

Chapter 86 ZONING ⁽¹⁾

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION

ARTICLE III. - DISTRICTS AND DISTRICT USE REGULATIONS

ARTICLE IV. - SUPPLEMENTAL DISTRICT REGULATIONS

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FOOTNOTE(S):

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Cross reference— Any rezoning ordinance saved from repeal, § 1-8(6); any ordinance establishing the official plat of the city, the zoning map or any amendments thereof not included in this Revision saved from repeal, § 1-8(11); buildings and building regulations, ch. 10; environment, ch. 26; historical preservation, ch. 38; housing, ch. 42; streets, sidewalks and other public places, ch. 66; waterways, ch. 82. (Back)

State Law reference— Authority of cities as to zoning, M.G.L.A. c. 40A; petitions to determine validity of zoning laws, M.G.L.A. c. 240, § 14A. (Back)

ARTICLE I. IN GENERAL

Sec. 86-1. Purpose of chapter.

Sec. 86-2. Definitions.

Sec. 86-3. Penalty.

Sec. 86-4. Repeal or modification of chapter.

Sec. 86-5. Effect of chapter on existing ordinances; conflicting regulations.

Sec. 86-6. Severability.

Sec. 86-7. Enforcement.

Secs. 86-8—86-30. Reserved.

Sec. 86-1. Purpose of chapter.

The purpose of this chapter is to divide the city into districts in accordance with the most desirable use of land and structures and, within such districts, to regulate and restrict the height and size of buildings, the size and width of lots, the percentage of lot 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 for trade, industry, agriculture, residence or other purpose in such a way as to protect and promote the health, safety, convenience, morals or welfare of its inhabitants; to lessen congestion in the streets; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. It is the further purpose of this chapter to promote the most appropriate use of land, to protect the character and established pattern of desirable development in each district, to conserve and enhance the value of land and buildings, to encourage the improvement of decadent areas, to guide the orderly development of the city, and to preserve and increase its amenities.

(Ord. No. 1997-2, § 21-1, 1-28-1997)

Sec. 86-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or structure means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Artist loft means an artist loft space used, or designed to be used, by artists primarily for "art use" may also be used by artists as a residence. Such residency shall be limited to one family per residential unit. Each unit shall have a minimum of 800 square feet (sf) of floor area for one occupant and a minimum of 1,200 square feet (sf) of floor area for two or more family members.

Art use means the production of art or creative work either written, composed or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry-oriented distribution or related production. Such use may include fine and applied arts including painting or other like picture, traditional and fine artisanship, sculpture, writing, creating film, creating animation, music and theater including lessons, choreography and the performing arts, but shall not include adult entertainment, or adult use.

Body art establishment means any building or structure where the practices of body piercing and/or tattooing, whether or not for profit, are performed. For the purpose of this chapter body art establishments shall not be classified as an establishment that provides services to the general public.

Body piercing means the puncturing or penetration of the skin of a person using pre-sterilized single-use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. Puncturing the outer perimeter or lobe of the ear using a pre-sterilized single use stud and clasp ear piercing system shall not be included in this definition.

Dwelling, mobile home, means a detached dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbeds or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. A travel trailer is not be considered as a mobile home.

Dwelling unit means one room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Family means one or more persons occupying a single dwelling unit; provided that, unless all members are related by blood, marriage or adoption, no such family shall contain more than five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family.

Filling station means buildings and premises where gasoline, oil, grease, batteries, tires and other automobile accessories and supplies may be dispensed at retail and where normal services to automobiles may be performed. Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in filling stations.

Frontage means the dimensions of a lot measured at one street line bounding the lot. For lots located on a cul-de-sac only, such dimension shall be not less than 75 percent of the required width of a lot in any zoning district. Otherwise, minimum lot frontages shall be equal to or greater than the minimum required lot width.

Garage, private, means a building, separate or attached to a dwelling, in which one or more motor vehicles but no greater than three, one of which is owned by the owner or a tenant of the premises, are kept solely for the private or professional use of their owners, and in which no space is rented or used for any commercial vehicle with the exception of pickup trucks of less than one ton capacity.

Lot means a parcel of land in one ownership which may be occupied by a building, including such open spaces as may be required by this chapter, which is at least of sufficient size to meet the minimum requirements of the district in which it is located. Such lot shall have frontage on any improved public way constructed (or adequately bonded to be constructed) to the city's specifications, or on an improved private way constructed to the city's specifications. (See also *Unbuildable lot*.) The word "lot" includes the words "plot" and "parcel."

Mill outlet means an industrial or mill building which has been converted to commercial use.

Parking space, off-street, means an area of land adequate for parking an automobile with room for opening doors on both sides together with maneuvering room and proper access to a public or private way. Required off-street parking for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no maneuvering incidental to parking shall be on any public or private street or walk and so that any automobile may be parked or unparked without moving another.

Shall; may. The word "shall" is mandatory; the word "may" is permissive.

Sign means any device designed to inform or catch the attention of persons not on the premises on which the sign is located. For the purpose of this chapter the following devices are not considered to be signs and are not restricted:

- (1) Signs not exceeding one square foot in area and bearing only house numbers, post box numbers, names of residents of premises or other identification of premises not having commercial connotations.
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (3) Legal notices, identification, informational or directional signs erected or required by governmental bodies.

- (4) Integral decorative or architectural features of buildings except letters, trademarks, moving parts or moving lights.
- (5) Signs directing, guiding or controlling traffic and parking.

Sign, off-site, means a sign other than an on-site sign.

Sign, on-site, means a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises.

Special permit means a use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted if specific provision is made for them in this chapter.

Street line means the right-of-way line of a street.

Structure means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards and poster panels.

Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This includes all forms of cosmetic tattooing.

Town house means a dwelling unit in a row of at least three such units, in which each unit has its own front and rear exposure to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common vertical fire-resistant walls.

Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

Tributary means any body of running water, including a river, stream, brook or creek, which moves in a definite channel in the ground due to hydraulic gradient and which is designated as a tributary to a public water supply by the state department of environmental protection.

Unbuildable lot means a parcel of land which does not conform to the definition of a lot; land which is insufficient to meet the minimum requirements of the zoning district in which it is located. (See also *Lot*.)

Variance means a relaxation of the terms of this chapter where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

Width means the dimension of a lot measured parallel to the street on which the lot faces and at the required setback line of the structure.

Yard means a required open space unoccupied and unobstructed by any structure or portion of a structure, covered or uncovered, with the exception of any entrance stairs, ramps or stoops, fences, walls, poles, posts and other customary yard accessories, ornaments and furniture, subject to requirements limiting obstruction of visibility at street intersections.

Yard, front, means a yard extending along any lot line which is also the right-of-way line of a public or private way. Depth of a required front yard shall be the minimum distance required by the district regulations for the full distance of the front lot line.

Yard, rear, means a yard of at least the minimum depth required by the district regulations with its inner edge parallel with the rear lot line.

Yard, side, means a yard of at least the minimum width required by the district regulation with its inner edge parallel with the side lot line.

(Ord. No. 1997-2, § 21-7, 1-28-1997; Ord. No. 2001-29, § 1, 10-4-2001; Ord. No. 2008-8, § 4, 3-11-2008)

Cross reference— Definitions generally, § 1-2.

Sec. 86-3. Penalty.

Any person guilty of violating any of the terms of this chapter shall be fined not more than \$100.00 per violation, and each day that such violation continues shall constitute a separate offense.

(Ord. No. 1997-2, § 21-2, 1-28-1997)

Sec. 86-4. Repeal or modification of chapter.

- (a) *Procedure.* This chapter and the zoning map which is a part of this chapter shall not be repealed or modified except in conformity with M.G.L.A. c. 40A, § 5.
- (b) *Effect on existing permits.* Construction or operations under a building or special permit shall conform to any subsequent amendment of this chapter unless the use or construction so authorized is commenced within six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

(Ord. No. 1997-2, § 21-3, 1-28-1997)

State law reference— Adoption and amendment of zoning ordinances, M.G.L.A. c. 40A, § 7.

Sec. 86-5. Effect of chapter on existing ordinances; conflicting regulations.

Nothing contained in this chapter shall be construed as repealing or modifying any existing ordinance or regulation of the city, but this chapter shall be in addition thereto; provided that whenever this chapter imposes greater restrictions upon the construction, alteration, enlargement, reconstruction, raising up, moving or use of buildings, structures or premises than other ordinances or provisions of law, such greater restrictions shall prevail.

(Ord. No. 1997-2, § 21-4, 1-28-1997)

Sec. 86-6. Severability.

The invalidity of any section or provision of this chapter or of any boundary line or district or part thereof, as laid down upon the zoning map, shall not affect the validity of any other section or provision of this chapter, or of any other boundary line or district or part thereof, as laid down upon the zoning map.

(Ord. No. 1997-2, § 21-5, 1-28-1997)

Sec. 86-7. Enforcement.

The director of code enforcement shall execute the provisions of this chapter, except when otherwise provided, and in so doing he shall have the same powers as are provided for the execution of the building ordinances of the city. He shall issue no permit for the construction, alteration, enlargement, reconstruction, raising up, moving or use of any building, structure or premises, or part thereof, which would be in violation of the provisions of this chapter or of M.G.L.A. c. 40A.

(Ord. No. 1997-2, § 21-6, 1-28-1997)

Secs. 86-8—86-30. Reserved.

ARTICLE II. ADMINISTRATION ^[2]

DIVISION 1. - GENERALLY

DIVISION 2. - BOARD OF APPEALS

DIVISION 3. - SPECIAL PERMITS

FOOTNOTE(S):

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Cross reference— Administration, ch. 2. (Back)

DIVISION 1. GENERALLY

Sec. 86-31. Fee for application for change in district boundaries.

Secs. 86-32—86-50. Reserved.

Sec. 86-31. Fee for application for change in district boundaries.

Each application for a proposed change to the existing zoning district boundaries shall require a fee as provided in the fee schedule in Appendix A to this Revision to be paid to both the planning board and the city clerk to cover the cost of advertising the petition.

(Ord. No. 1994-20, § 19(21-74), 9-27-1994)

Secs. 86-32—86-50. Reserved.

DIVISION 2. BOARD OF APPEALS ^[3]

Sec. 86-51. Established; statutory authority.

Sec. 86-52. Membership; officers; staff.

Sec. 86-53. Rules.

Sec. 86-54. Appeals.

Sec. 86-55. Special permits.

Sec. 86-56. Variances.

Secs. 86-57—86-70. Reserved.

Sec. 86-51. Established; statutory authority.

Pursuant to the mandate and under the authority of M.G.L.A. c. 40A, § 12, there is hereby established a board of appeals.

(Ord. No. 1997-2, § 21-36, 1-28-1997)

Sec. 86-52. Membership; officers; staff.

- (a) The board of appeals shall consist of five members, who shall reside in the city and who shall be appointed by the mayor, subject to confirmation by the city council, for terms of such length and so arranged that the term of one member shall expire each year. The board of appeals shall elect annually a chair and vice-chair from its own number and may, subject to appropriation, employ experts and clerical and other assistants.
- (b) There shall be two associate members of the board of appeals, who shall be appointed by the mayor subject to confirmation by the city council. One member shall be appointed for a term of one year and one for a term of two years, and their successors for terms of two years each. The chair of the board shall designate any such associate member to sit on the board in case of absence, inability to act or conflict of interest on the part of any member thereof, or in the event of a vacancy of the board until such vacancy is filled.
- (c) Any member or associate member may be removed for cause by the appointing authority upon written charges and after a public hearing.

(Ord. No. 1997-2, § 21-36, 1-28-1997)

Sec. 86-53. Rules.

The board of appeals shall adopt and from time to time may amend rules not inconsistent with the provisions of this chapter for the conduct of its business and for purposes of M.G.L.A. c. 40A, and shall file a copy of such rules and of any amendments thereto with the city clerk.

(Ord. No. 1997-2, § 21-36, 1-28-1997)

Sec. 86-54. Appeals.

- (a) Pursuant to the mandate and under the authority of M.G.L.A. c. 40A, §§ 8 and 14(1), the board of appeals shall have the power to hear and decide appeals by:
 - (1) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. c. 40A;

- (2) The Southeastern Regional Planning and Economic Development District; or
 - (3) Any person, including an officer or board of the city or an abutting city or town, aggrieved by an order or decision of any administrative official in violation of any provision of M.G.L.A. c. 40A or of any ordinance or bylaw adopted thereunder.
- (b) Any such appeal shall be taken within 30 days from the date of the order or decision which is being appealed, and shall be accompanied by a fee as required by the zoning board of appeals to cover the cost of advertising and notice, which shall forthwith be transmitted to the city treasurer to be included in the general funds of the city. The procedure upon appeal shall be as specified in M.G.L.A. c. 40A.
- (Ord. No. 1997-2, § 21-37, 1-28-1997)

Sec. 86-55. Special permits.

- (a) *Authority.* Pursuant to the mandate and under the authority of M.G.L. c. 40 A, §§ 9, 9A and 14(2), the board of appeals shall have the power to hear and decide all applications for special permits.
- (b) *Application.* Each application for a special permit shall be filed by the petitioner with the city clerk and shall be accompanied by a fee as required by the city zoning board of appeals to cover the cost of advertising and notice, which shall forthwith be transmitted to the city treasurer to be included in the general funds of the city, and a copy of the application, including the date and time of filing certified by the city clerk, shall be filed forthwith by the petitioner with the board of appeals. The procedure upon the filing of such application shall be as specified in M.G.L.A. c. 40A.
- (c) *Expiration.* A special permit granted pursuant to M.G.L.A. c. 40A, § 9, shall lapse within a specified time, not more than two years, which shall not include such time required to pursue or await the determination of any appeal referred to in M.G.L.A. c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced, except for good cause, or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- (d) *Uses accessory to scientific research and development.* Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit, provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.
- (e) *Multifamily residential uses.* Special permits may be granted for multifamily residential use in nonresidentially zoned areas where the public good would be served and after a finding by the board of appeals that such nonresidentially zoned area would not be adversely affected by such a residential use, and that permitted uses in such a zone are not noxious to a multifamily use.

(Ord. No. 1997-2, § 21-38, 1-28-1997; Ord. No. 2003-17, § 1, 6-10-2003)

Sec. 86-56. Variances.

- (a) *Authority.* Pursuant to the mandate and under the authority of M.G.L.A. c. 40A, §§ 10 and 14(3), the board of appeals shall have the power after public hearing for which notice has been given by publication and posting as provided in M.G.L.A. c. 40A, § 11, and by mailing to all parties in interest to grant upon appeal or petition with respect to particular land or structures a variance from the terms, including but not limited to those with respect to use, of the applicable regulations of this chapter.
- (b) *Fee.* The appeal or petition shall be accompanied by a fee as required by the city zoning board of appeals to cover the cost of advertising and notice, which shall forthwith be transmitted to the city treasurer to be included in the general funds of the city.
- (c) *Procedure.* The procedure upon appeal or petition shall be as specified in M.G.L.A. c. 40A.

(Ord. No. 1997-2, § 21-39, 1-28-1997)

Secs. 86-57—86-70. Reserved.

FOOTNOTE(S):

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Cross reference— Boards, committees and commissions, § 2-221 et seq. (Back)

DIVISION 3. SPECIAL PERMITS

Subdivision I. - In General

Subdivision II. - Adult Entertainment

Subdivision I. In General

Sec. 86-71. Reduction of lot frontage.

Sec. 86-72. Body art establishments.

Secs. 86-73—86-80. Reserved.

Sec. 86-71. Reduction of lot frontage.

In any zoning district, the zoning board of appeals may, following a public hearing, grant a special permit pursuant to section 86-55 to reduce the required frontage, provided the zoning board of appeals finds that each lot has adequate access.

(Ord. No. 1997-2, § 21-53, 1-28-1997)

Sec. 86-72. Body art establishments.

The board of appeals may grant a special permit for a body art establishment with such conditions as it deems appropriate for the protection of public health, safety and welfare.

- (1) *Finding.* The board must find that the location, setback, parking, hours of operation and design of such use will not be detrimental to the neighborhood by reason of traffic, congestion, noise or appearance.
- (2) *Location of body art establishments.* The board may grant a special permit for a body art establishment in the following district only: Industrial District IND.

(Ord. No. 2001-29, § 2, 10-4-2001)

Secs. 86-73—86-80. Reserved.

Subdivision II. Adult Entertainment ^[4]

Sec. 86-81. Definitions.

Sec. 86-82. Purpose and intent of subdivision.

Sec. 86-83. Severability.

Sec. 86-84. Nonconforming uses.

Sec. 86-85. Special permit required.

Sec. 86-86. Issuance of special permit; conditions.

Sec. 86-88. Site development standards.

Sec. 86-89. View into booths where films or videos are shown.

Sec. 86-90. Operation generally.

Sec. 86-91. Reserved.

Sec. 86-92. Reserved.

Secs. 86-93—86-120. Reserved.

Sec. 86-81. Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult use means an establishment, a building or portion thereof, or a use of land having a substantial or significant portion of its business activity, stock in trade, or other matter or materials for sale, rental, distribution or exhibition which are distinguished or characterized by their emphasis on depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31, including but not limited to the following:

- (1) *Adult bookstore* means an establishment having as a substantial or significant portion of its stock in trade books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31
- (2) *Adult club* means an establishment having as a substantial or significant portion of its activities or entertainment persons performing in a manner distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272 § 31
- (3) *Adult entertainment establishment* means an establishment offering activities or goods or providing services where employees, entertainers or patrons engage in sexual conduct or sexual excitement as defined in M.G.L.A. c. 272 § 31
- (4) *Adult motion picture theater* means an establishment used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31
- (5) *Adult paraphernalia store* means an establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31
- (6) *Adult video store* means an establishment having as a substantial or significant portion of its stock in trade videos, movies or other film materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, §

Medical facility: A medical establishment providing medical or surgical care, counseling or treatment for persons in need.

Structure: For purposes of this subdivision, shall mean only a building and shall not include access roads, parking lots, signs, fences, detached walls, or any other portion of a lot on which the structure is located.

Substantial or significant portion means any of the following:

- (1) Twenty percent or more of the business inventory or stock of merchandise for sale, rental, distribution or exhibition during any period of time;
- (2) Twenty percent or more of the annual number of gross sales, rentals or other business transactions;
- (3) Twenty percent or more of the annual gross business revenue; or
- (4) Twenty percent or more of the hours during which the establishment is open.

Youth facility: Any facility or outdoor area where a substantial portion of its use or programs are devoted to or offered for activities or recreation for minors, regardless of whether the facility is public or private. Such facilities include, but are not limited to, playgrounds, swimming pools, libraries or day care facilities.

(Ord. No. 1997-17, § 21-54(4), (5), 6-24-1997; Ord. No. 2000-35, § 2, 11-14-2000; Ord. No. 2003-17, § 2, 6-10-2003)

Cross reference— Definitions generally, § 1-2.

Sec. 86-82. Purpose and intent of subdivision.

It is the purpose and intent of this subdivision to address and mitigate the secondary effects of the adult uses and sexually oriented businesses referenced in this subdivision, since such secondary effects have been found as a result of numerous studies, and after other public input, to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the city, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in the city, all of which secondary impacts are adverse to the health, safety and general welfare of the city and its inhabitants. The provisions of this subdivision have neither the purpose nor the intent of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials. Similarly, it is not the purpose or intent of this subdivision to restrict or deny access by adults to adult uses and to sexually oriented matter or materials protected by the constitution of the United States of America and of the commonwealth, or to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this subdivision to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials or rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials.

(Ord. No. 1997-17, § 21-54(1), 6-24-1997)

Sec. 86-83. Severability.

If any provision of this subdivision shall be determined invalid by a court of competent jurisdiction or otherwise, the remaining provisions of this subdivision not manifestly inseparable from the invalid provision shall remain in full force and effect.

(Ord. No. 1997-17, § 21-54(8), 6-24-1997)

Sec. 86-84. Nonconforming uses.

Any change, expansion, alteration or extension of an adult use or structure lawfully in existence prior to the adoption of this subdivision shall not be allowed without meeting all requirements of this subdivision.

(Ord. No. 1997-17, § 21-54(7), 6-24-1997)

Sec. 86-85. Special permit required.

In those districts which permit adult use, a special permit shall be required for any such adult use to be granted by the zoning board of appeals, pursuant to M.G.L.A. c. 40A, § 9A.

(Ord. No. 1997-17, § 21-54, 6-24-1997; Ord. No. 2008-8, § 1, 3-11-2008)

Sec. 86-86. Issuance of special permit; conditions.

- (a) *Application.* The application for a special permit for an adult use must include the following:
- (1) The name and address of the legal owner of the proposed adult use establishment;
 - (2) The name and address of all persons having a lawful, equity or security interest in the adult use establishment;
 - (3) A sworn statement stating that neither the applicant nor any person having a lawful, equity or security interest in the adult use establishment has been convicted of violating the provisions of M.G.L.A. c. 119, § 63, or M.G.L.A. c. 272, § 28;
 - (4) The name and address of the manager of the adult use establishment;
 - (5) Proposed provisions for security within and without the adult use establishment;
 - (6) The number of employees; and
 - (7) The present and proposed physical layout of the interior of the adult use establishment.
- (b) *Ineligibility for permit.* No special permit for an adult use shall be issued to any person convicted of violating M.G.L.A. c. 119, § 63, or M.G.L.A. c. 272, § 28.
- (c) *Public hearing.* The zoning board of appeals shall hold a public hearing within 65 days after the filing of an application with the board of appeals. The zoning board of appeals shall act on an application within ninety days following the public hearing. Failure by the board to take final action upon an application for a special permit within said ninety days shall be deemed to be a grant of the permit applied for. Issuance of a special permit shall require a vote of at least four of the five members of the board.
- (d) *Expiration.* Any adult use special permit issued under this subdivision shall lapse within one year if substantial use thereof has not sooner commenced, except for good cause, or, in the case of a permit for construction, if construction has not begun by such date except for good cause; excepting only any time required to pursue or await the determination of an appeal from the grant thereof.
- (e) *Notification of change in owner or manager.* Any adult use special permit issued under this subdivision shall require that the owner of such adult use shall supply on a continuing basis to the building inspector any change in the name or address of the record owner or any change in the name of the current manager, and that failure to comply with this provision shall result in the immediate revocation of such special permit. If anyone so identified is or is found to be convicted of violating M.G.L.A. c. 119, § 63, or M.G.L.A. c. 272, § 28, such special permit shall immediately be null and void.
- (f) *Agreement to terms and conditions.* No adult use special permit issued under this subdivision shall become valid or in full force and effect until and unless the owner of the property containing such adult use shall supply to the building inspector a notarized statement agreeing to all terms and conditions of the adult use special permit.

(Ord. No. 1997-17, § 21-54(6)(b)—(g), 6-24-1997; Ord. No. 2003-17, § 3, 6-10-2003)

Sec. 86-88. Site development standards.

- (a) *Site plan required.* Each application for a special permit shall be accompanied by a site plan for the location of the proposed adult use, accurately depicting the structures and other improvements existing on the lot or to be

constructed on the lot, demonstrating that the site shall comply with all setbacks, buffer zones and other dimensional requirements of this subdivision.

- (b) *Dimensional requirements.* Any building or structure containing an adult use shall meet the setback requirements and other dimensional controls of the appropriate district as specified in this chapter. For any property proposed to contain an adult use, the applicant for a special permit for such use shall demonstrate that the entire property shall comply with the requirements and controls in this subdivision following the establishment of such use on such property.
- (c) *Parking and loading facilities.* Parking and loading facilities shall be set back a minimum of 50 feet from any street or property line and 750 feet from any structure used in whole or in part for residential purposes. Drives providing vehicular access from a public or private way to parking and loading areas shall be setback a minimum of 50 feet from any property line. Adequate space for the parking of vehicles shall be permanently reserved at the following rates:
 - (1) One per each three seats of total seating capacity for restaurants, clubs and places of assembly.
 - (2) One per 200 square feet of gross floor area for retail establishments and office space.
 - (3) A minimum of one off-street loading facility properly screened from neighboring properties and streets.
 - (4) A minimum of eight parking spaces for any adult use.
- (d) *Landscaping.* A perimeter strip no less than four feet in width adjacent to any public or private way shall be permanently maintained and cultivated in grass, shrubs, flowers, trees or other green ground cover, except for the openings provided for pedestrian sidewalks connecting to the public sidewalks and for the openings provided for vehicular entrance and exit.
- (e) *Signs.* All signs for an adult use must meet the requirements of section 86-176(c). In addition, no advertisement, display or other promotional matter which contains sexually explicit graphics or sexually explicit text shall be visible to the public from any public way, including but not limited to sidewalks, pedestrian walkways, highways or railways. Further, illumination of buildings or signs shall be shielded to prevent glare. Flashing, moving or intermittent illumination shall not be permitted.

(Ord. No. 1997-17, § 21-54(3), 6-24-1997; Ord. No. 2003-17, § 5, 6-10-2003)

Sec. 86-89. View into booths where films or videos are shown.

If the adult use allows for the showing of films or videos within the premises, the booths in which the films or videos are viewed shall not be closed off by curtains, doors or screens. All booths must be able to be clearly seen from the center of the establishment.

(Ord. No. 1997-17, § 21-54(6)(a), 6-24-1997)

Sec. 86-90. Operation generally.

Adult businesses shall comply with all the following development and performance standards:

- (1) *Advertisements.* Advertisements, displays or other promotional materials for an adult business depicting or describing matter which is distinguished or characterized by its emphasis depicting or relating to sexual conduct or sexual excitement as defined in M.G.L.A. c. 272, § 31, shall not be shown or exhibited so as to be visible from other areas open to the general public.
- (2) *View into interior.* All building openings, entries and windows for an adult entertainment business shall be located, covered or screened in such a manner as to prevent a view into the interior of an adult business from any area open to the general public.
- (3) *Posting of notice prohibiting minors.* All entrances to an adult entertainment business shall be clearly and legibly posted with a notice indicating that minors are prohibited from entering the premises.

- (4) *Sound equipment.* No loudspeakers or sound equipment shall be used by an adult entertainment business for the amplification of sound to a level discernible by the public beyond the walls of the building in which the adult entertainment business is conducted.
- (5) *Hours.* An adult entertainment business shall not remain open for business, or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service, between the hours of 1:00 a.m. and 10:00 a.m. of any particular day. These hours of operation may be further restricted in the conditions approving a special use permit for an adult entertainment business.
- (Ord. No. 1997-17, § 21-54(6)(h), 6-24-1997)

Sec. 86-91. Reserved.

Editor's note—

Ord. No. 2003-17, § 6, adopted June 10, 2003, repealed § 86-91 in its entirety. Formerly, said section pertained to business license required as enacted by Ord. No. 1997-17, § 21-54(6)(i), adopted 6-24-1997.

Sec. 86-92. Reserved.

Editor's note—

Ord. No. 2003-17, § 6, adopted June 10, 2003, repealed § 86-92 in its entirety. Formerly, said section pertained to authority to impose additional restrictions, as enacted by Ord. No. 1997-17, § 21-54(6)(j), adopted 6-24-1997.

Secs. 86-93—86-120. Reserved.

FOOTNOTE(S):

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Cross reference— Amusements, § 14-71 et seq.; adult entertainment overlay district, § 86-371 et seq. (Back)

ARTICLE III. DISTRICTS AND DISTRICT USE REGULATIONS

DIVISION 1. - GENERALLY

DIVISION 2. - RESIDENTIAL DISTRICTS

DIVISION 3. - BUSINESS DISTRICTS

DIVISION 4. - INDUSTRIAL DISTRICTS

DIVISION 5. - OPEN SPACE DISTRICTS

DIVISION I. GENERALLY

Sec. 86-121. Districts established; adoption of district map.

Sec. 86-122. Determination of district boundaries.

Sec. 86-123. Applicability of district regulations.

Sec. 86-124. Table of dimensional regulations.

Secs. 86-125—86-140. Reserved.

Sec. 86-121. Districts established; adoption of district map.

(a) For the purpose of this chapter, the city is hereby divided into the following districts:

- (1) Single-family residence district S.
- (2) Single-family residence district R-8.
- (3) Single-family residence district R-30.
- (4) Single-family residence district R-80.
- (5) Two-family residence district R-4.
- (6) General residence district G.
- (7) Multiple-family residence district M.
- (8) Multiple-family residence district A-3.
- (9) Apartment district A-2.
- (10) Business district B.
- (11) Central business district CBD.
- (12) Mixed use business district MBD.
- (13) Business district B-B.
- (14) Neighborhood shopping district B-N.
- (15) Local business district B-L.
- (16) Industrial district IND.
- (17) Industrial park district IP.
- (18) Open space/recreational district OSR.
- (19) Water resource district WR.
- (20) Adult entertainment overlay district.

(b) The boundaries of each of these districts are hereby established as shown on the map entitled "Zoning Map of the City of Fall River," filed in the office of the city clerk, which map, together with all the boundary lines and designations thereon, is hereby made a part of this chapter.

(Ord. No. 1997-2, § 21-71, 1-28-1997)

Sec. 86-122. Determination of district boundaries.

- (a) The location of the boundary lines shown upon the zoning map which is a part of this chapter shall be determined as follows:
- (1) Where the boundary lines are shown upon the map within the street lines of public or private streets or ways, the centerlines of such streets or ways shall be the boundary lines.
 - (2) Boundary lines located outside of street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and figures placed upon the map between such boundary lines and the street lines shall be the distances in feet of such boundary lines from the street lines, such distances being measured at right angles to the street lines unless otherwise indicated.
 - (3) Where the boundary lines are shown approximately on the location of property or lot lines, and the exact location of such boundary lines is not indicated by means of figures, distances or otherwise, then the property lines or lot lines shall be the boundary lines.
 - (4) Where districts border upon any body of water, any boundary line between two adjoining districts which is indicated on the map as ending at the shoreline shall be regarded as extending out into the body of water in the same direction as indicated on the land to such distance as to include in the district on each side of the extension of the boundary line the area in which any building or structure has been or may be constructed or premises may be occupied.
 - (5) In any cases which are not covered by the provisions of this section, the location of boundary lines shall be determined by the distances in feet, if given, from other lines upon the map, or, if distances are not given, then by the scale of the map.
 - (6) Wherever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the building inspector.
 - (7) Where a district boundary line divides a lot which was in single ownership on the effective date of the ordinance from which this subsection is derived, the entire lot shall be deemed to be in that district in which the greater part of the lot lies; except that in a case where a lot is so divided contains land at least equal to the minimum required for a permitted use in each district, the building inspector may permit the lot to be divided to provide for such separate uses.
- (b) Any highway, public way, private way or public land hereafter laid out and accepted, approved or acquired in accordance with law shall be added to the zoning map, and any highway, public way, private way or public land discontinued in accordance with law shall be removed from the zoning map without any further action of the city council.

(Ord. No. 1997-2, § 21-72, 1-28-1997)

Editor's note—

The ordinance from which subsection (a)(7) of this section derives was approved on September 14, 1967, to become effective as provided by law.

Sec. 86-123. Applicability of district regulations.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, unless specifically exempted under the terms of this chapter. In particular:

- (1) No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, except in conformity with all of the applicable regulations in this chapter.

- (2) No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- (3) No yard or lot existing on the effective date of the ordinance from which this chapter is derived shall be reduced in dimension or area below the minimum requirements set forth in this chapter. Yards or lots created after such effective date shall meet at least the minimum requirements established by this chapter.
- (4) No land within the city may be used for the collection, treatment, storage, burial, incineration or disposal of radioactive waste, including but not limited to waste classified as low-level radioactive waste.
- (5) Illumination of buildings, yards and signs shall not constitute a hazard to auto drivers, and the light sources of such illumination shall be shielded from adjacent residential districts and streets. Flashing, moving or intermittent illumination shall not be permitted.

(Ord. No. 1997-2, § 21-73, 1-28-1997)

Sec. 86-124. Table of dimensional regulations.

The following table is incorporated in and made part of this chapter. In the event of discrepancies between the narrative text in the sections of this chapter and the table, the text of the sections shall control.

RESIDENTIAL DIMENSIONAL REQUIREMENTS							
Zone		Minimum Lot Area (square feet)	Minimum Frontage and Width	Depth	Front Yard	Side Yard	Rear Yard
Single-family	S	12,000	100	N/A	25	15	25
Single-family	R-8	8,000	80	80	20	15	20
Single-family	R-30	30,000	150	N/A	50	25	25
Single-family	R-80	80,000	300	N/A	75	50	75
Two-family	R-4	6,000/unit 2,000/second unit	75	75	15	10	20
General residence maximum 3 units	G	5,000/unit 1,500/additional unit	50	N/A	12	10	15
Apartments 6 or less units/ 20 or greater units	A-2	10,000/unit 2,000/additional unit	100	100	30	20	30
Multiple residence maximum 6 units	A-3	8,000/unit 2,000/additional unit	100	100	30	20	30
Multiple residence	M	5,000/unit 1,500/additional unit	50	N/A	12	10	15
Business maximum 3 units	B	5,000/unit 1,500/additional unit	50	N/A	12	10	15
Business maximum 3 units	B-B	5,000/unit 1,500/additional unit	50	N/A	12	10	15
Local business maximum 3 units	B-L	5,000/unit 1,500/additional unit	50	N/A	12	10	15

The dimensional requirements for business uses and apartment complexes can be found in the zoning ordinances.

(Ord. No. 1997-2, § 21-8, 1-28-1997)

Secs. 86-125—86-140. Reserved.

DIVISION 2. RESIDENTIAL DISTRICTS

Sec. 86-141. S single-family residence district.

Sec. 86-142. R-8 single-family residence district.

Sec. 86-143. R-4 two-family residence district.

Sec. 86-144. R-80 single-family residence district.

Sec. 86-145. R-30 single-family residence district.

Sec. 86-146. G general residence district.

Sec. 86-147. M multiple-family residence district.

Sec. 86-148. A-3 multiple-family residence district.

Sec. 86-149. A-2 apartment district.

Secs. 86-150—86-170. Reserved.

Sec. 86-141. S single-family residence district.

- (a) *Uses.* In an S single-family residence district, buildings and land may be used and buildings may be constructed, altered, enlarged or reconstructed for one or more of the following uses:
- (1) Single-family detached residence, but not a mobile home, automotive or other, or trailer, whether mobile or immobile, designed or used for living purposes.
 - (2) Church or other religious purpose.
 - (3) Any educational facility with a demonstrable educational purpose; however, five or more unrelated individuals using a single-family dwelling as a meeting place or center for activities or a place of congregation for noneducational purposes shall not be considered an educational purpose regardless of the reasons for which the group associated itself.
 - (4) Garage for the storage of automobiles owned by the residents of the premises only.
 - (5) Accessory uses to the uses listed in this subsection that are incidental thereto, including a for sale or for rent sign not exceeding five square feet in area on the premises advertised for sale or for rent, but not a business use or professional office of any kind.

Notwithstanding any other provisions of this chapter, a nonconforming lot of record in a single-family residence district in separate ownership and not of continuous frontage with other lots in the same ownership may be built on in accordance with the regulations in force on the effective date of the ordinance from which this subsection is derived. A nonconforming structure in a single-family residence district may be enlarged, altered or restored in any way that would be permitted by the regulations in force on such effective date.

- (b) *Dimensional regulations.* In an S district, the following dimensional restrictions shall apply:

- (1) Minimum lot area: 12,000 square feet.
- (2) Minimum lot width and frontage: 100 feet each.
- (3) Minimum front yard: 25 feet.
- (4) Minimum side yard: 15 feet.
- (5) Minimum rear yard: 25 feet.
- (6) Maximum building height:

- a. Residential: 2½ stories or 35 feet.
 - b. Public or quasipublic: no limitation.
- (7) Maximum lot coverage: 25 percent of lot area.
(Ord. No. 1997-2, §§ 21-86, 21-87, 1-28-1997)

Case law annotation—Catering as a change in use from a grocery store use in a residential zone, *Hinves v. Comm. of Public Works*, 342 Mass. 54, 172 N.E. (2nd) 232 (1961).

Sec. 86-142. R-8 single-family residence district.

- (a) *Uses.* In an R-8 single-family residence district, no building or land shall be used and no building shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Single-family detached residence.
 - (2) Boardinghouse or lodginghouse for not more than two boarders or lodgers.
 - (3) Hospital, sanitarium or other medical institution, but not for the conversion of an existing building for use as a convalescent home, nursing home or establishment performing like functions.
 - (4) Church, school, public library or art gallery.
 - (5) Fire station, police station, or water and sewage facilities.
 - (6) Municipal recreational facility.
 - (7) Accessory uses to the uses listed in this subsection, including a garage for not more than two motor vehicles and a sign, not exceeding five square feet in area, advertising the premises for sale or for rent.
- (b) *Dimensional regulations.* In an R-8 district, the following regulations shall apply:
- (1) Minimum lot area: 8,000 square feet.
 - (2) Minimum lot depth: 80 feet.
 - (3) Minimum lot width and frontage: 80 feet each.
 - (4) Minimum front yard: 20 feet.
 - (5) Minimum rear yard: 20 feet.
 - (6) Minimum side yard: 15 feet.
 - (7) Maximum lot coverage: 25 percent of lot area.
 - (8) Maximum building height: 2½ stories, but not to exceed 35 feet.
 - (9) There shall be at least one motor vehicle parking space or garage on the lot.
- (Ord. No. 1997-2, §§ 21-88, 21-89, 1-28-1997)

Sec. 86-143. R-4 two-family residence district.

- (a) *Uses.* In an R-4 two-family residence district, no building or land shall be used and no building shall be constructed, altered or reconstructed except for one or more of the following uses:
- (1) Residence for not more than two families.
 - (2) Boardinghouse or lodginghouse for not more than two boarders or lodgers.
 - (3) Hospital, sanitarium or other medical institution, but not the conversion of an existing building for use as a convalescent home, nursing home or establishment performing like functions.
 - (4) Church, school, public library or art gallery.

- (5) Fire station, police station, or water and sewage facilities.
 - (6) Municipal recreational facilities.
 - (7) Accessory uses to the uses listed in this subsection, including a garage for not more than three motor vehicles and a sign, not exceeding five square feet in area, advertising the premises for sale or for rent.
- (b) *Dimensional regulations.* In an R-4 district, the following regulations shall apply:
- (1) Minimum lot area: 6,000 square feet for the first dwelling unit; 2,000 square feet for the second dwelling unit.
 - (2) Minimum lot depth: 75 feet.
 - (3) Minimum lot width and frontage: 75 feet each.
 - (4) Minimum front yard: 15 feet.
 - (5) Minimum rear yard: 20 feet.
 - (6) Minimum side yard: Ten feet.
 - (7) Maximum lot coverage: 30 percent of lot area.
 - (8) Maximum building height: 2½ stories, but not to exceed 35 feet.
 - (9) There shall be one motor vehicle parking space or garage on the lot for each dwelling unit thereon.
- (Ord. No. 1997-2, §§ 21-90, 21-91, 1-28-1997)

Sec. 86-144. R-80 single-family residence district.

- (a) *Uses.* In an R-80 single-family residence district R-80, no building or land shall be used and no building shall be constructed, altered, enlarged or reconstructed except for one of the following uses:
- (1) Single-family detached residence.
 - (2) Church.
 - (3) School.
 - (4) Fire station, police station or combination thereof.
 - (5) Municipal recreational facilities.
 - (6) Accessory uses to the uses listed in subsections (a)(1), (2) and (3) of this section, including a garage for not more than three motor vehicles.
- (b) *Dimensional regulations.* In an R-80 district, the following restrictions shall apply:
- (1) Minimum lot area: 80,000 square feet.
 - (2) Minimum lot width and frontage: 300 feet each.
 - (3) Minimum front yard: 75 feet.
 - (4) Minimum side yard: 50 feet.
 - (5) Minimum rear yard: 75 feet.
 - (6) Maximum building height: 2½ stories or 35 feet.
- (Ord. No. 1997-2, § 21-91.5, 1-28-1997)

Sec. 86-145. R-30 single-family residence district.

- (a) *Uses.* In an R-30 single-family residence district R-30, no building or land shall be used and no building shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Single-family detached residence.
 - (2) Church, school, public library or art gallery.
 - (3) Fire station, police station, or water and sewage facilities.
 - (4) Municipal recreational facilities.
 - (5) Accessory uses to the uses listed in this subsection, including a garage for not more than three motor vehicles and a for sale or for rent sign not exceeding six square feet in area on the premises advertised for sale or for rent.
- (b) *Dimensional regulations.* In an R-30 district, the following restrictions shall apply:
- (1) Minimum frontage: 150 feet.
 - (2) Minimum lot area: 30,000 square feet.
 - (3) Minimum width: 150 feet.
 - (4) Minimum front yard: 50 feet.
 - (5) Minimum side yard: 25 feet.
 - (6) Minimum rear yard: 25 feet.
 - (7) Maximum building height: 2½ stories or 35 feet for residential buildings.
- (Ord. No. 1997-2, §§ 21-94, 21-95, 1-28-1997)

Sec. 86-146. G general residence district.

- (a) *Uses.* In the G general residence districts, no building or structure, or part thereof, shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for:
- (1) Any industry, trade, manufacturing or commercial purposes; or
 - (2) Any purpose except one or more of the following specified uses:
 - a. Residence for not more than three families.
 - b. Boardinghouse or lodginghouse for not more than five boarders or lodgers.
 - c. Church or other place of worship.
 - d. Public school or other public use.
 - e. Private school, college, museum or other use of an educational character.
 - f. Club, except a club the chief activity of which is a service customarily carried on as a business.
 - g. Public or semipublic institution of a philanthropic, charitable or religious character, but not a correctional institution.
 - h. Hospital, sanitarium or other medical institution, but not the conversion of an existing building for use as a convalescent home, nursing home or establishment performing like functions. In a specific case, the board of appeals may, after a public hearing, grant a special permit for the conversion of an existing building for use as a convalescent or nursing home in a general residence or multiple-family residence district, provided the board finds that such use will not be detrimental to the public good and will not substantially derogate from the intent and purpose of this chapter, and will not adversely affect the value or amenity of neighboring property.

- i. Farm, market garden, nursery or greenhouse, including the sale of natural products raised upon the premises, but not including any new use or the extension of any existing use which would be injurious, obnoxious or offensive to the neighborhood.
 - j. Private garage for not more than three motor vehicles, private stable or community garage for not more than ten motor vehicles; provided that a private garage or a community garage may contain space for and be used for the storage of one motor vehicle for each 1,500 square feet of area contained in the lot on which such private garage or community garage is situated.
 - k. Such accessory uses as are customary in connection with the uses listed in this subsection and which are incidental thereto.
- (b) *Dimensional regulations.* In a G district, the following restrictions shall apply:
- (1) Minimum frontage: 50 feet.
 - (2) Minimum lot area: 5,000 square feet for the first family and 1,500 square feet additional for each additional family.
 - (3) Minimum width: 50 feet.
 - (4) Minimum front yard: 12 feet.
 - (5) Minimum side yard: Ten feet.
 - (6) Minimum rear yard: 15 feet.
 - (7) Maximum building height:
 - a. Residential: Three stories or 40 feet.
 - b. Public or quasipublic: No limitation.
 - (8) Maximum lot coverage: 25 percent of lot area.
- (Ord. No. 1997-2, §§ 21-96, 21-97, 1-28-1997)

Sec. 86-147. M multiple-family residence district.

- (a) *Uses.* In the M multiple-family residence districts, no building or structure, or part thereof, shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for:
- (1) Any industry, trade, manufacturing or commercial purposes; or for
 - (2) Any purpose except one or more of the following specified uses:
 - a. Any purpose or accessory use authorized in the single-family residence or general residence districts.
 - b. Residence for more than three families.
- (b) *Dimensional regulations.* The dimensional restrictions listed under section 86-146(b) for the general residence districts shall apply to multiple-family residence districts.
- (Ord. No. 1997-2, §§ 21-98, 21-99, 1-28-1997)

Sec. 86-148. A-3 multiple-family residence district.

- (a) *Uses.* In an A-3 multiple-family residence district, no building or land shall be used and no building shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Residence for not more than six families.
 - (2) Boarding home or lodging home for not more than ten boarders or lodgers.

- (3) Hospital, sanitarium or other medical institution, but not the conversion of an existing building for use as a convalescent home, nursing home or establishment performing like functions.
 - (4) Church, school, public library or art gallery.
 - (5) Fire station, police station, or water and sewage facilities.
 - (6) Municipal recreational facilities.
 - (7) Accessory uses to the uses listed in this subsection, including a garage with not more than one vehicle space per dwelling unit or rental room, to be used exclusively for the residents of the premises, and a sign, not exceeding five square feet in area, advertising the premises for sale or for rent.
- (b) *Dimensional regulations.* In an A-3 district, the following regulations shall apply:
- (1) Minimum lot frontage: 100 feet.
 - (2) Minimum lot area: 8,000 square feet for the first dwelling unit; 2,000 square feet for each additional dwelling unit.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum lot width: 100 feet.
 - (5) Minimum front yard: 30 feet.
 - (6) Minimum rear yard: 30 feet.
 - (7) Minimum side yard: 20 feet.
 - (8) Maximum lot coverage: 30 percent of lot area.
 - (9) Maximum building height: 3½ stories, but not to exceed 45 feet.
 - (10) There shall be at least one motor vehicle parking space or garage on the lot for each dwelling unit or rental room thereon.
- (Ord. No. 1997-2, §§ 21-100, 21-101, 1-28-1997)

Sec. 86-149. A-2 apartment district.

- (a) *Uses.* In an A-2 apartment district, no building or land shall be used and no building shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Multiple-family residence as defined in section 86-148 for the A-3 district.
 - (2) Garden or elevator apartments of 20 or more dwelling units.
 - (3) Hotels or motels.
 - (4) Hospital, sanitarium or other medical institution, but not the conversion of an existing building for use as a convalescent home, nursing home or establishment performing like functions.
 - (5) Church, school or public library.
 - (6) Fire station, police station, or water and sewage facilities.
 - (7) Municipal recreational facilities.
 - (8) Accessory uses to the uses listed in this subsection, including a sign, not to exceed five square feet in area, advertising the premises for sale or for rent.
- (b) *Dimensional regulations.* In an A-2 district, the following regulations shall apply to residential buildings or groups of buildings:
- (1) Every dwelling unit shall contain at least three rooms, exclusive of halls, and a bathroom. Such three-room dwelling unit shall contain at least 600 square feet of floorspace and an additional 120 square feet of floorspace for each additional room.

- (2) Multiple-family residences as defined in section 86-148 for A-3 districts shall conform to the following regulations:
 - a. Minimum lot frontage: 100 feet.
 - b. Minimum lot area: 10,000 square feet for the first dwelling unit; 2,000 additional square feet for each additional dwelling unit.
 - c. Minimum lot depth: 100 feet.
 - d. Minimum lot width: 100 feet.
 - e. Minimum front yard: 30 feet.
 - f. Minimum rear yard: 30 feet.
 - g. Minimum side yard: 20 feet.
 - h. Maximum lot coverage: 30 percent of lot area.
 - i. Maximum building height: 3½ stories, but not to exceed 45 feet.
 - (3) In multiple-family residences of 20 or more dwelling units, the lot shall contain at least 2,000 square feet of land for each family to be housed on it.
 - (4) Buildings in groups shall be arranged so as to provide for the following open spaces:
 - a. Front elevations shall face on a street or on an open space of not less than 75 feet.
 - b. Rear elevations shall face on an open space of not less than 50 feet.
 - c. End elevations shall be separated by not less than 30 feet.
 - d. Accessory buildings shall not be less than 30 feet from any other building.
 - e. All buildings shall be not less than 20 feet from any property line.
 - f. All buildings shall be not more than six stories or 70 feet high.
 - (5) A basement intended to be used for living or sleeping purposes shall have a floor level not more than three feet below average ground level.
 - (6) An attic or half story intended to be used for living or sleeping purposes shall have an average ceiling height of at least 6½ feet.
 - (7) Garage or off-street parking spaces shall be provided for as many cars as there are dwelling units in the buildings, to be used exclusively by tenants thereof.
- (Ord. No. 1997-2, §§ 21-102, 21-103, 1-28-1997)

Secs. 86-150—86-170. Reserved.

DIVISION 3. BUSINESS DISTRICTS ^[5]

Sec. 86-171. B business district.

Sec. 86-172. CBD central business district.

Sec. 86-173. MBD mixed use business district.

Sec. 86-174. B-B business district.

Sec. 86-175. B-N neighborhood shopping district.

Sec. 86-176. B-L local business district.

Sec. 86-177. WTOD waterfront and transit oriented development district.

Secs. 86-178—86-200. Reserved.

Sec. 86-171. B business district.

- (a) *Uses generally.* In the B business district, no building or structure or part thereof shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for any purpose except one or more of the following specified uses:
- (1) Any purpose or accessory use authorized for the single-family residence or general residence districts complying with minimum dimensional requirements which apply to general residence districts.
 - (2) Store, salesroom, showroom or storeroom for the conduct of retail or wholesale business.
 - (3) Office of any kind.
 - (4) Bank or other monetary institution.
 - (5) Hotel, restaurant or other eating place.
 - (6) Club or other organization, dancehall, theater, hall or other place of amusement or assembly.
 - (7) Public or semipublic building.
 - (8) Place of business of a baker, barber, builder, butcher, cabinetmaker, carpenter, caterer, cleaner, confectioner, contractor, decorator, dressmaker, druggist, dryer, electrician, florist, furrier, grocer, hairdresser, laundry, manicurist, mason, milliner, newspaper, optician, painter, paperhanger, photographer, plumber, printer, publisher, roofer, shoemaker, shoe repairer, shoeshiner, tailor, tinsmith, telephone exchange, undertaker or upholsterer.
 - (9) Private garage or private stable, community garage, business garage or business stable, public garage or public stable, gasoline filling station, service station, garage repair shop or motor vehicle repair shop.
 - (10) Off-site sign, subject to the provisions of section 86-252
 - (11) Any additional use which the board of appeals, upon petition and under the provisions of article II, division 2 of this chapter, may permit in a specific case; provided that the board of appeals finds that:
 - a. The proposed use is similar to one or more of the uses authorized by this subsection.
 - b. The exclusion of such additional use from a business district would involve practical difficulty or unnecessary hardship.
 - c. Such additional use would not substantially reduce the value of any property within the district or otherwise be injurious, obnoxious or offensive to the neighborhood.
 - (12) Such accessory uses as are customary in connection with the uses listed in this subsection and which are incidental thereto.

- (b) *Additional uses.* In addition to the uses listed in subsection (a) of this section, such industry, trade and manufacturing may be carried out in any building or structure or part thereof, or on any premises, as is customary in connection with such uses and is accessory thereto; provided that:
- (1) No industry, trade or manufacturing shall be carried on in a business district which is prohibited or not authorized in the industrial or unrestricted districts; or would be injurious, obnoxious or offensive to the neighborhood by reason of noise, vibration, smoke, cinders, odor, gas, fumes, dust, chemicals or other objectionable feature; or would be dangerous to the neighborhood through fire, explosion or any other cause.
 - (2) The total floorspace which may be used for manufacturing in any building or structure on any premises shall not exceed 2,000 square feet, unless otherwise permitted by the board of appeals under the provisions of article II, division 2 of this chapter.
- (Ord. No. 1997-2, § 21-121, 1-28-1997)

Sec. 86-172. CBD central business district.

- (a) *Uses.* In a CBD central business district, buildings and land may be used and buildings may be constructed, altered, enlarged or reconstructed for one or more of the following specified single or mixed uses:
- (1) Store or sales outlet for the conduct of retail business.
 - (2) Office of any kind.
 - (3) Bank or other monetary institution.
 - (4) Restaurant or other eating place.
 - (5) Service establishment providing service to the general public.
 - (6) Motel, hotel or other establishment providing sleeping accommodations for the general public.
 - (7) Theater, auditorium or other establishment offering recreation to the general public.
 - (8) Garden or elevator apartments of 20 or more dwelling units, provided they conform to the following dimensional requirements:
 - a. Front yard, 20 feet, except this requirement shall not apply to the area shown on the Urban Renewal Plan R-138. Side and rear yards shall be the height plus length of the building divided by six, except this requirement shall not apply to the area shown on the Urban Renewal Plan R-138.
 - b. Maximum floor area ratio shall be three square feet of floorspace for each one square foot of land.
 - c. Maximum height: See subsection (b)(1) of this section.
 - d. Minimum usable open space shall be 100 square feet for each dwelling unit.
 - e. Minimum parking ratio shall be one parking space per dwelling unit, except in housing for the elderly there shall be one parking space for each five dwelling units.
 - (9) Church, school or public library.
 - (10) Public or commercial parking lot or garage.
- (b) *Dimensional regulations.* In a CBD district, the following regulations shall apply:
- (1) *Building height.* Building height shall be not more than twice the width of the street or plaza on which such building faces. This dimension may be increased two feet for every foot the building is set back from the street line.
 - (2) *Loading facilities.* Off-street loading berths shall be provided for any sales or service establishment according to gross floor area as follows:

Floor Area (square feet)	Loading Berths Required
8,000—24,999	1
25,000—59,999	2
60,000—99,999	3
100,000—159,999	4
160,000—249,999	5
Plus, for each 100,000 over 249,999	1

(c) *Signs.*

- (1) *Applicability.* No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure in the CED central business district except as specifically permitted in this section.
- (2) *Permitted sign types.* The following types of signs are permitted.
 - a. *Address sign.* One sign displaying the street number and name of the occupant or establishment of the premises and service provided;
 1. Such sign may be attached to the building or may be on a rod or pole not more than four feet high, and at least feet in from street line and may not exceed two square feet in area.
 2. Sign must be stationary and not contain any motorized moving parts.
 - b. *Awning sign.* A sign painted on or attached to a moveable metallic frame, of the hinged roll or folding type, which may have a non-combustible covering.
 1. Such sign must be painted, embroidered, or stitched on or attached flat against the surface of, but not extending beyond or attached to the underside.
 2. Letters shall not exceed ten inches in height.
 3. A minimum clearance above sidewalk level of seven feet must be allowed for pedestrian clearance.
 - c. *Community directory sign.* An accessory bulletin or announcement board describing the location of event of a community service organization, institution, or public facility.
 1. Such sign shall not exceed 20 square feet in total area.
 2. One such sign for each property is allowed, unless the street frontage of said institution exceeds 100 feet, then one sign for each 100 feet is allowed but in no event more than three such signs. No such sign may be located nearer to a street line than one-half of the depth of the required front yard.

- d. *Contractor sign.* An off-premises sign identifying the contractor's name, address and other pertinent information.
 - 1. Such sign may not exceed 20 square feet.
 - 2. Such sign may be maintained on the building or structure only for the interim of construction and not exceeding 15 days following completion of said construction.
 - 3. Failure to remove said sign within time period stated shall be cause for its removal by the building inspector at the expense of the owner.
- e. *Election signs.* A sign designed to influence the action of voters for (i) the passage or defeat of a measure; or (ii) the election of a candidate for nomination or election to public office at a national, state or other local election. An election sign is permitted if it is stationary, unlighted, temporary, and is not attached to a utility pole, fence, tree or other vegetation, or upon a public right-of-way or attached to any structure (except that such sign may be displayed in a window).
 - 1. No such sign shall be placed or erected on any property without the permission of the owner of that property.
 - 2. No such sign shall exceed 4½ square feet in area and shall not be placed or erected before three weeks prior to the election to which it pertains and shall be removed no later than three days following such election. Failure to remove said sign within such period shall be cause for its removal by the building inspector at the expense of the candidate, person, or entity causing its placement.
 - 3. Any such sign not conforming to the foregoing requirement(s) shall be marked in a non-permanent manner as being in violation of this ordinance and the owner, candidate, or other proponent of said sign shall be timely notified so as to provide a three day notice and opportunity to remedy said violation. If, after said notice and opportunity to remedy, such nonconforming sign is not removed or made conforming to the provisions of this ordinance, the building inspector shall remove same at the expense of the candidate, person, or entity, causing its placement.
- f. *For sale or for rent signs.* An on-premises sign advertising the property being sold or rented.
 - 1. Such signs shall not exceed six square feet.
 - 2. Such signs shall advertise only the property on which the sign is located.
 - 3. A maximum of two such signs may be maintained on the property being sold or rented.
- g. *Illuminated sign.* A sign that is artificially illuminated by means of electricity, gas, oil, or fluorescent paint.
 - 1. Permits must be obtained for the erection of illuminated signs within the limitations set forth in this article for the location, size and type of sign or outdoor display.
 - 2. All electrically illuminated signs shall conform to the requirements of the Massachusetts State Electrical Code.
 - 3. All illumination must be a continuous external light, that is indirect and installed in a manner which will prevent direct light from shining onto any street or adjacent property. (Spot, track, overhang, or wall lamps are acceptable.)
 - 4. Internally illuminated signs will require a special permit by the special permit granting authority.
 - 5. No form of illumination that is flashing, moving, animated or intermittent shall be allowed.
 - 6. No exposed connecting wires shall be allowed.
- h. *Individual letters or symbols.* Letters or symbols attached to an awning, marquee, a roof, building surface, wall or signboard:

1. The area to be computed is that of the smallest rectangle or other geometric shape which encompasses all of the letters or symbols.
 2. Letters or symbols shall not project more than 12 inches from the building surface.
 3. Letters and symbols shall not obscure architectural features of the building (including but not limited to cornices, lintels, transoms) to which the letters and symbols are attached.
 4. Such letters and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached.
 5. Sign size. Letters or symbols shall have an aggregate area not exceeding two square feet for each foot of building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately. Signs shall not be permitted on building walls not parallel or within 45 degrees of parallel to the street, except directional signs such as for entrances, directional signs, or parking each not exceeding three square feet in area.
- i. *Marquee signs.* A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of a building.
1. Such sign may be painted on or attached flat against the surface of, but not extending beyond or attached to the underside.
 2. Letters or symbols shall not exceed 16 inches in height.
 3. A minimum clearance above sidewalk level of ten feet must be allowed for pedestrian clearance.
- j. *Painted signs.* A permanent mural or message painted directly onto a building surface or the surface of a wall or retaining wall not part of any building. A special permit is required from the special permit granting authority.
- k. *Public service sign.* A sign located for the purpose or providing directions towards or indication of a use not readily visible from a public street (e.g. restrooms, telephone, etc.).
1. Such signs that are necessary for public safety and convenience shall not exceed four square feet.
 2. Such signs may bear no advertising.
 3. Such signs are not included in computing total sign area allowed.
- l. *Roof sign.* A sign erected, constructed, or maintained above the roof of a building. Roof signs are prohibited except by special permit by the special permit granting authority.
1. Permit may be granted if it is the only feasible form of signing for that establishment.
 2. Such signs shall be constructed entirely of or other approved noncombustible materials except as provided by the state building code.
 3. All wiring and tubing shall be kept free and insulated.
 4. Such signs shall be set back at least three feet from the face of the outside wall.
- m. *Temporary sign.* A sign intended to be used for a period of not more than 30 days. Temporary signs pertaining to special sales or events may be displayed in no more than 30 percent of the window area.
1. No permit is required for temporary signs.
 2. Temporary banner signs which overhang a public way must be covered by an insurance policy naming the City of Fall River as coinsured and for such amounts as shall be established by the city.
- n. *Wall sign.* A sign which is attached parallel on the exterior surface of a building or structure.

1. A wall sign shall not project more than 15 inches from the building surface.
 2. The sign shall not obscure architectural features of the building (including but not limited to cornices, lintels, transoms) to which the sign is attached.
 3. Such signs shall not exceed above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.
 4. Sign size. Signs or advertising devices, attached to the building shall have an aggregate area not exceeding two square feet for each lineal foot of the building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately. Signs shall not be permitted on building walls not parallel or within 45 degrees of parallel to the street, except for entrances or parking each not exceeding three square feet in area.
- o. *Window sign.* A permanent non-illuminated sign painted on the inside glass of a window.
1. The total area of a window sign shall not exceed 30 percent of the total glass area.
 2. Contents of such sign shall advertise only an on-premises use.
 3. Window signs on ground floor levels shall be included in calculating the total area of signs on the building frontage.
- (3) *Special requirements.*
- a. *Corner buildings.* If a building fronts two or more streets, the sign area for each street frontage shall be computed separately.
 - b. *Setback requirements.* Unless otherwise specified in subsection (c) of this section, signs are exempt from setback requirements.
 - c. *Sublevel storefront.* If the first floor of a building is substantially above street grade and the basement is only partially below street grade, separate occupants of each level may each have one-half the square feet of signage allowed as if it were a single ground floor use.
 - d. *Supports and brackets.* Supports and brackets for a sign shall not extend needlessly above the cornice line of the building to which the sign is attached.
 - e. *Trademarks.* Trademarks that are registered for a specific commodity may occupy no more than ten percent of the sign area, except that said commodity is the major business conducted on the premises, then there shall be no such restriction.
- (4) *Prohibited signs.* No person may erect the following signs:
- a. A sign which flashes, rotates or has a motorized moving part that is visible from a public street.
 - b. Any sign which, by reason or its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety in the opinion of the building inspector by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads.
 - c. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway or which obstructs a window, door or other opening for providing light or air or interferes with proper function of the building.
 - d. Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment; or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.
 - e. Signs which make use of words such as stop, look, danger, etc., or any phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
 - f. String lights used in connection with commercial premises for commercial purposes other than Christmas, Hanukkah, or other traditional holiday.

- g. Spinners, and streamers except as specified in temporary sign section.
 - h. Any sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold, on the premises to which it applies. Such signs shall be removed at owner's expense.
 - i. Any sign affixed to a fence, utility pole or structure, or tree, shrub, rock or other natural objects.
- (5) *Variance*. An application for variance may be filed with the board of appeals.
 - (6) *Maintenance*. Each sign shall be maintained in a secure and safe condition. If the building inspector is of the opinion that a sign is not secure, safe or in good state of repair, the building inspector shall give written notice of this fact to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted, the building inspector may revoke the permit to maintain the sign and may remove the sign and keep possession of same until the owner pays the cost of removal.
 - (7) *Energy shortage*. In the event of an energy shortage, the city is authorized in its discretion to order all signs in city consuming electricity, gas, oil or other energy, to cease consumption in whole or in part during such hours as for such period designated.
 - (8) *Nonconforming signs*. Any sign or other advertising devices hereto fore legally erected may continue to be maintained; provided, however, that no such sign or other advertising device shall be permitted if it is enlarged and provided further, any such sign or other advertising device which has deteriorated to such an extent that the cost of restoration would exceed 35 percent of the replacement cost of the sign or other advertising device at the time of the restoration shall not be repaired or rebuilt or altered. Any exemption provided in this section shall terminate with respect to any sign or other advertising device which shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the building inspector.
- (d) *Illumination*. Illumination of buildings or signs shall be shielded to prevent glare. Flashing, moving or intermittent illumination shall not be permitted.

(Ord. No. 1997-2, § 21-122, 1-28-1997; Ord. No. 2008-8, § 5, 3-11-2008)

Sec. 86-173. MBD mixed use business district.

- (a) *Uses*. In an MBD mixed use business district, buildings and land may be used and buildings may be constructed, altered, enlarged or reconstructed for one or more of the following specified single or mixed uses:
 - (1) Store or sales outlet for the conduct of retail business.
 - (2) Office of any kind.
 - (3) Bank or other monetary institution.
 - (4) Restaurant or other eating place.
 - (5) Service establishment providing service to the general public, but not a gasoline or auto service station.
 - (6) Motel, hotel or other establishment providing sleeping accommodations for the general public.
 - (7) Theater, auditorium or other establishment offering recreation to the general public, but not a so-called penny arcade.
 - (8) Multifamily residence units, provided they conform to the following dimensional requirements:
 - a. The minimum front yard shall be 20 feet. The minimum side and rear yards shall be ten feet.
 - b. The maximum floor area ratio shall be three square feet of floorspace for each one square foot of land.
 - c. Maximum height: See subsection (b)(1) of this section.
 - d. Minimum usable open space shall be 100 square feet for each dwelling unit.
 - e. Minimum parking ratio shall be one parking space per dwelling unit.

- (9) Church, school or public library.
 - (10) Public or commercial parking lot or garage, but not auto body, fender repair work or auto painting.
 - (b) *Dimensional regulations.* In an MBD district, the following regulations shall apply:
 - (1) *Building height.* Building height shall be not more than twice the width of the street or plaza on which such building faces. This dimension may be increased two feet for every foot the building is set back from the street line. This restriction shall not apply to chimneys, ventilators, tanks, bulkheads and other accessory features required above roofs or to towers, spires, domes and ornamental features of churches and other nonresidential buildings.
 - (2) *Signs.* Signs shall be restricted to the following types:
 - a. Signs which display the name of the establishment and the goods sold or services rendered on the premises.
 - b. Signs offering the premises for sale or to let.
 - c. Directional or safety signs.Signs of the types described in subsections (b)(2)a and b of this section shall be flat on the walls of the building or on a marquee or parapet. No sign shall project from the building or overhang open space or be on the roof of a building.
 - (3) *Illumination.* Illumination of buildings or signs shall be shielded to prevent glare. Flashing, moving or intermittent illumination shall not be permitted.
- (Ord. No. 1997-2, § 21-123, 1-28-1997)

Sec. 86-174. B-B business district.

- (a) *Uses.* In a B-B business district, no building or structure or part thereof shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for any purpose except one or more of the following specified uses:
 - (1) Any purpose or accessory use authorized in the single residence, general residence or multiple-family residence districts, complying with minimum dimensional requirements which apply to general residence districts.
 - (2) Office buildings.
 - (3) Bank or other monetary institution.
 - (b) *Building height.* In the business district, no building or structure shall be constructed, altered, reconstructed, raised up or moved so as to contain more than six stories, or so as to exceed in any part a height of 100 feet, except in the case of chimneys, ventilators, tanks, bulkheads and other accessory features required above roofs, and also in the case of towers, spires, domes and ornamental features of churches and other nonresidential buildings.
- (Ord. No. 1997-2, § 21-124, 1-28-1997)

Sec. 86-175. B-N neighborhood shopping district.

- (a) *Uses.* In a B-N neighborhood shopping district, no building or structure or part thereof shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for any purpose except one or more of the following specified uses:
 - (1) Store or sales outlet for the conduct of retail business.
 - (2) Office of any kind.
 - (3) Bank or other monetary institution.

- (4) Restaurant or other eating place.
 - (5) Place of business of a barber, cleaner, confectioner, decorator, dressmaker, druggist, florist, furrier, grocer, hairdresser, laundry, manicurist, milliner, optician, shoemaker, shoe repairer, shoeshiner, tailor, telephone exchange, upholsterer, body art establishment, fix-it shop, or other vendor of commodities or services to the general public.
 - (6) Gasoline filling station or service station, but not a public garage, garage repair shop or motor vehicle repair shop, except if conducted as an auxiliary service by a business principally devoted to the sale of new passenger vehicles.
 - (7) Bowling alley, children's swings and similar shopping center, juvenile play equipment, establishment for juvenile or adult games and recreation but not a penny arcade, outdoor theater or shooting gallery. The opening and closing hours of all establishments permitted under this subsection (7) shall be subject to the approval of the city council.
 - (8) Off-site signs, subject to the provisions of section 86-252
- (b) *Buffers; parking facilities.* In neighborhood shopping districts (B-N), the following standards of site planning and use shall be required:
- (1) No building shall be constructed, altered, enlarged or reconstructed within 35 feet of the property line along any public way.
 - (2) Within the strip, an area no less than ten feet in width adjacent to the property line of any public way shall be permanently maintained and cultivated in grass, shrubs, flowers, trees and other green ground cover, except for the openings provided for pedestrian sidewalks connecting to the public sidewalks and for the openings provided for vehicular entrance and exit.
 - (3) A buffer strip 50 feet wide shall be permanently maintained in grass, shrubs, trees or other plants on the perimeter of any neighborhood shopping district where such district adjoins any residential district. On petition to the board of appeals and after a public hearing, the board may, in a specific case, allow such buffer strip to be reduced in width to not less than 20 feet if, in the opinion of the board, such reduced width will serve the purpose of screening the proposed use in the neighborhood shopping district from the residential district.
 - (4) No building shall be constructed, altered, enlarged or reconstructed within ten feet of the interior line of the buffer strip as established under subsection (b)(3) of this section.
 - (5) Space for the parking of vehicles shall be permanently reserved at the rate of at least 2½ square feet of parking space for each square foot of sales floorspace in buildings. Such parking space shall be on the same lot as the building it serves or on an adjoining lot.
- (c) *Signs.* In neighborhood shopping districts, the following standards for external signs, except those incidental to directing or controlling pedestrian and vehicular traffic, activities or safety, shall be required:
- (1) Not more than one freestanding or pylon type sign shall be permitted in a neighborhood shopping district.
 - (2) No flashing or animated signs shall be permitted.
 - (3) Signs on buildings shall be limited as follows:
 - a. No roof signs shall be permitted.
 - b. No signs extending higher than the roof or a cornice, not to exceed three feet above the level of the roof, shall be permitted.
 - c. No sign extending at an angle from the wall of a building and overhanging the ground shall be permitted.
 - d. All exterior wall signs shall involve sign structures superimposed on the walls, and no such sign shall consist simply of the wall material itself or paint imposed thereon, except that lettering or designs incorporated into the structure and materials of a wall shall be permitted provided that such

lettering or design is indented at least two inches or is extended at least two inches from the surface of the wall.

(Ord. No. 1997-2, § 21-125, 1-28-1997; Ord. No. 2001-29, § 3, 10-4-2001)

Sec. 86-176. B-L local business district.

- (a) *Uses.* In a B-L local business district, no building or structure or part thereof shall be constructed, altered, enlarged, reconstructed or used and no premises shall be used for any purpose except one or more of the following specified uses:
- (1) Store or sales outlet for the conduct of retail business.
 - (2) Office of any kind.
 - (3) Bank or other financial institution.
 - (4) Restaurant or other eating place.
 - (5) Service establishment providing service to the general public, including but not limited to the place of business of a barber, decorator, dressmaker, druggist, florist, hairdresser, optician, shoe repairer, tailor, telephone exchange, upholsterer or fix-it shop.
 - (6) Motel, hotel or other establishment providing sleeping accommodations for the general public.
 - (7) Any purpose or accessory use authorized in a general residence district, provided the use and structure meets the minimum dimensional requirements of the general residence district.
 - (8) Bowling alley or other establishment for juvenile or adult games and recreation, but not a so-called penny arcade, theater, outdoor theater or shooting gallery. The opening and closing hours of all establishments permitted under this subsection (8) shall be subject to such limitations as may be provided by the city council.
 - (9) Off-site signs, subject to the provisions of section 86-252

No gasoline filling station, service station or carwash shall be permitted, except that, in a specific case, the board of appeals may, after a public hearing, grant a special exception for the construction and operation of such use, provided the board finds that the location, setback and design of such use will not be detrimental to the neighborhood by reason of traffic congestion, noise or appearance.

- (b) *Buffers; parking facilities.* In a local business district, the following standards of site planning and use shall be required:
- (1) No building shall be constructed, altered, enlarged or reconstructed within ten feet of the line of any public way.
 - (2) A perimeter strip no less than four feet in width adjacent to the sidewalk line of any public way shall be permanently maintained and cultivated in grass, shrubs, flowers, trees or other green ground cover, except for the openings provided for pedestrian sidewalks connecting to the public sidewalks and for the openings provided for vehicular entrance and exit.
 - (3) Space for the parking of vehicles shall be permanently reserved at the rate of at least two and one-half square feet of parking space for each square foot of sales floorspace in buildings. Such parking space shall be on the same lot as the building it serves or on an adjoining lot.
- (c) *Signs.* In a local business district, the following standards for external signs, except those incidental to directing or controlling pedestrian and vehicular traffic, activities or safety, shall be required:
- (1) Freestanding or pylon type signs shall be permitted in a local business district, subject to height limit of 25 feet.
 - (2) No flashing or animated signs shall be permitted.
 - (3) Signs on buildings shall be limited as follows:

- a. No roof signs shall be permitted.
 - b. No signs extending higher than the roof or than a cornice which projects not more than three feet above the level of the roof shall be permitted.
 - c. Signs extending at an angle from the wall of a building and overhanging the ground shall be permitted. Such sign shall not exceed four feet by six feet.
 - d. All exterior wall signs shall be on sign structures superimposed on the walls, and no such sign shall consist simply of the wall material itself or paint imposed thereon, except that raised or indented lettering or designs shall be permitted.
- (d) *Expansion of existing business.* In a local business district, any business in existence in such district on the effective date of the ordinance from which this section is derived may be increased by not more than 50 percent of its existing floor area without conforming to the required setback and off-street parking requirements, provided that such space as may be made available on the property is developed for off-street parking.
- (Ord. No. 1997-2, § 21-126, 1-28-1997)

Sec. 86-177. WTOD waterfront and transit oriented development district.

- (a) *Purpose.* The city hereby adopts an ordinance to be known as the waterfront and transit oriented development district, WTOD. The purpose of the WTOD is to create a permitting framework to facilitate waterfront development for mixed use commercial, retail, residential and intermodal transportation that both attracts and encourages investment. The WTOD is also adopted in advance of the location of two intermodal transportation resources associated with the planned expansion of Southcoast Rail.
- (b) *Uses.* In a waterfront and transit oriented development district (WTOD), buildings and land may be used and buildings may be constructed, altered, enlarged or reconstructed for one or more of the following specified single or mixed uses:
 - (1) Store or sales outlet for the conduct of retail business, provided, however, convenience stores with gas pumps shall not be permitted in this district.
 - (2) Professional and business offices.
 - (3) Bank or other financial institution.
 - (4) Restaurant or other eating place.
 - (5) Hotel.
 - (6) Theater, auditorium, museums, stadium, sports or convention complex, legalized gaming facilities.
 - (7) Cabinet and carpentry shops, studios for artists and crafts people.
 - (8) Public or semipublic building or use.
 - (9) Intermodal transportation facilities including, but not limited to, bus and/or railroad (multi-modal) passenger terminals.
 - (10) Industrial uses in existence prior to this section may be altered or enlarged and mill buildings in existence prior to this section may continue to be used for industrial purposes provided they meet the requirements of the industrial district (IND).
 - (11) Multifamily residence.
 - (12) Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.
 - (13) Water dependent uses:
 - a. Fish and seafood receiving, handling, storage and shipping.

- b. Boat building and repair.
- c. Marinas.
- d. Shipping.
- e. Passenger and cargo terminals, receiving and berthing.

(14) Accessory uses as are customary in connection with the uses listed in this subsection and which are incidental thereto without limitation upon the percentage of site occupied by the accessory use with regard to the percentage of primary use.

(15) Shared or public parking facilities.

(c) *Additional uses.* Uses not established in section 86-177(b)(1)—(13) may be permitted in the waterfront and transit oriented development district upon granting of a special permit by the zoning board of appeals.

(d) *Dimensional regulations.* In a waterfront and transit oriented development district, the following regulations shall apply:

(1) Minimum frontage: 50 feet. (2)

Minimum lot area: 2,500 feet. (3)

Minimum front yard: Ten feet. (4)

Minimum side yard: Ten feet. (5)

Minimum rear yard: Ten feet.

(6) Maximum building height: shall not exceed six stories or 80 feet, whichever is greater. This restriction shall not apply to chimneys, ventilators, tanks, bulkheads and other accessory features required above roofs or to towers, spires, domes and ornamental features of churches and other nonresidential buildings. The maximum building height may be increased to 12 stories or 150 feet upon granting of a special permit by the zoning board of appeals.

(7) Minimum lot area for residential units shall not apply in a waterfront development district.

(8) Maximum lot coverage: 80 percent.

(9) Minimum parking requirements:

a. Dwelling units: 1.5 spaces per unit if less than 50 units; 1.25 spaces per unit if 50 or more units.

b. Restaurant and retail establishments: No dedicated parking spaces required.

c. Hotel or lodging room: One space for each hotel room or lodging room.

d. Office use: One space per each 200 square foot of gross floor area. After 10,000 square feet of gross floor area, one space for every 1,000 square feet of gross floor area.

e. Industrial uses: One space per each 500 square feet of gross floor area.

f. Water dependent uses: 0.6 spaces per each boat slip or mooring.

Mixed use developments that share parking spaces, containing more than 200 spaces may reduce the required number of spaces by 30 percent.

(e) *Signs.* Signs shall be restricted to the following types:

(1) Signs which display the name of the establishment and the goods sold or services rendered on the premises, shall be flat on the walls of the building or on a marquee or parapet. No sign shall project from the building forward from a vertical plane or overhang open space.

(2) Illumination of buildings or signs shall be shielded to prevent glare. Moving screen or intermittent illuminated messaging or rolling screen at intervals of no less than five seconds are permitted.

- (3) Free standing or pylon signs shall be permitted, subject to height limit of 25 feet and only for mixed use developments on parcels greater than one acre.
- (4) Offsite signage on a common entrance or single or multiple access roadways may be permitted providing they do not exceed the dimensions contained in the related sections of the revised zoning ordinances, as they may be from time to time adopted.
- (f) *Interaction with state statutes and regulations.* Nothing in this section shall be deemed to be inconsistent with or supersede any federal or state statute, rule or regulation regarding waterfront property including, but not limited to, the Deepwater Port Act of 1974, M.G.L.A. c. 91 regulating waterways or the state wetlands protection statute.
(Ord. No. 2011-18, 9-6-2011)

Secs. 86-178—86-200. Reserved.

FOOTNOTE(S):

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Cross reference— Businesses, ch. 14. (Back)

DIVISION 4. INDUSTRIAL DISTRICTS ^[6]

Sec. 86-201. IND industrial district.

Sec. 86-202. IP industrial park district.

Secs. 86-203—86-220. Reserved.

Sec. 86-201. IND industrial district.

- (a) Uses. In an IND industrial district, no structure or land shall be used except for one or more of the following uses:
- (1) Buildings and structures may be constructed, altered, enlarged or reconstructed and used and land may be used for manufacturing, assembling, packaging, industrial research and development, biotechnology, processing, fabrication, warehousing, wholesaling, trucking, including terminal facilities and uses customarily accessory to such uses.
 - (2) Existing mill buildings in existence prior to 1950 may be altered, reconstructed and used for:
 - a. Office of any kind including medical office;
 - b. Retail store or outlet;
 - c. Bank or other financial institution;
 - d. Restaurant or other eating place; and
 - e. Uses customarily accessory to such uses.
 - f. Art use, visual and performing art space, culinary art, retail sales of art, including gift and specialty shops, except adult use as defined in section 86-81 is prohibited.
- (b) Additional requirements, as follows:
- (1) Dust, smoke, fumes, gas, glare, noxious odors, noise and vibrations shall be limited so as not to be injurious to the public health or to the use of neighboring property as provided by the laws of the commonwealth.
 - (2) All buildings and outdoor storage or work areas shall be set back at least 20 feet from any street line and property line.
 - (3) Adequate provision shall be made for the off-street accommodation of all vehicles, including those of employers, employees, customers and visitors.
 - (4) Flashing, moving or intermittent illumination of buildings or signs shall not be permitted.
 - (5) Off-site signs are permitted, subject to the provisions of section 86-252
 - (6) In an industrial district (IND), the following regulations shall apply:
 - a. Minimum lot frontage: 100 feet.
 - b. Minimum lot area: 10,000 square feet.
 - (7) Body art establishments shall be permitted by special permit subject to the provisions of section 86-72
 - (8) No gravel pit, concrete or asphalt plant shall be permitted, except that in a specific case, the board of appeals may, after a public hearing, grant a special permit for the construction or operation of such use, provided the board finds that the location, setback and design of such use will not be detrimental to the neighborhood by reason of traffic, noise, dust or appearance.

(Ord. No. 1997-2, § 21-156, 1-28-1997; Ord. No. 2000-9, § 1, 5-9-2000; Ord. No. 2001-29, § 4, 10-4-2001; Ord. No. 2002-19, 6-12-2002; Ord. No. 2008-8, § 6, 3-11-2008)

Sec. 86-202. IP industrial park district.

In an IP industrial park district, buildings and structures may be constructed, altered, enlarged, reconstructed and used and land may be used for airport purposes, manufacturing, processing, fabrication, assembling, research and development and biotechnology activities, information and information processing, data collection and data storage, records keeping, instructional and training facilities, telecommunications, public distribution and maintenance facilities not otherwise prohibited by law or ordinance, and uses ancillary thereto, excluding research or use of radioactive, biohazardous or explosive materials. Retail sale shall not be permitted, except that retail sales of products manufactured on the premises are permitted but shall be limited to an area which is five percent of the gross floorspace, or 1,000 square feet, whichever is less. The uses permitted under this section are subject to the following provisions:

- (1) All operations shall be conducted and all materials used in such operations or held in storage shall be contained within enclosed buildings or enclosed by a solid wall, fence or planting of such nature and height as to conceal such operation or materials from view from any public way or area or neighboring premises.
- (2) Waste materials produced by such operations shall be either disposed of, stored in buildings or enclosed as specified in subsection (1) of this section.
- (3) Dust, smoke, fumes, gas, glare, noxious odors, noise and vibrations shall be limited so as not to be injurious to the public health or to the use of neighboring property as provided by the laws of the commonwealth.
- (4) Not less than 20 and not more than 70 percent of the lot shall be covered by improvements, meaning buildings, parking areas, driveways and access roads, and outside storage or assembly areas.
- (5) Buildings housing manufacturing operations shall be set back at least 50 feet from any street line and at least 40 feet from any side or rear lot line. Offices, parking areas and outdoor storage or work areas shall be at least 25 feet from any street line and 20 feet from any side or rear lot line. The setback areas shall be left in a natural unimpaired state or landscaped.
- (6) Adequate provision shall be made for the off-street accommodation of all vehicles, including those of employers, employees, customers and visitors.
- (7) Only signs of the following types are permitted:
 - a. Signs which identify the industrial park and its management.
 - b. Signs which display the name of the establishment and the goods produced or services rendered on the premises.
 - c. Signs offering the premises for sale or to let.
 - d. Directional and safety signs.
- (8) Signs of the type described in subsection (7)b of this section shall be on the walls of the building or on a marquee or parapet.
- (9) Illumination of buildings, yards and signs shall not constitute a hazard to auto drivers, and the light sources of such illumination shall be shielded from adjacent residential districts and streets. Flashing, moving or intermittent illumination shall not be permitted.
- (10) In a specific case, the board of appeals shall, after a public hearing, grant a permit for the following uses, unless, in the opinion of the board, such use would be detrimental to the industrial park and not in the best interest of the city:
 - a. To locate an office building or vehicle parking closer than 25 feet to any street line.

- b. To locate a display sign in a location or of a type different from those allowed under subsections (7) and (8) of this section.
 - c. To use the land for public accommodations such as a hotel, motel or inn, or for a restaurant.
 - d. To allow a distribution facility, including trucking terminals, wholesale distribution facilities, wholesale food processing and warehousing.
- (11) Sanitary landfill operations existing on the effective date of the ordinance from which this subsection is derived may be enlarged, increased and extended to occupy a greater area of land than that occupied on such date, to the limit of the property owned or held on such date for the landfill operations. Once such property limits have been reached, or if such sanitary landfill operation shall cease for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this chapter for this district.

(Ord. No. 1997-2, § 21-158, 1-28-1997)

Secs. 86-203—86-220. Reserved.

FOOTNOTE(S):

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Cross reference— Businesses, ch. 14. (Back)

DIVISION 5. OPEN SPACE DISTRICTS

Sec. 86-221. OSR open space/recreational district.

Sec. 86-222. WR water resource district.

Secs. 86-223—86-250. Reserved.

Sec. 86-221. OSR open space/recreational district.

- (a) *Uses.* In an OSR open space/recreational district, no structure or land shall be used and no structure shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Environmental education or shelter.
 - (2) Recreational uses and structures.
 - (3) Bicycle and pedestrian paths.
 - (4) Water control devices.
 - (5) Maintenance of public lands.
 - (6) Such accessory uses as are customary in connection with any of the uses enumerated in this subsection and which are incidental thereto.
- (b) *Dimensional regulations.* In an OSR district, the following restrictions shall apply:
- (1) Minimum front yard: 75 feet.
 - (2) Minimum side yard: 50 feet.
 - (3) Minimum rear yard: 75 feet.
 - (4) Maximum building height: 2½ stories or 35 feet.
- (Ord. No. 1997-2, § 21-171, 1-28-1997)

Sec. 86-222. WR water resource district.

- (a) *Uses.* In a WR water resource district, no structure or land shall be used and no structure shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Water control devices, dams or temporary structures to control water flow.
 - (2) Structures and facilities used to maintain the existing and potential water supply.
 - (3) Outdoor passive recreation, nature study, footbridges, plank walks, footpaths and bicycle paths.
 - (4) Forestry and nonresidential buildings or structures used only in conjunction with harvesting or storage of forest products.
 - (5) Such accessory uses as are customary in connection with any of the uses enumerated in this subsection and which are incidental thereto.
- (b) *Dimensional regulations.* In a WR district, the following restrictions shall apply:
- (1) Minimum front yard: 75 feet.
 - (2) Minimum side yard: 50 feet.
 - (3) Minimum rear yard: 75 feet.

- (4) Maximum building height: 2½ stories or 35 feet.
(Ord. No. 1997-2, § 21-172, 1-28-1997)

Secs. 86-223—86-250. Reserved.

ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

DIVISION 2. - MOBILE HOMES OR TRAILERS

DIVISION 3. - AGRICULTURAL, HORTICULTURAL AND FLORICULTURAL USES

DIVISION 4. - AREA REGULATIONS

DIVISION 5. - WATERSHED AND WATER SUPPLY PROTECTION DISTRICT REGULATIONS

DIVISION 6. - ARTS OVERLAY DISTRICT (AOD)

DIVISION 7. - RESEARCH AND DEVELOPMENT OVERLAY DISTRICT REGULATIONS

DIVISION I. GENERALLY

Sec. 86-251. Off-street parking facilities in residential districts.

Sec. 86-252. Off-site signs.

Sec. 86-253. Group residences.

Sec. 86-254. Kennels prohibited in residential districts.

Sec. 86-255. Setbacks for garages.

Sec. 86-256. Electronic sign.

Secs. 86-257—86-280. Reserved.

Sec. 86-251. Off-street parking facilities in residential districts.

In any residential district, an off-street parking space or garage space shall be provided on the same lot or an adjoining lot for every family housed on such lot.

(Ord. No. 1997-2, § 21-201, 1-28-1997)

Sec. 86-252. Off-site signs.

In the specific case, the board of appeals may, after a public hearing, grant a special permit for an off-site sign, provided that the board finds that such sign will not be harmful to the public good and will not adversely affect the value or amenity of neighboring property, and also provided that the following requirements are met:

- (1) No off-site sign shall be erected in any residence district, business (B) district or industrial park district; but any off-site sign that, on the effective date of the ordinance from which this section is derived (May 31, 1977), existed in any residence district, business (B) district or industrial park district may continue to exist.
- (2) All off-site signs permitted by this section shall be subject to the requirements of M.G.L.A. c. 93, §§ 29—33, inclusive, and to the following specific requirements:
 - a. No more than one off-site sign structure shall be permitted to be erected on a lot having 50 feet or less of street frontage, and no more than one additional structure shall be permitted for an additional 50 feet of lot frontage or major fraction thereof.
 - b. No such structure shall contain over two signs per facing, nor shall any off-site sign be permitted to be erected within 50 feet of any adjoining residence district if it would directly face such district and be visible therefrom.
 - c. No off-site sign structure shall be permitted to be erected closer than ten feet to the line of any public way or closer to such line than the existing building setback line, whichever is the lesser setback.
 - d. No freestanding off-site sign shall be erected to exceed an overall height of 35 feet above the pavement level of the road from which it is designed to be seen, no wall sign shall extend more than three feet above the roof or parapet line, and no roof sign shall be erected to extend higher than 35 feet above the roof at the point of mounting.
- (3) All off-site electronic signs permitted by this section shall be subject to the use and dimensional regulations of section 86-256 with the exception of use regulation number 3. Commercial messages are permitted for off-site signs.

(Ord. No. 1997-2, § 21-202, 1-28-1997; Ord. No. 2000-9, § 2, 5-9-2000; Ord. No. 2011-17, § 2, 9-6-2011)

Sec. 86-253. Group residences.

- (a) *Generally.* No land or structure within the city, in any district whatsoever, shall be used for a group residence, so-called, in which five or more persons unrelated by blood, marriage or adoption are housed and live together as a family, except those who are members of a religious organization, order, diocese or religious community.
- (b) *Special permit.* In a specific case, the city council acting as the special board of appeals may, after a public hearing, grant a special permit for the use of a structure and land for a group residence provided there is no other group residence within 350 feet of the proposed site, and that such use will not be detrimental to the public good and will not adversely affect the value or amenity of neighboring property.

(Ord. No. 1997-2, § 21-203, 1-28-1997)

Sec. 86-254. Kennels prohibited in residential districts.

No land or structure in any district zoned for residence shall be used for the keeping or maintaining of a kennel, as defined in M.G.L.A. c. 140, § 136A.

(Ord. No. 1997-2, § 21-204, 1-28-1997)

Cross reference— Animals, ch. 6.

Sec. 86-255. Setbacks for garages.

Any private garage in any district shall be placed at least 20 feet from the street line, six feet from any building and four feet from the side and rear line of the lot.

(Ord. No. 1997-2, § 21-205, 1-28-1997)

Sec. 86-256. Electronic sign.

- (a) *Definition.* "Electronic sign" means an outside sign, display, or device that changes its message or copy at intervals by programmable electronic, digital, or mechanical processes or by remote control.
- (b) *Where permitted; use regulations.* Electronic signs shall be allowed in neighborhood shopping districts (B-N), business district (B), mixed business district (MBD) and the industrial districts provided such signage meets the following use and dimensional regulations:

Electronic signs shall also be allowed in local business district (B-L), business district (B-B) and the central business district (CBD) provided the electronic sign is replacing an existing sign and such signage meets the following use and dimensional requirements:

- (1) On-premise commercial messages are allowed.
- (2) Public service messages limited to time and temperature, weather, Amber Alerts and nonprofit community messages are allowed.
- (3) Off-premises commercial messages are allowed by special permit.
- (4) The sign shall be programmed so that the message or image on the sign changes no more often than every four seconds.
- (5) The sign shall not display any illumination that changes in intensity during the static display period.
- (6) The electronic sign shall have installed ambient light monitors, and shall at all times allow such monitors to automatically adjust the brightness level of the sign based on ambient light conditions.

- (7) Maximum brightness levels for electronic or digital display boards shall not exceed 5,000 nits when measured from the billboard's face at its maximum brightness, during daylight hours and 500 nits when measured from the board face at its maximum brightness between sunrise and sunset.
 - (8) No such sign shall:
 - a. Emit or utilize in any manner any sound capable of being detected on a main traveled way by a person with normal hearing.
 - b. Cause beams, lasers or rays of light from being directed at any portion of the traveled way, which beams or rays are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or which otherwise interferes with the operation of a motor vehicle.
 - c. Obscure or interfere with the effectiveness of an official traffic sign, device or signal, or cause an undue distraction to the traveling public.
 - d. Contain more than one face visible from the same direction on the traveled way.
 - e. Be located as to obscure or otherwise interfere with a motor vehicle operator's view of approaching, merging or intersecting traffic.
 - f. Depict any material or message, which is distinguished or characterized as adult use as defined in section 86-81 of this Code.
 - g. Contain flashing, or moving lights; moving video; or consist of a static image projected upon a stationary object.
 - (c) *Dimensional regulations.* The maximum area per lot of electronic signage shall not constitute more than the following:
 - (1) Fifty square feet in the industrial park district (IP), neighborhood shopping district (B-N).
 - (2) Forty square feet in the industrial district (IND), business district (B), and mixed business district (MBD).
 - (3) Twenty-four square feet in the local business district (B-L), business district (B-B) and the central business district (CBD).
 - (d) *Special permits.*
 - (1) In a specific case, the zoning board of appeals may, after a public hearing, grant a special permit for an electronic sign in a local business district (B-L), business district (B-B), central business district (CBD) provided the board finds that the location, setback and design of such use will not be detrimental to the area by reason of lighting, appearance or impact on neighboring uses.
 - (2) In a specific case, the zoning board of appeals may, after a public hearing, grant a special permit for an electronic sign in an apartment district (A-2) or a multiple residence district (A-3) provided that the maximum surface area shall not constitute more than 24 square feet, the electronic sign is replacing an existing sign and the board finds that the location, setback and design of such use will not be detrimental to the area by reason of lighting, appearance or impact on neighboring uses.
- (Ord. No. 2011-17, § 1, 9-6-2011)

Secs. 86-257—86-280. Reserved.

DIVISION 2. MOBILE HOMES OR TRAILERS

Sec. 86-281. Use generally.

Sec. 86-282. Special permit for use as residence.

Sec. 86-283. Special permit for trailer park; standards for trailer parks.

Secs. 86-284—86-300. Reserved.

Sec. 86-281. Use generally.

No land within the city, in any district whatsoever, shall be used for a mobile home, automotive type or other, or a trailer, whether mobile or immobile, designed or used for living purposes, except as provided in this division.

(Ord. No. 1997-2, § 21-221(a), 1-28-1997)

Sec. 86-282. Special permit for use as residence.

In a specific case, the board of appeals may, after a public hearing, grant a special permit for the location and use, as a single-family residence, of a mobile home or trailer in the general residence or unrestricted district, provided the board finds that such location and use will not be detrimental to the public good, will not substantially derogate from the intent and purpose of this chapter, and will not adversely affect the value of neighboring property. Each mobile home or trailer for which such permit is granted shall be located on a lot of at least the size required by this chapter for a single-family residence, and water supply and sewage disposal systems adequate in the opinion of the board of health shall be provided before such mobile home or trailer is occupied as a dwelling.

(Ord. No. 1997-2, § 21-221(b), 1-28-1997)

Sec. 86-283. Special permit for trailer park; standards for trailer parks.

In a specific case, the board of appeals may, after a public hearing, grant a special permit for the location and use, as a trailer park, of land in a general residence district, provided that the board finds that such location and use will not be harmful to the public good and will not adversely affect the value or amenity of neighboring property, and also provided that the following use, area and site regulations are met:

- (1) *Use regulations.* The specific uses permitted in this area shall be only the following:
 - a. Location of trailers or mobile homes to be used as single-family residences.
 - b. Living quarters for the owner, his family and bona fide employees.
 - c. Office for conducting business in direct relation to a trailer park, which may include a recreation room and other facilities for the use of residents of the trailer park only.
 - d. Any appurtenance specifically required for public health, safety, morals or general welfare by any municipal agency having jurisdiction in the matter.
 - e. Signs as follows:
 1. One sign advertising the trailer park, not to exceed 30 square feet, which may be illuminated, but not by flashing, intermittent or moving lights. Such sign shall not contain any moving parts.
 2. One sign designating the office of such trailer park, not to exceed two square feet.
- (2) *Area regulations.* The following are the area regulations for mobile homes or trailers:
 - a. Each trailer park shall be located on an area of at least two acres.

- b. Density of such trailer park shall not be in excess of eight families per acre.
 - c. Each trailer site within a trailer park shall be at least 3,000 square feet.
- (3) *Site regulations.* The site regulations for mobile homes or trailers are as follows:
- a. A buffer strip 30 feet wide shall be permanently maintained in grass, shrubs, trees or other plants on the entire perimeter of each trailer park.
 - b. Interior roads shall be at least 20 feet wide and paved.
 - c. Each trailer shall be connected to the public water system in accord with the regulations of the city water department.
 - d. Each trailer shall be connected to a sewer system approved by the board of health.
 - e. Each site within the trailer park on which a trailer is to be located shall be subject to the following:
 - 1. Minimum lot frontage: 40 feet.
 - 2. Minimum setback: 20 feet.
 - 3. Minimum side yard: Ten feet.

(Ord. No. 1997-2, § 21-221(c), 1-28-1997)

Secs. 86-284—86-300. Reserved.

DIVISION 3. AGRICULTURAL, HORTICULTURAL AND FLORICULTURAL USES ^[7]

Sec. 86-301. Districts where permitted; site area.

Secs. 86-302—86-320. Reserved.

Sec. 86-301. Districts where permitted; site area.

In any zoning district, land of five acres or more may be used and existing structures thereon may be expanded or reconstructed for the primary purpose of agriculture, horticulture or floriculture. For such purposes, land divided by a public way or private way or waterway shall be construed as one parcel.

(Ord. No. 1997-2, § 21-52, 1-28-1997)

Secs. 86-302—86-320. Reserved.

FOOTNOTE(S):

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Cross reference— Animals, ch. 6; businesses, ch. 14. (Back)

State Law reference— Subjects not to be regulated by zoning, M.G.L.A. c. 40A, § 3. (Back)

DIVISION 4. AREA REGULATIONS

Sec. 86-321. Reduction of lot area.

Sec. 86-322. Cluster developments.

Secs. 86-323—86-340. Reserved.

Sec. 86-321. Reduction of lot area.

No lot shall be reduced in area or in its dimensions so that:

- (1) The distances between buildings and street lines, lot lines or other buildings on the same lot shall be less than the distances required under the provisions of this chapter;
- (2) The lot area per family shall be less than the area required;
- (3) The percentage of lot area occupied at the level of any story shall be greater than the percentage permitted to be occupied; or
- (4) The dimensions or area of any court, yard or other open space shall be less than the dimensions or area required.

(Ord. No. 1997-2, § 21-252, 1-28-1997)

Sec. 86-322. Cluster developments.

- (a) *Generally.* Cluster developments shall be permitted in the single-family residential district R-80, except in the watershed and water supply protection district per article IV, division 5 of this chapter, only upon issuance of a special permit with site plan approval from the planning board as specified in this chapter and in accordance with the additional requirements specified in this section.
- (b) *Definition.* For purposes of this section, the term "cluster development" shall mean a single-family residential development in which the houses are clustered together into one or more groups on the lot and separated from each other and adjacent properties by permanently protected open space.
- (c) *Purpose.* The purposes of cluster developments are to:
 - (1) Allow for greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of the development is no greater than what is normally allowed in the district.
 - (2) Encourage the permanent preservation of open space, agricultural lands and other natural resources.
 - (3) Maintain the traditional New England rural character and land use pattern in which small villages contrast with open space and farmlands.
 - (4) Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
 - (5) Encourage a less sprawling form of development that consumes less open land.
- (d) *General requirements.* The following standards shall be used as additional requirements in the special permit/site plan approval process for all cluster developments:
 - (1) The development shall include single-family dwellings only.
 - (2) The minimum land required for cluster developments shall be five times the area required for one residence in that district and the parcels shall be in single ownership or control at the time of the application.

- (3) Each lot shall have adequate access on a public way or private way.
- (4) Each lot shall be of a size and shape to provide a building site which shall be in harmony with the natural terrain and other features of the land.
- (5) There shall be an adequate, safe and convenient arrangement of pedestrian circulation, facilities, roadways, driveways and parking.
- (6) The site plan shall identify the location and extent of all wetlands on the site as determined by the conservation commission under the Massachusetts Wetlands Protection Act, M.G.L.A. c. 131, § 40

(e) *Utility requirements.*

- (1) All structures which require plumbing shall be connected to a public sanitary sewer, if available, or to a community septic system, at no expense to the city.
- (2) For dwellings to be served by an on-site waste disposal system, the applicant shall submit a septic system design prepared by a certified engineer and approved by the board of health and a plan illustrating the location of water supply wells with the special permit application. No community septic system serving the development shall exceed a sewage flow of 2,000 gallons per day. Septic systems shall be placed in the development to maximize the distance between systems and shall be placed within common areas rather than on individual lots. Maintenance of community septic systems shall be the responsibility of the community association specified in subsection (i) of this section.
- (3) No cluster development served by on-site waste disposal systems shall be approved unless the applicant can demonstrate to the satisfaction of the planning board that the potential for groundwater pollution is no greater from the proposed development than would be expected from a conventional subdivision with single-family houses on lots meeting the normal size requirements located on the same parcel. Where necessary, the planning board may hire a professional engineer to analyze and certify groundwater impacts, and may charge the applicant for the cost of such analysis, but not to exceed ten percent of the cost of the site preparation.

(f) *Dimensional and density requirements.*

- (1) A one-family detached dwelling or lawful accessory building may be constructed on a lot within a cluster development although such lot has less area and frontage than normally required, as specified in this section.
- (2) The maximum number of dwelling units permitted in a cluster development shall be calculated based upon the minimum lot size normally required in the district for the net developable acreage remaining once the area of all wetlands has been subtracted from the total acreage of the property.
- (3) Under the supervision of the conservation commission and in accordance with the provisions of the Massachusetts Wetlands Protection Act, M.G.L.A. c. 131, § 40, all wetlands shall be identified, and their area subtracted from the net developable acreage of the total parcel.
- (4) Under the supervision of the board of health, and in conformance with state title V program, percolation tests shall be conducted for all lots in the total acreage of the property which would be developed in a standard subdivision layout. The area of those lots which is determined to be not suitable for on-site sewage disposal shall be subtracted from the net developable acreage of the total parcel, unless a system to handle the sewage is designed and approved by the board of health.
- (5) Lot sizes in a cluster development shall not be less than one-half (50 percent) of the minimum lot size normally required in the district.
- (6) In no instance shall a designated lot have less than 75 feet of frontage on a public or private way, and lots shall have a minimum width of 100 feet at the front line of the house.
- (7) Minimum front, rear and side yard setbacks shall be the same as normally required in the district.
- (8) All residential structures and accessory uses within the development shall be set back from the boundaries of the development by a buffer strip of at least 50 feet in width, which shall include trees and shall be kept in a natural or landscaped condition.

(g) *Common open space requirements.*

- (1) All land not devoted to dwellings, accessory uses, roads or other development shall be set aside as common land for recreation, conservation or agricultural uses which preserve the land in essentially its natural condition and shall be taxable as open space.
- (2) The total area of common open space shall equal or exceed the area by which all single-family dwelling lots are reduced below the basic minimum lot area normally required in the zoning district.
- (3) The following lands shall not be used to meet the common open space requirements:
 - a. Lands within the floodplain districts.
 - b. Lands identified as wetlands in accordance with the Massachusetts Wetlands Protection Act.
 - c. Lands with slopes greater than 25 percent.
- (4) Further subdivision of common open land or its use for other than recreational or agricultural use, except for easements for underground utilities and septic systems, shall be prohibited. Structures or buildings accessory to recreation, conservation or agricultural uses may be erected, but shall not exceed over five percent coverage of such open land.

(h) *Common open space ownership.*

- (1) All common open land shall be either:
 - a. Conveyed to a community association owned or to be owned by the owners of lots within the development. If such a community association is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity.
 - b. Conveyed to a nonprofit organization, the principal purpose of which is the conservation or preservation of open space.
 - c. Conveyed to the city, at no cost, and be accepted by it for a park or open space use. Such conveyance shall be the option of the city and shall require the approval of the city council.

If the parcel is located in a watershed and water supply protection district, farmland owners are not required to sell the part of their property which is to become permanent agricultural open space in a conservation easement prohibiting future development of the property in accordance with this section.

- (2) In any case where such land is not conveyed to the city, a restriction enforceable by the city shall be recorded to ensure that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadways. Such restrictions shall further provide for maintenance expenses for the common land in a manner which will ensure its suitability for its function, appearance and cleanliness, and proper maintenance of drainage, utilities and the like.

(i) *Community association.*

- (1) A nonprofit, incorporated community association shall be established, requiring membership of each lot owner in the cluster development. The community association shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, and recreational and thoroughfare facilities. A community association agreement or covenant shall be submitted with the special permit/site plan approval application guaranteeing continuing maintenance of such common utilities, land and facilities, assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of the corporation counsel and the planning board.
- (2) Such agreements or covenants shall provide that, if the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the city may, after notice to the association and a public hearing, enter upon such land and maintain it in order to preserve the taxable value of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the city shall be assessed ratably against the properties within the development.

(j) *Special permit procedures and site plan approval.*

- (1) Applicants for cluster developments shall follow the special permit procedures and the site plan approval procedures specified in this section.
- (2) To promote better communication and to avoid misunderstanding, applicants are encouraged to submit a preliminary plan for review by the planning board prior to the application for a special permit. Such preliminary plans shall comply with the city's subdivision control regulations which are on file in the city clerk's office.
- (3) The planning board approval of a special permit under this section shall not substitute for compliance with the subdivision control law, M.G.L.A. c. 41, § 81K, or oblige the planning board to approve a related definitive plan for subdivision, or reduce any time periods for board consideration under that law. However, in order to facilitate processing, the planning board shall, insofar as practical under law, adopt regulations establishing procedures for submission of a combined special permit application/subdivision plan which shall satisfy the board's regulations under the subdivision control law.
- (4) A site plan for development shall be submitted to the planning board with the application for a special permit. Following approval of the special permit, a definitive plan shall be submitted to the planning board consistent with its subdivision regulations and in substantial conformity with the approved site plan/development plan, except where the cluster development does not constitute a subdivision under the subdivision control law.

(Ord. No. 1997-2, § 21-253, 1-28-1997)

Secs. 86-323—86-340. Reserved.

DIVISION 5. WATERSHED AND WATER SUPPLY PROTECTION DISTRICT REGULATIONS^{18]}

Sec. 86-341. District established; boundaries.

Sec. 86-342. Purpose of district.

Sec. 86-343. Review of plans and analyses.

Sec. 86-344. Nonconforming uses.

Sec. 86-345. Enforcement.

Sec. 86-346. Special permits.

Sec. 86-347. Permitted uses.

Sec. 86-348. Surface water runoff.

Sec. 86-349. Sewage disposal.

Sec. 86-350. Protection of wetlands.

Sec. 86-351. Control of nutrient loading.

Sec. 86-352. Soil erosion and sediment control.

Sec. 86-353. Prohibited uses.

Secs. 86-354—86-370. Reserved.

Sec. 86-341. District established; boundaries.

There is hereby established a watershed and water supply protection district within the city. The district to be shown on the "Zoning Map of the City of Fall River" is bounded and described as follows: beginning at the intersection of Route 195 and the Fall River/Westport line; thence running westerly by Route 195 to the easterly side of Route 24; thence northerly by the easterly side of Route 24 to the centerline of Meridian Street; thence easterly and northerly by the centerline of Meridian Street to a point 200 feet south of the centerline of Watkins Street; thence easterly 600 feet to a point; thence northerly in a line parallel to Meridian Street 6,300 +/- feet; thence easterly 1,100 plus or minus feet; thence northerly 1,100 +/- feet in a line parallel to Meridian Street, to the centerline of Wilson Road; thence westerly 100 feet by the centerline of Wilson Road to the centerline of Riggenbach Road; thence northerly by the centerline of Riggenbach Road 5,500 +/- feet to the southerly line of the research and development overlay district; thence easterly by the southerly line of said district 1,900 +/- to the easterly line of said district thence northerly by the easterly line of said district 4,200 +/- to the Fall River /Freetown boundary line; thence easterly, southerly, southwesterly, westerly and southerly by the corporate boundary to the intersection of the corporate boundary, Route 195 and the point of beginning.

(Ord. No. 1997-2, § 21-255, 1-28-1997; Ord. No. 2008-50, 9-23-2008)

Sec. 86-342. Purpose of district.

The purposes of establishment of the watershed and water supply protection district are to:

- (1) Promote the health, safety and general welfare of the community.
- (2) Protect, preserve and maintain the existing and potential water supply within the city with special regard to the watershed areas feeding into or affecting the Watuppa and Copicut reservoirs.
- (3) Protect and preserve present and potential sources of water supply for the public health and safety.
- (4) Protect and conserve the natural resources of the city.

- (5) Prevent blight and pollution of the environment and particularly those areas within the watershed and water supply protection district.

(Ord. No. 1997-2, § 21-255(1), 1-28-1997)

Sec. 86-343. Review of plans and analyses.

- (a) All plans, analyses and other documentary evidence required under this division must be submitted with any application for a building permit. In the event of appeal to the planning board or zoning board of appeals, all plans and analyses must be filed with the appeal with the planning department.
- (b) Copies of all such plans, analyses and documentary evidence shall be sent to the planning department, board of health and conservation commission. The board of health and the conservation commission shall have the opportunity to submit comments on the plans within 30 days to the building inspector. Failure to make such comment shall be treated as a decision that no comment is necessary.

(Ord. No. 1997-2, § 21-255(8), 1-28-1997)

Sec. 86-344. Nonconforming uses.

Subject to the provisions and restrictions of this division, the requirements of article V of this chapter shall apply with respect to nonconforming uses in the watershed and water supply protection district.

(Ord. No. 1997-2, § 21-255(9), 1-28-1997)

Sec. 86-345. Enforcement.

No building permit shall be issued for development in the watershed and water supply protection district unless and until all of the standards and requirements in this division have been satisfied. The building inspector, the health department, the conservation commission and the Watuppa water board shall all have standing to enforce this division and to bring action for relief in appropriate courts if necessary.

(Ord. No. 1997-2, § 21-255(10), 1-28-1997)

Sec. 86-346. Special permits.

- (a) Subject to the restrictions of this division, the provisions of section 86-55 with respect to special permits shall apply. The special permit-granting authority referred to in this section shall be the zoning board of appeals.
- (b) No special permit shall be granted unless, in addition to all other conditions precedent to the granting of a special permit, the special permit-granting authority specifically finds, based on adequate evidence submitted to it at a public hearing, that the proposed use:
 - (1) Is in harmony with and consistent with the intent and purpose of this division and will promote and effectuate the purposes of the watershed and water supply protection district.
 - (2) Is appropriate to the natural topography, soil, and geological and other characteristics of the site to be developed, including its relation to contiguous sites.
 - (3) Will not, during construction or thereafter, have an adverse environmental impact on any aquifer or recharge area within the city.
 - (4) Will not adversely affect any existing, developed or planned water supply.
 - (5) Is consistent with existing and probable future development of contiguous and surrounding areas.

(Ord. No. 1997-2, § 21-255(11), 1-28-1997)

Sec. 86-347. Permitted uses.

- (a) The watershed and water supply protection district shall be considered as overlaying and shall overlay all other zoning districts within its boundaries. Any uses permitted in the district or portion thereof so overlaid shall be permitted subject to all provisions applicable to the district as set forth in this division.
- (b) Development within 200 feet of the edge of a water body or its tributaries of the city's water supply shall be prohibited.
- (c) In addition, no such use shall be permitted and no building permit shall be issued unless the standards in this division are met.

(Ord. No. 1997-2, § 21-255(2), 1-28-1997)

Sec. 86-348. Surface water runoff.

- (a) There shall be no net increase in surface water runoff from any development in the watershed and water supply protection district, including road, parking area, highway and utility development, and the U.S. Department of Agriculture Soil Conservation Service's most current revised Technical Release 55 (TR-55) is the preferred method for calculating runoff volume based on a 25-year storm.
- (b) For all new residential subdivisions and developments, the owner will be required to submit plans and associated computations to the planning department detailing a wet detention pond with the appropriate vegetation to ensure nutrient removal. The wet pond must be designed to capture the first flush of a storm event. The storm event elevation of the incoming piping shall be set above the first flush volume. The detention pond must be sized adequately to contain a 25-year storm. Storm events in excess of the 25-year storm shall be diverted away from the pond into the appropriate receiving water. Maintenance of the wet pond to ensure its proper function shall be the duty and responsibility of the owner of the wet pond or his successors or assigns.

(Ord. No. 1997-2, § 21-255(3), 1-28-1997)

Sec. 86-349. Sewage disposal.

- (a) No person shall install a new individual on-site sewage disposal system in the watershed and water supply protection district which will produce more than 330 gallons per day per acre of wastewater discharge. For the purpose of this section only, the definition of an acre shall be 40,000 square feet.
- (b) Acreage determinations for compliance with the hydraulic loadings shall be exclusive of wetlands as designated pursuant to the standards of the commonwealth, DEP 310 CMR 10.00.
- (c) Any proposed subdivision within 3,000 feet of a municipal sewer line shall connect all building lots within the subdivision to the city's sewers.

(Ord. No. 1997-2, § 21-255(4), 1-28-1997)

Cross reference— Sewer use regulations, § 74-161 et seq.

Sec. 86-350. Protection of wetlands.

The performance standards for the protection of wetlands in the watershed and water supply protection district shall be the same as the standards of the commonwealth, DEQE 310 CMR 10.00 part I (Regulations for all wetlands) and part III (Additional regulations for inland wetlands), as from time to time amended.

(Ord. No. 1997-2, § 21-255(5), 1-28-1997)

Sec. 86-351. Control of nutrient loading.

- (a) *Purpose.* It is the intent of the city, through the implementation and enforcement of the regulations in this division, to protect its water supply from contamination from nutrients, the failure of which would endanger public health. These nutrients include, and are not limited to, nitrate-nitrogen, phosphate-phosphorus, chlorides, metals and hydrocarbons found as constituents in stormwater runoff and/or as components of leachate associated with septic systems and/or package treatment plants proposed to be located within the watershed and water supply protection district.
- (b) *Single-family dwellings.* Each undeveloped lot, whether part of a subdivision or an existing lot of record, which is located within the watershed and water supply protection district shall provide a natural undisturbed 50-foot buffer between any proposed construction and the city's water supply and its tributaries. A maximum clearing for driveway usage within the buffer shall not exceed 12 feet in width. Lawn areas shall not exceed 8,000 square feet for an 80,000-square-foot lot or ten percent of any other size lot. The total land disturbance shall not exceed 0.5 acre for an R-80 lot or 25 percent of any existing or proposed lot within the watershed and water supply protection district. The applicant shall submit a plan showing the requirements of this subsection, septic, well, driveway and house locations to the building inspector with copies to the conservation commission and the board of health.
- (c) *Nonresidential or multiple-family dwellings.* With any request for a nonresidential or multiple-family development permit, the applicant must submit a nutrient loading analysis demonstrating that there is no net increase in nonpoint nutrient chloride, metals and hydrocarbon loads in stormwater runoff from the project site.
 - (1) The nutrient loading analysis shall show the pre-project and post-project nonpoint source nutrient loads from the project site and show the mitigation plan designed to ensure there is no net increase in nonpoint source nutrients from the completed project.
 - (2) The nutrient loading analysis shall be performed by a certified professional environmental or water quality engineer utilizing accepted criteria for the purposes of the analysis.
 - (3) If the nutrient loading analysis shows a net increase in nonpoint source nutrients from the completed project, no building permit shall be issued.

(Ord. No. 1997-2, § 21-255(6), 1-28-1997)

Sec. 86-352. Soil erosion and sediment control.

- (a) A soil erosion and sediment control plan shall be submitted with each development application for the watershed and water supply protection district where the disturbed area of the proposed development is cumulatively greater than one-half acre.
- (b) The soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed development site.
- (c) The soil erosion and sediment control plan shall provide a schedule of activities, including the sequence of grading and construction, the sequence for installation and/or application of soil erosion and sediment controls, and the sequence of final stabilization of the project site.
- (d) The soil erosion and sediment control plan shall include a site plan map with two-foot contour intervals, at an appropriate scale, clearly showing the following:
 - (1) Existing and proposed topography, soil types, water bodies and watercourses, and wetlands;
 - (2) Existing structures on the site (if any);
 - (3) Proposed areas of alterations, roads, utilities, areas of cuts and fill, and property lines;
 - (4) The location and design details of all proposed soil erosion and sediment controls and stormwater management facilities; and
 - (5) The sequence of construction, installation/application of controls, and final stabilization of the site.

- (e) Construction of a single-family dwelling that is not part of subdivision of land shall be exempt from the requirements of the soil erosion and sediment control plan.

(Ord. No. 1997-2, § 21-255(7), 1-28-1997)

Sec. 86-353. Prohibited uses.

In the watershed and water supply protection district, the following uses shall be prohibited:

- (1) Cluster development.
- (2) Disposal of solid wastes.
- (3) Storage and/or transmission of petroleum or other refined petroleum products except within buildings which it will heat. No underground tanks will be permitted in any location.
- (4) The disposal of liquid or leachable wastes, except for single-family residential subsurface waste disposal systems.
- (5) The use of septic system cleaners which contain toxic organic chemicals.
- (6) Industrial uses which discharge process wastewater on site, including any commercial and service uses discharging wastewater containing contaminants other than normal organic waste.
- (7) Storage of road salt or deicing chemicals.
- (8) Use of chemicals for deicing unless deemed necessary for public safety.
- (9) Dumping of snow brought in from outside the watershed and water supply protection district.
- (10) The mining of land except as incidental to a permitted use.
- (11) The transport, storage or disposal of hazardous wastes, as defined by the hazardous waste regulations promulgated by the division of hazardous waste under the provisions of M.G.L.A. c. 21C.
- (12) The transport, storage or extended use of hazardous materials, as defined by the hazardous waste regulations promulgated by the division of hazardous waste under the provisions of M.G.L.A. c. 21C, except as incidental to a permitted use.
- (13) Automotive service and repair shops, junkyards and salvage yards.
- (14) The alteration of any natural site features or topography, including but not limited to the cutting or removal of trees or other natural vegetation or the dumping, filling, excavating, grading, transferring or removing of any gravel, sand, loam or other soft material, rock or ledge, prior to obtaining all permits and approvals for final development plans required by law.
- (15) The emitting of dust, smoke, fumes, gas, glare, noxious odors, noise and vibrations.
- (16) The use of the following synthetic organic chemicals or compounds containing such chemicals: Endrin, Lindane, Methoxychlor, Toxaphene, 2,4,5-TP (Silvex), Aldicarb, Chlordane, Dalapon, Diquat, Carbofuran, Vydate, Simazine, Atrazine, 1,2 Dibromo-3-chloropropane (DBCP), Picloram, Dinoseb, Alachlor, 1,2 Dibromomethane (EDB), Adipates, or 2,3,7,8-TCDD (Dioxin).
- (17) Any use in contravention of regulations, rules, ordinances or orders of the city's health department, the conservation commission or the Watuppa water board.
- (18) Discharge of household waste, garbage, etc., into the septic system of a building, dwelling, etc.
- (19) The discharge of gray water other than that from a swimming pool, unless discharged into a septic system.

(Ord. No. 1997-2, § 21-255(8.1), 1-28-1997)

Secs. 86-354—86-370. Reserved.

FOOTNOTE(S):

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Cross reference— Water systems, § 74-251 et seq.; waterways, ch. 82. (Back)

DIVISION 6. ARTS OVERLAY DISTRICT (AOD)

Sec. 86-373. AOD arts overlay district.

Secs. 86-371—86-384. Reserved.

Sec. 86-373. AOD arts overlay district.

- (a) *Purpose.* The purposes of establishment of the arts overlay district (AOD) are:
- (1) To promote the expansion of art and culture within the community.
 - (2) To enhance the environment and improve site opportunities for fine arts uses within the arts overlay district.
 - (3) To enhance vitality in the central business district - downtown - waterfront areas by fostering a mix of uses through establishing and increasing downtown housing opportunities and fostering arts-related development and activities. This district is intended to create a core of arts, cultural, and residential activities; encourage greater pedestrian activity as part of entertainment and residential uses, mixed with traditional retail and business activities; encourage economic revitalization; nurture artistic contributions to the city and region, and reduce crime in streets by remaining active for longer hours with shops and restaurants serving increased numbers of area residents and patrons.
- (b) *Underlying districts.* The arts overlay district shall be considered as overlaying and shall overlay all other zoning districts within its boundaries. Any uses permitted in the district or portion thereof so overlaid shall be permitted subject to all provisions applicable to the district as set forth in this division.
- (c) *Uses.* In an arts overlay district, no structure or land shall be used and no structure shall be constructed, altered, enlarged or reconstructed except for one or more of the following uses:
- (1) Visual and performing art space, including, but not limited to, exhibition and concert halls, galleries, and stage and screen theaters excluding those related to adult use as hereinafter referred to.
 - (2) Artist loft or art use.
 - (3) Culinary arts.
 - (4) Retail sales of art, including gift and specialty shops.
 - (5) Community educational arts and related activities.
 - (6) Art schools and studios including school and studios of dance and photography.
 - (7) Beer and cocktail lounges.
 - (8) Performing arts ticket offices or booking agencies.
 - (9) Residential development, both as stand alone development or in conjunction with other permitted uses.
 - (10) Accessory apartments.

Adult use as defined as in section 86-81, definitions of this ordinance is prohibited in the arts overlay district zone.

- (d) *Development and redevelopment standards.*
1. All standards and regulations in the underlying zoning district are valid in the arts overlay district, except as modified in this division.
 2. Residential use is prohibited on first floor frontage on that portion of North Main Street south of Pine Street and on that portion of South Main Street north of Morgan Street.

3. In a specific case the zoning board of appeals, shall after a public hearing grant a special permit to waive minimum lot areas and height, lot coverage percent and yard requirements for multi-family development as cited in the revised zoning ordinances, unless in the opinion of the zoning board of appeals, such waiver would be detrimental to the area and not in the best interest of the city.
4. Town house development in those areas of the AOD district have no minimum lot size.
5. Off-street parking may be provided through one or a combination of the following means:
 - a. On-site, but not located between the street and the front of the building;
 - b. Off-site, by contract in public or private off-street parking facilities;
 - c. Parking may be covered or uncovered.

(Ord. No. 2008-8, § 3, 3-11-2008)

Secs. 86-371—86-384. Reserved.

DIVISION 7. RESEARCH AND DEVELOPMENT OVERLAY DISTRICT REGULATIONS

Sec. 86-385. District established and boundaries.

Sec. 86-386. Purpose.

Sec. 86-387. Permitted uses.

Sec. 86-388. District regulations.

Sec. 86-389. Special permits.

Secs. 86-390—86-400. Reserved.

Sec. 86-385. District established and boundaries.

There are hereby established research and development overlay districts within the city. Said districts are bounded and described as follows:

Beginning at a point at the intersection of the centerline of Interstate 195 and the Fall River/Westport boundary line; thence southerly along said boundary line to the northerly line of the South Watuppa Pond; thence westerly by the centerline of Brayton Avenue Extension, northerly line of the South Watuppa Pond to the centerline of Brayton Avenue extension; thence westerly to the centerline of Route 24; thence northerly by the centerline of Route 24 to the centerline of Interstate 195, thence easterly by the centerline of Interstate 195 to the Fall River/Westport boundary line and the point of beginning.

Beginning at a point at the intersection of the easterly line of Route 24 and the Fall River/Freetown boundary line; thence easterly by said boundary line for a distance of 4,000 feet; thence southerly for a distance of 4,200 ;pm; feet; thence westerly by a distance of 1,900 ;pm; feet to the easterly line of the Industrial Park District; thence northerly and easterly by said district to the easterly line of Route 24; thence northerly by the easterly line of Route 24 to the Fall River/Freetown line and the point of beginning.

(Ord. No. 2007-20, § 1, 9-25-2007)

Editor's note—

Ord. No. 2007-20, § 1, adopted Sep. 25, 2007, repealed § 86-385, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 74-353 pertained to similar subject matter and derived from Ord. No. 2000-7, adopted Apr. 25, 2000.

Sec. 86-386. Purpose.

The purposes of the establishment of the research and development overlay district are to:

- (1) Allow for greater flexibility and creativity in the development of industrial and commercial sites; and
- (2) Encourage compatible development within the entire overlay district.

(Ord. No. 2000-7, 4-25-2000)

Sec. 86-387. Permitted uses.

The research and development overlay district shall be considered as overlaying and shall overlay all other zoning districts within its boundaries. Any uses permitted in the district, or portions thereof so overlaid, shall be permitted subject to all provisions applicable to the district as hereinafter set forth. In addition, buildings within the

district may be constructed, altered, enlarged or reconstructed for one or more of the following specified single or mixed uses and uses customarily accessory to such uses:

- (1) Office of any kind;
 - (2) Educational;
 - (3) Manufacturing;
 - (4) Assembling;
 - (5) Packaging;
 - (6) Industrial research and development;
 - (7) Bio-technology;
 - (8) Processing;
 - (9) Fabrication;
 - (10) Warehousing;
 - (11) Wholesaling; or
 - (12) Public or commercial parking lot.
- (Ord. No. 2000-7, 4-25-2000)

Sec. 86-388. District regulations.

In addition to the requirements of the overlay district, the following regulations shall apply:

- (1) There will be a minimum open space requirement of 20 percent, not including parking lots and drives located in order to maintain adequate light and air circulation, and to preserve open space.
- (2) No building or structure shall be constructed, altered, reconstructed, raised up or moved so as to contain more than 3½ stories, or so as to exceed in any part a height of 55 feet, except in the case of chimneys, ventilators, tanks, bulkheads, and other accessory features required above roofs, and also in the case of towers, spires, domes and ornamental features of churches and other nonresidential buildings.
- (3) No building shall be constructed, enlarged, or reconstructed within 30 feet of any street line and at least 20 feet from any side or rear lot line.
- (4) Banks, restaurants, and service and retail uses shall be permitted but shall be limited to an area which is five percent of the gross floor space, or 1,000 square feet, whichever is less, unless otherwise permitted by the board of appeals under the provisions of article 2, division 2 of this chapter.
- (5) In the overlay district, the maximum number of residential units shall be limited to five units.
- (6) In the overlay district the following regulations shall apply:
 - a. Minimum lot frontage: 100 feet; and
 - b. Minimum lot area: 10,000 square feet.
- (7) No business activities shall be carried on in the overlay district that are injurious, obnoxious or offensive to the neighborhood by reason of noise, vibration, smoke, cinders, odor, gas, fumes, dust, chemical, radio frequencies, explosive, and hazardous materials or other objectionable features.
- (8) Adequate provision is made for the off street parking provision of all vehicles including those of employers, employees, and visitors.
- (9) All the provisions of section 86-391 for site plan review shall apply.

(Ord. No. 2000-7, 4-25-2000; Ord. No. 2007-20, § 2, 9-25-2007)

Sec. 86-389. Special permits.

Subject to the restrictions of this section as herein before and herein after set forth, the provisions of section 86-55 with respect to special permits shall apply. In a specific case the board of appeals shall, after a public hearing, grant a permit for the following uses unless in the opinion of the board, such use would be detrimental to the research and development overlay district and would not be in the best interest of the city.

- (1) To locate a display sign in a location or of a type different from those allowed in the underlying district.
- (2) To waive the dimensional requirements of the overlay district or the underlying district.

(Ord. No. 2000-7, 4-25-2000)

Secs. 86-390—86-400. Reserved.

ARTICLE V. NONCONFORMING USES, LOTS AND STRUCTURES

Sec. 86-401. Intent.

Sec. 86-402. Nonconforming lots of record.

Sec. 86-403. Nonconforming uses of land.

Sec. 86-404. Nonconforming structures.

Sec. 86-405. Nonconforming uses of structures.

Sec. 86-406. Repairs and maintenance.

Sec. 86-407. Uses permitted by special permit.

Sec. 86-401. Intent.

Within the districts established by this chapter or later amendment thereto, there may exist lots, structures, uses of land and structures, and characteristics of uses which were lawful before the effective date of the ordinance from which this chapter is derived or its amendment, but which would be prohibited, regulated or restricted under its terms. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to unduly prolong their existence. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended except as specifically provided in this chapter, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, or of land, or of a structure and land in combination, shall not be extended or enlarged after such effective date by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. The owner or occupant of any use that does not conform to the regulations of the district in which it is located may apply to the city planning board for a determination that the use is a legal preexisting use under the terms of this chapter. Unless such determination is made by the board, no such use shall be changed to another nonconforming use under section 86-405(3).

(Ord. No. 1997-2, § 21-271, 1-28-1997)

Sec. 86-402. Nonconforming lots of record.

- (a) Any increase in area, frontage, width, yard or depth requirements shall not apply to a lot for single-family and two-family residential use which at the time of the lot's recording, or endorsement, whichever occurred sooner, was not held in common ownership with any adjoining land, conformed to then-existing zoning requirements, and had at least 5,000 square feet of area and 50 feet of frontage. For the purpose of this section, lots shall not be considered to be held in common ownership with adjoining land if each single lot of record adjoins another solely along the rear property line of each lot, so long as each such lot has frontage on an improved public way constructed (or adequately bonded to be constructed) to the city's specifications, or on an improved private way constructed to the city's specifications.
- (b) Any single lot of record containing two or more residential dwelling buildings, the construction of each of which has been completed for not less than ten years, shall be entitled to be divided into separate lots, each of which contains a separate residential dwelling building, pursuant to and subject to the provisions of section 86-55 pertaining to special permits.
- (c) Any two or more contiguous lots of record in common ownership (excepting those contiguous solely along the rear property lines as provided in subsection (a) of this section), each of which contains residential dwelling buildings thereon, and any one of which failed to comply with any of the dimensional requirements at the time of issuance of the building permit for the last building built on any of such lots, shall be entitled to be divided into separate lots maintaining the existing dimensions of record, each of which lots shall contain a separate

residential dwelling building, pursuant to and subject to the provisions of section 86-55 with respect to special permits, and on the further condition that each of such buildings has been completed with respect to its construction for at least five years, and each lot has separate utilities. Two or more single lots of record contiguous and in common ownership, each having constructed thereon a residential dwelling, the construction of which has been completed for not less than ten years, shall not be deemed to be one undivided parcel, and shall be considered to be independent lots.

(Ord. No. 1997-2, § 21-272, 1-28-1997)

Sec. 86-403. Nonconforming uses of land.

Where a nonconforming use of land exists and such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful; provided that:

- (1) No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of the ordinance from which this chapter was derived or its amendment.
- (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on such effective date.
- (3) If any such nonconforming use of land shall cease for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
- (4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(Ord. No. 1997-2, § 21-273, 1-28-1997)

Sec. 86-404. Nonconforming structures.

A structure which is nonconforming by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity except as specifically provided in this chapter, but any structure or portion thereof may be altered to decrease its nonconformity.
- (2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(Ord. No. 1997-2, § 21-274, 1-28-1997)

Sec. 86-405. Nonconforming uses of structures.

A nonconforming use of a structure with a replacement cost of \$1,000.00 or more or of such a structure and premises in combination may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except as specifically provided in this chapter or to change the use to a use permitted in the district in which it is located.

- (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use on the effective date of the ordinance from which this chapter was derived or its amendment, but no such use shall be extended to occupy any land outside such building.
- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may by special permit be changed to another nonconforming use; provided that the board of appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require appropriate conditions and safeguards in accord with the provisions of this chapter.
- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- (5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two years (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this subsection, is defined as damage to an extent of more than 50 percent of the replacement cost at the time of the destruction.

(Ord. No. 1997-2, § 21-275, 1-28-1997)

Sec. 86-406. Repairs and maintenance.

A nonconforming structure or portion of a structure containing a nonconforming use may be maintained by repairing or replacing nonbearing walls, roofing, fixtures, wiring or plumbing; provided that the cubic content existing when it became nonconforming shall not be increased. If a nonconforming structure or portion of a structure contains a nonconforming use and becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by a duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this chapter shall be deemed to prevent action lawfully ordered to protect the public from any unsafe structure.

(Ord. No. 1997-2, § 21-276, 1-28-1997)

Sec. 86-407. Uses permitted by special permit.

Any use which is permitted by special permit under the terms of this chapter (other than a change through board of appeals action from a nonconforming use to another nonconforming use) shall not be deemed a nonconforming use but shall without further action be considered a conforming use.

(Ord. No. 1997-2, § 21-277, 1-28-1997)