected by the Methuen or Massachusetts Department of Public Works for the convenience and safety of the public are not restricted.

### **Section VII-F - Exemptions**

The following shall not be considered signs within the context of this ordinance:

1. Signs referring to the owner or occupant of a dwelling and/or professional signs, provided said sign is two (2) square feet or less in area.
2. Flags and insignia of any government except when displayed in connection with commercial promotion.
3. Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.
4. Legal notices, or informational devices erected or required by public agencies.
5. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.
6. On awnings or similar devices, lettering not exceeding three (3) inches in height, or symbols not exceeding four (4) square feet in area.

### **Section VII-G - Table of Permitted Signs**

The Table of Permitted Signs attached hereto as Appendix C shall be declared to be part of this Ordinance.

## SECTION VII: SIGN AND ILLUMINATION REGULATIONS

**Free Standing Signs:** Notwithstanding anything herein to the contrary, one (1) Free Standing Sign per parcel shall be allowed in the CBD.

## **SECTION VIII PARKING AND LOADING REQUIREMENTS**

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### **Section VIII-A - Intent & Purpose**

It is the intent and purpose of this section to stipulate provisions for off-street parking and loading requirements:

1. **General Requirement:** In order that all structures and land uses eventually be provided with sufficient off-street parking to meet the needs of persons employed at or making use of such structures or land uses, no land shall be used and no building shall be erected, enlarged or used unless off-street parking area, conforming in amount and type to the requirements of this section, is provided.
2. **Exceptions for Existing Non-Conforming Uses and Buildings:** The addition of off-street parking for an existing non-conforming use or building shall be required only in the following instances:
  - a. **Change to Use:** Where a non-conforming use is increased in area or changed to a use requiring more parking than the present use according to Section VIII - C, 2, additional off-street parking shall be provided in the amount necessary so that said expansion or change in use will not result in any increased violation of the parking requirements of this section.
  - b. **Change to Building or Lot:** Any spaces lost by exterior alteration of a non-conforming building shall be replaced by the same number, or by enough to make up the total number required by Section VIII - C, 2 for the use, whichever is less.
  - c. **Exemption for Small Establishment:** Off-street parking space shall not be required for non-residential uses when the computed requirement results in six (6) spaces or less for all the non-residential uses on the lot.
3. **Exceptions for the Central Business District:** Where literal interpretation of the standards for off-street parking required herein prove to be infeasible in the Central Business District (CBD), the Community Development Board may reduce the requirements of the business use portion of the building by not more than fifty percent (50%) by issuance of a special permit (see Section XI-D.8). Any such reductions shall be supported by evidence of infeasibility due to lack of suitable land, design considerations, or other similar factors. In the instance where utilizing the provisions of Section VIII-A use calculation requires twenty or fewer parking spaces, then there shall be no parking requirements imposed on the use.

### **Section VIII-B - Location and Design of Off-Street Parking Spaces**

#### **1. Location:**

- a. **Same Lot:** Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve or, when practical difficulties prevent their establishment upon the same lot, the Board of Appeals may grant a special permit to

allow the spaces to be established no further than 200 feet from the premises to which they are appurtenant.

b. **Off-Lot in Central Business District (CBD):** Off-street parking facilities may be provided on a lot other than the lot or tract upon which the building or use requiring such facilities is located, provided the lot is located within five-hundred (500) feet of the principal building or use, and that the owner shall execute, on behalf of himself, his successors and assigns in the ownership of said principal building or use, a written instrument in a form acceptable to the City Solicitor, covenanting that, in consideration of the issuance of a building permit for the principal building or use, the lot or portion of the lot on which the parking facility is located will be used and maintained solely for off-street parking purposes accessory to such principal building or use so long as the use or structures comprising such principal use continues to exist without sufficient parking elsewhere or upon the lot with the principal use. Said off-lot parking facilities shall be designated for the use of one principal use only and shall be clearly marked as dedicated for such principal use on site in a manner to be approved by the Building Commissioner.

c. In no instance may the open space required for a lot be used for the provision of off-street parking spaces.

d. Parking shall not be located within the required front yard area except for one-family and two-family dwellings.

2. **Construction:** Off-street parking areas may be open or enclosed in a structure provided that, if open, such areas shall be graded, drained and surfaced in conformance with currently applicable engineering standards as determined and promulgated by the City Engineer. In no instance shall surface drainage be permitted to drain onto land of adjacent property owners or the City right of way. The City Engineer may require a permeable surfacing in areas designated as high-water storage areas by the Conservation Commission.

3. **Size of Parking Spaces:** Each required off-street parking space shall be marked and shall not be less than nine (9) feet in width and eighteen (18) feet in length for angle parking or twenty-two (22) feet in length for parallel parking exclusive of drives, walks and maneuvering space.

4. **Aisles:** Each required off-street parking space shall have direct access to an aisle or driveway having a minimum width of twenty-four (24) feet in the case of two-way traffic twenty-two (22) feet for aisles providing access primarily for overnight parking or the following widths in the case of one-way traffic only:

ANGLE OF PARKING	MINIMUM AISLE WIDTH
Parallel	12 feet
30 degrees	11 feet
45 degrees	13 feet
60 degrees	18 feet
90 degrees	20 feet

**Landscaping of Parking Lot:**

- a. **Required Setbacks:** The surfaced areas of off-street parking areas for commercial and industrial uses shall be set back a minimum of 7.5 feet from all buildings and lot lines except that front yards in business and industrial districts shall provide a 15 foot landscaped strip adjacent to the right-of-way line.
- b. **Interior of Parking Lot:** At least 5 percent of the interior of any parking lot with 40 or more parking spaces shall be landscaped (i.e. off-street parking areas, with the exception of parking structures, shall be planted with shade trees of a species and size approved by the Methuen Building Commissioner. There shall be a minimum of one (1) tree for each two thousand (2000) square feet of parking area and located as approved by the Building Commissioner. Any trees surrounded on three (3) or more sides by pavement shall be planted with a raised island, bound by a curb a minimum of six (6) inches high, covered with a porous material for water drainage to the tree roots, and have a surface drainage area immediately around the tree a minimum of thirty (30) square feet in area), but planting or screening along the perimeter shall not be counted as part of this 5 percent.
5. **Screening in BN, CBD, BH, BL, and IL Districts Next to Residences:** Any yard in a BN, CBD, BH, BL or IL District which adjoins a lot in an RR or residential (R) district and which is used for accessory business parking or loading shall be screened as described in the definition of "Buffer Screen" (see Section II) before construction commences.
6. **Parking For Handicapped Persons:** Parking for handicapped persons in accordance with the published standards of the Methuen Municipal Code and the Massachusetts Architectural Barriers Board shall be provided.

**Section VIII-C - Required Off-Street Parking**

**1. Interpretation:**

- a. **Fractions:** Where the computations of required spaces results in a fractional number, the nearest whole number shall be used.
- b. **Joint Parking Lot:** The aggregate number of spaces required for each of several uses separately may be provided on a common parking lot serving all of these uses and, where it can be demonstrated that the combined peak parking needs of all the uses sharing the lot will, because of differences in peak hours or days, be less than the aggregate normally required for each use separately, the number of parking spaces to be provided may be reduced accordingly.

**2. Table of Required Off-Street Parking:** Off-street parking shall be provided for new structures and new additions in accordance with the Table of Required Off-Street Parking (page 56).

## Section VIII-D - Design and Layout of Off-Street Loading

1. **Design:**
  - a. **Size and Location of Space:** Each required space shall be no less than 12 feet in width, 14 feet in height and 30 feet in length in a Business District and 50 feet in length in an Industrial District, exclusive of drives and maneuvering space, and such space, including necessary maneuvering areas, shall be entirely on the lot being served.
  - b. **General Design:** Spaces, maneuvering areas and access drives shall be so designed and used as at no time to constitute a nuisance or a hazard or unreasonable impediment to traffic on public ways or in parking lots open to the public.
2. **Enclosure:** Loading spaces may be enclosed in a structure and shall be so enclosed if located within 50 feet of an RR or residence (R) district where the use involves regular night operation.
3. **Construction:** All accessory driveways, entranceways and loading areas shall be graded, surfaced and drained, to the satisfaction of the City Engineer and to the extent necessary to prevent nuisances of dust, erosion, or excessive water flow across public ways.

## Section VIII-E - Required Off-Street Loading

1. **Interpretation:** Off-street loading bays shall be provided for new structures and new additions in accordance with the following table:

TYPE OF USE	NUMBER OF LOADING BAYS REQUIRED BY GROSS FLOOR AREA OF STRUCTURE (IN 1,000'S SQ FT)				
	2-15	15-20	50-100	100-150	EACH ADDITIONAL 150
Retail trade, wholesale, storage, industry, communications and utilities	0	1	2	3	1
Office, hotel, institution, dormitory, recreation & education	0	0	1	1	1

## **Section VIII-F - Protection of Residence Districts**

1. Except for parking accessory to dwellings, all parking and loading, including outdoor storage, sale, or service to automobiles or to their occupants, shall meet the following requirements:
  - a. **Access:** All such parking or loading areas shall have access either directly from a public way or through a business or industrial district and not through an RR or residential (R) district.
  - b. **Screening:** All such parking or loading areas in any district shall be screened (See definition of Buffer Screen in Sec. II).
  - c. **Illumination:** All illumination of such parking and loading areas shall be continuous. Lights shall be installed and shielded in such a manner that will prevent direct light from shining upon any other property in a residential district.

## **Section VIII-G – Driveways**

1. Shared Driveways shall not be allowed in any residential district.

**TABLE OF REQUIRED OFF- STREET PARKING**

PRINCIPAL USE	SPACES	UNIT
One or Two Family House	2.0	Per dwelling unit
Housing for the Elderly (public and private)	1.0	Per dwelling unit
Multi-family housing or Attached Dwellings	2.0	Per dwelling unit
Attached Dwellings	plus 1.0	Guest parking space per every 5 regular spaces
Hotels, Motels, Licensed Lodging Houses	1.0 plus 1.0 plus 1.0 plus 1.0	Per 2 employees on maximum shift Per guest room Per table or 4 seats in a restaurant Per 100 square feet of space in function rooms (rooms not designed for eating)
Accessory Home Occupations	1.0	Per maximum number of potential customers at one time (as determined by the Building Commissioner)
Accessory Lodgings	1.0	Per 2 rooms offered for rent
Other places of Public Assembly, such as for Meetings, Entertainment, Recreation, Adult-education	1.0	Per 4 fixed seats or 6 linear feet of bench or 20sq.ft. of floor per area open to the public assembly where not seats or benches are provided
Eating Places serving Food or Beverages	1.0 plus 1.0 plus 1.0	Per 2 employees on maximum shift Per table of 4 seats Per 100 sq. ft of function rooms not designed for eating
Funeral Parlor, Undertaker	1.0	Per 4 seats or 1 per 50 sq. ft. in parlor whichever is greater
Gasoline Station or Repair Garage	1.0 plus 1.0	Per 300 sq. ft Per 2 employees on maximum shift
Bowling Alley	2.0	Per bowling alley
Hospitals, General	1.0 plus 1.0 plus 1.0	Per 2 "on duty" employees Per attending doctor Per 2 patient beds
Hospitals, Chronic or Convalescent Sanitariums, Convalescent Homes	1.0	Per 4 patient beds
Other institutions, such as Museum, Private, Professional or Trade School	1.0	Per 600 sq. ft. (1)
Retail	1.0 plus 1.0	Per 250 sq. ft (1) Per 2 employees on maximum shift
Office	1.0	Per 300 sq. ft. (1)

## SECTION VIII: PARKING AND LOADING REQUIREMENTS

PRINCIPAL USE	SPACES	UNIT
Accessory Retail	2.0	Per lottery concession
Research and Development	1.0	Per 300 sq. ft. (1) (2)
Industrial, Including Printing and Publishing	1.0	Per 600 sq. ft (1) (2)
Warehouse, Public Utility Stations, in house Repair Garage, and Other Uses	1.0	Per 1,200 sq. ft (1)
Auto Sales and Display (new and used)	1.0	Per every 7 autos licensed for sale
Drive-Ins (exclusive of foods)	1.0	Per 350 sq. ft.

(1) Square feet of gross floor area as defined as follows: The sum of the areas of horizontal section through each story of all parts of the building measured from the outer faces of the walls, excluding basement areas of whose interior height more than half is below finished grade and excluding enclosed garages.

(2) Or 1 space per 2 employees in the maximum working shift, whichever is greater.

## **SECTION IX      NON-CONFORMING USES, STRUCTURES & LOTS**

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### **Section IX-A - Applicability**

This zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning Ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

### **Section IX-B - Nonconforming Uses**

The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change from one nonconforming use to another, less detrimental, nonconforming use.

### **Section IX-C - Nonconforming Single- and Two-Family Residential Structures**

Nonconforming single- and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

1. Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements.
2. Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
3. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements.

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

## **Section IX-D - All Other Nonconforming Structures**

The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed.
2. Altered to provide for the same purpose in a substantially different manner or to a substantially greater extent.

## **Section IX-E - Special Permit Required**

Except as provided in subsection IX-C above, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.

## **Section IX-F - Abandonment or Non-Use**

A nonconforming use or structure that has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning Ordinance.

## **Section IX-G - Reconstruction after Catastrophe or Demolition**

A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two years after such catastrophe or demolition.
2. Building(s) as reconstructed shall be located on the same footprint as the original nonconforming structure, shall be only as great in volume or area as the original nonconforming structure, and shall meet all applicable requirements for yards, setback, and height.
3. In the event that the proposed reconstruction would (a) cause the structure to exceed the volume or area of the original nonconforming structure or (b) exceed applicable requirements for yards, setback, and/or height or (c) cause the structure to be located other than on the original footprint, a special permit shall be required from the Board of Appeals prior to such demolition.

## **Section IX-H - Reversion to Nonconformity**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

## **Section IX-I - Consultative Review**

In the instance where the Special Permit Granting Authority believes that the magnitude of the proposed use or structure is such as to require special expertise, the SPGA may retain an outside individual or firm to aid it in ensuring compliance with the requirements of the Zoning Ordinance of the City of Methuen. The cost of such a review shall be borne in full by the applicant seeking the extension of the non-conformity.

## **SECTION X      ADMINISTRATION & ENFORCEMENT**

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### **Section X-A - Intent & Purpose**

The intent and purpose of this section is to provide the specific means by which this ordinance is administered, enforced, varied and amended.

### **Section X-B - Administration**

**1. Permits.** This Ordinance shall be administered by the Building Commissioner. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law.

An application for a permit shall be accompanied by a plan, accurately drawn, on a scale 1" = 40' prepared by a Massachusetts licensed engineer or land surveyor showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings or structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this ordinance. The Building Commissioner shall take action on an application for a permit, either granting the permit or disapproving the application, within thirty (30) days of receipt of the application.

No permit shall be issued under this section if the building, structures or lot as constructed, altered, relocated or used would be in violation of any provision of this ordinance. Whenever such permit or license is refused because of some provisions of this ordinance, the reason therefore shall be clearly stated in writing.

No building hereafter erected, altered substantially in its use or extent, or relocated shall be used or occupied, and no change shall be made of the use of any building or of any parcel of land, unless a Certificate of Occupancy signed by the Building Commissioner has been granted to the owner for occupancy of such land or building. Such certificate shall not be granted unless the proposed use of the land and building and all accessory uses comply in all respects with this ordinance and no use shall be made of such land or building that is not authorized by such Certificate of Occupancy.

The Building Commissioner is also authorized to issue a temporary permit for the storage of construction materials, equipment, and site trailers related to a publicly funded project for a period not in excess of 12 months.

Consultative Review - In the instance where the Building Commissioner believes that the magnitude of the proposed use or structure is such as to require special expertise, the Building Commissioner may retain an outside individual or firm to aid him or her in ensuring compliance of the Zoning Ordinance of the City of Methuen. The cost of such review shall be borne in full by the applicant seeking the permit.

2. **Enforcement.** The Building Commissioner shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this Ordinance and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the City Council to the City Solicitor.

In addition to the requirements of G.L. c. 40A, where the Building Commissioner, in the course of his duties, determines that any plans, buildings, or premises are in violation of the provisions of this ordinance, he shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered, the time permitted for such action, and the penalties and remedies which may be invoked by the City, and violator's right of appeal; all as provided for by this ordinance.

On the serving of notice by the Building Commissioner to the owner for any violation of any provisions of this ordinance, the Certificate of Occupancy may be considered null and void, and a new Certificate of Occupancy shall be required for any further use of such building or premises. (You ought to consider some limitations here, "any violation" is rather broad if you are talking about withdrawing an occupancy permit)

The Building Commissioner shall maintain a permanent public record of all matters considered and all action taken by him, and such records shall form a part of the records of his office.

An individual permanent file for each application by street address for a permit provided for by this ordinance shall be established at the time the application is made. Said file shall contain one (1) copy of the application and all supporting documents, maps, and plans; notations regarding pertinent dates and fees, and the like; as appropriate, one (1) copy of the resolution of the Board of Appeal in acting on the application; and the date the permit applied for was issued or denied by the Building Commissioner.

3. **Violations.** If the Building Commissioner shall be informed in writing or have reason to believe that any provision of this ordinance has been, is being, or may be violated, he shall make or cause to be made an investigation of the facts and inspect the property where the violation may exist. If he shall find any such violation, he shall serve a NOTICE of VIOLATION and ORDER to any owner or person responsible for such violation of any approved plan, information or drawing pertinent thereto, or in violation of a permit or certificate issued under the provisions of this ordinance, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a reasonable time to be specified by the Building Commissioner. Any owner, who having been served with a notice, and who ceases any work or other activity, shall not leave any structure or lot in such conditions as to be a hazard or menace to the public safety, health, or general welfare.

4. **Prosecution of Violations.** If the notice of violation and order is not complied with promptly, the Building Commissioner shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation.
5. **Penalties.** The penalty for violation of any provision of this Ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be Three Hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

## **Section X-C - Board of Appeals**

1. **Establishment.** There is hereby established a Board of Appeals of five (5) members to be appointed by the Mayor and confirmed by the City Council, as provided in Chapter 40A of the General Laws. Three (3) associate members shall be appointed in like manner to serve, upon designation by the Chairman of the Board, in case of vacancy, inability to act, or conflict of interest on the part of a member of said Board. All members of the Zoning Board shall be residents of the City of Methuen. The Zoning Board shall annually elect a chairman and a clerk from its membership.
2. **Powers.** The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this Ordinance. The Board's powers are as follows:
  - a. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority.
  - b. To hear and decide appeals or petitions for variances from the terms of this Ordinance, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10.
  - c. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.
  - d. To hear and decide comprehensive permits for construction of low- or moderate-income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.
  - e. The Board of Appeals SHALL NOT grant variances from the use provisions of this ordinance.

In exercising these powers, the Zoning Board of Appeals may, in conformity with the provisions of this ordinance and the Zoning Act, revise or affirm in whole or in part, or may modify, any order or decision, and may make such order or decision as ought to be made, and to that end shall have all the powers of the officer from when the appeal is taken and may issue or direct the issue of a permit.

3. **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers. A copy of such rules shall be filed in the office of the City Clerk.

In addition to the rules and regulations adopted by the Board, the following shall at a minimum apply: Meetings of the Zoning Board of Appeals shall be held at the call of the chairman or when called in such other manner as the Zoning Board of Appeals shall determine in its rules. The Zoning Board of Appeals shall hold a hearing on any appeal, application or petition. The Zoning Board of Appeals shall cause notice of such hearing to be published and sent to parties in interest as provided for in Chapter 40A and shall notify the Community Development Board of Methuen and the Community Development Board of adjacent cities and towns which may forward recommendations with respect to said matter for the consideration of the Zoning Board of Appeals. The chairman, or in his absence the acting chairman, may administer oaths, summon witnesses, and call for the production of papers. The concurring vote of all but one of the members of the Zoning Board of Appeals shall be necessary to reverse any order or decision of the Building Commissioner under this ordinance.

4. **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

### **Section X-D - Variance(s)**

1. The Board of Appeals may grant variances in accordance with G.L. c. 40A §10 if it finds that owing to circumstances relating to soil conditions, shape or topography of land and especially affecting such land but not affecting generally the zoning district in which the land is located and a literal enforcement of the provisions of the zoning Ordinance would involve substantial hardship to the petitioner or appellant and relief can be granted without substantial detriment to the public good and without nullifying or derogation from the intent and purpose of this zoning Ordinance. The Board of Appeals shall not grant use variances.
2. The Board of Appeals may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner, or any owner.

### **Section X-E - Repetitive Petitions and Withdrawal**

No appeal, application or petition which has been unfavorably and finally acted upon by the Zoning Board of Appeals or by another Town agency or board shall be acted favorably upon within two (2) years after the date of final unfavorable action unless the acting board or agency finds, by a unanimous vote, specific and material changes in the conditions upon which previous unfavorable action was based, and describes such changes in the record of its proceedings, and unless all but one (1) of the members of the Community Development Board consents thereto and after notice is given to parties in interest (as defined in G.L. c. 40A) of the time and place of the proceedings when the question of such consent will be considered.

Any petition for a variance or application for a special permit which has been transmitted to the Zoning Board of Appeals may be withdrawn, without prejudice, by the petitioner prior to the publication of the notice of a public hearing thereon, but thereafter may be withdrawn without prejudice only with the approval of the Zoning Board of Appeals.

### **Section X-F - Public Hearings**

Public Hearings shall be held in accordance with G.L. c. 40A §11 as applicable and otherwise the Open Meeting Law. No Public Hearing hereunder shall be held on any day on which a state or municipal election, caucus or primary is held in Methuen.

### **Section X-G - Prosecution of Violations**

If the notice of violation and order is not complied with promptly, the Building Commissioner shall institute the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation. Penalties for violations shall, upon conviction, be affixed in an amount not to exceed three hundred dollars (\$300) for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.

## **SECTION XI      SPECIAL PERMITS**

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### **Section XI-A - Purpose & Intent**

It is the purpose and intent of this section to provide the designation of the board or agency which shall act on the various special permits, the general and specific regulations governing special permits, and the procedures by which special permits shall be granted.

### **Section XI-B Designation of Special Permit Granting Authorities**

1. **Special Permit Granting Authority.** The Board of Appeals shall act as the Special Permit Granting Authority (hereinafter “SPGA”) for all Special Permits unless otherwise designated herein or in the Table of Uses.
2. **Criteria.** Special permits shall be granted by the SPGA, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any other specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:
  - a. Social, economic, or community needs which are served by the proposal.
  - b. Traffic flow and safety, including parking and loading.
  - c. Adequacy of utilities and other public services.
  - d. Neighborhood character and social structures.
  - e. Impacts on the natural environment; and
  - f. Potential fiscal impact, including impact on City services, tax base, and employment. Said analysis shall conform to with the Rules and Regulations of the SPGA.
  - g. Consistency with the most recent City of Methuen Master Plan.
3. **Procedures and Filing Requirements.** An application for a special permit shall be filed in accordance with the rules and regulations of the SPGA including all required plan and filing requirements, review criteria and analysis.
4. **Conditions.** Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the SPGA may deem necessary to serve the purposes of this Ordinance including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this ordinance; screening buffers or planting strips, fences, or walls; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation for the duration of permit, or extent of facilities; regulation of number, location of driveways or other traffic features; and off-street parking or loading or other special features beyond minimum required by this ordinance. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the SPGA.

5. **Plans.** Plans shall be filed in accordance with the Rules and Regulations of the SPGA.
6. **Waivers.** Upon written request the SPGA may grant waivers from the submission requirements should they find good cause for such waiver. The SPGA may also request any additional information it may need to clarify the application.
7. **Fees.** The SPGA may adopt reasonable administrative fees and technical review fees for applications for special permits. Fees for projects containing publicly- assisted low- or moderate-income housing may be reduced or waived at the discretion of the SPGA.
8. **Regulations.** The SPGA may adopt rules and regulations for the administration of this section.
9. **Lapse.** Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within two (2) years following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk. Additionally, if construction or operations has not begun within six (6) months or if construction is not continuing toward completion in as continuous or expeditious manner as is reasonable during the initial six (6) months, then the construction or operations shall conform to any amendment to this ordinance.
10. **Applicability to Single- and Two-Family Structures.** The provisions of this Section should not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single- or two-family structures. The SPGA should establish procedures governing such applications by regulation.

## Section XI -C Special Permit Procedures

1. If the Zoning Board of Appeals is acting as the SPGA, the application shall be filed with the City Clerk who shall transmit it forthwith to the Zoning Board of Appeals for action.
2. If any other agency allowed by the Zoning Act is acting as the SPGA, the application shall be made to that agency, and the applicant shall also transmit a copy to the City Clerk.
3. If the rules and regulations adopted by the various SPGA's specify referral of the special permit application to other boards or agencies of the City, such boards or agencies may make recommendations to the SPGA within thirty-five (35) days after they receive application of petition. Failure of a board or agency to report within thirty-five (35) days shall be considered as no opposition.
4. No Special Permit shall be granted until after a duly advertised public hearing as specified in G.L.c. 40A § 11, providing the public hearing is held within sixty-five (65) days of the date of application.
5. Special Permits shall be decisions shall be made and issued in accordance with the procedures set forth in G.L. c. 40A §9.

6. Upon granting or denying a special permit the SPGA shall forthwith:
  - a. file a copy of the decision with the Community Development Board and City Clerk.
  - b. mail a certified copy of its decision to the owner, and applicant if other than owner.
  - c. send a notice of the decision to the parties of interest and to persons who requested a notice at the public hearing, and
  - d. within fourteen (14) days, file copies of the detailed record of its proceedings with the Office of the City Clerk, and
  - e. specify that appeals, if any, shall be made pursuant to Section 17 of the Zoning Act and shall be filed within twenty (20) days after the date of filing of such notice with the City Clerk.
7. A special permit shall not take effect until:
  - a. The City Clerk certifies on a copy of the decision that twenty (20) days have elapsed without filing of an appeal or that any appeal filed has been dismissed or denied.
  - b. The certified decision has been recorded at the owner's expense in the applicable registry of deeds, indexed in the grantor index under the name of the record owner, and noted on the owner's certificate of title. If registered property is involved, the decision shall also be filed with the recorder of the Land Court. If a special permit has been approved by failure of the SPGA to act within the required time periods, a copy of the special permit application, along with the certification of the City Clerk of the constructive grant, must be recorded in the registry of deeds. No special permit takes effect until it has been so recorded. Refer to Massachusetts General Laws, Chapter 40A, Section 11.
8. **Site Plan Requirements:** All Site Plans shall be prepared in accordance with the Rules and Regulations of the SPGA unless otherwise required herein.

## **Section XI-D - Special Permit - Specific Regulations**

### **1 Planned Unit Development**

#### **A. Purposes:**

- a. To promote the more efficient use of land.
- b. To permit the planned mixture of attached and Multi-Family residences and certain types of convenience commercial uses.
- c. To meet the affordable housing needs of the City and to promote diverse and energy efficient housing at a variety of costs.

**B. Applicability:** An application for a Planned Unit Development Special Permit shall be allowed in the MA, MB, CBD, and BL Zoning districts.

#### **C. Procedural Requirements:**

- a. **Application:** Applicants for a Special Permit for a Planned Unit Development shall submit to the Community Development Board in accordance with the Rules and Regulations of the Board.
- b. If the application for a special permit involves land with more than one ownership, each owner of the land included in the plan shall be a party to the application, and upon approval, subject to its provisions. An applicant for Special Permit under this section, who has deeded to the City, in conjunction with a development project, abutting land for public purpose, may include said abutting land area in determining compliance with requirements for Planned Unit development as herein set forth, as if said abutting land was legally held in common ownership by the applicant, and incorporated within the project submission, as open space.
- c. **Procedures and Considerations:** The procedures for obtaining a special permit for a Planned Unit Development are specified in Section XI-E. In order to grant a special permit for a Planned Unit Development, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled, the specific requirement of Section XI-D.1.D have been fulfilled and the supply of convenience commercial establishments in the immediate area is not adequate to service the proposed development.

**D. Requirements:** A Planned Unit Development shall conform to the following requirements:

- a. **Minimum Tract Size:** The development shall contain a minimum of ten (10) acres of land.
- b. **Allowable Density:** The development shall comply with the maximum density requirements for the zoning district in which the development will be located. The maximum gross density of dwelling units (du) per gross acre of land for the applicable zoning district shall be as follows: MA (2du), MB (4du), CBD (8du), and BL (4du). A density bonus may be approved by the Community Development Board in accordance with Section XI-D.7, hereof.
- c. **Allowable Uses:** Detached, attached and multi-family housing units and up to three (3) convenience commercial establishments per 100 dwelling units shall be allowed.

Convenience commercial establishments include but are not limited to such uses as a grocery store, drug store, barber and/or beauty shops, self-service Laundromat, etc. The Community Development Board may, for the health, safety and welfare of the public, limit the number of convenience commercial establishments to less than three (3) convenience commercial establishments per 100 dwelling units. In any case, there shall be no more than six (6) convenience commercial establishments per a Planned Unit Development.

**d. Dimensional and Other Requirements:**

- (1) The minimum dimensional controls for the zoning district in which the development will be located shall be met for each dwelling type building being proposed for development as specified in the Table of Dimensional Regulations of Section VI-D unless stated otherwise in this Section. In addition to these minimum requirements, the attached and multi-family housing units shall comply with the requirements specified in Section XI-D.2.D.d.
- (2) The convenience commercial establishments shall be grouped together unless waived by the Community Development Board.
- (3) The Parking and Loading Requirements for the convenience commercial space shall be at least the minimums set forth in Section VIII for the type of use. The signage for the convenience commercial area shall comply with the signage requirements for a BN zoning district as set forth in Section VII-G.
- (4) Dimensional controls for the convenience commercial area shall be at least the minimums set forth in Section VI-D for the BN zoning district.
- (5) A Buffer Screen of up to six (6) feet in width and height may be required by the Community Development Board around the convenience commercial area, exclusive of driveways. (See Section II for Definition of Buffer Screen).
- (6) The Community Development Board may require a Buffer Screen of up to ten (10) feet in width and six (6) feet in height be installed and/or maintained around the perimeter of the development by the applicant or owner of the development. (See Section II for the Definition of Buffer Screen).

**e. Open Space Requirements:**

- (1) The Planned Unit Development shall contain a minimum of thirty percent (30%) of the gross area of the development as permanent Open Space Land. Open Space Land shall be defined as all land within a development not designated for buildings, structures, parking, loading, roadway or driveway areas or privately owned lots, but may contain active or passive recreation areas, including incidental paving related thereto, e.g. tennis courts, swimming pools, etc.
- (2) A minimum of forty percent (40%) of the Open Space Land shall be Useable Open Space Land. Useable Open Space Land shall be defined as Open Space Land that has a shape, slope, location, and condition that is useable and suitable as a place for active and/or passive recreation uses in the opinion of the Community Development Board. Useable Open Space Land shall contain no wetlands as defined by The Wetland Protection Act, Chapter 131, Section

40 M.G.L. and DEP regulations made thereunder; and The Wetland Protection Ordinance, Chapter 12, Methuen Municipal Code. A minimum of twenty five percent (25%) of the Useable Open Space Land shall have a grade not exceeding six percent (6%) and shall include at least one area that meets or exceeds the dimensions of 100' by 150'.

- (3) The Open Space Land included in a Planned Unit Development shall be set aside as common land covenanted to be maintained as permanent common land in private, cooperative and/or public ownership.
- (4) The Open Space Land shall be owned and maintained by the applicant until such time as it is conveyed to one or more of the following entities: the City of Methuen, subject to City Council approval; a public conservation commission or a nonprofit organization the principal purpose of which is the conservation of open space; a corporation, trust or association owned or to be owned by the owners of lots or residential units within the development; or some other legal entity as may be approved by the Community Development Board. The applicant shall specify the method of ownership in which the open space land will be held as part of the application for a Special Permit.
- (5) If a corporation, trust or association method of ownership of Open Space Land is to be used, the articles of the corporation, trust or association shall be submitted to the Community Development Board prior to final approval of the Special Permit and shall specify that ownership thereof shall pass with the conveyances of the lots or residential units. In any case where such Open Space Land is not conveyed to the City, a restriction enforceable by the City of Methuen shall be recorded providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses as parking or roadway. All such open space land shall be restricted by deed from all future buildings. The Community Development Board shall approve said deed.
- (6) Any Open Space Land to be deeded to the City shall contain at least one hundred (100) feet of frontage along a public way.

## **2 Multi-Family and Attached Dwellings Development**

### **A. Purposes:**

- a. To allow the more efficient use of land.
- b. To provide a diversity of housing types at a variety of costs.
- c. To meet the affordable housing needs of the City.

### **B. Applicability:** An application for Multi-Family and/or Attached Dwellings Development Special Permit shall be allowed in the MA, MB, CBD, and BL zoning districts. This section shall not apply to Section V-X Multi-family Overlay District.

### **C. Procedural Requirements:**

- a. **Application:** Applicants for a Special Permit for a Multi-Family and/or Attached Dwellings Development shall submit to the Community Development Board in accordance with the Rules and Regulations of the Board.

b. **Procedures and Considerations:** The procedures for obtaining a special permit for a Multi-Family and/or Attached Dwelling Development are specified in Section XI-E. In order to grant a special permit for a Multi-Family and/or Attached Dwelling Development, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled and the specific requirements of Section XI-D.2.D. have been fulfilled

D. **Requirements:** A Multi-Family and/or Attached Dwellings Development shall conform with the following requirements:

- a. **Minimum Lot Area:** The minimum lot area for Multi-Family and Attached Dwellings developments shall be as follows: MA and BL (130,680 square feet); MB (43,560 square feet); and CBD (20,000 square feet).
- b. **Allowable Density:** The development shall comply with the maximum density requirements for the zoning district in which the development will be located. The maximum gross density of dwelling units (du) per gross acre of land for the applicable zoning district shall be as follows: MA (2du), MB (4du), CBD (8du), and BL (4du). A density bonus may be approved by the Community Development Board in accordance with Section XI-D.7. hereof.
- c. **Allowable Uses:** Detached, attached and multi-family housing as described in Section II hereof.
- d. **Dimensional and Other Requirements:** The minimum dimensional controls for the zoning district in which the development will be located shall be met for each dwelling type building being proposed for development as specified in the Table of Dimensional Regulations of Section VI-D hereof. In addition to these minimum requirements, the detached, attached and multi-family housing units shall comply with the following specific requirements:
  - (1) The development shall be subject, if applicable, to approval under the Methuen Subdivision Control Regulations.
  - (2) The proposed development shall be served by both public water and sewerage systems.
  - (3) **Multi-Family buildings:** The minimum distance between multi-family housing buildings and/or Attached Dwelling buildings on the same lot, or between two facing walls forming a court, which contain dwelling units and which are not joined by a party wall shall be forty (40) feet.
  - (4) **Attached buildings:** The minimum distance between Attached Dwelling buildings and/or multi-family housing buildings on the same lot shall be forty (40) feet. Each Attached Dwelling shall be a minimum of twenty (20) feet wide, measured between party walls. Inner courts shall not be permitted in Attached Dwelling buildings. The maximum number of Attached Dwelling units per building shall be nine (9).
  - (5) **Detached buildings:** The minimum distance between a detached dwelling building to another detached dwelling building shall be twenty (20) feet. The minimum distance between detached dwelling buildings and a Multi-Family or Attached Dwelling buildings shall be forty (40) feet.

- (6) The Community Development Board may require a Buffer Screen of up to ten (10) feet in width and six (6) feet in height be installed and/or maintained around the perimeter of the development by the owner of the development. (See Section II for Definition of Buffer Screen)
- (7) No open parking or driveway shall be closer than twelve (12) feet to a wall containing windows to habitable rooms of a dwelling unit which is on the ground floor or basement floor.
- (8) All roadways, drainage facilities, water lines, sewer lines, utilities, grading and other site improvements shall be built in accordance with the subdivision control standards of Methuen unless waived by the Community Development Board. All roadways directly entering and serving Multi-Family and Attached Dwelling Developments shall be private ways and privately maintained.
- (9) The minimum parking, loading and sign regulations shall be as specified in Sections VI, VII and VIII.
- (10) The applicant shall install street identification signs as approved by the Department of Public Works on all right-of-ways and drives within the development. Said signs shall be in place upon completion of binder paving of each respective drive.
- (11) The developer shall install street lighting of a type approved by the Department of Public Works on all right-of-ways and drives within the development. The lighting shall be in place and in operation prior to the issuance of any occupancy permits.
- (12) The Community Development Board shall require that the construction of ways, water lines, sewer lines, streetlights, and other public utilities and their appurtenant features be secured in part by one of the methods described in Chapter 41, Section 81U, clauses 1, 2, 3 and 4.

e. **Open Space Requirements:**

- (1) The Multi-Family and Attached Dwellings Development shall contain a minimum of thirty percent (30%) of the gross area of the development as permanent Open Space Land. Open Space Land shall be defined as all land within a development not designated for buildings, structures, parking, loading, roadway or driveway areas of privately owned lots, but may contain active or passive recreation areas, including incidental paving related thereto, e.g. tennis courts, swimming pools, etc.
- (2) A minimum of forty percent (40%) of the Open Space Land shall be Useable Open Space Land. Useable Open Space Land shall be defined as Open Space Land that has a shape, slope, location, and condition that is useable and suitable as a place for active and/or passive recreation uses in the opinion of the Community Development Board. Useable Open Space Land shall contain no wetlands as defined by The Wetland Protection Act, Chapter 131, Section 40 M.G.L. and DEP regulations made thereunder; and The Wetland Protection Ordinance, Chapter 12, Methuen Municipal Code. A minimum of twenty five percent (25%) of the Useable Open Space Land shall have a grade not exceeding six percent (6%). All Multi-Family and Attached

Dwellings Developments of ten acres or more shall include at least one area that meets or exceeds the dimensions of 100' by 150'.

- (3) The Open space Land included in a Multi-Family and Attached Dwellings Development shall be set aside as common land covenanted to be maintained as permanent common land in private, cooperative and/or public ownership.
- (4) The Open Space Land shall be owned and maintained by the applicant until such time as it is conveyed to one or more of the following entities: the City of Methuen, subject to City Council approval; a public conservation commission or a nonprofit organization the principal purpose of which is the conservation of open space; a corporation, trust or association owned or to be owned by the owners of lots or residential units within the development; or some other legal entity as may be approved by the Community Development Board. The applicant shall specify the method of ownership in which the open space land will be held as part of the application for a Special Permit.
- (5) If a corporation, trust or association method of ownership of open space land is to be used, the articles of the corporation, trust or association shall be submitted to the Community Development Board prior to final approval of the Special Permit and shall specify that ownership thereof shall pass with the conveyances of the lots or residential units. In any case where such open space land is not conveyed to the City, a restriction enforceable by the City of Methuen shall be recorded providing that such land shall be kept in an open or natural state and not be built upon or developed for accessory uses as parking or roadway. All such open space land shall be restricted by deed from all future buildings. Said deed shall be approved by the Community Development Board.
- (6) Any open space land to be deeded to the City shall contain at least one hundred (100) feet of frontage along a public way.

### **3 Unimproved Way**

A. **Purposes:** To protect the health, safety, convenience, and welfare of the public by ensuring the adequate design and construction of ways.

B. **Applicability:** An application for an Unimproved Way Special Permit shall be required for any person(s) desiring to construct, extend, widen or relocate a way that has been determined an Unimproved Way by the Community Development Board. Said Special Permit shall only apply to previously established lots. An unimproved way shall mean a way appearing on a pre-subdivision control plan, which has not been accepted as a public or private way by the City nor is a way shown on a plan subject to the subdivision control law.

#### **C. Procedural Requirements:**

- a. **Application:** Applicants for a Special Permit for an Unimproved Way shall submit to the Community Development Board and shall be in conformance with the Rules and Regulations of the Community Development Board for Special Permit filings as well as described in Paragraph D below.
- b. **Procedure and Considerations:** The procedures for obtaining a special permit for an Unimproved Way are specified in Section XI-E. In order to grant a special permit for an

Unimproved Way, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled and the specific requirements of Section XI-D.3.D. have been fulfilled.

**D. Requirements:** The construction, extension, alteration, widening or relocation of a way shall conform with the following requirements:

- a. **Site Plan:** A site plan shall be drawn at a scale of 1" = 40' and shall be stamped by a Massachusetts licensed professional engineer. Said site plan shall meet all applicable requirements of the Methuen Subdivision Control Regulations relative to the construction of roadways and sewer, water, and drainage facilities. Said site plan shall include a typical roadway section as shown in the Methuen Subdivision Control Regulations.
- b. All unimproved ways shall be upgraded to the standards as specified in the Methuen Subdivision Control Regulations along the entire length of the applicant's lot which fronts on an existing unimproved way.
- c. No new subdivision lots shall be shown on the site plan.
- d. Prior to the start of construction, a bond agreement including a deposit shall be executed between the Community Development Board and the applicant(s).
- e. The Community Development Board shall retain the right to require the applicant(s) to file a Definitive Subdivision Plan whenever the site plan shows a subdivision pursuant to Chapter 41, M.G.L.
- f. The Community Development Board may waive any of the requirements specified in Section XI-D.3.D.a-e for the benefit and welfare of the community.

## **4 Mixed Use Developments**

**A. Purposes:**

- a. To promote a better utilization of existing buildings and properties by allowing a mixture of residential and commercial uses in the same building.
- b. To meet the affordable housing needs of the City.
- c. To promote diverse and energy efficient housing at a variety of costs.

**B. Applicability:** Mixed use shall be allowed by right in the CBD zone so long as the minimum dimensional requirements set forth in the following table are met. Otherwise, Mixed Use shall be allowed by Special Permit in the CBD zone. In addition, Mixed use shall be allowed by Special Permit as set forth herein in the BN, BH and BL zoning districts.

**C. Procedural Requirements:**

- a. **Application:** Applicants for a Mixed-Use Development Special Permit shall submit to the Community Development Board in accordance with the Rules and Regulations of the Community Development Board for Special Permit filings. If the application for a Special Permit involves land with more than one ownership, each owner of the land included in the plan shall be party to the application, and upon approval, subject to its provisions.
- b. **Procedures and Considerations:** The procedures for obtaining a Mixed Use Development Special Permit are specified in Section XI-E. In order to grant a special permit for a Mixed Use Development, the Community Development Board must find that

all of the general requirements for a special permit as specified in Section XI-C have been fulfilled, the specific requirements of Section XI-D.4.D. have been fulfilled and the proposed uses of the building or property will not impact the health, safety or welfare of the abutters to the property or the users of the building and property.

**D. Requirements:** A Mixed-Use Development shall comply with the following requirements:

- a. **Allowable Density:** The residential portion of the development shall comply with the maximum density requirements for the zoning district in which the development will be located. The maximum gross density of dwelling units (du) per gross acre of land for the applicable zoning district shall be as follows: CDB (8du), BL (4du), BN and BH (per Dimensional Table). A density bonus may be approved by the Community Development Board in accordance with Section XI-D.7. hereof.
- b. **Allowable Uses:** All residential, retail, service and office uses as described in Section V-D shall be allowed in a Mixed Use Development. In cases where a use is allowed only by a special permit, and the use is being sought under a Mixed-Use Development then the Community Development Board shall as part of the Mixed Use Development Special Permit serve as the SPGA for the use.
- c. **Dimensional and Other Requirements:**

- (1) The minimum dimensional controls for the zoning district in which the development will be located shall be as follows:

	CBD <sup>1</sup>	BL, BN AND BH
Minimum Lot Area (Sq. Ft.)	20, 000	Per dimensional table
Minimum Frontage	80	
Minimum Lot Width	80	
Minimum Yard Setbacks:		
Front	10	
Side	10	
Rear	10	
Maximum # of Stories	3	
Maximum Height	35	
Maximum Building Coverage	50%	
Minimum Open Space Useable	0%	

Footnote: 1. These are by right dimensional requirements for the CBD zoning district otherwise a Mixed Use in the CBD requires a Special Permit.

- (2) The minimum parking, loading and sign regulations shall be as specified in Sections VI, VII, and VIII.
- (3) The Community Development Board shall have the right to require additional dimensional, parking, loading, signage, and landscaping requirements as well

as reasonable on-site and off-site infrastructure improvements as a condition for granting a Mixed-Use Development Special Permit.

## 5 Wind Energy Conversion Facilities

- A. **Purpose:** The purpose of this Ordinance is to provide by special permit for the construction and operation of Wind Energy Conversion Facilities and to provide standards for the placement, design, construction, monitoring, modification and removal of Wind Energy Conversion Facilities that address public safety, minimize impacts on scenic, natural and historic resources of the city and provide adequate financial assurance for decommissioning.
- B. **Applicability:** This section applies to all utility-scale and on-site Wind Energy Conversion Facilities proposed to be constructed after the effective date of this section. All Wind Energy Conversion Facilities shall be used as an accessory use and not a primary use on a site. There shall be no utility-scale Wind Energy Conversion Facilities.

Any physical modifications to existing Wind Energy Conversion Facilities that materially alters the type or increases the size of such facilities or other equipment shall require a special permit.

### C. Definitions:

**Utility-Scale Wind Facility:** A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

**On-Site Wind Facility:** A wind project, which is located at a commercial, industrial, agricultural, institutional, public or residential facility that will consume more than 50% of the electricity generated by the project on-site.

**Height:** The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

**Rated Nameplate Capacity:** The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

**Special Permit Granting Authority:** The special permit granting authority shall be the Community Development Board.

**Substantial Evidence:** Such evidence as a reasonable mind might accept as adequate to support a conclusion.

**Wind Energy Conversion Facility:** All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**Wind Monitoring or Meteorological Tower:** A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

**Wind Turbine:** A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

**D. General Requirements:**

1. **Special Permit Granting Authority:** No wind facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a permit from the SPGA. The construction of a wind facility shall be permitted only in those zoning districts as set forth on the Table of Uses subject to the issuance of a Special Permit and provided that the use complies with all requirements set forth in the following sections 2, 3, 4, 5 and 6. All such wind energy facilities shall be constructed and operated in a manner that minimizes any adverse visual, safety, and environmental impacts. No special permit shall be granted unless, in addition to the general Special Permit Criteria set forth in section XI-B.1, the SPGA finds in writing that:
  - a. the specific site is an appropriate location for such use.
  - b. the use is not expected to adversely affect the neighborhood.
  - c. there is not expected to be any serious hazard to pedestrians or vehicles from the use.
  - d. no nuisance is expected to be created by the use; and
  - e. adequate and appropriate facilities will be provided for the proper operation of the use.

Such permits may also impose reasonable conditions, safeguards and limitations on time and use and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility, should they occur. Wind monitoring or meteorological towers shall be permitted temporarily in all zoning districts subject to issuance of a building permit for a temporary structure and subject to reasonable regulations concerning the bulk and height of structures and determining yard-size, lot area, setbacks, open space, parking, and building coverage requirements.

2. **Compliance with Laws, Ordinances and Regulations:** The construction and operation of all such proposed Wind Energy Conversion Facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.
3. **Proof of Liability Insurance:** The applicant shall be required to provide evidence of liability insurance in an amount and for duration sufficient to cover loss or damage to persons and structures occasioned by the failure of the facility, including without limitation coverage for adjacent properties. Additionally, in residential areas, the applicant shall be required to obtain an easement from all parcels within the fall area.
4. **Site Control:** At the time of its application for a special permit, the applicant shall submit documentation of actual or prospective control of the project site sufficient to allow for installation and use of the proposed facility. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

**E. General Siting Standards:**

1. **Height:** Wind Energy Conversion Facilities shall be no higher than 400 feet above the current grade of the land, provided that Wind Energy Conversion Facilities may exceed 400 feet if:
  - a. the applicant demonstrates by substantial evidence that such height reflects industry standards for a similarly sited wind facility.
  - b. such excess height is necessary to prevent financial hardship to the applicant, and
  - c. the facility satisfies all other criteria for the granting of a special permit under the provisions of this section.
2. Setbacks:
  - a. Each Wind Energy Conversion Facility and its associated equipment shall comply with the minimum set back provisions of the zoning district in which the facility is located, and
  - b. The minimum distance from the base of any wind turbine tower to the nearest building on the lot, or on contiguous commonly owned lots, shall be 50 feet; the minimum distance from a public or private way shall be 100 feet; and the minimum distance from property lines shared with abutting properties shall be 150 feet; and in no case shall be less than the length of an individual rotor blade measured from the hub of the wind turbine, whichever is greater.
  - c. The special permit granting authority may reduce the minimum setback distance as appropriate based on site-specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this section (“Setback Waiver”). In any event, the distance from the nearest property line shall not be less than the length of the rotor blade measure from the hub.

**F. Design Standards:**

1. **Color and Finish:** The special permit granting authority shall have discretion over the turbine color, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.
2. **Lighting and Signage:**
  - a. **Lighting:** Wind turbines shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.
  - b. **Signage.** Signs on the wind facility shall comply with the requirements of the town’s sign regulations, and shall be limited to:
    - (a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
    - (b) Educational signs providing information about the facility and the benefits of renewable energy.
3. **Advertising:** Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

4. **Utility Connections:** Reasonable efforts shall be made to locate utility connections from the wind facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
5. **Appurtenant Structures:** All appurtenant structures to such Wind Energy Conversion Facilities 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. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall be contained within the turbine tower whenever technically and economically feasible. Structures shall only be used for housing of equipment for this particular site. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.
6. **Support Towers:** Only monopole tower style Wind Energy Conversion Facilities shall be allowed.

**G. Safety, Aesthetic, and Environmental Standards:**

1. **Emergency Services and Unauthorized Access:**
  - a. The applicant shall provide a copy of the project summary and site plan to the local emergency services entity, as designated by the special permit granting authority. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan.
  - b. Wind turbines or other structures part of a wind facility shall be designed to prevent unauthorized access.
2. **Shadow/Flicker:** Wind Energy Conversion Facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses through either siting or mitigation.
3. **Noise:** The wind facility and associated equipment shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10), unless the Department and the Special Permit Granting Authority agree that those provisions shall not be applicable. A source of sound will be considered to be violating these regulations if the source:
  - a. Increases the broadband sound level by more than 10 dB(A) above ambient, or
  - b. Produces a "pure tone" condition – when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

These criteria are measured both at the property line and at the nearest inhabited residence. Ambient is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours. The ambient may also be established

by other means with consent from DEP. An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards. The special permit granting authority, in consultation with the Department, shall determine whether such violations shall be measured at the property line or at the nearest inhabited residence.

4. **Land Clearing, Soil Erosion and Habitat Impacts:** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility and is otherwise prescribed by applicable laws, regulations, and ordinances.

**H. Monitoring and Maintenance:**

5. **Facility Conditions:** The applicant shall maintain the wind facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind facility and any access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.
6. **Modifications:** All material modifications to a wind facility made after issuance of the special permit shall require approval by the SPGA as provided in this section.

**I. Abandonment and Decommissioning:**

1. **Removal Requirements:** Any wind facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the town by certified mail of the proposed date of discontinued operations and plans for removal. The owner/ operator shall physically remove the wind facility no more than 150 days after the date of discontinued operations. At the time of removal, the wind facility site shall be restored to the state it was in before the facility was constructed or any other legally authorized use. More specifically, decommissioning shall consist of:
  - a. Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
  - b. Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.
  - c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The special permit granting authority may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
2. **Abandonment:** Absent notice of a proposed date of decommissioning, the facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the special permit granting authority. The special permit granting authority shall determine in its decision what proportion of the facility is inoperable for the facility to be considered abandoned. If the applicant fails to remove the wind facility in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town shall have the authority to enter the property and physically remove the facility.

3. **Financial Surety:** The special permit granting authority may require the applicant for utility scale Wind Energy Conversion Facilities to provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the facility, of an amount and form determined to be reasonable by the special permit granting authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

J. **Term of Special Permit:** A special permit issued for a wind facility shall be valid for 25 years, unless extended or renewed. The time period may be extended or the permit renewed by the special permit granting authority upon satisfactory operation of the facility. Request for renewal must be submitted at least 180 days prior to expiration of the special permit. Submitting a renewal request shall allow for continued operation of the facility until the special permit granting authority acts. At the end of that period (including extensions and renewals), the wind facility shall be removed as required by this section.

The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

**K. Application Process and Requirements:**

1. Application Procedures
  - a. **General:** The application for a wind facility shall be filed in accordance with the rules and regulations of the SPGA concerning special permits.
  - b. **Application:** Each application for a special permit shall be filed by the applicant with the city clerk pursuant to section 9 of chapter 40A of the Massachusetts General Laws.
2. Required Documents
  - a. **General:** The applicant shall file the application in accordance with the Rules and Regulations of the special permit granting authority. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Included in the application shall be:
    - i. Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any.
    - ii. The name, contact information and signature of any agents representing the applicant.
    - iii. Documentation of the legal right to use the wind facility site, including the requirements set forth in 10.3.2(a) of this section.
3. **Siting and Design:** The applicant shall provide the SPGA with a description of the property which shall include:

- a. **Location Map:** Copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; however, a copy of a zoning map with the parcel identified is suitable.
- b. **Site Plan:** A one inch equals 200 feet plan of the proposed wind facility site, with contour intervals of no more than 10 feet, showing the following:
  - i. Property lines for the site parcel and adjacent parcels within 300 feet.
  - ii. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet. Include distances from the wind facility to each building shown.
  - iii. Location of all roads, public and private on the site parcel and adjacent parcels within 300 feet, and proposed roads or driveways, either temporary or permanent.
  - iv. Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within 300 feet.
  - v. Proposed location and design of wind facility, including all turbines, ground equipment, appurtenant structures, transmission infrastructure, access, fencing, exterior lighting, etc.
  - vi. Location of viewpoints referenced below in 10.3.3 of this section.
- c. **Visualizations:** The SPGA shall select between three and six sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of the wind facility. View representations shall have the following characteristics:
  - i. View representations shall be in color and shall include actual pre-construction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind facility onto photographs of existing views).
  - ii. All view representations will include existing, or proposed, buildings or tree coverage.
  - iii. Include description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).
- d. **Elevations:** Siting elevations or views at grade from the north, south, east and west for a 50-foot radius sound the proposed Wind Energy Conversion Facility. Elevations shall be at one-quarter inch equals one-foot horizontal scale and one-eighth inch equals one foot vertical scale and show the following:
  - i. Wind Energy Conversion Facility and if applicable security barrier and associated equipment, with total elevation dimensions of all parts of facilities.
  - ii. **Security barrier:** If the security barrier will block views of the Wind Energy Conversion Facility, the barrier drawing shall be cut away to show the view behind the barrier.
  - iii. Any and all structures on the subject property.
  - iv. Existing trees at current height and proposed trees at proposed height at time of installation, with approximate elevations dimensions.

- v. Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
- e. **Landscape Plan:** A plan indicating all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, exterior lighting, other than FAA lights, screening vegetation or structures. Lighting shall be designed to minimize glare on abutting properties and except as required by the FAA be directed downward with full cut-off fixtures to reduce light pollution.
- f. **Operation & Maintenance Plan:** The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.
- g. **Compliance Documents:** If required under previous sections of this Ordinance, the applicant will provide with the application:
  - i. a description of financial surety that satisfies 8.3 of this section,
  - ii. proof of liability insurance that satisfies Section 3.3 of this section,
  - iii. certification of height approval from the FAA,
  - iv. a statement that satisfies Section 6.3, listing existing and maximum projected noise levels from the wind facility.
- h. **Balloon or Crane Test:** Within thirty (30) days of submission of an application for Special Permit, the applicant shall arrange for a balloon or crane test at the proposed site, or alternate means approved by the SPGA, to illustrate the height of the proposed facility. The date, time ( an alternate time and date if needed due to weather) and location of such test shall be advertised in a newspaper of general circulation at least 14 days but not more than 21 days prior to the test. The applicant shall bear the expense of the advertisement. In addition, notice of said test shall be provided to the city, abutters, and abutters to abutters within 300 feet as certified by the Assessor's Office, with proof of notification.
- i. **Independent Consultants:** Upon submission of an application for a special permit, the special permit granting authority will be authorized to hire outside consultants, pursuant to section 53G of chapter 44 of the Massachusetts General Laws.
- j. **Use by Telecommunications Carriers:** Wind Energy Conversion Facilities may be used to locate telecommunications antennas; such use shall be subject to applicable regulations governing such uses, and subject to the provisions of the Ordinance governing Personal Wireless Service Facilities.

## **6 Adult Entertainment Facilities**

- A. Purpose:**
  - a. To protect the health, safety and welfare of the public.
  - b. To ensure the proper location of adult entertainment facilities in relation to residential areas and liquor establishments.
  - c. To minimize the impact to residential properties.
- B. Applicability:** An application for an Adult Entertainment Facility Special Permit shall be allowed in the BH and IL zoning district. An Adult Entertainment Facility Special Permit

shall be required for adult bookstores, adult entertainment establishments, and adult motion picture theatres as defined in Section II herein.

**C. Procedural Requirements:**

- a. **Application:** Applicants for an Adult Entertainment Facility Special Permit shall submit to the Community Development Board an original and eleven (11) copies of an application and a site plan (12) as described in Section XI-C.3.B. If the application for a special permit involves land with more than one ownership, each owner of the land included in the plan shall be a party to the application, and upon approval, subject to its provisions.
- b. **Procedures and Considerations:** The procedures for obtaining an Adult Entertainment Facility Special Permit are specified in Section XI-E. In order to grant an Adult Entertainment Facility Special Permit, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled and that the specific requirements of Section XI-D.6.D. have been fulfilled.

**D. Requirements:**

- a. There shall be no more than one adult bookstore permit granted per 20,000 residents of the municipality, nor more than one adult motion picture permit granted per 30,000 residents of the municipality, nor more than one adult entertainment establishment special permit granted per 30,000 residents of the municipality. The per capita number of residents shall be established as listed in the latest census data.
- b. No adult bookstore, adult motion picture theatre, or adult entertainment establishment shall be allowed to display for advertisement or other purpose any signs, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in Section 31 of Chapter 272 on the Massachusetts General Laws.
- c. No special permit shall be granted for an adult bookstore, adult motion picture theatre or adult entertainment establishment in an area otherwise properly zoned if the specific location is within one-quarter mile of the following zoning districts: RR, RA, RB, RC, RD, RG, MA, and MB.
- d. No adult bookstore, adult motion picture theatre or adult entertainment establishment special permit shall be granted if such proposed location is within one-quarter mile of another presently existing or permitted adult bookstore, adult motion picture theatre or adult entertainment establishment.
- e. No special permit for an adult motion picture theatre shall be granted unless the applicant establishes and maintains a Buffer Screen (as defined in Section II herein). Said Buffer Screen shall be designed in such a fashion as to preclude motorists and pedestrians on a public or private way from observing the screen on which such movies are shown.
- f. No adult bookstore, adult motion picture theatre or adult entertainment establishment special permit shall be granted if such proposed location is within (1/2) one-half mile of an establishment licensed under Chapter 138 of the Massachusetts General Laws.

## **7 Affordable Housing Density Bonuses**

**A. Purpose:** To encourage the inclusion of affordable housing in all new Multi-Family, Attached Dwelling, Planned Unit and mixed- use developments.

**B. Definitions:**

**Affordable Housing:** housing that is affordable to and occupied by Eligible Households. Affordable Housing units created through the Affordable Housing Density Bonus special permit approval meeting the standards set out in 760 CMR. 45.03 shall be included on the Subsidized Housing Inventory, subject to the approval of the Massachusetts Department of Housing and Community Development (DHCD).

**Eligible household:** A household with combined incomes that do not exceed 80% of the median income for the Lawrence-NH Statistical Metropolitan Statistical Area (SMSA), with adjustments for household size, as reported by the most recent information from the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

**C. Applicability:** An application for an Affordable Housing Density Bonus Special Permit shall be allowed for Multi-Family, Attached Dwelling, Planned Unit and Mixed-Use developments. This section shall not apply to standard single-family subdivisions or to Section V-X Multi-family Overlay District.

**D. Procedural Requirements:**

- a. **Application:** Applicants for an Affordable Housing Density Bonus shall submit to the Community Development Board those submissions required by the Community Development Board under its Special Permit Rules and Regulations. The application for an Affordable Housing Density Bonus shall be submitted in conjunction with applicable Multi-Family, Attached Dwelling, Planned Unit or Mixed-Use special permit application.
- b. **Procedures and Considerations:** The procedures for obtaining an Affordable Housing Density Bonus Special Permit are specified in Section XI-E. In order to grant an Affordable Housing Density Bonus Special Permit the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled and that the specific requirements of Section XI-D.7.D. have been fulfilled.

**E. Affordable Housing Requirements:**

- a. At least ten (10%) percent of the total dwelling units in a Multi-Family or Attached Dwelling development shall be designated as affordable housing. The total dwelling units in a development shall include all additional dwelling units that may be granted by the Community Development Board through the Affordable Housing Density Bonus Special Permit.
- b. The following income classifications shall be used when describing low- and moderate-income levels:
  - i. low and moderate income: 50% to 80% SMSA median income

- c. Affordable units shall be defined as those units which may be purchased or rented by eligible households meeting the guidelines for maximum annual income as defined in Section XI-D.7.D., and whose expenditure for housing costs does not exceed 30% of their gross annual income in the previous calendar year. Housing costs shall be defined as follows: 1) for owners - payments for principal and interest on a mortgage, real estate taxes, homeowners' insurance, and condominium fees, if any, or 2) for renters - rent including heat, if provided, but not utilities. However, any housing unit that conforms to the definition of low and moderate income housing as stated in 760 CMR Section 30.02 may be amended.
- d. The Community Development Board shall have the right to determine the number and maximum sale price of the affordable units that will be offered to low- and moderate-income eligible households.
- e. The Community Development Board shall have the right to grant the following density bonuses on special permit residential developments that provide at least ten percent (10%) of the total number of units in the development as affordable housing as defined herein.

SPECIAL PERMIT	PERCENT DENSITY BONUS
Multi-Family	Up to 100%
Attached Dwelling	Up to 100%
Planned Unit Development	Up to 100%
Mixed Use Development	Up to 100%

- f. The special permit residential development shall comply with the maximum density requirements, exclusive of all density bonuses, of the zoning district in which the development will be located. The maximum gross density of dwelling units per gross acre of land inclusive of all density bonuses shall be as follows for the applicable zoning district:

ZONING DISTRICT	CURRENT ALLOWABLE DENSITY(UNITS/ACRE)	MAXIMUM DENSITY BONUS (UNITS/ACRE)	MAXIMUM ALLOWABLE DENSITY (UNITS/ACRE)
MA	2	2	4
MB	4	4	8
CBD	8	8	16
BL	4	4	8

- g. No Special Permit shall provide for the increase or doubling of the number of housing units permitted under the Maximum Allowable Density specified above.
- h. The affordable housing units included in the special permit residential development that are offered for sale (Condominiums) shall include resale controls that will ensure the continued affordability of those units by low- and moderate-income eligible households.

This may be accomplished by limiting the future sale price of a unit through deed restrictions or any other devices as may be approved by the Community Development Board. The applicant shall submit as part of the application for an Affordable Housing Density Bonus Special Permit the resale controls for the affordable housing units.

- i. Affordable housing units created under this section shall remain affordable in perpetuity or for as long a period as is dictated by 760 CMR 43.03. All such restrictive documents shall be enforceable and renewable by the City pursuant to applicable law.
- j. **Selection of Eligible Tenants and Homeowners:** There shall be a fair and reasonable procedure in compliance with fair housing laws for the selection of tenants for affordable rental units and for the selection of homeowners for affordable homeownership units. The City of Methuen may contract with a quasi-public, public or private entity, experienced in affordable housing operation, for provision of tenant and homeowner selection services but shall be required to monitor the performance of any private entity providing such services and shall retain final responsibility for ensuring compliance.
- k. **Income and Asset Limits:** For tenants and purchasers household income shall not exceed 80% of area median income based on household size as determined by HUD. Tenants and purchasers shall also be required to demonstrate that total household assets other than income are not so high that a household has no substantial need of a rental unit with a reduced rent or of an ownership unit with a reduced purchase price.
- l. **Occupancy:** The deed covenants for affordable housing units shall require, whether the unit initially is sold or rented, that the occupant of that unit must be an income-qualified person as defined in this Section. This provision shall not prohibit a unit initially designated as owner-occupied from being leased, so long as it is a lease qualifying under the provisions hereunder and the occupant is an income-qualifying person.
- m. The Community Development Board may require that in lieu of all or some of the affordable units being provided within the development, the applicant shall:
  - i. Make a cash payment to an Affordable Housing Fund to be used by the City for the sole purpose of developing affordable housing. The amount of said payment shall be determined by the Community Development Board using accepted valuation methods and shall be at least the equivalent in value to the affordable units which would have been provided within the development.
  - ii. Provide some or all of the affordable units on land other than the development tract in which a special permit is being sought only if the affordable units are newly created.

The affordable units may be located in an existing structure provided their construction constitutes a net increase in the number of dwelling units in the structure.

- iii. Provide all or some of the required affordable housing through a combination of any or all of the methods in this Section.
- n. If the Community Development Board allows the provision of some or all of the affordable housing on land other than the development tract, the Community Development Board shall first find that such alternative site will not create undue concentration of low and moderate-income households and will avoid undue hardship to neighboring land and buildings.

F. Enforcement:

- a. **Transfer of Affordable Housing Unit:** The restrictions governing an Affordable Housing Unit shall be enforced upon resale, re-rental or renewal of lease of the Affordable Housing Unit. For owner-occupied units, the use restriction shall ensure that units may only be resold to income-qualified buyers consistent with the then applicable income limits established by the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.
- b. **All Restrictions Remain in Effect:** Nothing in this section shall be construed to permit any deed restriction, covenant, agreement or other mechanism restricting such items as the use and occupancy, rent level, and resale price of Affordable Housing Units, and the enforcement thereof to expire prior to any maximum limitations set forth by applicable state law. It is intended that the restrictions required herein shall survive, to the limit allowed by law, including, but not limited to, bankruptcy and foreclosure.
- c. **Timing of commitments:** All contractual agreements required hereunder and any documents necessary to insure compliance with this section shall be approved as to content by the Community Development Board and City Solicitor prior to the issuance of any occupancy permit for newly constructed, rehabilitated, or rental units.
- d. **Approval of Form and Content of Legal Documents:** The project applicant shall prepare all deeds and legal instruments required, and such documents shall be in a form satisfactory to City Solicitor.
- e. **Timing of Provision of Affordable Housing Units:** As a condition of the issuance of a special permit under this Section, the Community Development Board shall establish a time schedule for the provision of the Affordable Housing Units or payment in relation to the market-rate dwelling units.
- f. **Recording of Restrictions:** The special permit decision and all restrictive covenants required thereunder shall be recorded, as applicable, at the Registry of Deeds or Registry District of the Land Court prior to the endorsement of any subdivision plan for the development and before the issuance of any building permit for the development.

## **8 Parking in the Central Business District**

- A. **Purpose:** To provide relief from the requirements for off-street parking listed in Section VIII when the enforcement of these requirements proves to be infeasible.
- B. **Applicability:** An application for Parking in the CBD Special Permit shall be allowed only in the CBD zoning district.
- C. **Procedural Requirements:**

- a. **Application:** Applicants for Parking in the CBD Special Permit shall submit to the Community Development Board an original and eleven (11) copies of an application and a site plan (12) copies as described in Section XI-C, 3 (B).
- b. **Procedures and Considerations:** The procedures for obtaining a Special Permit for Parking in the Central Business District are specified in Section XI-E. In order to grant a special permit for Parking in the Central Business District, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-C have been fulfilled and the specific requirements of Section XI-D.8.D. have been fulfilled.

**D. Requirements:** Parking in the CBD Special Permit shall comply with the following requirements:

- a. The Community Development Board may reduce the number of required parking spaces for the business-use portion of the building, pro-rated per square foot of business use only by fifty percent (50%). One parking space per residential unit shall be provided.
- b. All reductions in parking spaces shall be supported by evidence of non-feasibility due to the lack of suitable land, design considerations, or other similar factors.

## **9 Business Complexes and Shopping Centers**

**A. Purposes:**

- a. To protect the health, safety and welfare of the public.
- b. To allow the development of one or more buildings containing more than one type of allowed or allowable business use on a single lot.
- c. To allow a combination of two (2) or more retail and/or service commercial establishments on a single lot which rely on and are developed with mutual and coordinated parking facilities, pedestrian walkways, landscaping and loading facilities.

**B. Applicability:** An application for a Business Complex Special Permit shall be allowed in the BH, CBD, BL, and IL zoning district. A Business Complex Special Permit shall be required when one or more buildings in excess of 50,000 square feet of building floor space and containing more than one type of business use are developed on a single lot. An application for a Shopping Center Special Permit shall be allowed in a BH zoning district. A Shopping Center Special Permit shall be required when a grouping of retail business and/or service uses, allowed by right or by special permit, on a single site with common parking facilities which is planned, constructed and managed as a total entity.

**C. Procedural Requirements:**

- a. **Application:** Applicants for a Business Complex or Shopping Center Special Permit shall submit to the Community Development Board an Application in a form and matter as set forth in the Rules and Regulations of the Community Development Board.
- b. **Procedures and Considerations:** The procedures for obtaining a Business Complex or Shopping Center Special Permit are specified in Section XI. In order to grant a Business Complex or Shopping Center Special Permit, the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-B.1. have been fulfilled and the specific requirements of Section XI-D.9.D. have been fulfilled.

**D. Requirements:**

- a. The Business Complex or shopping Center shall comply with the minimum dimensional controls, as specified in the Table of Dimensional Regulations of Section VI-D hereof, for the zoning district in which the development will be located.
- b. The Business Complex or shopping Center shall comply with the minimum parking, loading and sign regulations as specified in Sections VI, VII and VIII.

- c. The Community Development Board may require a Buffer Screen of up to ten (10) feet in width and six (6) feet in height be installed and/or maintained around the perimeter of the development by the owner of the development. (See Section II for Definition of Buffer Screen)

## 10 Residential Golf Course Development

- A. **Purpose:** The intent of this section is to provide for the development of residential dwellings in conjunction with a golf course on a tract of land which is in total at least 150 acres, and which may not meet the zoning requirements of an RR district. It is the intent of this chapter to provide for a unique type of living and to encourage:
  - a. the general purpose of the comprehensive zoning ordinance.
  - b. the preservation of open space.
  - c. a more creative approach to land development.
  - d. land use development which is harmonious with the environment, and which preserves natural resources and scenic qualities.
  - e. diversity and variety in the development pattern of the community.
  - f. better design and land planning ensuring that the installation, construction and maintenance of public facilities is done in an economic and efficient manner; and
  - g. positive long-term development of real property value.

### B. **Applicability:**

An application for a Residential Golf Course Development shall be a Special Permit in the RR District. The Community Development Board, acting as the Special Permit Granting Authority (SPGA) may grant a special permit for the utilization of a tract of land as a Residential Golf Course Development (RGCD).

An RGCD is a tract of land which is developed as a planned golf course and residential development and which is not subject to Section VI-D Table of Dimensional Regulations, but which is governed instead by the requirements of this section. The residential portion of the development is to be governed by MGL Chapter 41, Section 81K through 81gg, commonly known as "Subdivision Control Laws".

### C. **Procedural Requirements:**

- a. **Application:** The applicant shall submit to the Community Development Board an Application in accordance with the Rules and Regulations of the Community Development Board -- original and twelve (12) copies of the application and site plan.
- b. **Procedures and Considerations:** The applicant shall comply with the submission procedures for filing a Form-C application under Subdivision Control Law and submit the application for subdivision approval to the Community Development Board for its approval along with a copy of the proposed or previously approved RGCD site development plan. The applicant is encouraged, but not required, to file for both the subdivision approval and RGCD special permit simultaneously.

In order to grant a special permit for a Residential Golf Course Development, the SPGA must find that all of the general requirements for a special permit as specified in Section XI-C (1) have been fulfilled.

**D. Requirements:** An RGCD shall comply with the following requirements:

- a. **Minimum Parcel Size:** The RGCD shall be located upon a parcel of land having a minimum 150 acres of contiguous land, owned separately or combined in an RR district.
- b. **Allowable Density:** The total number of residential units in the RGCD shall be no greater than 0.51 units per gross acreage of the project site.
- c. **Allowable Uses:** Permitted uses allowed in the Residential Golf Course Development shall consist of the following:
  - i. Residential units consisting of detached single-family houses and attached multifamily dwellings. Units shall be located on individual lots, on one lot, or in any combination thereof. Any new lot shall have frontage on new private road right-of-way in accordance with the Requirements of this Section, and all lots shall be subject to homeowner association(s) as appropriate.
  - ii. 18-hole golf course with a minimum length of 6,000 yards, which may include easements.
  - iii. Incidental uses which may be part of operating a premier golf course, which include the following but are not limited:
    - (1) clubhouse.
    - (2) restaurant within the clubhouse.
    - (3) function hall within the clubhouse.
    - (4) putting and/or practice green.
    - (5) driving range.
    - (6) tennis courts.
    - (7) swimming pools.
    - (8) pro shop.
    - (9) lounge.
    - (10) maintenance structures.
    - (11) other uses that the SPGA may approve, and which are customarily incidental to operating a golf course.
  - iv. Existing public golf courses that apply for and receive an RGCD Special Permit must remain as a public golf course in perpetuity, or 99 years, whichever is greater.
- d. **Dimensional Requirements:** The requirements of Section VI of the Comprehensive Zoning Ordinance shall prevail except as hereafter provided.
  - i. The following minimum dimensional requirements shall be met for all lots pursuant to this section.

RGCD	
Minimum Lot Area	10,000
Minimum Frontage	75

RGCD	
Minimum Lot Width	75
Minimum Yard Setbacks:	
Front	20
Side	10
Rear	20
Maximum Height	3 stories for residential 3.5 stories for clubhouse
Maximum Building Coverage	50%
Maximum Dwelling Units per Building	9
Maximum Width of Dwelling Unit (FT)	20
Maximum Separation between Buildings (FT)	20

**e. Other Requirements:**

- i. There shall be public water and sewer available for both the golf course buildings and the residential portion of the development. In the event that these utilities are not currently available, the applicant shall construct the utilities, at no expense, to the City of Methuen. Irrigation for the golf course may be from private wells or surface water reservoirs.
- ii. All roads and drives shall be maintained as private, and under the control of an association of homeowners and/or golf course owner. The private roads may be established by association documentation and deeds, and/or by defined private rights-of-ways on the subdivision plan.
- iii. The special permit shall contain the following mandatory conditions, with respect to the golf course and non-residential uses:
  - (1) Prior to the issuance of the first Occupancy Permit for a residential unit all land dedicated to the golf course shall be:
    - (a) Deed restricted to use as a golf course or conservation uses if the golf course ceases to operate for a period of more than four (4) years.
    - (b) Deed restricted so that no structure shall be erected thereon except as incidental to the uses identified in this Section.
  - (2) When any residential units are sold or conveyed, the deed must state that they are subject to the conditions of the special permit, and a copy of the special permit recorded in the North Essex Registry of Deeds and referenced in any and all deeds.
  - (3) The RGCD main entrance shall have a no-cut natural buffer, except for the project roadway/driveway and stonewalls or fences, of at least 100 feet in depth for the full frontage on the public roadway except that fairways, greens,

tee boxes and cart paths shall have a minimum buffer of at least 50 feet in depth from the public roadway.

- (4) The location of the clubhouse must be at least 500 feet from the primary public way serving the RGCD, unless reduced by the SPGA. Internal roadways created by the project site plan shall not be considered as the initial public way.
- (5) The applicant shall secure its obligation to complete the 18-hole golf course by the following:
  - (a) Entering into an agreement with the City that no more than one-half of the units shall be issued building permits nor more than 50% of those shall receive occupancy permits prior to substantial completion of the golf course. No building permits shall be issued for the remaining 50% of the residential development until such time as the golf course is either substantially completed or bonded as provided for in (ii).
  - (b) The posting of a bond, or the execution of a tri-partite agreement, both of which shall be reduced as the work is completed so that the amount secured shall be equal to the cost of completing the remaining golf course construction work, exclusive of bonds issued to Departments or other boards such as the Conservation Commission. In the event of the use of a tri-partite agreement, the same shall be in the form acceptable to the SPGA.
- (6) No occupancy permits shall be issued for the accessory uses until completion of seventy-five percent (75%) of the golf course.
- (7) The applicant shall secure the completion of the ways and utilities separately, in accordance with MGL Chapter 41, Section 81U and the Methuen Rules & Regulations Governing the Subdivision of Land, except for waivers issued by the SPGA incorporated into the RGCD special permit plan.
- (8) The requirements of the Comprehensive Zoning Ordinance shall prevail except as hereafter provided. The applicant shall be subject to design controls and standards as follow:
  - (a) **Clubhouse Design:** The Clubhouse shall have a total floor area of at least 3,000 SF. The clubhouse shall be no more than three stories in height. The buildings shall have no more than 30% of the total square footage on the second floor. Roof dormers with both shed and gabled elevations or similar features should be used to break down any large continuous expanses of roof surface. The clubhouse shall be constructed with traditional New England building materials in brick, cedar shingles or wood clapboard. Architectural grade vinyl siding may be accepted as an alternative. Varied exterior details including columns, roof soffits and trim details are encouraged. Final approval of the clubhouse design shall be approved by the SPGA.

No plate-glass windows shall be allowed unless approved by the SPGA. All windows shall have “true” mullions/grilles. Structures shall exhibit historic or period-style architecture and appropriate materials shall be used to maintain the integrity of the style. Exterior colors must be approved by the SPGA.

The SPGA may approve a structure in excess of the maximum square footage, if the building footprint and exterior elevations are designed to minimize and break down the overall visual mass of the structure.

- (b) The maintenance structure must be constructed of similar materials as the clubhouse. A waiver of design and materials may be granted if the structure is at least 500 feet from adjacent residential dwelling lots and improved public ways, and containing adequate visual buffers. Pump stations and other maintenance structures shall be buffered from residential structures with landscaping.
- (c) All cart paths must be paved with a minimum of bituminous concrete, lynpak, paving brick, block, grasscrete, or concrete.
- (d) **Signage:** The submittal of a sign plan shall be included in the application. The SPGA shall approve the sign plan as part of the special permit. The design and review of the sign plan shall consider type of material, size, height and lighting. Signage shall consist of carved wooden signs or approved facsimile.
- (e) The maximum sign height shall be ten (10) feet above the roadway and fifteen (15) square feet per side (2-side maximum). No internally lit, halo lit or neon signs shall be permitted. Sign colors shall be appropriate to the structure and be pre-approved by the SPGA. Window lettering is not acceptable. Traffic controls should be consistent with the *Manual of Uniform Traffic Control Devices*. The applicant shall provide street identification signs as approved by the Department of Public Works on all right-of-way and drives within the development. Said signs shall be in place upon completion of binder paving of each respective drive.
- (f) **Parking:** Parking lots greater than 50 spaces shall contain one raised landscaped island per 60 spaces. The islands shall be at least eight (8) feet in width and contain trees and plantings. The islands should be designed to separate the parking spaces and create driving lanes that separate parking lanes. The landscape islands shall be protected from snow removal and unauthorized parked vehicles. Parking spaces shall not be less than nine (9) feet by eighteen (18) feet in size. A minimum of one tree per ten spaces is required to be planted around the perimeter of the parking area.

All parking areas shall be screened from the primary street public way by mounding and landscaping. No more than 12 parking spaces shall be laid out in a continuous row unless interrupted by an 8-foot-wide landscaped island. An average clubhouse-building setback of 10' from the front doors and or customer access areas is required from the driveways and parking area. This setback may be a combination of walkways and landscaping. The walkways and landscaping shall be designed to encourage the use of the walkways.

The number of parking spaces for the clubhouse and other uses as set forth by the Zoning Ordinance to be required may be reduced up to 50% by the SPGA. The SPGA may determine the number of parking spaces sufficient

to provide adequate parking, by taking into account multiple complementary uses in order to reduce excessive pavement on the site. The minimum parking and loading regulations for any attached or multifamily use shall be as specified in Sections VI, VII, and VIII.

- (g) **Lighting:** All outdoors lighting shall be mounted so as to direct illumination away from abutting properties and not cause glare. The developer shall provide street lighting of a type approved by the Department of Public Works servicing all right-of-ways and drives within the development. The lighting shall be in place and in operation prior to the issuance of any occupancy permits.
- (h) **Landscaping:** Appropriate trees, under-story plantings and lawn areas must be designed by a registered landscape architect. The Landscape Plan must be approved by the SPGA.
- (i) **Other:** Areas not specifically addressed in the above design criteria shall include the following:
  - (1) Facilities for trash removal for the non-residential uses of the RGCD shall be screened from view of the primary street and all residential dwelling units.
  - (2) All utilities shall be underground.

(9) **Waivers:** The SPGA may grant a waiver from the requirements hereunder should they determine that the granting of said waiver is in harmony with the purpose and intent of the ordinance, does not derogate from the purpose and intent of the ordinance and the resulting development shall not be substantially more detrimental to the neighborhood.

## 11 Frontage Exception Lots

- a. **Purposes:**
  - i. To promote the more efficient use of land.
  - ii. To reduce impacts on the natural environment.
- b. **Applicability:**
  - i. Frontage Exception Lots shall be allowed by special permit in the RR, CN, RA, RB, RC, RD, and RG Zoning Districts.
- c. **Procedural Requirements:**
  - i. **Application:** Applicants for a Special Permit for a Frontage Exception Lot shall submit to the Community Development Board and shall be in conformance with the Rules and Regulations of the Community Development Board for Special Permit filings as described in below.
  - ii. **Procedural Considerations:** The procedures for obtaining a Special Permit for a Frontage Exception Lot are specified in Section XI-C. In order to grant a Special Permit for a Frontage Exception Lot, the Community Development Board must find

that all of the general requirements for a special permit as specified in Section XI-B.1 have been fulfilled and the specific requirements of Section XI-D.11.d. have been fulfilled.

d. **Requirements:** The Community Development Board may grant a special permit for reduced frontage in the districts noted in Section XI-D.11.b.i. above except in the MA or the MB and except for duplexes in the RG district provided that:

- i. The area of the lot to be divided is three (3) times the minimum lot area in that district.
- ii. The frontage for the lot to be divided is, at a minimum, the frontage required for that district.
- iii. The lot to be divided is not split into more than two lots.
- iv. The two newly created lots each contain the minimum area required for that district.
- v. The two newly created lots each have a minimum of fifty (50%) percent of the frontage required for that district, however the frontage is not to be less than fifty (50') feet in any district.
- vi. The two newly created lots each have a lot of width of not less than fifty (50') feet at any point between the street and site of the dwelling.
- vii. The front, side, and rear setbacks for the two newly created lots may be reduced to twenty (20') feet if in the opinion of the Community Development Board this facilitates the highest and best use of the land and limits the overall disturbance of the property. Appropriate screening and buffering as determined by the Community Development Board may be required to protect existing adjacent homes.
- viii. There is not more than one other such lot with reduced frontage contiguous to the newly created lots.
- ix. The newly created lots are so located as not to block the possible future extension of a dead-end street.
- x. The creation of the frontage exception lots will not adversely affect the neighborhood.
- xi. The creation of the frontage exception lots is in harmony with the general purpose and intent of this ordinance.
- xii. No such lot as described above on which a dwelling is located, shall hereafter be reduced in area or frontage required by this ordinance.
- xiii. Prior to the issuance of a building permit, the Applicant shall record a deed restriction on the plan and in the deed(s) indicating that the resulting lots may not be further subdivided or divided in any manner whatsoever. Said recorded plan and deed(s) shall be provided to the Building Commissioner and the SPGA.

**12 Drive-up Retail, Business or Service Establishment (formerly known as Accessory Drive-up Services), Drive-up or Drive-through Restaurant, and Stand Alone Kiosk, Drive-through or Walk-up**

a. **Purposes:**

- i. To ensure that moving or waiting cars create no hazard or obstruction on a street or parking lot used by the general public.

b. **Applicability:**

- i. A drive-up or walk-up window for a bank, laundry drop, pharmacy, restaurant, or the like shall require a Special Permit from the Community Development Board.
- ii. A drive-up retail, business, or service establishment shall be allowed by special permit in the BN, BH, CBD, BL and IL zoning districts.

c. **Procedural Requirements:**

- i. **Application:** Applicants for a Special Permit for a Drive-up Retail, Business or Service Establishment shall submit to the Community Development Board and shall be in conformance with the Rules and Regulations of the Community Development Board for Special Permit filings as described in below.
- ii. **Procedural Considerations:** The procedures for obtaining a Special Permit for a Drive-up Retail, Business or Service Establishment are specified in Section XI-C. In order to grant a Special Permit the Community Development Board must find that all of the general requirements for a special permit as specified in Section XI-D.12. have been fulfilled.

d. **Requirements:**

- i. A Drive-up Retail, Business or Service Establishment shall not constitute a nuisance of any type;
- ii. Access to such drive-up service shall conform to Section VI-B.5 Yard Requirements for all Districts;
- iii. Drive-up Retail, Business or Service Establishment shall not operate after Midnight without an additional special permit from the Community Development Board;
- iv. Drive-up Retail, Business or Service Establishment must comply with Methuen Municipal Code, Article VI, Section 9-61 Regulation of Loudspeakers, Amplifiers, and Paging Systems.
- v. These provisions shall not apply to those facilities which are solely walk-up establishments and which are attached to a main structure and which have no vehicular access. At any time such facility gains vehicular access it shall be required to comply with the filing, application and approval requirements hereunder.

### **13 Floodplain Overlay District deleted (effective August 5, 2024)**

### **14 Ashford School Re – Use Overlay**

- a. The purpose is to allow for the re-use of municipal property and structures.
- b. The use shall be limited to multi-family housing in accordance with the Comprehensive Zoning ordinance definitions (apartments or condominiums). All other uses prohibited.
- c. Housing preference shall be for 55 plus housing – defined as either spouse being 55 or older and their natural or adopted child or where they are guardian of a child if living with them.
- d. The overlay re – use shall require a Site Plan Special Permit. The application procedures are described in Section XII.
- e. The following dimensional requirements shall apply:

(i) maximum density:	1 unit per 2,250 s.f.
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(ii) minimum lot area:	43,560 s.f.
(iii) minimum frontage:	200 feet
(iv) minimum lot width:	100 feet
(v) maximum yard setback for:	
x front:	40 feet
y side:	20 feet
z rear:	50 feet
(vi) maximum number of stories:	3
(vii) maximum height:	40 feet
(viii) maximum building coverage:	50%

f. The following restrictions shall apply within the Ashford School re – use overlay:

g. **Limitations:**

- i. No changes to façade, excepting for normal maintenance;
- ii. No change to the footprint of the building;
- iii. No increase in the height of the building or external accessory units such as elevator or HVAC systems;
- iv. No Accessory buildings;
- v. The location, size and number of waste storage facilities, including recycling;
- vi. Trash removal shall be the responsibility of the property owner;
- vii. No satellite dishes or antennas;
- viii. Proposed changes to the above limitations shall be subject to approval by the Mayor.

**(1) Signs:**

- (a) One (1) sign to identify name of facility. Sign not to exceed 25 SF;
- (b) No signs shall be permitted on the building, except unit numbering or directional signs;
- (c) All other signs shall be limited to directional and parking signs;
- (d) Outdoor signs shall not be illuminated unless shielded or filtered;
- (e) Signs that are illuminated shall have lights mounted on top of the sign facing downward to restrict glare;
- (f) Pan and materials to be approved by the Mayor.

**(2) Parking:**

- (a) Maximum of two (2) vehicles per unit;
- (b) No commercial vehicles over  $\frac{3}{4}$  ton capacity;
- (c) Any commercial vehicles serving the facility shall be registered at the premises;

- (d) All parking areas shall be at least eight (8) feet off the property line; within the eight may include landscaping, sidewalks and utilities; this provision may be waived or modified by the Mayor.
- (e) Recreational vehicles, trailers, mobile homes and boats are prohibited from being stored on site;
- (f) No parking of unregistered vehicles;
- (g) Handicapped parking shall be provided in accordance with state and local laws;
- (h) Deliveries by commercial vehicles shall be limited to the hours between 7:00a.m. and 9:00p.m.

**(3) Outdoor Lighting:**

- (a) There shall be no lighting fixtures on the building except for the entrances and/or exits;
- (b) Lighting for the parking area shall be limited to lampposts, not to exceed twelve (12) feet in height. Location, design and style of lampposts shall be included in lighting plan
- (c) All outdoor lighting shall be directed away from abutting residential properties;
- (d) Lighting plan shall be approved by the Mayor.

**(4) Access Easement:**

- (a) Pedestrian access for public use of fields, courts and play – areas to be reserved in deed;
- (b) A twenty (20) foot wide perimeter access easement to be retained for the purposes of public access. The easement shall include a sidewalk and landscaping where appropriate;
- (c) There shall be no parking within the easement area without approval by the Mayor;
- (d) There shall be no interference with gate access to fields, play areas, courts or easement access areas;
- (e) Fire lane access to be determined by the Fire Department.

**(5) Site Plan:**

- (a) The requirements of Section XII – Site Plan of the Comprehensive Zoning Ordinance shall apply.
- (6) The provisions of the Ashford School re-use overlay shall supersede all other sections of the zoning ordinance except Section XII – Site Plan.

**15 Forest Lake Overlay**

- a. This ordinance is enacted for the purpose of allowing modifications to the zoning requirements of the Roman Catholic Archbishop of Boston property as purchased by the City and recorded at North Essex registry of Deeds at book 8472 page 143.

- b. The use of the property in the overlay shall be limited to single-family dwellings in accordance with the Comprehensive Zoning ordinance definitions. All other uses excepting those customary and incidental to a single-family residence as identified in the zoning ordinance are prohibited.
- c. The overlay shall be subject to Site Plan Approval by the Community Development Board. The procedural requirements of the application are as follows.
- d. An original application together with 15 copies and a site plan shall be submitted to the board.
- e. The site plan shall be stamped by a Massachusetts professional engineer or registered land surveyor. The plan shall show the number, dimensions, and square footage of all lots and shall include a footprint of the proposed buildings on the lots.
- f. The plan shall further show any dimensional modifications sought, i.e. minimum lot area, minimum lot width, minimum yard setbacks, maximum building coverage, minimum open space and maximum wetland area sought.
- g. The Mayor acting on behalf of the city may make application to the community development board for approval of the site plan. The site plan application may include requests to modify the dimensional requirements of Section VI of the zoning ordinance as to this property. Provided however that a minimum of 60 per cent of lot one as described in the above referenced deed shall be kept and designated as constitutionally protected open space under Article 49 of the Articles of Amendment to the Massachusetts Constitution.
- h. The board shall conduct a public hearing in accordance with the public hearing requirements of Section XI of this ordinance. It shall render its decision no later than 90 days after the filing of the application.
- i. The Community Development board is hereby authorized to grant approval to the site plan with such modifications it may approve if it determines that the interests of maintaining open space for the benefit of the public are served by such approval.
- j. The lot(s) as approved may have constructed thereon single-family dwellings within the approved setback areas. Any revision decreasing the setback requirements of any of the lots as approved in the site plan shall require the submittal of an amendment to the board for their review and the procedures listed above shall apply as to the amendment.
- k. There shall be no further subdivision of the lots as approved in the original site plan nor a use made on the premises other than Single-Family residence with customary and incidental accessory uses and all deeds of transfer shall contain this restriction.
- l. The provisions of this overlay ordinance shall supersede all other conflicting sections of the zoning ordinance except Section XII – Site Plan and Section V- Use regulations.

## **16 Personal Wireless Service Facilities**

- a. **Purpose and Intent**
  - i. The purpose of this ordinance is to minimize the visual and environmental impacts of personal wireless service facilities. The Ordinance enables the review and approval of personal wireless service facilities by the City of Methuen in keeping with the City's existing Ordinances and historic development patterns, including the size and spacing of structures and open spaces. This Ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, site

plan review and other Zoning Ordinances designed to safeguard public health and safety, encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Methuen.

- ii. The regulation of personal wireless service facilities is consistent with the City's planning efforts through its local comprehensive plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of natural resources; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.
- iii. If a personal wireless service facility is permitted by right in a zoning district, then the basic assumption is that the personal wireless service facility could go anywhere within that zoning district provided certain dimensional standards are met. This Ordinance does not recommend this approach because there may be sensitive resources in any zoning district that could be negatively affected by these facilities.

b. **Definitions**

- i. **Above Ground Level (AGL)**. A measurement of height from the natural (existing) grade of a site to the highest point of a structure.
- ii. **Ancillary Equipment**. All equipment necessary to the secure and successful operation of a minor or major wireless telecommunications facility, including, but not limited to: a support structure; antennas; transmitting, receiving, and combining equipment; equipment shelter containing radios and electronic equipment; transmission cables; telephone lines; utility lines; and backup power source.
- iii. **Antenna**. The surface from which wireless radio signals are transmitted and received by a personal wireless service facility.
- iv. **Available Space**. The policy that requires siting of personal wireless service facilities on existing buildings or structures, regardless of height, before looking to new construction opportunities. The theory is that available space exists throughout the urban area and that it is more cost-effective, resource-conserving and visually acceptable to place personal wireless service facilities on available space. It is the first preference of the City of Methuen to have personal wireless service facilities use available space.
- v. **Camouflaged**. A personal wireless service facility that is disguised, hidden, or made a part of an existing or proposed structure is considered "camouflaged."
- vi. **Carrier**. A company that provides wireless services.
- vii. **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.
- viii. **Concealed**. A personal wireless service facility that is placed within an existing or proposed structure so that it is hidden from view is considered "concealed."
- ix. **CMR**. Commonwealth of Massachusetts Regulation
- x. **D.E.T.** Massachusetts Department of Telecommunications and Energy
- xi. **D.P.H.** Department of Public Health (Massachusetts)
- xii. **Dual-polarized (or cross-polarized) antenna**. A low mount that has three panels either flush mounted or attached very close to the shaft.

- xiii. **Elevation.** The measurement of height, in feet, above sea level
- xiv. **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.
- xv. **Equipment Shelter.** An enclosed structure, cabinet, shed or box at the base of the mount within which are housed containing radios and electronic equipment; transmission cables; telephone lines; utility lines; and backup power source
- xvi. **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.
- xvii. **FAA.** Federal Aviation Administration
- xviii. **FCC.** Federal Communications Commission
- xix. **Functionally Equivalent Services.** Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
- xx. Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- xxi. **Historic Structure.** A structure listed on the Natural Register of Historic Places or Eligible structure for placement on the National Register of Historic Places.
- xxii. **Interior Wireless Telecommunications Facility.** A minor wireless telecommunications facility located entirely within a building or structure that is occupied or used primarily for other purposes, but which may include ancillary equipment not located within the building or structure, provided that such facility and ancillary equipment are not visible from any public way or abutting property.
- xxiii. **Lattice Tower.** A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.
- xxiv. **Licensed Carrier.** A company authorized by the FCC to construct and operate a commercial mobile radio service system.
- xxv. **Major Wireless Telecommunication Facility.** Any wireless telecommunications facility that is not a minor wireless telecommunications facility.
- xxvi. **Minor Wireless Telecommunication Facility – Type 1.** Any wireless telecommunications facility:
  - (1) Installed on or in or attached on or to a building or existing wireless telecommunications tower or pole or utility transmission tower, overhead cable, smokestack, steeple, water tank or billboard and ancillary equipment adjacent thereto.
  - (2) Composed solely of antennas and ancillary telecommunications equipment which do not extend higher than ten feet above the highest point of the building or structure on which the wireless telecommunications facility is installed; and
  - (3) Made of such materials or painted to blend in appearance to the extent practicable with the building or structure upon which it is installed. To the extent that any tower or pole that was previously authorized is replaced with a tower or pole which is substantially similar in design and is not greater than the same height, or with a one time increase in height of not more than ten feet, that structure shall be deemed to be a minor wireless

telecommunications facility provided that the original tower or pole is removed within a reasonable time after the construction of the replacement.

xxvii. **Minor wireless telecommunications facility - Type 2.** Any wireless telecommunications facility:

- (1) Installed in an existing building or on an existing wireless telecommunications tower; and
- (2) Composed solely of antennas and ancillary telecommunications equipment totally enclosed within an existing building or structure; and
- (3) Installation of antennas and ancillary telecommunications equipment requires no major alteration to the structure; and
- (4) the completed installation of all antennas and ancillary equipment is not visible from a public way.

xxviii. **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.

xxix. **Mount.** The structure or surface, upon which antennas are mounted, including the following four types of mounts: Roof-mounted. An antenna that is mounted on the roof of a building. Side mounted. An antenna that is mounted on the side of a building. Ground-mounted. An antenna that is mounted on the ground. Structure-mounted. An antenna that is mounted on a structure other than a building.

xxx. **Omnidirectional (whip) antenna.** A thin rod that transmits and receives a signal in all directions.

xxxi. **Panel Antenna.** A flat surface antenna usually developed in multiples.

xxxii. **Personal Wireless Services.** Any wireless telecommunications services and commercial mobile services including cellular telephone services, enhanced special mobile radio services, personal communications services and mobile and radio paging services as defined in the Telecommunications Act of 1996, 47 US.C. §332(c)(7)(C)(i).

xxxiii. **Personal Wireless Service Facility.** Facility for the provision of Personal Wireless Services, as defined by the Telecommunications Act of 1996. (1)

xxxiv. **Radio Frequency (RF) Engineer.** An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

xxxv. **Radio Frequency Radiation (RFR).** The emissions from personal wireless service facilities. (2)

xxxvi. **Repeater.** A small receiver/transmitter of not more than 20 Watts output designed to provide service to areas which are not able to receive adequate coverage directly from a personal wireless service facility.

xxxvii. **Scenic Road.** To be determined.

xxxviii. **Scenic Vista.** To be determined.

xxxix. **Security Barrier.** A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

xl. **Separation.** The distance between one carrier's array of antennas and another carrier's array.

xli. **S.P.G.A. Special Permit Granting Authority.** The Community Development Board.

xliii. **Telecommunications Act of 1996.** 47 U.S.C., Section 332 (c) (7) preserves the authority of municipalities to regulate the placement, construction and modification of personal wireless service facilities, but provides that municipalities shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless service facilities.

xliv. **Utility Transmission Tower.** Any tower that has carried or is capable of carrying lines for the transmission of electricity at a voltage level typically equal to or greater than 69,000 volts.

xlv. **Wetlands.** As defined in MGL, Chapter 131, Section 40 and City of Methuen Ordinances, Chapter 12.

xlv. **Wireless Telecommunications Facility.** Any "personal wireless service facility" as defined in the Telecommunications Act of 1996, 47 U.S.C. § 332(c) (7) (C) (ii), including facilities used or to be used by a licensed provider of personal wireless services.

Personal wireless service facilities are defined in the Telecommunications Act of 1996. This definition is also provided in Section XI-D.16.b.xxxii. of the City of Methuen Zoning Ordinance.

It is RFR, not all EMF that is regulated by the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines). The FCC Guidelines from 1/1/97 to 10/15/97. Applicants are further directed to Title 105: Department of Public Health Chapter 122.000.

c. **Municipal Regulations**

i. **Use Regulations:** A personal wireless service facility shall require a building permit in all cases and maybe permitted as follows:

(1) Upon application for a building permit, a Minor Wireless Telecommunications Facility -Type 2 shall be an allowed use in non-residential zoning districts and shall be subject only to the requirements, restrictions and limitations set forth:

(a) A Minor Wireless Service Facility-Type 2 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 facility does not increase the height of the existing structure except as provided in Section (b) below. Such installations shall require a Special Permit.

(b) A minor wireless telecommunications facility-type 2 shall be an allowed use in all but residential zoning districts and shall be subject to the requirements, restrictions and limitations set forth provided, however, that a minor wireless telecommunications facility shall be an allowed use in a residential zoning district only if it is:

(1) Located on municipally owned land, a water tank, or an existing wireless telecommunications facility or replacement of such facility pursuant to subsection (a) herein.

- (2) Located on a utility transmission tower only if installation on any such utility transmission tower does not extend greater than five feet above the utility transmission tower; or
- (3) Is an interior wireless telecommunications facility, provided that if a minor wireless telecommunications facility is also in an historic district, it will be allowed only if such facility is an interior wireless telecommunications facility or otherwise complies with the requirements of such historic district. All other minor wireless telecommunications facilities in a residential zoning district shall be treated as major wireless telecommunications facilities.

(2) Upon application for a building permit for a Minor Wireless Facility-Type 2, the applicant must provide information in a form satisfactory to the Building Commissioner that the applicant has the right and ability to construct such a facility. This information may include, but not be limited to:

- (a) A license from the FCC,
- (b) Approvals from the Commonwealth of Massachusetts DPH Title 105 Chapter 122.000,
- (c) Lease and/or easement agreements from the property owner.

(3) A Major Wireless Telecommunication Facility involving construction of one or more ground- or building (roof- or side-) mounts shall require a Special Permit in all zoning districts within the City. The proposed use shall comply with the height and setback requirements of this ordinance and all of the Special Permit Regulations of this Ordinance.

ii. **Location:** Applicants seeking approval for personal wireless service facilities shall comply with the following:

- (1) The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. 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.
- (2) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed to 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 trees.
- (3) The applicant shall submit documentation of the legal right to install and use the proposed facility, in the form of a license from the FCC, at the time of application for a building permit and/or Special Permit.
- (4) The use of repeaters to assure adequate coverage or to fill holes within areas of otherwise adequate coverage, while minimizing the number of personal

wireless service facilities may be allowed. An applicant who has received a personal wireless facility Special Permit under this Ordinance may, with at least 30 days written notice to the SPGA, Board of Health, Conservation Commission, Building Inspector, and City Clerk, install, at the applicant's expense, one or more additional repeaters. Site Plan review before the SPGA will be required. The SPGA will publish written notice of public meeting date at least 14 days in advance. Applicants shall detail the number, location, power output, and coverage of any proposed repeaters in their systems and provide engineering data to justify their use. No repeaters shall be located closer than 50 feet to an existing dwelling, nor less than 25 feet above the ground. Maximum height shall be up to 150 feet in the Personal Wireless Service Facility Overlay District or up to ten feet above average tree, or tallest building height within 300 feet of the repeater.

iii. **Dimensional Requirements.** Personal wireless service facilities shall comply with the following:

(1) Height

- (a) **General:** Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the tallest height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- (b) **Ground-Mounted Facilities:** Ground-mounted personal wireless service facilities shall not project higher than ten feet above the tallest building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen views of the facility in all directions. These trees may be existing on the subject property or planted on-site.
- (c) **Side- and Roof-Mounted Facilities:** Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than five feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- (d) **Existing Structures:** New antennas located on any of the following structures existing on the effective date of this Ordinance shall be exempt

from the height restrictions of this Ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

(e) **Existing Structures, (Utility):** New antennas located on any of the following existing structures shall be allowed to exceed the height restrictions of this Ordinance with a Special Permit provided that there is no more than a five foot (5') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers (Utility Transmission Towers), telephone poles and similar existing utility structures. This provision shall not apply in Historic Districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic view sheds.

(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 facility is located. In addition, the following setbacks shall be observed:

In order to ensure public safety, the minimum distance from the base of every ground-mounted personal wireless service facility to the property line of any residence, school, medical facility or nursing home shall be at least 250 feet measured on a horizontal plane. The minimum distance from the base of any ground-mounted personal wireless service facility to any other type of property line, road, structure, or business shall be equal to one hundred percent of the height of the facility/mount including any antennas or other appurtenances. For these uses only, this setback is considered a fall zone.

In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformity, except as provided below.

(g) **Flexibility:** In reviewing a Special Permit application for a personal wireless service facility, the Community Development Board may reduce the required fall zone and/or setback distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Community Development Board shall consider both the visual and safety impacts of the proposed use.

d. **Special Permit Regulations**

i. **Design Standards:** All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

(1) **Tiering:** It shall be the policy of the City of Methuen to consider applications for special permits to construct a personal wireless service facility on available space in the following order of priority:

- (a) First, personal wireless service facilities that are to be concealed within existing buildings or structures shall be preferred and only when presented with evidence that such buildings or spaces are not available, will the Methuen Community Development Board consider;
- (b) Second, personal wireless service facilities that are mounted on the roof of existing buildings shall be considered and, only when presented with evidence such buildings do not exist within the desired service areas, will the Methuen Community Development Board consider;
- (c) Third, personal wireless service facilities that are mounted on available space, including existing personal wireless service facilities.
- (d) The above preferences are to be considered opportunities carrying with them a favorable review, providing other applicable requirements of this ordinance are met. For any of the priorities above, a registered letter must represent any assertion of property owner refusal, regardless of cost considerations, from the property owner.

(2) **Visibility/Camouflage or Concealment:** Personal wireless service facilities shall be camouflaged or concealed as follows:

- (a) Camouflage or Concealment by Existing Buildings or Structures:
  - (1) 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 facility with or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
  - (2) Personal wireless service facilities, which are side-mounted, shall blend with the existing building's architecture and, if over five square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.
- (b) Camouflage or Concealment by Vegetation.
  - (1) If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Community Development

Board shall determine the types of trees and plant materials and depth of the needed buffer based on-site conditions.

**(c) Color**

- (1) 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.
- (2) To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted with neutral colors that are harmonious with and blend with the background, such as sky or wooded terrain.

**(d) Equipment Shelters.** Equipment shelters for personal wireless service facilities shall be reviewed by the Community Development Board with a preference for the following design standards:

- (1) Equipment shelters shall, as a first preference, be located in underground vaults; or if not, demonstrable evidence offered as to why underground vaulting is impossible, and then,
- (2) Equipment shelters above grade shall, as a second preference, be designed consistent with traditional New England architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or, if not,
- (3) Equipment shelters shall, as a last preference, be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The Community Development Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

**(e) Lighting and Signage.**

- (1) 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.
- (2) 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 the City's sign regulations. Signs solely for the purpose of advertisement are prohibited.

**(f) Historic Buildings and Districts.**

- (1) Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features,

distinctive construction methods, or original historic materials of the building.

(2) Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible. 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 public roads or viewing areas within the district.

**(g) Scenic Landscapes and Vistas.**

(1) No new ground-mounted personal wireless service facilities shall be located within areas contained in the Visual Overlay District on file in the City of Methuen Community Development Department. The Visual Overlay District Map shall contain:

- (a) View corridors, or that strip of land within *250 feet* of the outer edge of the right-of-way on both sides of State Routes 93, 495, 213.
- (b) Watercourse and water body buffers, or those strips of land within 75 feet average mean high water on all streambeds, quarries, reservoirs and ponds.
- (c) Public open space or all lands reserved for parks, recreation, public schools and playgrounds as well as conservation through public control.
- (d) Roof-mounted, side-mounted, camouflaged or otherwise concealed personal wireless service facilities may be subject to the Special Permit process and will be permitted within the areas shown on the Visual Overlay District Map, provided they meet the standards of this Ordinance.

(h) **Security Barriers.** A security barrier shall surround all ground-mounted personal wireless facilities.

**e. Environmental Standards**

**i. General:**

- (1) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.
- (2) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, including all hydrocarbon products, 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.
- (3) Storm water run-off from the facility shall be contained on-site.

**(4) Noise.**

- (a) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at the property line.
- (b) Roof-mounted or side-mounted 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.
- (c) The Community Development Board retains the right to commission an acoustical engineer to study noise at a proposed site in accordance with the standards in Section XI-D.16.e.i.4. of this Ordinance. The cost for retaining such an engineer shall be borne by the applicant.

**(5) Health Standards.**

- (a) General. As proposed, all requirements to protect public health and safety below are specified to ensure a legally defensible position by the City.
- (b) Radio Frequency Radiation (RFR) Standards.
  - (1) All equipment proposed for a personal wireless service facility shall be authorized per the most recent FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines). The FCC Guidelines were published on August 1, 1996. The FCC had extended the implementation date of the FCC Guidelines from January 1, 1997 to October 15, 1997.
  - (2) Further, the applicant shall demonstrate that all equipment conforms to 105 CMR 122.000 as amended
  - (3) Consultative Review. Per Section XI-E, Community Development Board (SPGA) retains the right to commission experts to study the existing, probable or potential RFR at a proposed site. The cost for retaining such experts shall be borne by the applicant (MGL Chap. 44, s.53 G).

**f. Application Procedures**

- i. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) for personal wireless service facilities shall be the Methuen Community Development Board
- ii. Other Permits Required. Any other permits required from federal, State or municipal agencies must be applied for and granted to the applicant prior to granting a Special Permit for a personal wireless service facility from the City of Methuen.
- iii. Special Permit Procedures. All procedures for applying for Special Permits shall be consistent with, and as provided for, Section XI-C.
- iv. Special Permit Requirements. The required application for a Special Permit shall meet the requirements of Sections XI-C.

**g. Application Filing Requirements**

- i. General Filing Requirements The following shall be included with an application for a Special Permit for all personal wireless service facilities:

- (1) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- (2) Co-applicants shall include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
- (3) A licensed carrier must be either an applicant or a co-applicant.
- (4) Original signatures shall be required for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant is represented by an agent, a sworn statement with original signatures authorizing the agent to represent the applicant and/or co-applicant will be required. Photo reproductions of signatures will not be accepted.

**h. Location Filing Requirements**

- i. Identify the subject property by including the City as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- ii. Assessor's map and parcel number of subject property.
- iii. Zoning district designation for the subject parcel (Submit copy of City zoning map with parcel identified).
- iv. A plot plan, 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. Said plan shall be stamped by a Massachusetts Registered Professional Civil Engineer or Registered Land Surveyor
- v. A City-wide map showing other existing personal wireless service facilities in the City and outside the City within two (2) miles of its corporate limits.
- vi. The proposed locations of all existing and future personal wireless service facilities in the City on a City-wide map for this carrier.

**i. Siting Filing Requirements**

- i. In addition to the requirements of Section XI-C the applicant will provide a one inch-equals-40-feet vicinity plan showing the following:
  - (1) Property lines of all properties adjacent to the subject property within 300 feet.
  - (2) Tree cover on subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.
  - (3) Proposed location of antenna, mount and equipment shelter(s).
  - (4) Proposed security barrier, indicating type and extent as well as point of controlled entry.
  - (5) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
  - (6) Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
  - (7) A Topographic map at two-foot Contours for the subject property and adjacent properties within 300 feet.

- (8) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- (9) 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. All heights shall be shown as proposed AGL, before any grading or disturbance of the natural grade.
- (10) Plan lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.
- (11) If the proposed facility will extend above the tree canopy, a vicinity viewshed map and sectional drawings at a scale of 1 inch = 40 feet including the entire area within 2500 feet and showing the following:
  - (a) topography, public and private roads, buildings and structures, bodies of water, and landscape features; and
  - (b) areas which are likely to have views of the facility based on terrain characteristics, including openness, elevation and slope.
- (12) Sight lines and photographs as described below:
  - (a) Sight line representation (Elevation View). A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public road.
  - (b) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch photograph of what can currently be seen from any public road within 300 feet.
  - (c) Proposed (after condition). 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.
- (13) Siting elevations, 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:
  - (a) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
- (14) 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.

- (15) Any and all structures on the subject property.
- (16) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
- (17) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

**j. Design Filing Requirements**

- i. 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.
- ii. Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., galvanized steel, 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.
- iii. Colors of the proposed personal wireless 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.
- iv. Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.
- v. 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.
- vi. Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen and species.
- vii. Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a 48-hour, 24 hours of which must be on a weekend day, balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, including a second date, in case of poor visibility due to weather conditions on the initial 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.
- viii. If lighting of the site is proposed, the applicant shall submit a manufacturer's 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.

**k. Noise Filing Requirements**

- i. 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:

- (1) Existing or ambient: the measurements of existing noise.
- (2) 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.
- (3) As proposed, all requirements are specified to ensure a legally defensible position by the City.

**1. Radio Frequency Radiation (RFR) Filing Requirements**

- i. The applicant shall pay for an Independent Consultant, hired by the city, to monitor the background levels of radio frequency radiation around the proposed personal wireless service facility site. The Independent Consultant shall provide a statement listing the existing and maximum future projected measurements of radio frequency radiation from the proposed personal wireless service facility, for the following situations:
  - (1) Existing or ambient: the measurements of existing RFR.
  - (2) Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.
  - (3) Certification signed by a RF engineer stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radio Frequency Radiation Standards sub-section of this Ordinance.
  - (4) Radiation pattern of the proposed antenna in the horizontal and vertical planes.
  - (5) A report of the monitoring results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Community Development Board, Building Inspector, and City Clerk.

**m. Federal Environmental Filing Requirements**

- i. The Applicant must provide evidence to the SPGA that it has filed all required applications with the Federal Government which are required for approval of a Personal Wireless Communication Facility.
- ii. At the time of application filing, an EA (Environmental Assessment) that meets 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.
- iii. 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.
- iv. The Special Permit Granting Authority 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.

**n. Co-Location**

- i. Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone 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:
  - (1) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
  - (2) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- ii. In the event that co-location is found not feasible, a written statement of the reasons for the infeasibility shall be submitted to the City. The City 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 City may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
- iii. If the applicant does intend to co-locate or to permit co-location, the City shall request drawings and studies which accurately show the ultimate appearance and operation of the personal wireless service facility at full build-out.
- iv. If the Methuen Community Development Board 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 facilities, including proposed and future facilities.

**o. Modifications**

- i. 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:
- ii. 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:
  - (1) Change in the number of facilities permitted on the site;
  - (2) Change in the technology used for the personal wireless service facility.
  - (3) The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

**p. Monitoring and Maintenance**

- i. As proposed, the City specifies all requirements to ensure legally defensible position.
- ii. After the personal wireless service facility is operational, the owner(s) of any personal wireless service facility located on any facility site shall pay for an Independent

Consultant, hired by the City, to conduct testing and monitoring of radio frequency radiation emitted from said site and to report results of said monitoring as follows:

iii. Within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, the Independent Consultant shall submit

- (1) Existing levels of radio frequency radiation from the personal wireless service facility. Such measurements shall be signed by a radio frequency engineer stating that radio frequency measurements are accurate and meet Federal Communications Commission Guidelines as specified in the Radio frequency Standards of this Ordinance.
- (2) A report of the Monitoring Results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Community Development Board, Building Inspector and City Clerk.
- (3) After the personal wireless service facility is operational, the applicant shall submit, within 90 days of the issuance of the Special Permit, 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 subsection of this Ordinance.
- (4) The applicant and co-applicant shall maintain the personal wireless service facility in good condition. If the SPGA deems it necessary, an initial bond shall be posted to cover construction costs and an annual maintenance bond to cover maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, access road maintenance and maintenance of the buffer areas and landscaping.

q. **Abandonment or Discontinuation of Use**

- i. At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the City 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.
- ii. 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:
  - (1) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - (3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

- (4) If a carrier fails to remove a personal wireless service facility in accordance with this section of this Ordinance, the City of Methuen shall have the authority to enter the subject property and physically remove the facility. The City Council (SPGA) shall 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 must remove the facility.
- (5) Such a performance bond shall only be deposited in an Enterprise Account, so labeled and established for the sole purpose of removing an abandoned or discontinued facility.
- (6) In the absence of an Enterprise Account, the Building Inspector may request removal authority and sufficient funds from the Methuen City Council.

**r. Reconstruction Or Replacement Of Existing Towers And Monopoles**

- i. 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 Methuen Community Development Board 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 Methuen Community Development Board 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 facility by more than twenty (20) feet.

**s. Term of Special Permit**

- i. A Special Permit issued for any personal wireless service facility shall be valid for twenty-five (25) years. At the end of that period, the carrier shall remove the personal wireless service facility or a new Special Permit shall be required.

**t. Provision For Fire Safety And Rescue**

- i. All applicants for ground-mounted personal wireless service facilities shall contribute toward improving the adequacy of City of Methuen's response in the event of hazardous or emergency events on high, free-standing structures such as:
  - (1) Training fire department personnel on accessing high structures with conventional fire-fighting methods and equipment.
  - (2) Purchasing any new equipment necessary to improve the City of Methuen's ability to suppress emergencies and rescue personnel on high, free standing structures.
- ii. The Methuen Fire Department shall establish an Enterprise Account for the purposes set forth above.
- iii. All applicants shall contribute to the Fire Safety and Rescue Enterprise Account for personal wireless service facilities on a pro-rated basis.

**u. Regulation Compliance**

- i. Failure to comply with any regulations under the Special Permit shall be grounds for removal of non-complying structures, buildings, and devices, at the owner's expense.

## **17 Open Space Residential Development**

**A. Purpose and Intent**

1. The Primary Purposes for OSRD are the following:
  - a. To allow for greater flexibility and creativity in the design of residential developments.
  - b. To encourage the permanent preservation of open space, agricultural land, forestry land, wildlife habitat, other natural resources including aquifers, waterbodies and wetlands, and historical and archeological resources in a manner that is consistent with a municipality's comprehensive and open space plan.
  - c. To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision.
  - d. To minimize the total amount of disturbance on the site.
  - e. To further the goals and policies of the City of Methuen Master Plan.
  - f. To facilitate the construction and maintenance of housing, streets, utilities, and public service in a more economic and efficient manner.
  - g. To encourage the use of Low Impact Development (LID) design techniques in an effort to reduce the effects of development on the environment and encourage natural recharge of water resources.
  - h. To further the goals of the City of Methuen to create and provide affordable housing for persons of low and moderate income.

2. The Secondary Purposes for OSRD are the following:

- a. To preserve and enhance the community character.
- b. To preserve and protect agriculturally significant land.
- c. To protect the value of real property.
- d. To protect community water supplies;
- e. To provide for a diversified housing stock;

**B. Eligibility**

1. **Minimum Size of Tract.** To be eligible for consideration as an OSRD, the tract shall contain a minimum of three (3) acre(s). Zoning Classification. Only those tracts located in the CN, RR, RA, RB, RC, RD and RG Districts shall be eligible for consideration as an OSRD.
2. **Contiguous Parcels.** To be eligible for consideration as an OSRD, the tract shall consist of a parcel or set of contiguous parcels.
3. **Land Division.** To be eligible for consideration as an OSRD, the tract may be a subdivision or a division of land pursuant to G.L. c. 41, s. 8 1P provided, however, that

OSRD may also be permitted where intended as a condominium on land not so divided or subdivided.

C. Special Permit Required

1. The Community Development Board shall be the SPGA for an OSRD pursuant to the grant of a special permit. Such special permits shall be acted upon in accordance with the following provisions:

D. Pre-Application

1. **Conference.** The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Community Development Board. If one is requested, the Community Development Board shall invite the Conservation Commission, Board of Health, Building, Fire and Engineering Departments. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Community Development Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD, seek preliminary feedback from the Community Development Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, the Community Development Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for an OSRD special permit.
2. The Community Development Board shall adopt rules and regulations relative to the size, form, number and contents of the plans to be submitted for a pre-application review.

E. Design Process

1. At the time of the application for a special permit for OSRD in conformance with Section F hereunder, applicants are required to demonstrate to the Community Development Board that the following Design Process was performed by a certified Landscape Architect and considered in determining the layout of proposed streets, house lots, and open space.
  - a. **Step One: Identifying Conservation Areas.** Identify preservation land by two steps. First, Primary Conservation Areas (such as wetlands, riverfront areas, and floodplains regulated by state or federal law) and Secondary Conservation Areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area will be identified and delineated. To the maximum extent feasible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.
  - b. **Step Two: Locating House Sites.** Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

- c. **Step Three: Aligning the Streets and Trails.** Align streets in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.
- d. **Step Four: Lot Lines.** Draw in the lot lines.

F. Procedures

1. Application

- a. An application for a special permit for an OSRD shall include a concept plan. The Concept Plan consists of a Sketch Plan and a Yield Plan (see Section G). The Community Development Board shall adopt rules and regulations relative to the size, form, number and contents of the sketch plan and yield plan.

2. Sketch Plan.

- a. The Sketch Plan shall be prepared by a certified Landscape Architect, or by a multi-disciplinary team of which one member must be a certified Landscape Architect, and shall address the general features of the land, give approximate configurations of the lots, open space, and roadways, and include the information listed under Section 1 .B of the Subdivision Rules and Regulations. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section E above, and the Design Standards according to Section J below, when determining a proposed design for the development.

3. Relationship Between the Concept Plan and OSRD Subdivision Plan

- a. The issuance of a Concept Plan special permit allows the applicant to submit an Open Space Definitive Subdivision Plan to the Community Development Board for approval under the Subdivision Control Law. Any Concept Plan special permit issued by the Community Development Board shall specifically state that the Open Space Definitive Subdivision Plan shall substantially comply with the Concept Plan.
- b. An Open Space Definitive Subdivision Plan will be considered not to substantially comply with the Concept Plan if the Community Development Board determines that any of the following conditions exist:
  - i. An increase in the number of building lots;
  - ii. a significant decrease in the open space acreage;
  - iii. a significant change in the lot layout;
  - iv. a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
  - v. significant changes to the storm water management facilities; and/or,
  - vi. significant changes in the wastewater management systems.
- a. If the Community Development Board determines that the Open Space Definitive Subdivision Plan does not substantially comply with the Concept Plan, the Board may disapprove the definitive subdivision plan for failure to comply with the condition of the special permit requiring that the Open Space Definitive Plan substantially comply with the Concept Plan.

- b. The Community Development Board may conditionally approve an Open Space Definitive Subdivision Plan that does not substantially comply with the Concept Plan special permit. However, such conditional approval must identify where the plan does not substantially comply with the Concept Plan special permit and shall require that the Concept Plan special permit be amended to be in compliance with the significant changes identified by the Community Development Board. The Community Development Board shall also require that the applicant file an application to amend the Concept Plan special permit within a specified time period.
- c. The public hearing on the application to amend the Concept Plan special permit shall be limited to the significant changes identified by the Community Development Board in their conditional approval of the Open Space Definitive Subdivision Plan. These are the only considerations that the Community Development Board may take into account in deciding whether to amend the Concept Plan special permit.

4. General Procedures

- a. Whenever an application for a OSRD special permit is filed with the Community Development Board, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Chief, Fire Chief, and Town Engineer for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Community Development Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Community Development Board is held prior to the expiration of the 35-day period, the Community Development Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 35-day period. The Decision/Findings of the Community Development Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

5. Site Visit

- a. Whether or not conducted during the pre-application stage, the Community Development board may conduct a site visit during the public hearing. At the site visit, the Community Development Board and/or its agents shall be accompanied by the applicant and/or its agents.

6. Other Information

- a. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw. To the extent permitted by law, the Community Development Board shall coordinate the public hearing required for any application for a special permit for an OSRD with the public hearing required for approval of a definitive subdivision plan.

b. All OSRD's subdivisions must be served with public water and public sewer services.

G. Basic Maximum Number of Lots

1. Determination of Yield, Sketch Plan

a. The Basic Maximum Number shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of lots (or dwelling units) that could be placed upon the site under a conventional subdivision. The Yield Plan shall contain the information required for a Preliminary Plan in accordance with the Subdivision Rules and Regulations as set forth above in Section VI. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots (or dwelling units) resulting from the design and engineering specifications shown on the Yield Plan. Each lot shall contain at least 50% upland based upon actual flagged wetlands.

H. Reduction Of Dimensional Requirements

1. Flexible (Zero-Lot Line)

a. The Community Development Board encourages applicants to modify lot size, shape, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

- i. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD; provided, however, that the Community Development Board may waive this requirement where it is determined that such reduced lot(s) will further the goals of this bylaw.
- ii. There shall be no less than 20 feet between structures and no less than a 20 foot front and rear setback.

The Community Development Board may waive these provisions if it furthers the intent of the ordinance and is not more detrimental to the neighborhood.

I. Open Space And Affordable Housing Requirements

In order to qualify for an Open Space Residential Development Special Permit hereunder, the proposed project must include the following minimum Open Space and Affordable Housing Requirements:

1. **Open Space.** A minimum of fifty percent (50%) of the tract shown on the development plan shall be open space. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.
  - a. The percentage of the open space that is wetlands shall not normally exceed the percentage of the tract that is wetlands; provided, however, that the applicant may include a greater percentage of wetlands in such open space upon a demonstration that such inclusion promotes the purposes of this bylaw.

- b. The open space shall be contiguous. Contiguous shall be defined as being connected. Open Space will still be considered connected if it is separated by a roadway or an accessory amenity. The Community Development Board may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.
- c. The open space shall be used for wildlife habitat and conservation and the following additional purposes: historic preservation, education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, a combination of these uses, and shall be served by suitable access for such purposes. The Community Development Board may permit up to 10 % of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (i.e., pedestrian walks and bike paths).
- d. Wastewater and stormwater management systems serving the OSRD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required. Use of Low Impact Development Techniques is encouraged.
- e. Ownership of the Open Space. The open space shall, at the Community Development Board's election, be conveyed to:
  - i. The Town or its Conservation Commission.
  - ii. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
  - iii. a corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Community Development Board for approval, and shall thereafter be recorded.

2. Affordable Housing: A minimum of ten (10%) of the number of units allowed shall be Affordable Units as that term is defined in Eligibility Standards as set forth in section XI-D.7.B. and E. hereof.

- a. A minimum of ten (10%) of the number of units allowed in the Yield Plan shall be added to the development as Affordable Housing. For example, if the Yield Plan shows ten units, then the developer shall be required to build one additional unit as an Affordable

Housing Unit for a total of 11 units. All fractions of units shall be rounded up to the nearest whole number.

- b. The SPGA, as a condition of a Special Permit, may require the Applicant to build a specified number of Affordable Units before the issuance of all of the building permits for the project.
- c. The Affordable Units shall be restricted in perpetuity by a recorded deed restriction.
- d. The mandatory Affordable Units shall be in addition to the bonus Affordable Units as set forth in Section L hereof.

J. Design Standards

- 1. The following Generic and Site-Specific Design Standards shall apply to all OSRDs and shall govern the development and design process:

- a. Generic Design Standards
  - i. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
  - ii. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
  - iii. Mixed-use development shall be related harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. Proposed buildings shall be related to their surroundings.
  - iv. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
  - v. The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

b. Site Specific Design Standards

- i. **Mix of Housing Types.** The OSRD may consist of any combination of single-family, two-family and multifamily residential structures. A multifamily structure shall not contain more than four (4) dwelling units. Multi-family structures may only be built within districts where multi-family structures are allowed by right or with a special permit. Residential structures shall be oriented toward the street serving the premises and not the required parking area.
- ii. **Parking.** Each dwelling unit shall be served by two (2) off-street parking spaces. Parking spaces in front of garages may count in this computation. All parking areas with greater than four (4) spaces shall be screened from view.

- iii. **Buffer Areas.** A buffer area of 50 feet may be provided at the following locations: (a) perimeter of the property where it abuts residentially zoned and occupied properties; and (b) existing public ways. Driveways necessary for access and egress to and from the tract may cross such buffer areas. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The Community Development Board may waive the buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein.
- iv. **Drainage.** The Community Development Board shall encourage the use of “soft” (non-structural) stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.
- v. **Screening and Landscaping.** All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- vi. **On-site Pedestrian and Bicycle Circulation.** Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- vii. **Disturbed Areas.** Not more than 5% of the Open Space shall be disturbed areas. A disturbed area is any land not left in its natural vegetated state.

**K. Decision of the Community Development Board**

- 1. The Community Development Board may grant a special permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract than a conventional development proposed for the tract, after considering the following factors:
  - a. Whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
  - b. whether the OSRD promotes permanent preservation of open space, agricultural land, forestry land, other natural resources including waterbodies and wetlands, and historical and archeological resources;
  - c. whether the OSRD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
  - d. whether the OSRD reduces the total amount of disturbance on the site;
  - e. whether the OSRD furthers the goals and policies of the master plan;
  - f. whether the OSRD facilitates the construction and maintenance of streets, utilities, and public service in a more economical and efficient manner.
  - g. whether the Concept Plan and its supporting narrative documentation complies with all sections of this zoning bylaw.

**L. Increases in Permissible Density**

Based upon the basic number of lots set forth on the accepted Yield Plan, the following bonuses will be considered in addition to those requirements as set forth in section I hereof.

1. The Community Development Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number. The density bonus for the OSRD shall not, in the aggregate, exceed fifty percent (50%) of the Basic Maximum Number. Computations shall be rounded to the lowest number. A density bonus may be awarded in the following circumstances:
  - a. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded; provided, however, that this density bonus shall not exceed 25% of the Basic Maximum Number.
  - b. For every two (2) dwelling units restricted to occupancy by persons over the age of fifty-five, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.
  - c. Where the Community Development Board determines that the development is in substantial conformance with the City of Methuen Master Plan and for every two (2) dwelling units restricted to occupancy in perpetuity by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development one dwelling unit may be added as a density bonus, provided however that this density bonus shall not exceed fifteen (15%) percent of the Basic Maximum Number may be awarded.
  - d. For every two (2) dwelling units restricted to occupancy in perpetuity by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed 10% of the Basic Maximum Number.

## **18 Billboards**

- A. **Purpose.** To assure the public safety and community welfare by the regulation of the location of billboards. To protect the environment and assure the continued nature of the historic and open space features of the City.
- B. **Applicability.** An application for a Billboard Special Permit shall be allowed in the BH and IL Zoning districts.
- C. **Applications.** Billboards require a special permit, as set forth in this Section XI. The special permit granting authority shall be the Board of Appeals. Prior to the grant of any special permit, the Department of Economic and Community Development shall provide a written recommendation to the Board.

Applications for Billboard Special Permits shall be completed and filed in accordance with the Rules and Regulations of the SPGA. In addition to the general requirements of Section XI-B (1).
- D. **Criteria.** In addition to the Special Permit Criteria as set forth in section XI-B (1) hereof, the Applicant shall:
  1. demonstrate compliance with the Outdoor Advertising Board Regulations, as amended.

2. demonstrate that the proposed location does not adversely interfere with the uses of adjacent properties.
3. demonstrate that the proposed Billboard does not cause an adverse shadow or flicker on adjacent properties.
4. demonstrate that the proposed location does not cause any noise on adjacent properties such that the increased noise is in violation of any state regulation or local noise ordinance; and
5. demonstrate that the Billboard is in harmony with or suitable for the surrounding area and would not do significant damage to the visual environment. In making this determination the SPGA may consider among other factors, health, safety, general welfare of the public, the scenic beauty of the area, the physical, environmental, cultural, historical or architectural characteristics of the location and area, the structure, height, size of the sign, the number of signs on the premises and in the area where the Billboard is to be located.

**E. Dimensional Requirements**

1. There shall be a front yard setback of 40 feet for all Billboards, a side yard setback of 20 feet and a rear yard setback of 30 feet, notwithstanding the requirements of the Table of Dimensional Controls.

**F. Term of Permit**

- i. The Special Permit issued hereunder shall be for one year and shall be renewed annually. There shall be a one-time application fee and an annual fee as set forth in Appendix-D Schedule of Fees.

**G. Prohibitions.** No Billboard permitted hereunder shall have any moving parts.

**19 Temporary Moratorium on Medical Marijuana Treatment Centers and Registered Marijuana Dispensaries - replaced by Section XI –D (21)**

**20 Historic Preservation Special Permit (HPSP)**

1. **Purpose:** The general objectives of this Section are to:
  - a. Encourage preservation of buildings or structures of historical or architectural significance, in concert with the goals and policies of the Methuen Master Plan.
  - b. Encourage the restoration of existing historic buildings and structures in the community.
  - c. Establish eligibility criteria for buildings or structures of historical or architectural significance attaining protected status.
  - d. Expand economic options for the owner/investor, by broadening the permitted uses in various zoning districts and removing barriers presented by development standards governing those permitted uses.
  - e. Permit the flexibility of development options by modifying dimensional requirements that might be an impediment to historic preservation.
  - f. To preserve and enhance community character.

2. **Applicability:** An application for a Historic Preservation Special Permit shall be allowed in all Zoning districts.

3. **Special Permit Granting Authority:** The Community Development Board shall be the Special Permit Granting Authority (SPGA) for an Historic Preservation Special Permit (HPSP).

4. **Historic Eligibility:**

a. Any historic building or structure, as defined below, may qualify for eligibility under this Section, **IF**

i. it is included on any of the following lists or surveys or meets the following criteria:

- (1) National Register of Historic Places or pending nominations in good standing.
- (2) State (Commonwealth of Massachusetts) Register of Historic Places or pending nominations in good standing.
- (3) Inventory of Historic Assets of the Commonwealth for the City of Methuen or designated for inclusion in said inventory including those buildings listed for which complete surveys may be pending.
- (4) Properties in existence on or before one hundred years from the date of the application for a Historic Preservation Special Permit.
- (5) Properties within the Searles Nevin Tenney Historic District.

ii. **AND** it has been determined by a vote of the Methuen Preservation Committee to be historically or architecturally significant.

5. **Findings Required:** In order to grant a special permit, the SPGA shall determine:

- a. That the uses authorized by this Special Permit or the modification of standards and requirements authorized are necessary to maintain the historic or architecturally significant building, or structure on the site on which it was originally constructed or to relocate it to such a site;
- b. That the proposed renovation, repair, additions, adaptive reuse or removal preserves, to the maximum extent feasible, the historical and architectural features of the building, or structure
- c. That failure to grant the special permit is likely to result in inappropriate use or physical modification or pursuit of a demolition permit; and
- d. That the proposed use will not generate negative impacts to the surrounding area or zoning district or that any negative impacts generated may be feasibly mitigated
- e. Priority in granting special permits under this historic preservation ordinance shall, in all cases, be placed upon keeping buildings and structures in place, rather than moving them to other locations, provided that the existing siting can be shown to represent valid historical setting and context. Moving of buildings, structures and elements to other locations shall be considered only if no other preservation measures are practical or reasonable on the existing site, or if the proposed removal is to return a building, or structure to an original or more historically accurate location. The SPGA shall determine the validity of any such requests.

6. **Parent Parcel:** The parent parcel is the original parcel of land containing the historically or architecturally significant building or structure.

7. The SPGA may grant a special permit to authorize certain uses as listed below, create new lot, **OR** construct one new dwelling unit on the Parent Parcel. It is the intent of this ordinance that only one of these options will be granted for the Parent Parcel.

8. **Special Permit for a Use on the Parent Parcel:**

a. The SPGA may grant a special permit to authorize certain uses, listed below, not otherwise allowed in the Table of Use Regulations for the Zoning District of the Parent Parcel.

- i. The following uses as defined in this Zoning Ordinance, may be allowed in any Zoning District by special permit:
- ii. Single-Family dwelling.
- iii. Two-family dwelling or multi-family housing. Each dwelling unit shall be an independent dwelling unit intended for use by a single family with its own bath and toilet facilities and its own kitchen. The square footage of the interior living space of each dwelling unit shall be not less than one thousand (1,000) square feet.
- iv. Conversion of municipal buildings to residential use
- v. Office, General
- vi. Office, Medical
- vii. Hospice Facility
- viii. Funeral Parlor
- ix. Customary Home Occupation. The SPGA may allow greater than 25% of the existing gross floor area of the dwelling unit and/or more than seven hundred (700) square feet be devoted to such use.
- x. Assisted Living
- xi. Nursing /Rest Home Long Term Care Facility

b. If it is determined to be in the best interest of the overall project to meet the goal of historic preservation then the SPGA may waive the front, side, and rear yard setbacks for Zoning District of the Parent Parcel and the Section VIII Parking and Loading Requirements.

c. Any new use or modified dimensional standards must be in keeping with and enhance the overall historic and/or architecturally significant nature of the Parent Parcel and adhere to design guidelines of the Historic District Commission.

9. **Special Permit for the creation of one new lot from the Parent Parcel:**

- a. The SPGA may grant a special permit to modify certain dimensional standards for the creation of **one new lot** from the Parent Parcel.
- b. In order to create one new lot the Parent Parcel must conform to the minimum Lot Area and Frontage requirements contained in Appendix B Table of Dimensional Regulations for that Zoning District.
- c. **If** the Parent Parcel conforms to the minimum lot area and frontage requirements, **then** one new lot may be created from the Parent Parcel **however** both the new lot and the

Parent Parcel must contain a minimum of fifty percent (50%) of the required frontage and area for the Zoning District of the Parent Parcel.

- d. If it is determined to be in the best interest of the overall project to meet the goal of historic preservation then the SPGA may waive the front, side, and rear yard setbacks for the Zoning District of the Parent Parcel.
- e. The dwelling unit to be constructed on the new lot must be in keeping with and enhance the overall historic and/or architecturally significant nature of the Parent Parcel and adhere to design guidelines of the Historic District Commission.

**10. Special Permit for the construction of one additional dwelling unit on the Parent Parcel:**

- a. The SPGA may grant a special permit authorizing the construction of one additional dwelling unit on the Parent Parcel.
- b. In order to construct one additional dwelling unit, the Parent Parcel must conform to the minimum Lot Area and Frontage requirements contained in Appendix B Table of Dimensional Regulations for the Zoning District of the Parent Parcel.
- c. The additional dwelling unit must be in keeping with and enhance the overall historic and/or architecturally significant nature of the Parent Parcel and adhere to design guidelines of the Historic District Commission.

**11. Relocation of an Existing Historic Building or Structure:**

- a. If the historic building or structure is to be relocated, the SPGA shall determine whether or not it can be placed on a new lot without detrimental effect to abutting properties or the street on which the lot has its frontage.
- b. If the historic building or structure is to be relocated, a map showing the route over which the historic structure or building will be moved must be submitted for review and approval by the SPGA with input from the Police Chief, Fire Chief, and the Director of Public Works approving the route. It is the responsibility of the applicant to contact and obtain approvals (if needed) from utility companies having overhead obtain approvals (if needed) from utility companies having overhead cables, lines or wires along the route, and from the Massachusetts Highway Department if a state roadway is involved and from the Director of Public Works, Police Chief and Fire Chief of any city or town included on the route. The applicant is responsible for any costs associated with police supervision along the route.
- c. In the event that the owner of the lot wishes to make changes to the historic building or structure after it is relocated, the owner must seek a modification of the special permit from the Community Development Board. The Community Development Board shall request that the Historic District Commission review the proposal and provide a recommendation prior to their decision.

**12. Procedural Requirements:** The following shall be submitted to the Community Development Board as part of the application process:

- a. Applications, site plans, architectural plans and other documents may be required in accordance with the Rules and Regulations of the Board.

- b. A statement from the Methuen Preservation Committee that the historic building or structure found on the property is historically or architecturally significant and any recommended conditions for the special permit OR demonstrate that said property is within the Searles Nevin Tenney Historic District,
- c. A statement detailing all of the proposed changes to be made to the historic building or structure. The SPGA may seek input from the Historic District Commission regarding any proposed changes.
- d. Detailed plans and architectural renderings for the restoration of the historic building or structure and any new buildings or structures proposed. Any new buildings or structures must be in keeping with the historic and or architecturally significant nature of the Parent Parcel.
- e. Statement from the Applicant as to the financial cost of restoring the historic building or structure demonstrating the need for the incentives allowed by this special permit in order to restore and preserve the historic building or structure.

**13. Conditions To Be Imposed on all HPSP:**

- a. The Applicant shall record at the Registry of Deeds an **historic preservation restriction on the Parent Parcel** in a form approved by the Community Development Board, which shall at a minimum provide for conditions under which alterations, additions or modifications may be made.
- b. The Applicant shall take all actions necessary to have the Parent Parcel included the Methuen Historic District as required by Massachusetts G.L. c. 40C.
- c. When the decision of the Community Development Board on the application for a the creation of one new lot has become final, the applicant shall submit the plan upon which the decision is based to the Community Development Board for certification as an approval not required plan pursuant to Chapter 81, Section 4IP, of the Massachusetts General Laws. The notice of decision of the Community Development Board, the approved and endorsed historic preservation restriction with any required mortgagee subordination, and the approval not required plan certified by the Planning Board shall be recorded concurrently at the Registry of Deeds.
- d. The historically significant building or structure must be restored in keeping with the Design Guidelines of the Methuen Historic District Commission. The SPGA may seek input from the Historic District Commission regarding any proposed changes and may impose conditions related to the time frame for the completion of the restoration.
- e. The SPGA may require performance guarantees to ensure completion of the requirements of this Special Permit.
- f. In the event of a catastrophic event which results in damage to the historic building or structure such that it cannot be repaired, the owner may rebuild on the lot, provided that:
  - i. the new dwelling does not contain more than the same interior floor area as the historic building or structure and meets one of the following requirements:
    - (1) The new dwelling is placed in the existing footprint; or
    - (2) The new dwelling is built in conformity with the zoning side, front and rear setbacks in effect at the time of rebuilding.

- ii. the new dwelling must be in keeping with and enhance the overall historic and/or architecturally significant nature of the Parent Parcel and adhere to design guidelines of the Historic District Commission.

## **21 Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)**

1. **Purpose:** To provide for the placement of registered Marijuana Dispensaries (RMDs) and Off-Site Medical Marijuana Dispensaries (OMMD), in accordance with the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq., in locations suitable for lawful medical marijuana facilities and to minimize adverse impacts of RMDs and OMMDs on adjacent properties, residential neighborhoods, historic districts, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of RMDs and OMMDs.
2. **Definitions:** where not expressly defined in the Ordinance, terms used in this section of the ordinance shall be interpreted as defined in the Humanitarian Medical Use of Marijuana Act, G.L. c.94C, App. §1-1, et seq. and the Department of Public Health (DPH) Regulations promulgated thereunder, 105 CMR 725.001, et seq., and otherwise by their plain language.
  - a. **Marijuana-Infused Product (MIP) (as defined in 105 CMR 725.004):** A product infused with marijuana that is intended for use or consumption including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products when created or sold by a RMD or OMMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.
  - b. **Registered Marijuana Dispensary (RMD):** A not-for-profit entity registered under 105 CMR 725.000, also known as a Medical Marijuana Treatment Center, that acquires, cultivates, posses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispersing, cultivation, and preparation of marijuana.
    - i. The cultivation and processing of medical marijuana, including the production of MIPs, in accordance with these regulations, is considered to be a manufacturing use and is not agriculturally exempt from zoning.
    - c. **Off-Site Medical Marijuana Dispensary (OMMD):** A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered qualifying patients or their personal caregivers in accordance with the provisions of 105 CMR725.00
3. **Additional Requirements/Conditions:** In addition to the standard requirements for a Special Permit the following shall also apply to all Registered Marijuana Dispensaries (RMD) and Off-Site Medical Marijuana Dispensaries (OMMD):

a. **Use:**

- (1) Neither a RMD nor an OMMD may sell any products other than marijuana, including MIPs and marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes in accordance with 105CMR (N)(7)725.105
- (2) Consumption of marijuana on the premises or grounds of any RMD or OMMD is prohibited in accordance with 105CMR (N)(8)725.105

b. **Location:**

- i. No RMD or OMMD facility shall be sited within a radius of five hundred feet (500') of a foot of a school, daycare center, or any facility in which children commonly congregate in accordance with 105 CMR 725.110(A)(14))
- ii. No RMD or OMMD facility shall be located within five hundred (500) feet of a residence, a building containing residences, (including commercial residential uses such as hotels, motels, lodging houses, etc.) or a residential zoning district or the Conservancy District (CN) Zone.
- iii. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as lodging houses, motels and dormitories.
- iv. If the proposed RMD or OMMD is located on a separate parcel from the protected uses identified in this section then the distance under this section is measured in a straight line from the nearest point of each property line of the protected uses identified in this Section to the nearest point of the property line of the proposed RMD or OMMD.
- v. If the proposed RMD or OMMD is located on the same parcel as the protected uses identified in this section then the distance under this section is measured in a straight line from the nearest point of the building housing the protected uses identified in this Section to the nearest point of the building housing the proposed RMD or OMMD.

4. **Special Permit Granting Authority:** The Community Development Board shall be the Special Permit Granting Authority (SPGA) for a RMD and OMMD special permit.
5. **Application:** In addition to the materials required in Section XI Special Permits, the applicant shall include:
  - a. Application in a form and manner as set forth in the Rules and Regulations of the Community Development Board.
  - b. The name and address of each owner of the RMD or OMMD facility/operation;
  - c. A copy of the RMD Certificate of Registration from the Massachusetts Department of Public Health ("DPH");
  - d. Evidence that the applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
  - e. A detailed floor plan of the premises that identifies the square footage available and describes the functional areas of the RMD or OMMD, including areas for any preparation of MIPs;

- f. Design and appearance of proposed buildings, structures, freestanding signs, screening and landscaping, and lighting.
- g. A copy of the operational plan for the cultivation of marijuana, including a detailed summary of policies and procedures for cultivation of marijuana including a detailed summary of policies and procedures for cultivation approved by Department of Public Health (DPH).
- h. If the RMD intends to produce MIPS, a description of the types and forms of MIPs that the RMD intends to produce, and the methods of production as approved by DPH.
- i. A copy of the detailed written operating procedures required by 105 CMR 725.105 (A) approved by DPH which shall include but not be limited to provisions for:
  - i. Security measures in compliance with 105 CMR 725.110
  - ii. Employee security policies, including personal safety and crime prevention techniques,
  - iii. A description of the RMD's or OMMD's hours of operation and after-hours information which shall be made available to law enforcement officials.
  - iv. Storage of marijuana in compliance with 105 CMR 725.105(d)
  - v. Emergency procedures including disaster plan with procedures to be followed in case of fire or other emergencies;
  - vi. Written policies and procedures for the production and distribution of marijuana which shall include but not be limited to:
    - (1) Policies and procedures for patient or personnel caregiver home delivery
    - (2) Policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs and OMMDs.
- j. A description of any waivers from DPH regulations issued for the RMD.
- k. The SPGA shall refer copies of the application to the Building Department, Fire Department, Police Department, Board of Health, the Conservation Commission, and the Engineering Department. These boards/departments shall review the application and shall submit their written recommendations. Failure to make recommendations within 35 days of referral of the application shall be deemed lack of opposition.
- l. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and departments, the SPGA may act upon such a permit.

6. **Special Permit Conditions on RMDs:** The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow, and public safety, protect water quality, air quality, and significant environmental resources, preserve the character of the surrounding area and otherwise serve the purpose of this section.

7. The permit holder shall provide to the Zoning Enforcement Officer and Chief of the Police Department, the name, telephone number and electronic mail address of a contact person in the event that such person needs to be contacted after regular business hours to address an urgent issue. Such contact information shall be kept updated by the permit holder.

8. The special permit shall be issued for an initial period of five years of its issuance. If there are no violations and/or breaches of the conditions of the Special Permit during that time frame, the Special Permit shall be automatically renewed.
9. The special permit shall be limited to the current applicant and shall lapse if the permit holder ceases operating the RMD.
10. The special permit shall lapse upon the expiration or termination of the applicant's registration by DPH.
11. The permit holder shall notify the Zoning Enforcement Officer and SPGA in writing within 48 hours of the cessation of operation of the RMD or the expiration or termination of the permit holder's registration with DPH.
12. **Exemption from RMD Special Permit Requirement:** RMDs that demonstrate that they are protected pursuant to the agricultural exemption under G.L. c.40A §3 are not required to obtain a special permit, but shall apply for Site Plan Approval pursuant to Section XII of the Zoning Ordinance.
13. **Prohibition Against Nuisances:** No use shall be allowed which creates a nuisance to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.
14. **Severability:** The provisions of this Ordinance are severable. If any provision, paragraph, sentence, or clause of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

## **22 Temporary Moratorium on Recreational Marijuana Establishment**

1. **Purpose:** By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, processing, distribution, possession and use of marijuana for recreational purposes (G.L. c. 94G, "Regulation of the Use and Distribution of Marijuana Not Medically Prescribed"). Effective December 15, 2016, the law allows certain personal use and possession of marijuana, and further requires the Cannabis Control Commission to issue regulations regarding the licensing of commercial marijuana activities on or before March 15, 2018, and subsequently, to accept license applications for commercial operations beginning on April 1, 2018. Non-medical Marijuana Establishments as defined by G.L. c. 94G are not otherwise contemplated or addressed under the present Zoning Ordinance. The regulations promulgated by the Cannabis Control Commission provide important guidance on aspects of local regulation of Recreational Marijuana Establishments, as well as details on how the City may further restrict commercial sales of recreational marijuana by local ballot questions. The regulation of recreational marijuana raises novel legal, planning and public safety issues, necessitating time to study and consider the regulation of Recreational Marijuana Establishments and address such issues, as well as to address the potential impact of the aforementioned State regulations on local zoning; and to undertake a planning process to consider amending the

Zoning Ordinance regarding regulation of Recreational Marijuana Establishments. The City has been engaged in a planning process, including the formation of a Cannabis Policy Working Group comprised of City staff, representatives from the City Council, legal counsel and representatives from the community to review these matters and make recommendations concerning the local regulation of Recreational Marijuana Establishments. The City initially adopted a Temporary Moratorium on Recreational Marijuana Establishments extending until November 1, 2018. The City intends to extend its temporary moratorium on the use of land and structures in the City for Recreational Marijuana Establishments so as to allow the City additional time to complete its planning process to address the effects of such structures and uses in the City and to adopt provisions of the Zoning Ordinance in a manner consistent with sound land use planning goals and objectives.

**2. Definitions:**

"Recreational Marijuana Establishment" shall mean a non-medical "marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business" as defined in G.L. c.94G. §1 and 935 CMR 500.002.

"Marijuana" or "Marihuana", all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C of the General Laws; provided that "Marijuana" shall not include: (1) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (2) Hemp; or (3) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

"Marijuana Accessories", equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

"Marijuana Products", products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

"Marijuana Retailer", an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

3. **Temporary Moratorium:** For the reasons set forth above and notwithstanding any other provision of the Zoning Ordinance to the contrary, the City hereby extends its temporary moratorium on the use of land or structures for Recreational Marijuana Establishments (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a Recreational Marijuana Establishment for non-medical use). The moratorium shall be in effect through June 30, 2019 or until the City adopts a Zoning Ordinance regulating or prohibiting Recreational Marijuana Establishments, whichever occurs sooner. During the moratorium period, the City shall continue to engage in the planning process to address the potential impacts of recreational marijuana in the City, consider the regulations of the Cannabis Control Commission regarding recreational marijuana and related uses, and shall consider adopting new Zoning Ordinances to address the impact and operation of Recreational Marijuana Establishments (which includes dispensing, processing, and cultivation activities, and other related activities to the sale, storage and distribution of marijuana for non-medical use and the operation of a marijuana establishment for non-medical use).
4. **Severability:** The provisions of this by-law are severable. If any provision, paragraph, sentence, or clause of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance. Or take any action related thereto.

## SECTION XI - E CONSULTATIVE REVIEW

In the instance where the SPGA believes that the magnitude of the proposed use or structure is such as to require special expertise, the SPGA may retain an outside individual or firm to aid it in ensuring the development's compliance with the Zoning Ordinance of the City and analyzing the impact of the development on 1) the health, safety and welfare of the public, 2) traffic congestion and pedestrian safety, 3) the public water, sewer and drainage systems, 4) municipal services, and 5) the integrity and character of the zoning district or adjoining zoning districts. The cost of such review shall be borne in full by the applicant seeking the permit.

## SECTION XI-F SPECIAL PERMIT REVIEW CRITERIA RELATED TO STORAGE FACILITIES AND AUTOMOBILE WASH BUSINESSES

1. **Purpose:** The City of Methuen is a place in which restaurants, shops, workplaces, schools, historic attractions, housing, recreational space, and civic facilities intimately co-exist to create an active retail and cultural destination with an identifiable sense of place. It is in the public interest that the City protect and enhance the vibrancy of the community by creating a supportive environment for a diverse group of uses throughout the City. Regulating the use of the City's limited usable space is necessary to achieve this goal and build a thriving local economy.
2. **Special Permit Review Criteria:** In addition to the criteria detailed in Section XI-B, as a precondition to allowing the establishment, relocation, or expansion of a storage facility or

automobile wash business, the Special Permit Granting Authority must also find that the applicant has satisfied the specific criteria listed below:

- a. The granting of the special permit will advance the goals expressed in the "Purpose" subsection of Section XI-F; and
- b. The proposed use in the proposed location is in the public interest; and
- c. The proposed use will not create an undue concentration of these uses in the immediate area.

## **SECTION XII SITE PLAN APPROVAL OVER 5,000 SQUARE FEET AND TWO BUILDINGS ON THE SAME LOT**

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### **Section XII-A - Purpose and Intent**

The purpose and intent of this site plan approval section of the zoning ordinance is to (1) protect the health, safety and welfare of the public; (2) insure attractive and well-designed developments; (3) protect the interests of adjoining property owners; (4) create a better living environment in Methuen; and (5) preserve the natural resources of the City.

### **Section XII-B - Applicability**

Application for a site plan approval shall be required for:

1. The construction of, addition to, and/or alteration of any building in excess of 5,000 gross square feet but shall not apply to single- and two-family residential structures.
2. The construction of two or more non-residential buildings regardless of the size of the building on the same lot.
3. The reduction of front yard setbacks to zero in the Central Business District; and
4. The development of existing lots under 4,000 square feet in the Central Business District which have been recorded and established prior to the adoption of this Zoning Ordinance.
5. The construction or addition of any drive through facility on any existing building or as a stand-alone structure or as part of any new building and the construction of any Stand Alone Kiosk.
6. The construction of multi-family housing including multi-family housing constructed under Section V-X Multi-family Overlay District.
7. The construction of a Day Care Center.

### **Section XII-C - Procedural Requirements**

#### **1. Application:**

- a. Applicants for Site Plan Approval shall submit to the Community Development Board an application in accordance with the Rules and Regulations governing Site Plan Review of the Community Development Board.
- b. In addition to the information required above and that which is required by the Rules and Regulations, the Community Development Board may require the completion of traffic impact studies, drainage basin studies, and review by the Commonwealth of Massachusetts.

- c. Whenever outside lighting is proposed every application shall be accompanied by a lighting plan which shall show:
  - i. The location and type of any outdoor lighting luminaires, including the height of the luminaire.
  - ii. The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles.
  - iii. The type of lamp such as: metal halide, compact fluorescent, high pressure sodium.
  - iv. A photometric plan showing the intensity of illumination at ground level, expressed in foot candles; and
  - v. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross-section drawings, or other means.

**2. Procedures:**

- a. As to "as of right" uses, the applicant for such site plan approval shall apply for and receive approval of the site plan prior to applying for building permits on such project. As to uses requiring special permit approval by the Community Development Board, the applicant for such site plan shall apply for the special permit simultaneously with the site plan approval. This provision shall likewise apply to a non-residential subdivision where approval is sought from the Community Development Board.
- b. As to uses requiring special permit approval by the Zoning Board of Appeals be they non-conforming use changes, special permits, or variances, the applicant shall obtain such Zoning Board of Appeals permit or variance prior to applying for a site plan approval and shall further, in this instance, not apply for building permits until such site plan approval is granted.
3. **Approval:** Site Plan approval shall be granted upon determination by the Community Development Board that the plan meets the following objectives. The Community Development Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Additionally, the Community Development Board may require the Applicant to provide a traffic study and or drainage calculations to be provided to the Community Development Board in order that they may review the project in light of the standards hereunder. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Community Development Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:
  - a. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increases from the site, soil erosion, and threat of air and water pollution.
  - b. Maximize pedestrian and vehicular safety both on the site and egressing from it.
  - c. Minimize obstruction of scenic views from publicly accessible locations.

- d. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned.
- e. Minimize glare from headlights and lighting intrusion.
- f. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.
- g. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances.
- h. Ensure compliance with the provisions of this Zoning Ordinance, including parking and landscaping.
- i. Ensure compliance with the Massachusetts Department of Environmental Protection Stormwater Policy.

4. **Waivers:** If certain rules or regulations are determined inappropriate or unnecessary to particular applications, the applicant may request a waiver of strict compliance and the Board may so waive.

5. **Restrictions:** Nothing herein shall be interpreted to grant the Board authority to make a determination as to use relative to the site plan approval process and such determination shall be limited to the approval, approval with modifications, or disapproval of a site plan as it relates to the placement of buildings, provisioning of waste disposal, surface drainage and parking areas, driveways, buffer zones and the location of intersections of driveways and streets.

6. **Revisions To the Approved Site Plan:** Any revision to a development that has secured site plan approval shall be submitted to the Community Development Department Director for review. No revisions shall be approved until the Community Development Department Director has received three (3) copies of the revised plan and unless the revisions fall into one of the following categories:

- a. changes of location and layout of parking area (s), signs, and storage or accessory buildings provided they are in conformance with City ordinances.
- b. changes in the landscaping plan provided they are in conformance with City ordinances.
- c. changes in the existing and proposed lighting plan provided they are in conformance with City ordinances.
- d. changes in the location of waste/refuse storage facilities provided they are in conformance with City ordinances and Board of Health regulations; and,
- e. changes of egress and ingress provided they are in conformance with City ordinances and the requirements of the Commonwealth of Massachusetts.

If approved by the Director of Economic & Community Development, the Community Development Board may grant the revisions cited above without further review. All such revisions shall be reported to the Board as soon as practicable after approval. The Director of Economic & Community Development may determine that the revisions as shown do not fall into the categories outlined above, and that the revisions are in fact substantial and call for material changes in the site plan affecting the type, location and manner of the facilities and site improvements to be constructed and shown in the approved site plan.

If the revisions are determined by the Director of Economic & Community Development to be substantial and materially different, the Director of Economic & Community Development shall direct the applicant to resubmit the revised site plan to the Community Development Board in accordance with the provisions of this section.

7. **Lapse:** Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Community Development Board upon the written request of the applicant.
8. **Regulations:** The Community Development Board may adopt reasonable regulations for the administration of site plan review.
9. **Fee:** The Community Development Board may adopt reasonable administrative fees and technical review fees for site plan review.
10. **Appeal:** Any decision of the Community Development Board pursuant to this Section shall be appealed in accordance with G.L. c. 40A, s. 17 to a court of competent jurisdiction.

## **Section XII-D Authority**

The terms “Board”, as used herein, for the purpose of the site plan approval process shall mean the Community Development Board of the City of Methuen; such site plan approval process to be utilized as an administrative tool and a review tool and to insure compliance with all applicable ordinances, rules and regulations of the City of Methuen.

Site Plan Approval shall require a public hearing in conformance with the public hearing requirements of this Ordinance at Section XI, Special Permits.

## **SECTION XIII ADOPTION, AMENDMENT, VALIDITY & EFFECTIVE DATE**

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### **Section XIII - Purpose & Intent**

It is the purpose and intent of this section to describe how this ordinance will be originally adopted and subsequently amended, as well as to describe the effects of the decision holding a part of this ordinance invalid and the effective date of this ordinance.

### **Section XIII-A - Simultaneous Hearings for Proposed Developments in Excess of Fifty (50) Acres**

In order to promote the effective coordination of the land use regulatory bodies and in the instance where a development is proposed for subdivision approval, special permit, variance, or any like matter, seeking approval from the Zoning Board of Appeals or the Community Development Board, and, in the instance where such development would comprise fifty (50) acres or more, said Zoning Board of Appeals or the Community Development Board shall seek the advice and opinion of the Conservation Commission of the effect of the proposed development on wetland resources. Further, said Zoning Board of Appeals or Community Development Board shall insure that the public hearing process under which it acts shall be held jointly with the Conservation Commission.

### **Section XIII-B - Adoption & Amendment**

This zoning ordinance will be originally adopted and from time to time changed by amendment, addition or repeal in the manner hereinafter provided.

The adoption or change of this ordinance may be initiated by the submission to the City Council of the proposed zoning ordinance or change by the City Council, Zoning Board of Appeals, by an individual owning land to be affected by the change or adoption, by ten registered voters in the City, by the Community Development Board, by the Merrimack Valley Planning Commission or by other methods provided by the city charter, as may be amended. The City Council shall within (14) fourteen days of receipt of such zoning ordinance or change submit it to the Community Development Board for review.

No zoning ordinance or amendment thereto shall be adopted until after the Community Development Board and the City Council or a committee designated or appointed for the purpose by said Council has held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five (65) days after the proposed zoning ordinance or change is submitted to the Community Development Board by the City Council.

### SECTION XIII: ADOPTION, AMENDMENT, VALIDITY, & EFFECTIVE DATE

Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the City once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing (not counting 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 said hearing.

In addition to the notice provided for in paragraph 3, notice shall further be sent by mail, postage prepaid, to owners of parcels affected by the rezoning and abutters, owners of land directly opposite any public or private street or way adjacent to the proposed rezoning, and abutters to abutters within three hundred (300) feet of the property line of the area proposed for rezoning. The names of such individuals shall be ascertained from the most recent applicable tax list in the Assessors Office. Said notice shall be mailed no later than fourteen (14) days prior to the hearing on such rezoning request as provided for in Section XIII. The costs for such notice shall be paid for by the applicant for the rezoning.

Notice of said hearing shall also be sent by mail, postage prepaid, to the Massachusetts Department of Community Affairs, the Merrimack Valley Planning Commission, and to the planning boards of all abutting cities and towns.

No vote to adopt any such proposed ordinance or amendment shall be taken until a report with recommendations by the Community Development Board has been submitted to the City Council, or twenty-one (21) days after said hearing have elapsed without submission of such report, the City Council may adopt, reject or amend any such proposed ordinance. If the City Council fails to vote to adopt any proposed ordinance or amendment within ninety - (90) days after such hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.

No zoning ordinance shall be adopted or changed 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 Council a written protest against such change, stating the reasons duly signed by owners of twenty per cent (20%) or more of the area of the land proposed to be included in such change, or of the area of the land immediately adjacent extending three-hundred (300) feet therefrom, no such change of any such ordinance shall be adopted except by a three-fourths (3/4) vote of all members.

No proposed zoning ordinance or amendment which has been unfavorably acted upon by the City Council shall be considered by the City Council within two (2) years after the date of such unfavorable action unless the adoption of such proposed ordinance or amendment was recommended in the final report of the Community Development Board.

The effective date of the adoption or amendment of this Zoning Ordinance shall be the date on which such adoption or amendment was voted upon by the City Council. After the adoption of the Zoning Ordinance or amendments, the City Clerk shall send a copy of same to the Department of Community Affairs forthwith. A true copy of the Zoning Ordinance with any amendments thereto shall be kept on file available for inspection in the office of the City Clerk.

### SECTION XIII: ADOPTION, AMENDMENT, VALIDITY, & EFFECTIVE DATE

No claim of invalidity of this Zoning Ordinance arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless within one hundred and twenty (120) days after adoption of this ordinance or amendment legal action is commenced within the time period specified in Chapter 40 and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition, with the City Clerk within seven (7) days after commencement of the actions. All procedures not stated herein but stated in the Massachusetts Zoning Act shall be governed by the Zoning Act as may be amended from time to time.

In case any section or provisions of this ordinance shall be held invalid in any court, the same shall not affect any other section or provision of this ordinance except so far as the section or portion so declared invalid shall be inseparable from the remainder of any portion thereof.

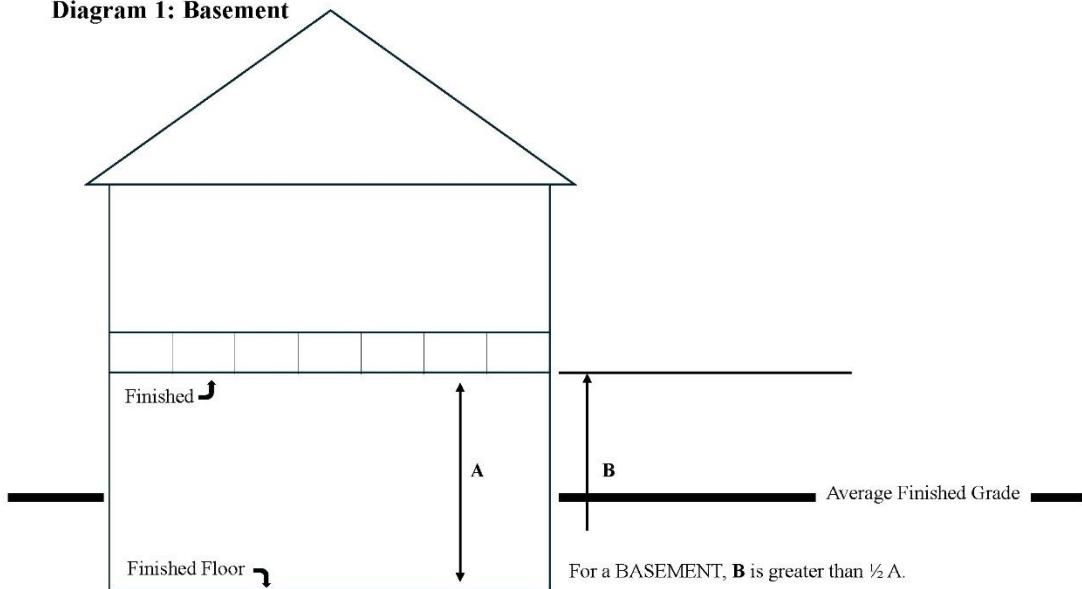
#### **Section XIII-C - Effective Date**

The effective date of this ordinance shall be October 19, 2009.

## **APPENDIX A     DIAGRAMS ACCOMPANYING ORDINANCE DEFINITIONS**

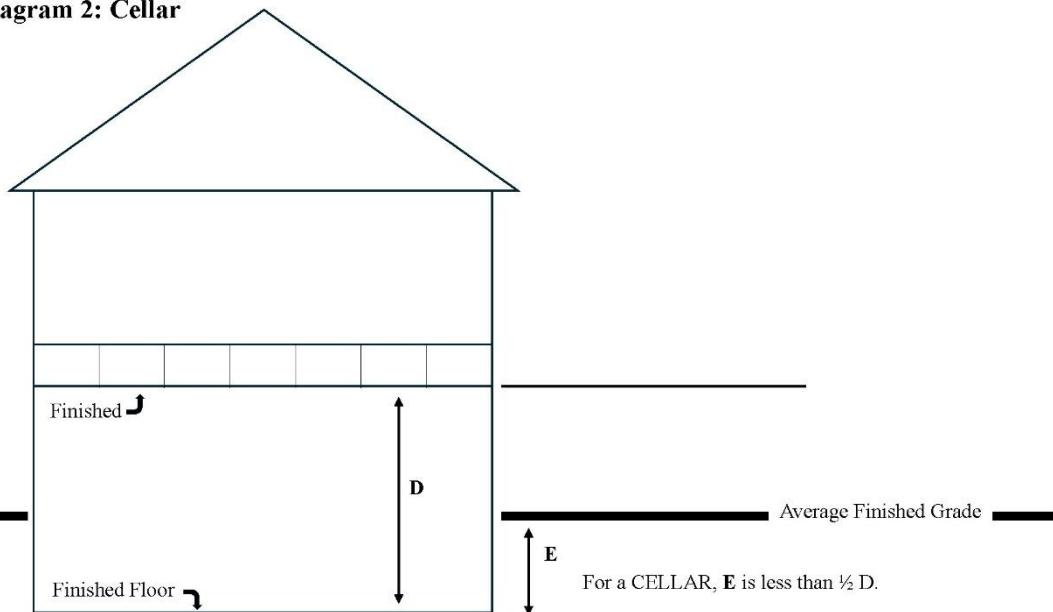
The following diagrams are included for illustrative purposes only, and are not part of the Methuen Zoning Ordinance.

**Diagram 1: Basement**



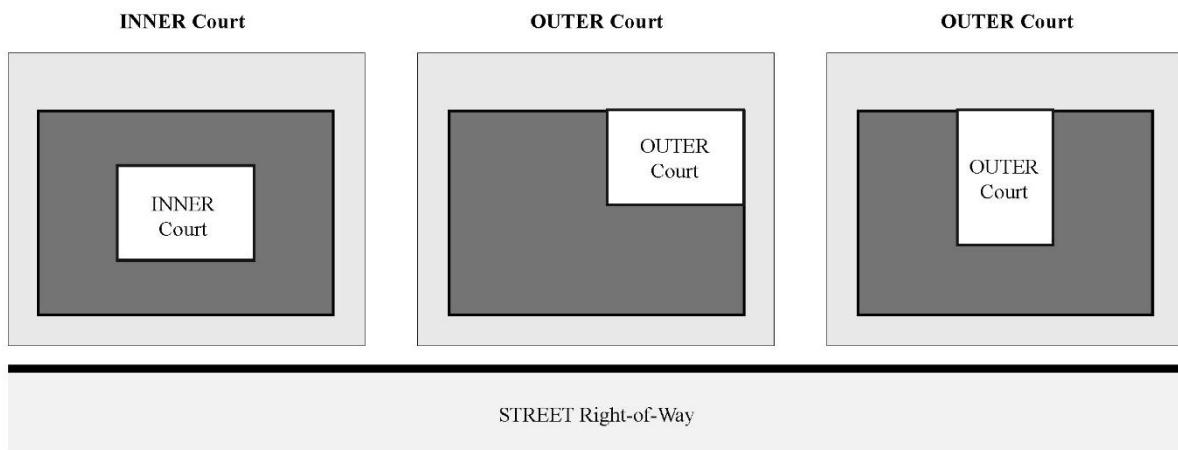
For a BASEMENT, **B** is greater than  $\frac{1}{2}$  **A**.

**Diagram 2: Cellar**

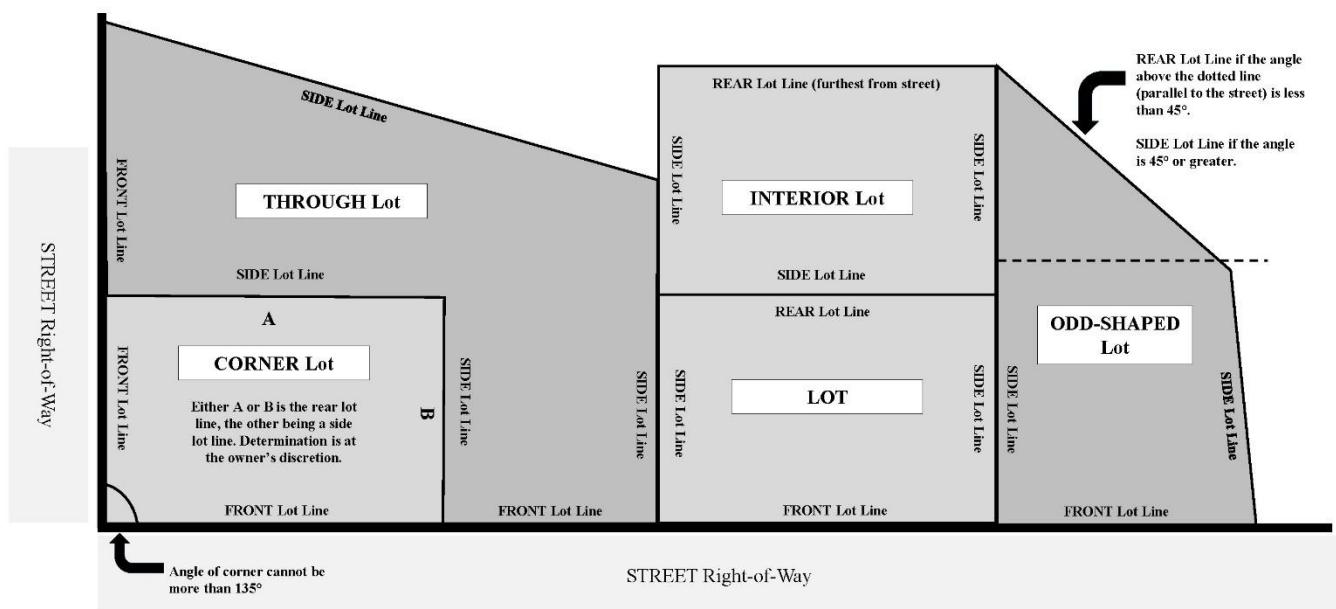


A CELLAR is not deemed to be a story.

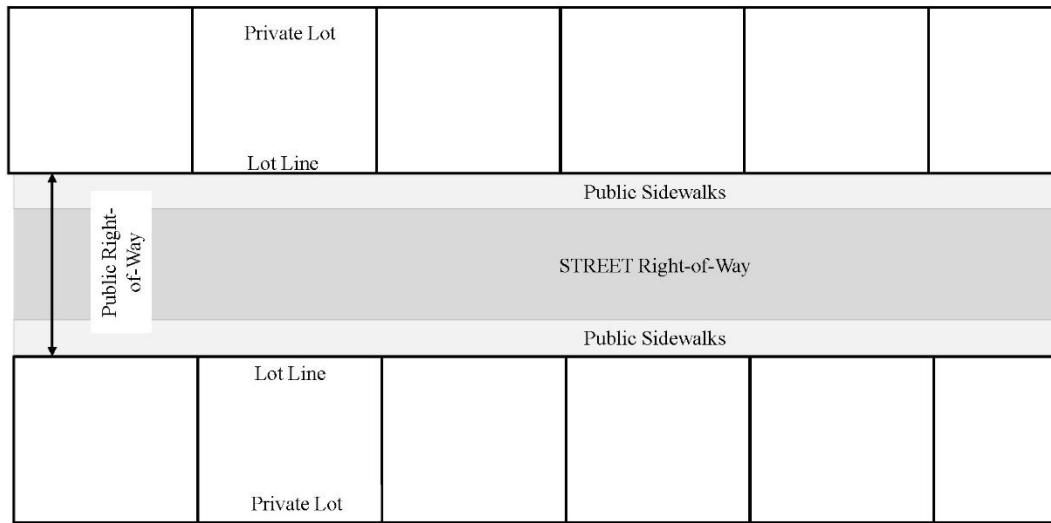
**Diagram 3: Court**



**Diagram 4: Lot**

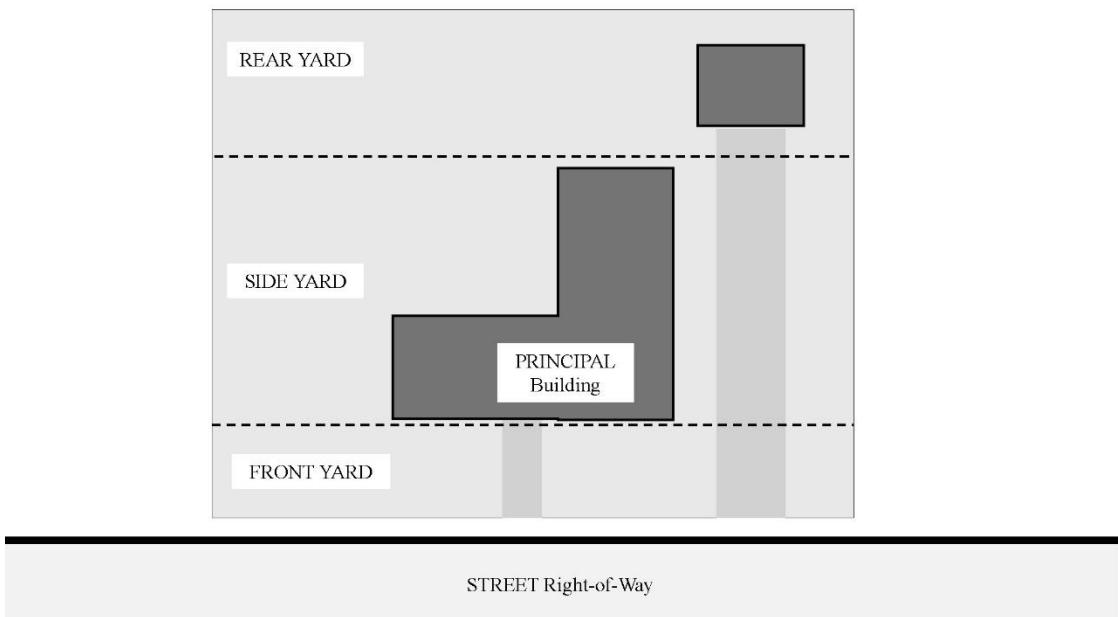


**Diagram 5: Street Right-of-Way**



Street Right-of-Way (includes sidewalks)

**Diagram 6: Relationship of Front and Rear Yards to Side Yards and to the Principal Building**



**APPENDIX B TABLE OF DIMENSIONAL REGULATIONS (1)**

(Minimum requirements in feet, unless otherwise indicated)

DISTRICT & MAJOR USES	MIN.LOT AREA (SF)	MAXIMUM DENSITY	MINIMUM FRONTAGE	MINIMUM WIDTH	MINIMUM YARD SETBACK			MAX.NO. STORIES	MAXIMUM HEIGHT	MAX. LOT COVERAGE	OPEN SPACE
					FRONT	SIDE	REAR				
CN <sup>6</sup>											
RR (One Family Dwell.)	80,000	---	200	200	40	30	30	3	35	25%	10%
RA (One Family Dwell.)	40,000	---	100	100	25	20	20	3	35	25%	40%
RB (One Family Dwell.)	25,000	---	100	100	25	15	20	3	35	25%	30%
RC (One Family Dwell.)	15,000	---	100	100	25	15	20 <sup>2</sup>	3	35	25%	30%
RD (One Family Dwell.)	10,000	---	100	100	20	15	20 <sup>2</sup>	3	35	25%	20%
RG (One Family Dwell.)	8,000	---	80	80	20	15	20	3	35	25%	10%
RG (Two Family Dwell.)	12,000	---	100	100	20	15	20	3	35	25%	10%
MA (1 or 2 Family Dwell.)	12,000	---	100	100	30	20	30	3	40	40%	10%
MA (Attached Dwell.Devt.)	130,680	2 DU/Acre <sup>4</sup>	100	100	30	25	30	3	40	40%	30%
MA (Multi-Fam. Dwell.Devt.)	130,680	2 DU/Acre <sup>4</sup>	150	150	30	25	30	3	40	40%	30%
MB (1 or 2 Family Dwell.)	12,000	---	80	80	20	10	20	3	40	40%	10%
MB (Attached Dwell.Devt)	43,560	4 DU/Acre <sup>4</sup>	150	150	30	25	30	3	40	40%	30%
MB (Multi-Fam.Dwell.Dvt.)	43,560	4 DU/Acre <sup>4</sup>	150	150	30	25	30	3	40	40%	30%
BN (Neighborhood Bus.)	10,000	---	80	80	25	15 <sup>3</sup>	30 <sup>3</sup>	3	40	25%	---

DISTRICT & MAJOR USES	MIN. LOT AREA (SF)	MAXIMUM DENSITY	MINIMUM FRONTAGE	MINIMUM WIDTH	MINIMUM YARD SETBACK			MAX. NO. STORIES	MAXIMUM HEIGHT	MAX. LOT COVERAGE	OPEN SPACE
					FRONT	SIDE	REAR				
BH (Highway Business)	10,000	---	100	100	25	30 <sup>3</sup>	30 <sup>3</sup>	3	40	35%	---
CBD (Central Business)	4,000 <sup>8</sup>	---	40	40	10 <sup>7</sup>	15 <sup>3,7</sup>	30 <sup>3,7</sup>	4	45	40%	---
	20,000 <sup>4</sup>	6 DU/Acre <sup>4</sup>	80	80	10 <sup>7</sup>	10 <sup>3,7</sup>	10 <sup>3,7</sup>	4	45	40%	---
BL (Limited Business)	20,000	---	100	100	40	30 <sup>3</sup>	30 <sup>3</sup>	4	45	30%	10%
	130,680 <sup>5</sup>	4 DU/Acre <sup>4</sup>	150	150	30	20	30 <sup>3</sup>	4	45	30%	30%
IL (Limited Industrial)	40,000	---	100	100	60	30 <sup>3</sup>	30 <sup>3</sup>	4	45	35%	---
H (Hospital)	80,000	---	100	100	60	30 <sup>3</sup>	30 <sup>3</sup>	4	45	35%	10%

1. See Section XI for additional dimensional requirements for all special permit uses.
2. Or 1/4 of lot depth, whichever is less.
3. Where abutting a residential or multi-family district, see Section VI-B.12 for additional requirements.
4. See Section XI-D.7 for density bonus for affordable housing.
5. For multi-family or attached dwellings in a CBD, BL District.
6. Dimensions for a particular parcel in the CN Zone will be the dimensions of the most restrictive Zone contiguous to that parcel.
7. The front, side and rear setback requirements in a CBD may be reduced zero under Site Plan Review by the CD Board.
8. Existing lots under 4,000 sq.ft. (recorded prior to the adoption of this ordinance) may be developed, subject to site plan approval.

## APPENDIX C - TABLE OF PERMITTED SIGNS

MAXIMUM (1) SIGN AREA		DISTRICT (3)											
TYPE OF SIGN		% of wall area sq.ft.	RR	RA	RB	RC RD	RG	MA MB	BN	BH	BL	CDB	IL
<b>IDENTIFYING SIGNS:</b> resident, multi-family public, semi-public		3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
		15	N	N	N	N	N	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA	SP ZBA
<b>TEMPORARY SIGNS:</b> resident, public, agricultural accessory non-accessory (2) (non-commercial only) minimum 3 lots, sale or rent business accessory		10	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
		24	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
		24	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
		24	NO	NO	NO	NO	NO	NO	NO	Y	Y	NO	Y
<b>DIRECTIONAL SIGNS:</b>		5	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
<b>WALL SIGNS:</b> maximum aggregate area: maximum aggregate area:		15%	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y
		33%	NO	NO	NO	NO	NO	NO	NO	Y	NO	NO	NO
<b>PROJECTING SIGNS:</b>		10	NO	NO	NO	NO	NO	NO	NO	Y	NO	Y	NO
<b>STANDING SIGNS:</b> maximum height 20 ft. maximum height 40 ft. (One sign per building)		60	NO	NO	NO	NO	NO	NO	NO	Y	Y	Y	Y
		60	NO	NO	NO	NO	NO	NO	NO	SP ZBA	SP ZBA	SP ZBA	SP ZBA
<b>NON-ACCESSORY SIGNS (2)</b>			NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO

**NOTES:** (1) Where a sign has more than one display surface, the maximum area shall be applied separately to each surface. Also, note definition of wall area, Section II, Definitions;

(2) Except temporary signs, or a otherwise allowed by Ch. 93 of the Massachusetts General Laws.

(3) Hospital District and Conservancy District, by Special Permit only.

One of each type per street-yard unless otherwise noted in Section VII-D-1.  
See Section VII-D-3 for permitted illumination.

Key: Y = yes, permitted by right; SP = allowed by Special Permit; No = prohibited

## **APPENDIX D SCHEDULE OF FEES**

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The following schedule of fees is established to cover the costs related to the review of applications submitted to the Zoning Board of Appeals and the Community Development Board.

Fees shall be waived for all petitions by municipal entities made for municipal purposes. No fee waiver shall be granted to petitions initiated at the request of a City Councilor.

In addition to the above, the following fees shall be paid:

<b>PLAN REVIEW</b>	
Residential	\$100
Non-Residential	\$100
Business Complex / Shopping Center / Large Industrial Development	\$100
<b>APPLICATIONS FOR PETITIONS BEFORE THE ZONING BOARD OF APPEALS</b>	
Plan Review Fee	\$100
Residential Variances	\$100
Residential Special Permit	\$150
Business, Commercial/Retail, and Industrial Variances and Special Permits	\$250
<b>APPLICATIONS FOR PETITIONS BEFORE THE COMMUNITY DEVELOPMENT BOARD</b>	
Planned Unit Development	\$300 plus \$300 per residential dwelling unit and \$.15 per sq. ft. gross floor area non-residential
Multi-Family or Attached Dwelling Dev.	\$300 plus \$300 per dwelling unit
Comprehensive Permits:	
• Limited Dividend Organization	\$500 plus \$50 per residential dwelling unit
• Non-Profit Organization	\$500 plus \$25 per residential dwelling unit
• Public Agency / Local Initiative	\$500
Adult Bookstore/Entertainment	\$300 plus \$.15 per sq. ft. gross floor area
Adult Entertainment Facilities	
Site Plan Approval	\$300 plus \$.15 per sq. ft. gross floor area
Mixed Use Development	\$300 plus \$300 per residential dwelling unit and \$.15 per sq. ft. gross floor area non residential
Parking in Central Business District	\$300
Affordable Housing Density Bonus	\$300 plus \$300 per dwelling unit
Business Complexes and Shopping Centers	\$300 plus \$.15 per sq. ft. gross floor area
Unimproved Way	\$300 plus \$300 per dwelling unit

APPENDIX D: SCHEDULE OF FEES

Wind Energy Conversion Facilities	\$1,000
Residential Golf Course Development	\$300 plus \$300 per dwelling unit
Frontage Exception Lots	\$300
Drive-up Retail etc.	\$300
Personal Wireless Service Facilities	\$1,000
Open Space Residential Development	\$300 plus \$300 per dwelling unit
Billboards	\$300
Large Scale Ground Mounted Solar Photovoltaic Installations	\$1,000
Any other Special Permit under the jurisdiction of the Community Development Board	\$300
<b>APPLICATIONS FOR PETITIONS TO AMEND THIS ZONING ORDINANCE</b>	
All Petitions	\$300

**APPENDIX E    Amendments to the Comprehensive Zoning Ordinance of 1989**

ORDINANCE #	DATE EFFECTIVE	TITLE OF CHANGE	SECTION
362	January 3, 1990	Outdoor Storage	Section V-D (See Table of Use of Regulations)
384	July 6, 1990	Municipal Parking Lot, Garage	Section V-D (See Table of Use of Regulations)
390	August 1, 1990	Maximum Notice to Neighborhoods of Developments in Excess of Fifty (50) Acres	Section XIII-B
391	August 1, 1991	Simultaneous Hearings for Proposed Developments In Excess of Fifty (50) Acres	Section XIII-A
423	August 5, 1991	Auto Repair, Body Work, Upholstery Fully Enclosed	Section V-D: Page V-1J (See Table of Use of Regulations)
429	February 20, 1992	Auto Repair, Body Work, Upholstery Fully Enclosed	Section V-D: Page V-1J (See Table of Use of Regulations)
461	January 23, 1979	Table of Permitted Signs - Projecting Signs	Section VII-G
472	May 17, 1993	Pet Grooming Shops	Section V-D (See Table of Use of Regulations)
473	July 6, 1993	Special Permits Purpose and Intent of the Zoning Ordinance	Section V-A
		Special Permits - General Regulations	Section XI-
497	February 4, 1994	Shopping Centers	Section V-T
498	February 4, 1994	Political Signs	Section II-A Temporary Non- Accessory Sign
			Section VII-E - (Sub-section 1.d.) Temporary Non-Accessory Political Campaign Signs
500	March 8, 1994	Accessory Apartment	Section V-G
556	January 3, 1996	Political Signs - Primary Elections	Section VII-E.1.d.i.(1)
565	March 6, 1996	Adult Entertainment Establishments	Section V-D (See Table of Use of Regulations)

ORDINANCE #	DATE EFFECTIVE	TITLE OF CHANGE	SECTION
			Section XI: Sub-section B Adult Entertainment Establishment
			Section XI: Category #6 Sub-section D: Adult Entertainment Facilities
569	Immediately	Major Industrial Development Overlay District	Section II-A Section III-B Section III-C
609	June 4, 1997	Central Business District Changes	Section V Section VIII-A.3 Section VI Section VII-G <i>(See Table of Use of Regulations)</i>
665	March 2, 1999	Wireless Communications	Section II Section V-U Section III <i>(See Table of Use of Regulations)</i>
678	September 1, 1999	Bakeries	Section V-D <i>(See Table of Use of Regulations)</i>
707	November 1, 2000	Dimensional Variance	Section X-H: Sub-Paragraph (e) Page X-4
748	November 6, 2002	Neighborhood Consistency Requirements	Section VI-E
752	May 22, 2003	Residential Golf Course Development	Section XI-D
765	September 19, 2003	Ashford School Re-use Overlay	Section V-V
773	Immediately	Forest Lake Overlay	Section V-W
775	August 06, 2004	Exemption for Single-and Two-Family Uses	Section IX-E
780	December 15, 2004	Area of Merrimack Street	Zoning Map From MA- MB
785	March 24, 2005	Residential Golf Course Development Special Permit	Section XI-D
786	May 19, 2005	Residential Golf Course Development Special Permit	Section XI-D

ORDINANCE #	DATE EFFECTIVE	TITLE OF CHANGE	SECTION
787	May 19, 2005	Off-Premises Advertising Sign at 500 Merrimack Street	
788	June 1, 2005	Abandonment	Section II
790	August 4, 2005	Mann Orchard	Zoning Map From BL to BH from RC to BH
791	August 11, 2005	Pelham Street and Cross Street	Zoning Map From IL to BH
793	October 17, 2005	Off Merrimack Street	Zoning Map From BH to MB
794	January 9, 2006	Residential Golf Course Development Special Permit	Increase maximum number of units from 74 to 75
798	April 19, 2006	386 Merrimack Street	Zoning Map From BH to MB
800	July 5, 2006	Adelaide Avenue	Zoning Map From RC to MB
803	July 29, 2006	Affordable Housing Density Bonuses	Section XI/ Page 19
804	August 10, 2006	Wheeler Street	Zoning Map IL and RR to MB
805	August 10, 2006	Adoption and Amendment	Section XIII-B
812	May 2, 2007	Map 612- Block 58 -Lots 1, 2, 3, & 28 at the State Line	Zoning Map From RD to BH
819	November 14, 2007	Map 1109, Block 78E, Lots 14, 15, 16, 17, 18, & 19	Zoning Map From MB and RD to BH and RD to MB
819	November 14, 2007	Map 1109, Block 78E, Lots 14, 15, 16, 17, 18, & 19	Zoning Map From MB and RD to BH and RD to MB
823	July 28, 2008	Re-codification and Zoning Map	
835	October 19, 2009	Technical Corrections	
849	May 2, 2011	Electric Vehicle Charging facility and electric Vehicle Battery Exchange Facility	Section V-T
853	August 8, 2011	Large-Scale Ground Mounted Solar Photovoltaic Installations	Section V-U
854	November 10, 2011	Section XI-D.10.D.b. Residential Golf Course Development Special Permit	Increase allowed density from .45 units per gross acreage of land to .51 units per gross acreage of land
870	November 19, 2012	386 Merrimack Street A portion of Map 1109, Block 78E, Lot 14	Zoning Map From MB to BH

ORDINANCE #	DATE EFFECTIVE	TITLE OF CHANGE	SECTION
874	September 3, 2013	Parcel "A" on a Plan of Land, Emerald Pines, off Howe St., For Toll MA IV LLC by MHF Design, dated April 23, 2013	Zoning Map From RR to MA
878	July 7, 2014	Temporary Moratorium on Medical Marijuana Treatment Centers and Registered Marijuana Dispensaries	For a period of one year to allow the City to undertake a planning process with respect to such use
883	September 2, 2014	Historic Preservation Special Permit	Section XI-D.20
890	June 15, 2015	Registered Marijuana Dispensary (RMD) and Off-Site Marijuana Dispensaries (OMMD)	Section XI-D.19 to be replaced by new Section XI-D.21
891	June 15, 2015	Delete Paragraph pertaining to Low Impact Development (LID) Techniques	Section VI-D Table of Dimensional Regulations paragraph 2
900	November 16, 2015	166 Merrimack Street Map 1111, Block 108, Lot 161	Zoning Map – Front Portion from BL to BN Rear Portion from BL to RD
900	November 16, 2015	1 – 1A Myona Street Map 1012, Block 108, Lot 154 136 Merrimack Street Map 1012, Block 108, Lot 154B 138 Merrimack Street Map 1012, Block 108, Lot 154A 148 Merrimack Street Map 1012, Block 108, Lot 156 150 Merrimack Street Map 1012, Block 108, Lot 159A 152 Merrimack Street Map 1012, Block 108, Lot 159 160 Merrimack Street Map 1012, Block 108, Lot 160 1 West Ayer Street Map 1012, Block 108, Lot 158 3 West Ayer Street Map 1012, Block 108, Lot 157	Zoning Map from BL to BN
910	October 3, 2016	195 Howe Street An 8.63 acre portion of Map 810, Block 77, Lot 76	Zoning Map from RA to RR

ORDINANCE #	DATE EFFECTIVE	TITLE OF CHANGE	SECTION
913	December 19, 2016	293 Broadway Map 612, Block 57, Lot 21 297 Broadway Map 612, Block 57, Lot 20	Zoning Map from RG to CBD
914	January 17, 2017	Changes to Section VII Sign & Illumination Regulations Changes to Section X Administration & Enforcement	Section VII-E Special Provisions, Temporary and Directional Signs Section X-G Prosecution of Violations
916	February 21, 2017	Map 906-76-1C487 Howe Street (a portion of) Map 906-76-1D485 Howe Street (a portion of) Map 906-76-1E 485R Howe Street Map 906-76-3 483 Howe Street Map 908-76-54 VP Washington Street Map 1006-76-55 VP Washington Map 1006-76-56 VP Washington	Zoning Map from RR to MA
920	September 5, 2017	Temporary Moratorium on Recreational Marijuana Establishments	through November 1, 2018 or six months after the effective date of the Cannabis Control Commission regulations, whichever is greater.
924	November 28, 2017	Methuen Center Smart Growth Overlay District (MCSGOD)	
933	February 14, 2019	Extension of Recreational Marijuana Moratorium	To June 30, 2019
		To allow Industrial Manufacturing by Special Permit in the BL zone	Section V-D Table of Use Regulations
	December 7, 2020	To allow the keeping of chickens in the RR, RA, RB, RC, RD, And RG zone	Amend Section V-D Table of Use Regulations and to Exclude chickens from Section VI-B.5.g
	January 19, 2021	To allow Storage Facilities, self or mini- warehouses by Special Permit from the Zoning Board of Appeals	Section V-D Table of Use Regulations
989	March 21, 2022	184 Pleasant Valley Street Map 1010-78E-1100A	Amend Zoning Map from IL to BH

ORDINANCE #	DATE EFFECTIVE	TITLE OF CHANGE	SECTION
1020	December 18, 2023	Special Permit Review Criteria related to storage facilities. and automobile wash businesses	Section XI-F
1033	December 2, 2024	Multi-family Overlay District	Section V-X
1038	May __, 2025	Flood Plain Overlay District	Section V-W
1039	May __, 2025	Accessory Dwelling Units	Section V-G

\*\*\* END OF DOCUMENT \*\*\*