

## **3.0. USE REGULATIONS**

### **3.1 PRINCIPAL USES**

No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Schedule, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited. Not more than one principal use shall be allowed on any lot, except as otherwise may be provided herein.

**3.1.1 Symbols.** Symbols employed in the Table of Use Regulations shall mean the following:

- Y - A permitted use.
- N - An excluded or prohibited use.
- SP - A use authorized under special permit from the Board of Appeals as provided under Section 9.3.

**3.1.2 Applicability.** When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

1. Where a use qualifies as a Major Commercial Project, that category shall govern.

**3.1.3 Table of Use Regulations.** See Appendix C.

### **3.2 ACCESSORY USES AND STRUCTURES**

**3.2.1 General.** Accessory uses shall be on the same lot as the principal uses to which they are accessory except as provided in Section 5.1.3 and shall not significantly alter the character of

the premises on which they are located.

1. *Floor Area.* No accessory use or uses within a building other than an accessory garage shall occupy more than a combined total of twenty-five (25) percent of the floor area of the related approved occupancy permit.

2. *Location.* No accessory building, structure or use shall be located within the required front yard area nor shall be located nearer than five (5) feet to any side or rear lot line except by special permit from the Zoning Board of Appeals and conditional upon the following:

- a. Adequate access on the lot shall remain for the unobstructed passage of emergency equipment to the rear of the principal building.
- b. In the case of a garage, the owner of the lot shall demonstrate that substantial hardship results where the parking is provided in another location or manner, and that such provision would not adversely affect surrounding properties or interfere with the movement of vehicles on the adjacent street.

### **3.2.2 Accessory Uses Available in All Districts.**

1. *Accessory Scientific Uses.* Activities accessory to activities otherwise permitted within the district as a matter of right, which activities are necessary in connection with scientific research or scientific development, whether or not on the same parcel as activities permitted as a matter of right, may be authorized in all districts by the grant of special permit by the Zoning Board of Appeals.

2. *Retail Business or Personal Service Establishments.* Retail business or personal service establishments conducted within and accessory to a principal building used as a parking facility may be authorized in all districts by

the grant of special permit by the Zoning Board of Appeals.

- a. All such accessory uses occupy not more than 5,000 square feet of the floor area of the principal building unless otherwise allowed under special permit.
- b. There shall be no exterior storage of materials or equipment.

**3.2.3 Accessory Uses Prohibited in All Districts.** Except as otherwise provided herein, the following accessory uses are prohibited in all districts:

1. *Non-permanent Residential Structures.* Non-permanent residential structures, trailers and mobile homes.
2. *Non-permanent Business Structures.* Non-permanent business structures, including trailers, trucks, open air stands, and carts used for office space, retail space, wholesale storage or storage accessory to a principal business use.

**3.2.4 Accessory Uses in the Residence Districts.** In the R1, R2 and NHR Districts, the following accessory uses are permitted:

1. *Home Occupation.* Home occupation or professional office conducted within and incidental to a principal building used for living purposes, provided that:
  - a. It does not change the residential character of such building.
  - b. It is operated by a resident of the building and has not more than one (1) employee.
  - c. It shall not occupy more than twenty-five (25) percent

of the aggregated floor area of the related approved occupancy permit and any accessory building used therefor.

- d. There is no exterior storage of materials or equipment.
- e. There is no display of products visible from the street.
- f. Only one home occupation shall be permitted per dwelling unit.

2. *Parking.* Parking on public ways is governed by the regulations of the Parking and Traffic Commission. Accessory parking as required in Section 5.1 for use solely by residents of the premises is permitted provided that:

- a. An additional parking space may be provided for one (1) commercial vehicle up to 9,500 gvw (gross vehicle weight) for the business purpose of a resident of the premises. By special permit, parking may be authorized for one vehicle larger than the limit set forth above.
- b. The parking is on the same lot as the dwelling to which it is accessory.

3. *Community Parking Area.* In the R2 District only, a community parking area accessory to residential use is allowed by site plan review.

4. *Accessory Buildings.* Private accessory buildings not operated as part of a business, such as a private greenhouse, work shop, tool shed, bath house, garage or swimming pool.

5. *Motor Vehicle Operations.* No repair, servicing, sale or storage of motor vehicle and vehicle parts may be

conducted as an accessory use in any Residential District.

**3.2.5 Accessory Uses in the Nonresidence Districts.** Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. No repair, servicing, sale or storage of motor vehicle and vehicle parts may be conducted as an accessory use. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 9.4, shall also require site plan review and approval.

1. *Parking Area for Residential Structures.* Parking areas serving one or more residential structures are permitted as an accessory use in the BR and W Districts.

2. *Parking Lot or Garage.* A parking lot or garage, solely for the parking of passenger cars of tenants, employees, customers or guests of adjoining buildings or establishments is permitted as an accessory use in all Nonresidential Districts.

3. *Retail Sales in the Industrial District.* Retail sales may be offered accessory to a permitted use, provided that:

- a. The sale of goods is limited to those compounded, processed, packaged, or treated on the premises.
- b. All sales and storage is within an enclosed structure.
- c. Floor area devoted to sales is not to exceed twenty

five (25) percent of the floor area of the use to which it is accessory.

- d. There is sufficient off-street parking and off-street loading in accordance with the provisions of Sections 5.1 and 5.2.

### **3.3 NONCONFORMING USES AND STRUCTURES**

**3.3.1 Applicability.** This Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by 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.

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

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

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

considered by the Board of Appeals:

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

**3.3.4 Findings.** In order to make the required finding pursuant to Sections 3.3.2 or 3.3.3, above, the Zoning Board of Appeals shall obtain from the petitioner and verify information necessary to make the following determinations:

1. **Baseline Conditions:** The extent to which the existing nonconforming structure or use does not currently conform to the requirements of the Zoning Ordinance with regard to permitted use, dimensional controls, parking, loading, or other requirements.
2. **Proposed Changes:** The extent to which the proposal would:
  - a. increase the nonconformity with respect to each of the dimensional controls set forth in the Table of Dimensional Regulations; and
  - b. the extent to which the proposal would increase any nonconformity with respect to required parking and loading; and,
  - c. whether the proposal would intensify the existing nonconformities or result in additional ones.
3. In order to assist in making their decision, the Zoning Board of Appeals shall also review and consider information related to the following: traffic; noise; lighting; heat, glare and vibration; drainage; air quality; intensity of use; other factors which might create a public nuisance.

**3.3.5 Variance Required.** The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals; provided, however, that this provision shall not apply to nonconforming single and two family residential structures, which shall be governed by Section 3.3.6, below.

**3.3.6 Nonconforming Single and Two Family Residential Structures.** Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed but not more than 300 gross square feet upon the issuance of a building permit after a determination by the Inspector of Buildings 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 which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.
2. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current 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; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.



4. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure; the provisions of this subsection shall apply regardless of whether the lot complies with current area and frontage requirements.

5. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

In the event that the Inspector of Buildings determines that the proposed change exceeds 300 gross square feet or 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.

**3.3.7 Abandonment or Non-Use.** A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Zoning Ordinance.

**3.3.8 Special Permit for Nonconforming Structures or Uses Abandoned or Not Used for More than Two Years.** Notwithstanding the provisions of G.L. c. 40A, s. 6 or Section 3.3.7, above, the Board of Appeals may grant a special permit authorizing the reconstruction, alteration, or rehabilitation, and occupancy and use of a nonconforming structure or use that has been abandoned or not used for a period of more than two years.

**3.3.9 Reconstruction after Catastrophe.** 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 one year after such catastrophe, unless for good cause such

period is extended, in writing, by the Inspector of Buildings. The applicant must request such extension in writing, and if granted by the Inspector, such extension shall be limited to six-month intervals.

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.

**3.3.10 Reversion to Nonconformity.** No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.