



Zoning & Planning Committee Report

City of Newton **In City Council**

Monday, January 9, 2017

Present: Councilors Hess-Mahan, Danberg, Yates, Kalis, Leary and Baker

Absent: Councilors Albright and Sangiolo

City Staff Present: James Freas (Deputy Director, Planning Dept.), John Lojek (Commissioner, Inspectional Services), Karyn Dean (Committee Clerk)

#53-16(2) Zoning ordinance technical amendments

DIRECTOR OF PLANNING requesting technical amendments to the Newton Zoning Ordinance, **Chapter 30**, in order to address edits related to missing or incorrectly transcribed ordinance provisions. [12/13/16 @ 11:15 AM]

Action: Public Hearing Closed; Approved as amended 6-0

Note: Councilor Hess-Mahan opened the public hearing on this item. James Freas, Deputy Director of the Planning Department explained that when the new zoning ordinance was adopted in November of 2015, the intention was for staff to track any identified minor errors during the year. They range from incorrect transcriptions to errors from the previous ordinance or inconsistencies with state law or building code. These technical amendments are the result of that tracking effort.

Mr. Freas presented a PowerPoint demonstrating the amendments which is attached to this report. The Planning Memo for this item also included a table tracking each change with explanations. It is attached for reference as well.

Committee Questions/Comments

Councilor Hess-Mahan asked for questions from the Committee on the presentation.

In reference to the change in Section 3 It was asked what the difference is between beneficial and usable open space. Mr. Freas explained that usable open space is intended for residential districts and beneficial is intended for commercial districts.

A Committee member asked for an explanation of the changes in *Section.3.4.2 Accessory Uses Allowed*. Mr. Freas explained that the previous ordinance stated, that everything that was allowed in this section in a single-residence district was allowed in a multi-residence district. The way it was stated in the updated ordinance, however, created an interpretation problem because those listed allowances under single residence district appeared not to be allowed in the multi-residence district because they weren't specifically listed there. The amendment condenses the language for clarity without requiring listing allowances twice.

It was explained that if a Use is not listed, it is considered not allowed if it is listed somewhere else. This is a Rule of Statutory Construction that states that if something is included in a statute in one instance, it must be included in all instances for it to be allowed in those particular instances. This applies to zoning ordinances as well. This is why the amendments were made to the table in *Section 4.4 Allowed Uses*.

A question was asked about the amendment relative to Banks on the same table. Mr. Freas explained that banks over 5,000 square feet require a special permit in the MU zones, however, that differentiation was not accounted for in the old ordinance which had only one line referencing banks. So the requirements were copied over for every district for banks, except for MU4 where the differentiation was acknowledged which was built into the ordinance. The Councilor asked that the differentiation in sizes and the reason behind some zones requiring a special permit and others not be looked into and Mr. Freas said he would note that.

Mr. Freas noted that Service Establishment Use was amended in this table as they determined it was appropriately applied in the BU1 and BU4 districts and should be allowed in those districts.

The Personal Service had been created but without a parking requirement, so that was added in the Table as well which matches the Services Establishment Use.

There was a question the parking requirement amendment in *Section 5.1.7*. Mr. Freas explained that the language was added to clarify that only one parking spot is allowed in the front setback and two are allowed in the side setback. Commissioner Lojek explained that a resident received a special permit for 2 spaces in the front setback. This confused some neighbors who thought that any parking at all in a front setback required a special permit, which is not true.

A Committee member asked if a homeowner is allowed to asphalt up to the property line for a parking space in the side setback. Commissioner Lojek said that is allowed.

In *Section 5.2.8* language “per establishment” was added to clarify that one principal sign is allowed per business establishment, and two allowed on a corner lot. A Committee member was concerned that there would be a number of signs on buildings that house many businesses and that it should be changed to one sign per building. Commissioner Lojek said that there have been very few problems so far with sign issues and it is only fair that every establishment be allowed a sign. Mr. Freas said that the City generally reviews building signs as a package and would take that those concerns into consideration. The Planning Department, decided to withdraw this amendment as redundant because it was pointed out that “Number per business establishment” is stated in the header of the table. Changing this to per building would be a change in policy. The sign ordinance is a priority area in Phase 2 of Zoning Redesign and this will be looked at in detail soon.

Section 6.2 Residential Uses: The current language states that if you own a residence in one of BU1-4, which is not abutted on two or more sides by a residence district, the house is not allowed to continue to exist and this was confusing. The issue of continued existence was well covered in the non-conforming section of the ordinance, so staff felt these two sections were unnecessary. These decided to leave the Standards headings and keep the section reserved.

In *Section 7.3.2 Review*, the time to exercise a special permit was changed to 3 years to conform to Mass General Law.

It was noted that Board of Aldermen is still referenced throughout the ordinance. This will be changed in the Recodification that will happen in 2017.

Public Comment

No members of the public were present. Alan Schlesinger was present earlier, however, and offered his support for the amendments.

Councilor Hess-Mahan closed the public hearing.

The Planning & Development Board will hold their public hearing on this item on January 11th.

Councilor Yates moved approval as amended, by removing the reference to “per establishment” in Section 5.2.8. The Committee voted in favor unanimously.

#415-16 Zoning amendment to conform with M.G.L. changes to special permit requirement
COUNCILOR HESS-MAHAN requesting to amend Chapter 30, Section 7.3.2.E. to conform with recent amendments to M.G.L. Chapter 40A, Section 9 relative to period of time in which to exercise a special permit. [11/28/16 @ 1:28 PM]
Action: No Action Necessary 6-0

Note: This amendment is included in the technical edits and is therefore redundant. The Committee unanimously voted No Action Necessary.

Respectfully Submitted,

Ted Hess-Mahan, Chair

January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Section References	Page Numbers	Issue	Recommended Solution
Sec. 3.1.3, 3.1.4, 3.15, 3.1.6, 3.1.7, 3.1.8, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.10	Pg. 3-2, 3-4, 3-5, 3-6, 3-7, 3-8, 3-12, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20	Ordinance has definitions for 'Open Space, Beneficial' and 'Open Space, Usable'. The dimensional tables in article 3 just say 'open space'.	In each dimensional table, add the word 'Usable' next to 'Open Space'.
Sec. 3.1.5	Pg. 3-5, 3-15	The language in 1.5.2.G.2 states that when the Council issues a special permit, a rear lot may satisfy the min frontage by measuring the lot frontage along the rear line of the lot or lots in front. The graphic in section 3.1.5 implies that the frontage (D in the graphic) is measured along the street.	Make the graphic in section 3.1.5 and 3.2.5 consistent.
Sec. 3.4.2.A.4	Pg. 3-27	Section 3.4.2.A.4 references 6.7.3 incorrectly. Should reference 6.7.2	Replace "Sec. 6.7.1" with "Section 6.7.2"
Sec 3.4.2 a & b	Pg. 3-27	In the old ordinance, all accessory uses allowed in the single residence districts were also allowed in the multi-residence districts.	Change 3.4.2.A to read: "By Right in All Residence Districts. Such accessory purposes as are proper and usual with detached single-family dwellings or detached two-family dwellings, including but not limited to:" Remove sec. 3.4.2.B. Relabel sec 3.4.2.C as B.
Sec 4.2.2.B.3	Pg. 4-10	The table appears to not allow 4 stories for MU4. 'Or more' is not accurate. The story requirement is not applicable to MU3. The mixed use building heights are only applicable to MU4. [Note: The table on page 4-11, max stories row, is also incorrect and will need to be updated but was not advertised for this round.]	Add SP to Sec. 4.2.2.B.3 to the 4 stories row and remove "or more" from that row heading. Make MU3 column all NA. Make Mixed Use building rows NA for columns other than MU4.

January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Section References	Page Numbers	Issue	Recommended Solution
Sec 4.4.1	Pg. 4-18	Live/work space was first identified as a use for the MU3 district, and also allowed in MU4. In doing so, the use became not allowed in all other districts. This use should exist in BU 1 to 4 and MU1 and 2.	There should be a P added in the BU1, BU2, BU3, BU4, MU1, and MU2 columns in the 'Live/work space' row.
Sec 4.4.1	Pg. 4-18	'Community use space' was first identified as a use for the MU3 district, and also allowed in MU4. In doing so, the use became not allowed in all other districts. This use currently, and appropriately, exists in all commercial areas of the City.	There should be a P in all columns in the 'Community use space' row.
Sec 4.4.1	Pg. 4-18	Rail and bus stations should be allowed in all commercial districts.	There should be a P in all columns in the 'Rail/bus station' row.
Sec. 4.4.1	Pg. 4-19	Banks no longer permitted in the MU4 district where they had been allowed by right or by special permit depending on size. Similarly, in MU3, banks had been allowed by special permit and now are not allowed.	Replace the 'Bank' row with two rows, 'Bank, up to 5,000 square feet; and 'Bank, over 5,000 square feet. The column entries for P and SP should be the same in both rows as the current row except under MU3 it should be SP in both new rows and in MU4 it should be P in the under 5,000 row and SP in the over 5,000 row.
Sec 4.4.1	Pg. 4-19	Business incubator was first identified as a use for the MU3 district. In doing so, the use became not allowed in all other districts. This use should exist in BU1 to 4, in MU1 and 2, and in M and LM.	There should be a P added in the BU1, BU2, BU3, BU4, MU1, MU2, M, and LM columns in the 'Business incubator' row. There should be two dashes signifying not allowed in the MU4.

January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Section References	Page Numbers	Issue	Recommended Solution
Sec 4.4.1	Pg. 4-19	Car and bike sharing/rental as well as electric car charging stations were first identified as uses for the MU3 district, and also allowed in MU4. In doing so, the use became not allowed in all other districts. This use should exist in all commercial areas of the City and had previously been interpreted as allowed.	There should be a P in all columns in the 'Car-sharing service, car rental, bike rental, electric car-charging station' row except the M.
Sec 4.4.1	Pg. 4-19	In Sec 4.2.5.A.7 requires special permit for office uses on street level and rules for lobbies. Section 4.4.1 simply identifies office use as permitted.	Replace P in the MU4 column in the 'Office' row with 'L/SP'.
Sec 4.4.1	Pg. 4-19	Public parking facility use conflicts with public use definition, which includes public parking lots. All public uses are allowed in all districts, therefore, a public parking facility is allowed in all districts.	Remove Parking Facility, Public from Table 4.4.1
Sec 4.4.1	Pg. 4-20	The 'Service Establishment' use should be allowed in business districts & mixed-use.	For both the under and over 5,000 square feet, place a P in the column for BU1, BU2, BU3, and BU4.
Sec. 5.1.4.A	Pg. 5-4, 5-5	The previous ordinance had the use category of 'Service Use', but to address inconsistencies, this use was split into 'Personal Service' and 'Service Establishment'. There is no parking requirement assigned to Personal Service.	Add Personal Service to the parking table with 1 per 300 sf plus 1 per 3 employees.
Sec 5.1.7.A	Pg. 5-7	Should allow 2 parking spaces in side setback and 1 in the street/front setback.	Clarify language.

January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Section References	Page Numbers	Issue	Recommended Solution
Sec 5.2.6.A.1	Pg. 5-18	Reference to Sec 6.2.9 should be 5.2.9.	Replace '(see Sec. 6.2.9)' with '(see Sec. 5.2.9)'
Sec 5.2.8	Pg. 5-21	Chart is inconsistent as to whether the # of signs allowed is per business establishment or per building	Table for Sec 5.2.8, number column: Row 1: Replace "1 total" with "1 per establishment" Row 2: Replace "2 total" with "2 total per establishment" Row 3: Replace "1 total" with "1 per building entrance"
Sec. 6.2.1, 6.2.2	Pg. 6-3	The ordinance reads that single and two family houses in the Business districts may not continue to exist unless abutting residentially zoned lots on two sides. The entire provision is unnecessary because a legally non-conforming use is allowed to continue and section 7.8.2.C.2 deals with how such nonconforming lots are handled.	Remove the text found in sec 6.2.1.B and 6.2.2.B. Leave 'standards' and insert 'reserved' in both places.
Sec 6.2.3.B.2	Pg. 6-3	Parking space restrictions here should be waivable by special permit as it was in the old ordinance.	Add to section 6.2.3.B.2 "In particular instances the City Council may, in accordance with Section 7.3, grant exceptions to Sec. 6.2.3.B.2 if it is determined that literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety of protection of environmental features."

January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Section References	Page Numbers	Issue	Recommended Solution
Sec 6.3.12.B.1	Pg. 6-9	Ref to Admin Site Plan Review should be to section 7.5.	Replace "Sec. 7.2" with "Sec. 7.5"
Sec 6.4.25	Pg. 6-12	Laundry and dry-cleaning shows up both as a stand-alone use and as part of the personal services use. The difference between these uses needs to be clarified.	In personal service definition, reword so that it becomes 'and laundry and/or dry cleaning drop off.'
Sec 7.3.2.E	Pg. 7-4	Legislature has amended MGL 40A to increase the term of a special permit to 3 years.	Change 1 year to 3 years so that it reads: "Any approval of an application for a special permit shall lapse not later than <u>3 years</u> from the grant of such approval..."
Sec 7.3.4.A	Pg. 7-5	Ordinance indicates rear lots are subject to the dimensional controls of 3.1.4, which covers only single residence districts and rear lots are also allowed in MR districts. Reference to 3.1.4 should be to 3.1.5.	Change text in 7.3.4.A to read: Creation of rear lots in residential districts requires a special permit. The rear lot development density and dimensional controls in <u>Secs. 3.1.5 and 3.1.10 for Single Residence districts, and 3.2.5 and 3.2.12 for Multi Residence districts, respectively</u> , shall apply to the proposed rear lot and the remainder of the original lot shall be subject to the density and dimensional controls of the underlying district unless waivers from either of such controls are granted by the <u>City Council</u> .
Sec. 7.6.5	Pg. 7-17	Typo	Replace 're-establidf' with 're-established'.

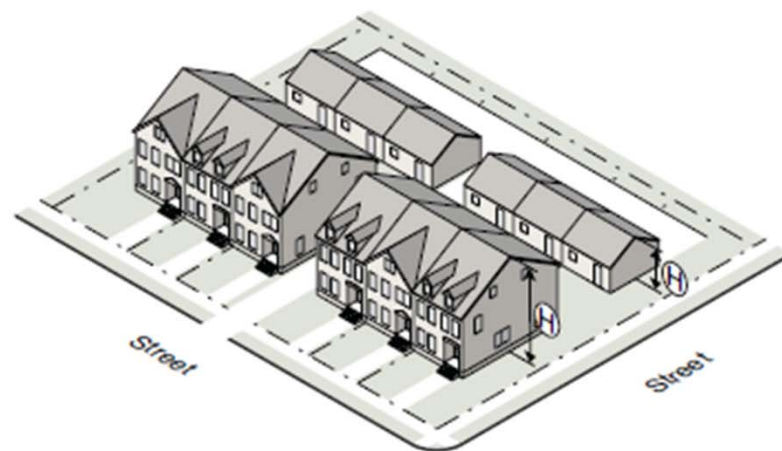
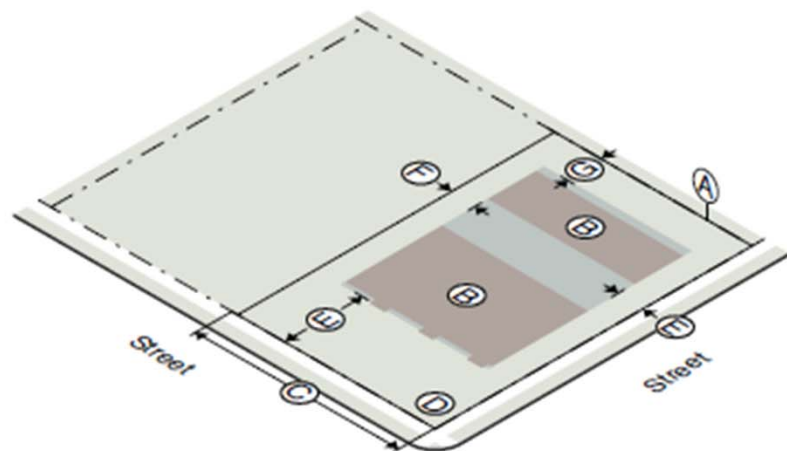
January 2017 Annual Zoning Ordinance Clean-up FINAL LIST

Section References	Page Numbers	Issue	Recommended Solution
Sec 7.8.2.B.2	Pg. 7-22	Should be reference to section 1 not section a.	Change so that it reads: "In accordance with <u>Sec. 7.8.2.B.1</u> , the following de minimus alterations are allowed:"

Zoning and Planning Committee

1

ANNUAL ORDINANCE CLEAN-UP



	SR1	SR2	SR3
Lot Dimensions			
Ⓐ Lot Area (min)	3 ac	2 ac	1 ac
Lot Area Per Unit (min)	25,000 sf	15,000 sf	10,000 sf
Ⓑ Lot Coverage (max)	15%	20%	30%
Ⓒ Lot Frontage	140'	100'	80'
Ⓓ <u>Usable</u> Open Space (min)	70%	65%	50%
Principal Building Setbacks			
Ⓔ Front (min) *	40'	30'	30'
Ⓕ Side (min)	25'	25'	25'
Ⓖ Rear (min)	25'	25'	25'

	SR1	SR2	SR3
Building Height			
Sloped Roof (max)	36'	36'	36'
Flat Roof (max)	30'	30'	30'
Ⓗ Stories (max)	2.5	2.5	2.5
Ⓗ Stories by special permit (max)	3	3	3

(Ord. No. S-260, 08/03/87; Ord. No. S-288, 12/07/87; Ord. No. T-173, 09/16/91; Ord. No. V-112, 04/23/97; Ord. No. V-113, 04/23/97; Ord. No. V-122, 07/14/97; Ord. No. Z-77, 02/22/11)

*See Sec. 1.5.3 for setback averaging requirement.

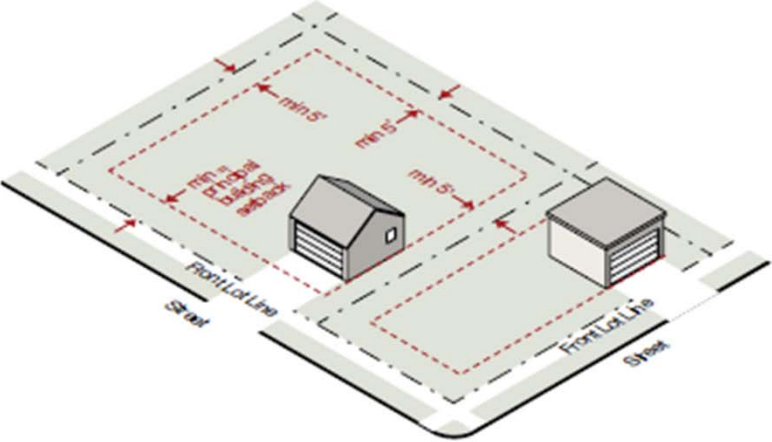
3.4.2. Accessory Uses Allowed

- A. **By Right in All ~~Single~~ Residence Districts.** Such accessory purposes as are proper and usual with detached single-family dwellings or detached two-family dwellings, including but not limited to:
1. Housing of resident domestic employees;
 2. Renting of rooms for not more than 3 lodgers;
 3. Parking or storage of recreational trailers or vehicles, provided that if not parked or stored within a garage or other enclosed structure, such trailer or vehicle shall not be parked or stored within the area between any front line of the principal building and the street line, or stored within the side or rear setback, and further provided that such trailer or vehicle may be parked in the side or rear setback for a period not to exceed 7 days;
 4. Parking or storing of not more than 1 commercial vehicle per lot, subject to Sec. 6.7.23;
 5. Home businesses subject to Sec. 6.7.3, and
 6. Internal accessory apartments in single residence districts, subject to Sec. 6.7.1.
- B. ~~By Right in All Multi-Residence Districts. Such accessory purposes as are proper and usual with detached two-family dwellings.~~
- C. **By Special Permit in All Residence Districts.**

The text of section 3.4.2.C is in effect until April 1,

(Ord. No. S-260, 08/03/87; Ord.No. S-322, 07/11/88; Ord. No. T-114, 11/19/90; Ord. No. V-274, 12/06/99; Ord. No. A-78, 06/20/16)

3.4.3. Accessory Buildings

- A. Except as provided in Sec. 6.9, accessory buildings shall conform to the following requirements:
1. An accessory building shall be no nearer to any side or rear lot line than 5 feet, and no nearer to any front lot line than the distance prescribed for the principal building.
- 
2. An accessory building with a sloping roof shall have a maximum height of 22 feet. An accessory building with a flat roof shall have a maximum height of 18 feet. An accessory building shall have no more than 1½ stories.

isive Plan.

development that fosters compact, oriented villages with a diverse mix of uses, shops, offices, institutions, and spaces for entertainment.

efficient density and intensity of uses to create a lively pedestrian environment, public spaces, and a variety of businesses that serve the needs of the community.

the diversity of housing options available in the City.

the health and well-being of residents by encouraging physical activity, use of public spaces, nodes of transportation, and creating a sense of place and community.

Ord. No. A-4, 10/01/12; Ord. No. A-6,

General Standards

1987, the first addition of less than 2,000 square feet to an existing building or structure is not subject to site plan approval. All buildings, structures and additions shall be located on a lot in single and separate ownership, which lot shall not be available for use in common or in connection with a contiguous or adjacent lot.

3. **Stories.** A special permit is required based on the number of stories according to the following table:

Stories	MU1	MU2	MU3/TOD	MU4
2 stories	P	P	<u>PNA</u>	P
3 stories	P	SP	<u>SPNA</u>	--
3 stories, mixed use residential	<u>NA</u>	<u>NA</u>	<u>SPNA</u>	P
4 stories or more	SP	SP	<u>SPNA</u>	<u>SP</u>
5 stories, mixed use residential	<u>NA</u>	<u>NA</u>	<u>SPNA</u>	SP

P = Allowed by Right
 SP = Special Permit by Board of Alderman Required
 -- Not Allowed NA = Not Applicable

(Ord. No S-260, 08/03/87; Ord. No. A-73, 04/04/16)

Sec. 4.4. Allowed Uses

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Residential Uses												
Single-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.1
Two-Family, detached	L	L	L	L	--	--	--	--	--	--	--	Sec. 6.2.2
Residential use, above ground floor	L	L	L	L	--	SP	L/SP	P	P	--	--	Sec. 6.2.4
Residential use, ground floor	SP	SP	SP	SP	--	SP	SP	P	SP	--	--	Sec. 6.2.4
Assisted living, nursing home	--	--	--	--	--	--	--	SP	SP	--	--	Sec. 6.2.5
Elderly housing with services	SP	SP	SP	SP	--	--	--	--	--	--	--	Sec. 6.2.10
Live/work space	P	P	P	P	--	P	P	P	P	--	--	Sec. 6.2.11
Single-room occupancy dwelling, single-person occupancy dwelling	--	--	--	--	--	--	--	SP	--	--	--	Sec. 6.2.14
Civic/Institutional Uses												
Cemetery, private	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Sec. 6.3.1
Club, clubhouse	P	P	P	P	--	--	P	--	SP	--	P	Sec. 6.3.2
Community use space	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.3
Family child care home, large family child care home, day care center	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.4
Government offices or services	--	--	--	--	--	--	--	P	P	--	--	Sec. 6.3.5
Heliport	--	--	--	--	SP	--	--	--	--	SP	SP	Sec. 6.3.6
Hospital	SP	SP	SP	SP	SP	--	--	--	--	--	--	Sec. 6.3.7
Library, museum or similar institution	P	P	P	P	SP	--	P	P	P	--	P	Sec. 6.3.8
Public use	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.10
Rail/bus station	P	P	P	P	P	P	P	P	P	P	P	Sec. 6.3.11
Religious institution	L	L	L	L	L	L	L	L	L	L	L	Sec. 6.3.12

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Bank, up to 5,000 square feet	P	P	P	P	--	SP	P	SP	P	--	P	<u>Sec. 6.4.4</u>
Bank, over 5,000 square feet	P	P	P	P	--	SP	SP	SP	SP	--	P	
Bowling alley	--	P	--	--	--	--	--	--	--	--	P	<u>Sec. 6.4.5</u>
Business incubator	P	P	P	P	--	P	P	P	--	P	P	<u>Sec. 6.4.6</u>
Business services	--	--	--	--	--	SP	P	--	--	--	--	<u>Sec. 6.4.7</u>
Car-sharing service, car rental, bike rental, electric car-charging station	P	P	P	P	P	P	P	P	P	--	P	<u>Sec. 6.4.8</u>
Car wash	--	--	--	--	--	--	--	--	--	SP	--	<u>Sec. 6.4.9</u>
Drive-in business	SP	SP	SP	SP	--	--	--	--	--	--	SP	<u>Sec. 6.4.11</u>
Dry cleaning or laundry, retail	P	P	P	P	--	SP	P	P	P	--	--	<u>Sec. 6.4.12</u>
Fast food establishment	--	SP	--	--	--	--	--	--	--	--	SP	<u>Sec. 6.4.13</u>
Fuel establishment	--	SP	--	--	--	SP	SP	--	--	SP	SP	<u>Sec. 6.4.14</u>
Funeral home	SP	SP	SP	SP	--	--	SP	--	--	--	--	<u>Sec. 6.4.15</u>
Health club, above or below ground floor	P	P	--	P	--	P	P	P	SP	P	P	<u>Sec. 6.4.16</u>
Health club, ground floor	P	P	--	P	--	SP	SP	SP	SP	P	P	<u>Sec. 6.4.16</u>
Hotel or lodging establishment	SP	SP	SP	SP	SP	--	SP	SP	SP	--	--	<u>Sec. 6.4.17</u>
Job printing, up to 3,000 square feet (area used for work and storage)	P	P	P	P	--	--	P	--	--	P	--	<u>Sec. 6.4.18</u>
Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	<u>Sec. 6.4.18</u>

used for work and storage,

Job printing, over 3,000 square feet (area used for work and storage)	SP	SP	SP	SP	--	--	SP	--	--	P	--	<u>Sec. 6.4.18</u>
Kennel	--	--	--	--	--	--	--	--	--	P	P	<u>Sec. 6.4.19</u>
Office	P	P	P	P	P	P	P	L	PL SP	P	P	<u>Sec. 6.4.20</u>
Office of a contractor, builder, electrician or plumber or similar enterprises	--	L	--	--	--	--	--	--	--	--	L	<u>Sec. 6.4.21</u>
Open-air business	SP	SP	SP	SP	--	--	--	--	SP	--	SP	<u>Sec. 6.4.22</u>
Outdoor storage	--	SP	--	--	--	--	--	--	--	--	--	<u>Sec. 6.4.23</u>
Parking facility, accessory, single level	P	P	P	P	--	--	P	--	P	P	P/ SP	<u>Sec. 6.4.24</u>
Parking facility, non-accessory, single level	SP	SP	SP	SP	--	--	SP	--	SP	SP	SP	<u>Sec. 6.4.24</u>
Parking facility, accessory, multi-level	SP	SP	SP	SP	--	--	--	--	P	SP	SP	<u>Sec. 6.4.24</u>
Parking facility, non-accessory, multi-level	SP	SP	SP	SP	--	--	--	--	SP	SP	SP	<u>Sec. 6.4.24</u>
Parking facility, public	--	--	--	--	--	--	--	P	P	--	SP	<u>Sec. 6.4.24</u>
Personal service, up to 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	<u>Sec. 6.4.25</u>
Personal service, over 5,000 square feet	P	P	P	P	--	--	P	SP	SP	--	P	<u>Sec. 6.4.25</u>

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Board of Aldermen Required -- Not Allowed

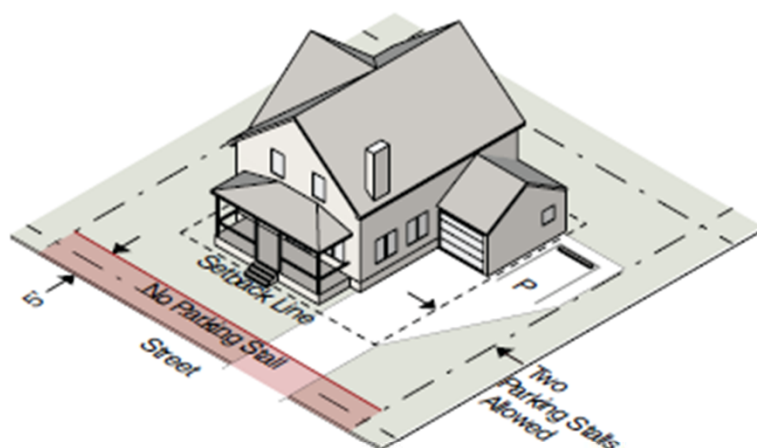
Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Place of amusement, indoor or outdoor	--	SP	--	--	--	--	--	SP	SP	--	SP	Sec. 6.4.26
Radio or television broadcasting studio	SP	SP	SP	SP	SP	--	SP	--	--	L	--	Sec. 6.4.27
Radio, or television transmission station	--	--	--	--	SP	SP	--	--	--	SP	--	Sec. 6.4.27
Research and development	--	--	--	--	--	--	--	P	--	--	--	Sec. 6.4.28
Restaurant	L/ SP	L/ SP	L/ SP	L/ SP	--	SP	P/ SP	P/ SP	P/ SP	--	L/ SP	Sec. 6.4.29
Retail sales, under 5,000 square feet	P	P	P	P	--	--	P	P	P	--	P	Sec. 6.4.30
Retail sales, over 5,000 square feet	P	P	P	P	--	SP	P	SP	SP	--	P	Sec. 6.4.30
Service establishment, up to 5,000 sq. feet	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	--	SP	P	--	P	--	--	Sec. 6.4.31
Service establishment, over 5,000 sq. feet	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	--	SP	P	--	SP	--	--	Sec. 6.4.31
Stable, public	--	--	--	--	--	--	--	--	--	--	SP	Sec. 6.4.32
Taxidermist	--	--	--	--	--	--	--	--	--	--	P	Sec. 6.4.33
Vehicle repair shop, minor	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.34
Vehicle repair shop, major	--	SP	--	--	--	SP	SP	--	--	SP	SP	Sec. 6.4.34
Vehicles sales and service facility, indoor	--	SP	--	--	--	SP	SP	--	--	SP	--	Sec. 6.4.35
Vehicles sales and service facility, outdoor	--	SP	--	--	--	SP	--	--	--	SP	--	Sec. 6.4.35
Veterinary hospital	--	SP	--	--	--	SP	SP	--	SP	P	P	Sec. 6.4.36

Use	Parking Stalls Required	Allowed by Special Permit
Medical office, not on or abutting hospital property	1 per 200 sf plus 1 per 3 every employees in any lab or pharmacy in bldg	
Office, professional building	1 per 250 sf up to 20,000 sf; 1 per 333 sf over 20,000 sf	
Outdoor or open-air sales space, drive-in establishments, open-air retail business, amusements and other similar uses	1 per 600 sf	
<u>Personal Service</u>	<u>1 per 300 sf plus</u> <u>1 per 3 every employees</u>	
Post Office	1 per 300 sf plus 1 per 3 every employees	
Radio or television transmission station	1 per 2,500 sf plus 1 per every 4 employees	
Restaurant, food or beverage establishment (for sidewalk cafe, see 12-70)	1 per 3 patron seats, permanent or otherwise plus 1 per 3 employees	
Restaurant, food or beverage establishment in a hotel, motel	1 per 90 sf plus 1 per every 6 employees	
Retail store, showroom	1 per 300 sf plus 1 per 3 employees	
Service establishment	1 per 300 sf plus 1 per 3 employees	
Theaters, halls, clubs, auditoriums and other places of amusement or assembly, not in a hotel, motel	1 per 3 seats, permanent or otherwise plus 1 per every 3 employees plus 1 per 45 sf used for meeting functions	

5.1.7. Design of Parking Facilities Containing 5 Stalls or Less

A parking facility containing 5 stalls or less shall comply with the following requirements:

- A. No parking stall shall be located within any required setback distances from a street and side lot lines, except that, in conjunction with a single- or two-family dwelling, 2 parking stalls per dwelling unit may be located within required side lot line setback ~~and sideline~~ distances, and 1 may be located within a street setback distance. However, in no case shall a parking stall be set back less than 5 feet from the street.



- B. The minimum dimensions of a parking stall shall be as follows:
1. Stall width shall be at least 9 feet; and
 2. Stall depth shall be at least 19 feet for all angle parking, and 21 feet for parallel parking.

5.2.8. Signs in Commercial Districts

No sign shall be erected or maintained in a business, limited manufacturing, manufacturing, and mixed use district, except as provided in Sec. 5.2.6 and this Sec. 5.2.8:

Type	Number per business establishment	Area per Sign (max)	Notes
Principal sign	1 total per <u>establishment</u>	3 sf per linear foot of building wall frontage OR 100 sf, whichever is less	In particular instances, due to the nature of the use of the premises, the architecture of the building, or its location with reference to the street, the total allowable sign area may be divided between two wall signs which together constitute the principal wall sign.
Principal sign: Business on a corner lot	2 total <u>per establishment</u>	3 sf per linear foot of building wall OR 100 sf, whichever is less	Frontage on the second street must be at least 75 percent of frontage on first street
Secondary sign	1 per building, entrance or frontage on a street or parking area; 2 max	1 sf per linear foot of building wall OR 50 sf, whichever is less	May not be erected on the same wall as a principal sign.
Directory sign	1 total per building <u>entrance</u>	1 sf per occupant or tenant	Indicating the occupants or tenants of the building to which the sign is affixed
Directory sign: building with 2nd entrance	1 per entrance	1 sf per occupant or tenant	The second entrance must have frontage on a street or parking lot. Such signs shall not be deemed nonaccessory directory signs.
Marquee sign	1 per theater		
Awning sign	--	Up to 20% of awning area	
Window sign	--	Up to 25% of window area through which they are visible	
Gas station sign	1 consolidated display	20 sf (aggregate)	Product identification signs (tires, oil...)
Directional sign		3 sf	For the direction of persons or vehicles, indicating "entrance," "exit," "parking," or the like

Sec. 6.1. Use Determination

A. **Interpretations by the Commissioner of Inspectional Services.** The Commissioner of Inspectional Services is responsible for determining all uses. If a proposed use is not listed, but is similar or accessory to a listed use, the Commissioner of Inspectional Services may consider the proposed use part of the listed use. When determining whether a proposed use is similar to a listed use, the Commissioner of Inspectional Services will consider the following criteria:

1. The actual or projected characteristics of the proposed use;
2. The relative amount of lot area or floor area and equipment devoted to the proposed use;
3. Relative amounts of sales;
4. The customer type;
5. The relative number of employees;
6. Hours of operation;
7. Building and lot arrangement;
8. Types of vehicles used and their parking requirements;
9. The number of vehicle trips generated;

Sec. 6.2. Residential Uses

6.2.1. Single-Family Detached

- A. **Defined.** See Sec. 1.5.1
- B. **Standards.** ~~In the Business 1, Business 2, Business 3 and Business 4 districts, a single dwelling unit in existence as of January 1, 2000, is allowed to continue, but only on a lot abutted on 2 or more sides by lots in residence districts and subject to the density and dimensional controls for the abutting residentially-zoned lots.~~[reserved].

6.2.2. Two-Family Detached

- A. **Defined.** See Sec. 1.5.1
- B. **Standards.** ~~In the Business 1, Business 2, Business 3 and Business 4 districts, a dwelling with 2 units in existence as of January 1, 2000, is allowed to continue, but only on a lot abutted on 2 or more sides by lots in residence districts and subject to the density and dimensional controls for the abutting residentially-zoned lots.~~[reserved].

6.2.3. Single-Family Attached

- A. **Defined.** See Sec. 1.5.1
- B. **Standards.**

7. Building and lot arrangement;
8. Types of vehicles used and their parking requirements;
9. The number of vehicle trips generated;
10. Signs;
11. How the proposed use is advertised;
12. The likely impact on surrounding properties; and
13. Whether the activity is likely to be found independent of the other activities on the lot.

B. Uses Not Specifically Listed. A use not specifically listed is prohibited unless the Commissioner of Inspectional Services determines the use to be part of a listed use as described in paragraph A. above.

C. Commissioner of Inspectional Services Action. Following a determination by the Commissioner of Inspectional Services, a written record shall be kept by the Planning and Development Department.

6.2.3. Single-Family Attached

A. Defined. See Sec. 1.5.1

B. Standards.

1. **Single Residence Districts.** No building may be located within 25 feet of any property boundary line.
2. **Multi-Residence Districts.** No parking space shall be located within 20 feet of a boundary line and no driveway shall be located within 10 feet of a side or rear lot line. In particular instances the City Council may, in accordance with Section 7.3, grant exceptions to Sec. 6.2.3.B.2 if it is determined that literal compliance is impractical due to the nature of the use, or the location, size, frontage, depth, shape, or grade of the lot, or that such exceptions would be in the public interest, or in the interest of safety or protection of environmental features.

(Ord. No. S-260, 08/03/87)

6.3.10. Public Use

A. **Defined.** Land, structures and buildings used or designed, arranged or constructed for 1 or more of the following purposes:

1. Public streets and highways;
2. Commons;
3. Public gardens;
4. Parks and conservation areas;
5. Playgrounds;
6. Public parking lots;
7. Railroads;
8. Waterworks reservations;
9. Public purposes;
10. Publicly-owned cemeteries;
11. Other uses similar or accessory to those listed above.

B. **Standards.**

1. Public uses shall be subject only to site plan review and shall not be subject to dimensional, parking or any otherwise applicable zoning requirement. Where the City of Newton is the owner, the building must be constructed in

6.3.12. Religious Institution

A. **Defined.** A church, synagogue, house of worship, or other uses for religious purposes, or a non-profit educational corporation, and such accessory uses that are proper and usual, on land owned or leased by a religious sect or denomination.

B. **Standards.**

1. **Administrative Site Plan Review.** In all districts, the construction, alteration, enlargement, reconstruction, use or change of use for a religious institution shall be subject to the dimensional regulations of the respective zoning district and the parking regulations of Article 5, and is subject to the Administrative Site Plan Review procedure in Sec. 7.25. For purposes of this section "Alteration" shall mean those modifications which produce an increased parking demand pursuant to the requirements in Article 5.

2. **Special Permit Required.**

- a. A special permit is required for the construction, alteration, enlargement, reconstruction, use or change of use for a religious institution that cannot meet the parking regulations in Article 5.
- b. Any accessory use not considered a proper

(Ord. No. S-260, 08/03/87)

6.4.18. Job Printing

A. Defined. [reserved]

6.4.19. Kennel

A. Defined. [reserved]

6.4.20. Office

A. Defined. Offices for professional, business, or medical purposes, excluding the retail sale of tangible personal property from a stock of goods on the premises.

(Ord. No. S-260, 08/03/87)

6.4.21. Office of a Contractor, Builder, Electrician, Plumber or Similar Enterprises

A. Defined. Office of a contractor, builder, electrician, plumber or similar enterprises, together with such storage buildings as are necessarily appurtenant thereto.

2. Multi-Level [reserved]

3. Accessory [reserved]

4. Non-Accessory [reserved]

5. Public [reserved]

6.4.25. Personal Service

A. Defined. Personal services, including but not limited to barbershop, salon, tailor, cobbler, personal trainer or fitness studio, and laundry, and or dry cleaning drop off.

(Ord. No. Z-108, 04/17/12)

6.4.26. Place of Amusement, Indoor and Outdoor

A. Defined. [reserved]

6.4.27. Radio or Television Transmission Station

A. Defined. [reserved]

1. The applicant shall also submit a 3D computer-generated model, including such details as necessary to show the relationship of the project to its surroundings. The level of detail included in the model shall be at the discretion of the Director of Planning and Development. The architect of record shall certify that the model is an accurate representation of the proposed design. For any commercial or multi-family development with a gross floor area of 20,000 square feet or more, a model shall be provided as follows:
 - a. For a proposed development containing a gross floor area of 20,000 to 50,000 square feet, the model shall show the proposed development, all abutting properties and abutters to such abutting properties; for a proposed development containing a gross floor area 50,001 to 100,000 square feet, the model shall show the proposed development and all properties within 500 feet from the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater; or
 - b. For a proposed development containing a gross floor area in excess of 100,000 square
- b. notice of such public hearing shall be provided as required by M.G.L. Chapter 40A, Section 11.
- C. The Board of Aldermen shall act upon any application for special permit not later than 90 days following the the public hearing.
- D. The application for special permit shall be deemed approved if the Board of Aldermen fails to act upon the application not later than ~~90~~ days following the public hearing.
- E. Any approval of an application for special permit shall lapse not later than ~~1 year~~ 3 years from the grant of such approval unless a substantial use of such special permit or construction required by such special permit has begun. The Board of Aldermen may extend the period of time granted under this Paragraph for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the Board of Aldermen or its Committee on Land Use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the special permit for more than 2 years from the date of the grant of the special permit.
- F. The Newton Biosafety Committee shall serve as an advisory body to the Board of Aldermen with

- B. The Board of Aldermen may grant a special permit when, in its judgment, the public convenience and welfare will be served, and subject to such conditions, safeguards and limitations as it may impose.
- C. The Board of Aldermen shall not approve any application for a special permit unless it finds, in its judgment, that the use of the site will be in harmony with the conditions, safeguards and limitations of this Sec. 7.3, and that the application meets all the following criteria:
1. The specific site is an appropriate location for such use, structure;
 2. The use as developed and operated will not adversely affect the neighborhood;
 3. There will be no nuisance or serious hazard to vehicles or pedestrians;
 4. Access to the site over streets is appropriate for the types and numbers of vehicles involved; and
 5. In cases involving construction of building or structures or additions to existing buildings or structures, if those proposed buildings or structures or additions contain individually or in the aggregate 20,000 or more square feet in gross floor area, the site planning, building design, construction, maintenance or long-term operation of the premises will contribute significantly to the efficient use and conservation of natural resources and energy.

(Ord. No. S-260, 08/03/87; Ord. No. Y-17, 05/21/07)

7.3.4. Special Requirements for Rear Lots in Residential Zoning

- A. Creation of rear lots in residential districts requires a special permit. The rear lot development density and dimensional controls in Secs. 3.1.45 and 3.1.10 for Single Residence districts, and 3.2.5 and 3.2.12 for Multi Residence districts, respectively, shall apply to the proposed rear lot and the remainder of the original lot shall be subject to the density and dimensional controls of the underlying district ~~unless~~ waivers from ~~either of~~ such controls are granted by the Board of Aldermen.
1. The provisions of Sec. 7.8.4 shall not apply to the creation of rear lots under this Sec. 7.3.4.
 2. Additional Application Requirements. In addition to the information required in Sec. 7.3.1, there shall be submitted architectural plans for all proposed residential buildings and structures, a landscape plan, site plan, and an area plan showing distances from proposed buildings or structures to existing residential buildings and structures on the original lot and all abutting lots, along with information on the heights and number of stories of these existing buildings or structures. All plans must be prepared, stamped and signed, as appropriate, by an architect, landscape architect, professional engineer or registered land surveyor.

Sec. 7.6. Variances

7.6.1. Applicability

- A. Variance applications shall be heard by the Zoning Board of Appeals as provided in M.G.L. Chapter 40A, Sections 10 and 15, as at the time in effect. The Zoning Board of Appeals may grant, upon appeal or application in cases where a particular use is sought for which no permit is required with respect to particular land or structures, a variance from the terms of this Chapter.
- B. A variance may be granted where it is determined that owing to circumstances relating to soil conditions, shape or topography of such land or structures, and that such circumstances especially affect such land or structures, but do not affect generally the zoning district in which it is located.
- C. A variance may only be granted where a literal enforcement of the provisions of this Chapter would involve substantial hardship, financial or otherwise, to the applicant or appellant.
- D. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Chapter, but not otherwise.

(Ord. No. 284, 06/19/78)

7.6.2. Hearing Required

7.6.4. Conditions, Safeguards and Limitations

In exercising its powers, the Zoning Board of Appeals may impose conditions, safeguards and limitations both of time and use, including the continued existence of any particular structures but excluding any condition, safeguards or limitations based upon the continued ownership of the land or structures to which the variance pertains by the applicant or any owner.

(Ord. No. 284, 06/19/78)

7.6.5. Lapse

If the rights authorized by a variance are not exercised within 1 year of the date of the grant of such variance or within such a lesser period as the Zoning Board of Appeals may determine, they shall lapse, and may be re-~~established~~established only after notice and a new hearing pursuant to this Sec. 7.6.

(Ord. No. 284, 06/19/78)

7.6.6. Vote

The concurring vote of 4 members of the Zoning Board of Appeals shall be necessary to reverse any order or decision of the Commissioner of Inspectional Services, or to decide in favor of the appellant for a permit on any matter upon which it is required to pass under this Chapter.

(Ord. No. 284, 06/19/78)

but not an extension or enlargement of a nonconforming building or structure for a use permitted as of right, in a Business, Mixed Use, Manufacturing or Limited Manufacturing district;

- c. Additional outdoor sidewalk seats permitted under Revised Ordinances Chapter 12, Section 12-70 shall not be considered an increase in the nonconformity nor constitute an extension of use of a lawful nonconforming restaurant in any district; and
- d. Alteration, reconstruction, extension or structural change to a nonconforming non-residential building or structure, which does not increase the nonconforming dimensional nature of said building or structure, for conversion of the building or structure to a use permitted as of right in any residential district.

or greater than the sum of the required setbacks of the 2 adjacent lots;

- d. The resulting construction will meet all building and fire safety codes; and
 - e. The *de minimis* relief provided in this paragraph shall not apply to buildings in which the nonconformity is due solely to FAR requirements, nor shall it be used to increase the FAR beyond that shown in Sec. 3.1.
2. In accordance with paragraph ~~a~~Sec. 7.8.2.B.1., the following *de minimus* alterations are allowed:
- a. Dormers that do not extend above the height of the existing roof peak and do not add more than 400 square feet of floor area;
 - b. Decks or deck additions or porches less than 200 square feet in size;