Leominster Zoning Ordinance

January 14, 2013

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Article I: General Regulations

Section 22-1. Zoning Ordinance

This Ordinance is known and may be cited as the "Zoning Ordinance of the City of Leominster, Massachusetts," hereafter referred to as "the Zoning Ordinance."

Section 22-2. Authority

The Zoning Ordinance is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts (M.G.L.) as amended through December 22, 1977, hereafter called "The Zoning Act." Where the Zoning Act is amended from time to time after the effective date of this Zoning Ordinance and where such amendments are mandatory, such amendments supersede any conflicting regulations of the Zoning Ordinance which are based on the Zoning Act in existence at the effective date of the Zoning Ordinance.

Section 22-3. Purpose

The purpose of the Zoning Ordinance is to promote the health, safety, convenience, morals, and welfare of the present and future inhabitants of the City of Leominster; to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, open space, and other public requirements; to encourage housing for persons of all income levels; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the City; to preserve and increase the City's amenities; and to encourage an orderly expansion of the tax base by utilization, development, and redevelopment of land.

To achieve this end, the Zoning Ordinance seeks to permit, prohibit, regulate, or restrict:

1. Uses of land, including wetlands and land deemed subject to seasonal or periodic flooding.
2. Size, height, bulk, location, and use of structures, including buildings and signs. Please note that billboards, signs, and other advertising devices are also subject to the provisions of Sections 29 - 33 inclusive of Chapter 93 and to Chapter 93D of the Massachusetts General Laws (M.G.L.)
3. Uses of bodies of water, including water courses.
4. Noxious uses.
5. Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses, structures, courts, yards, and open spaces.
6. Density of population and intensity of use.
7. Accessory facilities and uses, such as vehicle parking and loading, landscaping, and open space.

Section 22-4. Definitions

For purposes of this chapter, the following words and phrases have the meanings respectively ascribed to them by this section:

Abandonment. To stop the use of a property intentionally. When a pre-existing nonconforming use has ceased and the property has been vacant for two (2) years or more, abandonment of use is presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use. Any other building that has been condemned by a local authority and has been in a deteriorated and unusable condition for more than twelve (12) months is abandoned.

Accessory apartment. A complete housekeeping unit that functions as a individual dwelling unit separate from the single-family residence of which it is a part and which is occupied by one or more relatives of the owners of the single-family residence.

Accessory structure/building. A subordinate building located on the same lot with the main building or use, the use of which is customarily incidental or related to that of the main building or to the use of the land.

Accessory use. A use customarily incidental to that of the main building or to the use of the land.

Accessible Parking Space AAB (Architectural Access Board). Any public parking space posted and maintained with a permanent sign indicating that the space is reserved for an automobile registered with the Commonwealth of Massachusetts with disability license plates or displaying an official state issued disability placard.

Adult Entertainment Use. The below-defined "Adult" uses may collectively be referred to as "Adult Entertainment Uses." Further, if ten (10) percent or more of an establishment's stock and/or trade is devoted to matters that are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31, then the establishment is deemed to be an adult entertainment use and is governed by the regulations as outlined in this Ordinance.

Adult Entertainment Use Definitions

a. Adult Bookstore. An establishment having as a substantial or significant portion (i.e., ten (10) percent or more) of its stock in trade, books, magazines, video and other matter which are characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

b. Adult Cabaret. A nightclub, bar, restaurant, or similar establishment, which during a substantial portion (i.e., ten (10) percent or more) of the total presentation time features live performances that are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

c. Adult Dance Club. An establishment that, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in M.G.L. Chapter 272, Section 31.

d. Adult Motion Picture Theater. An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 22-25.

e. Adult Paraphernalia Store. An establishment having as a substantial or significant portion (i.e., ten (10) percent or more) of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual intercourse, sexual conduct, or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

f. Adult Theater. A theater, concert hall, auditorium, or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion (i.e., ten (10) percent or more) of the total presentation time of which are distinguished or characterized by their emphasis depicting, describing, or relating, to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

g. Adult Video Store. An establishment having, as a substantial or significant portion (i.e., ten (10) percent or more) of its stock in-trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

Agriculture. See Farming.

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

Amusement and recreation services. See Recreation, indoor and Recreation, outdoor.

Apartment/multi-family dwelling. Any structure regardless of tenure designed or intended or used as the home or residence of three (3) or more families, each in a separate dwelling unit with separate entrances, living independently of each other and who may have a common right in halls and stairways.

Aquifer. A saturated geologic unit that is permeable enough to yield economic quantities of water to wells.

Assisted living facility. A combination of housing, support services, and health care designed to respond to the needs of those who require help in activities of daily living. Such facilities may include common dining and recreation areas, and may offer transportation services. Accessory uses may include beauty salons, convenience stores, pharmacies, and similar establishments.

Attic. A portion of a building between the ceiling beams of the top habitable story and the roof rafters.

Auto salvage. The deposit or storage on any lot of one (1) or more wrecked or inoperative vehicles, or parts thereof, for one (1) month or more. Garaged vehicles are exempt from this provision.

Awning. A roof-like covering, usually of canvas or metal, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from weather.

Bank. A financial institution regulated by the Commissioner of Banking for the Commonwealth of Massachusetts and/or by the United States federal government.

Basement. A portion of a building, partly below grade, which has more than one-half (1/2) of its height, measuring from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four feet, six inches (4'6") or more above the average finished grade.

Bed and breakfast. An owner-occupied single-family dwelling which may rent rooming units for transient occupancy (without individual kitchen facilities and with an individual or shared bath/toilet facility, separate from those required for the single-family dwelling), which share a common entrance with the

single-family dwelling. The use of that portion of the dwelling devoted to transient occupancy is secondary to the use of the dwelling as a single-family residence and may not change the character thereof.

Big box retail. A large-scale retail use that occupies no less than 50,000 square feet of gross floor area, typically generates high traffic volumes and has a regional sales market. Examples include, but are not limited to, membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

Boarding or lodging house. A building containing one or more sleeping rooms without cooking facilities provided for consideration for permanent use to one or more individuals unrelated to the owner or proprietor and not living as a single housekeeping unit.

Buffer. A landscaped area sufficient in depth and screening to visually separate one land use or lot from another.

Building. A combination of any materials, whether portable or fixed, with or without a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals, or property.

Building area. The aggregate of the maximum horizontal cross sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies, and terraces.

Building coverage. The building area expressed as a percent of the total lot area.

Building supplies and equipment rental. Retailing, wholesaling or rental of building supplies or equipment. These uses include lumber yards, tool and equipment sales or rental establishments, but exclude both contractors' yards and the exclusive retail sales of paint and hardware.

Built area. Manmade impervious surface.

Business and professional office. The office of a person or persons engaged in such generally recognized professions as, but not limited to, physician, dentist, psychologist, veterinarian, attorney at law, engineer, architect, landscape architect, interior designer, accountant, or chiropractor.

Business services. An establishment intended for the conduct of service or administration by a commercial enterprise, on a fee or contract basis including, but not limited to actuarial, advertising, janitorial, office equipment rental, telecommunications, printing and photocopying, and other such services.

Cafeteria. An establishment where food and drink is consumed primarily within the principal building, but are served at a buffet-type area and taken by the customer to a table for consumption.

Canopy. See Awning.

Car wash. A commercial facility designed for the principal use of vehicle washing with mechanized equipment whether automatic, semi-automatic, or manual.

Cellar. A portion of a building, partly or entirely below grade, which has more than one-half (1/2) of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.

Cemetery. A plot of land within which the remains of a deceased person or other living being are buried or interred pursuant to the provisions of M.G.L. Chapter 114, as amended.

Certificate of occupancy. The certificate issued by the Director of Inspections which permits the use of a building in accordance with approved plans and in compliance with the Zoning Ordinance.

Clinic, Out-Patient. A facility for the provision of ambulatory health care services, licensed for the provision of such services by an appropriate governmental authority if and to the extent required by applicable law, including the sale, servicing or repair of medical devices and equipment to the general public whether or not owned by or affiliated with a Hospital, or Nursing or Convalescent Home.

Commercial vehicle. Any vehicle which is included in the definition of a motor vehicle given in M.G.L. Chapter 90F, Section 1, including but not limited to, passenger car or van on which is permanently affixed any writing to designate the business or professional use or affiliation of said car or van, or any truck or other vehicle which would be classified other than a passenger vehicle for purposes of registration in the Commonwealth of Massachusetts or an auto home or bus, but excluding a passenger car not marked for business use.

Contractor's yard. Any land or buildings used primarily for the storage of equipment (including equipment rental), vehicles, machinery, or building materials used by the owner or occupant of the premises in the conduct of building trades.

Convalescent home. See Long-term care facility.

Convenience store. A retail store containing less than 2,500 square feet of gross floor area that is designed and stocked to sell a limited supply of food, beverages, and other household supplies to customers.

Conversions. External and internal changes to a structure that increase the number of dwelling units in the structure, not to exceed the number of units per structure allowed in the district.

Copy shop. A retail establishment that provides duplicating services.

Crematorium. A building housing a furnace within which corpses, either human or household pet, are incinerated.

Day camp. The use of a site for provision of indoor or outdoor activities for children, including sports, arts and crafts, entertainment, recreation, educational activities, swimming, fishing, horseback riding, and incidental food service. If incidental to the camp use, camp facilities may be used to provide meeting, recreation, or social facilities for a private association or group.

Day care, adult. A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

Day care center. Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center may not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school

conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services;

Family child care; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefore. As defined in M.G.L., and as licensed or approved by the Department of Early Education and Care, or its successor.

Driveway. An area on a lot which is for the passage of motor vehicles (and not for storing or standing of such vehicles except where serving four (4) or fewer parking spaces), has an all-weather surface, provides access and egress to and from a street or interior drive, and leads to or from a parking space or loading bay (or their related maneuvering aisle).

Driveway, common. A driveway serving more than one lot, each of which has the required frontage and roadway access.

Dwelling unit. A room or group of rooms forming a habitable unit for one (1) family, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Energy system, renewable. Any facility or installation such as a windmill, hydroelectric unit, or solar collecting or concentrating array, which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use.

Façade. The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall, or eaves and the entire width the building elevation.

Family. An individual residing in one dwelling unit; or a group of persons related by marriage, blood and/or adoption residing together as a common household in one dwelling unit; or a group of unrelated individuals, not to exceed four, residing cooperatively as a common household in one dwelling unit.

Family child care. Temporary custody and care provided in a private residence during part or all of the day for no more than ten children younger than 14 years old or children younger than 16 years old if such children have special needs. Family child care does not mean an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore. As defined in 606 CMR 7.02, and as licensed or approved by the Department of Early Education and Care, or its successor.

Farm. Any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

Farming. The cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Floodplain. The area subject to periodic flooding, the limits of which are determined by the flood line, as shown on the federal flood insurance rate maps dated September 16, 1982 and April 3, 1989, or as they may be amended thereafter.

Floor area, gross. The sum, in square feet, of the horizontal areas of all floors of a building or several buildings on the same lot measured from the exterior face of exterior walls, or from the center line of a party wall separating two (2) buildings. Where the text of this Ordinance refers to floor area, the term means gross floor area unless the term net floor area is used.

Floor area, net. The sum, in square feet, of the habitable area in a building, which is determined by excluding the following from calculation of gross floor area:

a. Areas used for parking or loading.
b. Areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating and cooling equipment, electrical and telephone facilities, fuel storage, elevator machinery or mechanical equipment.
c. The thickness of load bearing walls, at each floor.
d. Elevator shafts and common stairways, and common hallways at each floor.
e. Porches, balconies, fire escapes which are unroofed.

Floriculture. The cultivation of flowers or flowering plants, usually commercially.

Frontage, lot. The continuous portion of the line separating a lot from a street to which the owner of the lot has a legal right of access and to which the owner could provide for vehicular access from a principal building or a required parking space. The measurement of lot frontage does not include jogs in street width, back-up strips and other irregularities in street line, and, in the case of a corner lot, may extend to the midpoint of the curve connecting street lines, instead of to their intersection.

Frontage, street. A street to which the owner of the lot has a legal right of access and which provides the required lot frontage. When a lot is bounded by more than one (1) street, any one of them, but only one, may be designated as the frontage street, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two (2) streets forming an interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

Funeral home. An establishment used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therein before burial or cremation.

Garage, private. A building used for the storage of vehicles owned and used by the owner or tenant of the lot on which it is erected for a purpose accessory to the use of the lot.

Gas station minimart. A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store or supermarket.

Groundwater. All water found beneath the surface of the ground, including, without limitation, the slowly moving subsurface water present in aquifers and recharge areas. It is water found in the pore spaces of bedrock or soil, and it reaches the land surface through springs or it can be pumped using wells.

Hazardous or toxic material. Any material that because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term does not include oil, but does include waste oil and all those substances which are classified as hazardous under 42 U.S.C. Section 9601 (14), M.G.L. Chapter 21E and 310 CMR 30.000, as they may be amended, but it is not limited to those substances.

Health Care Overlay District (HCO) Definitions:

a. Development Envelope. The boundary of the area within a designated HCO District within which development may occur in accordance with the provisions of Section 22-33 without a Special Permit issued by the Special Permit Granting Authority pursuant to Subsection 22-33.2.2. Development Area #1, Development Area #2, and the Multi-Use Area are shown on the Zoning Map described in Section 22-6.

b. Development Limit. The aggregate net floor area of any new building or structure for any principal Health Care Use that may be constructed within a specific Development Envelope after its designation, without Site Plan Approval.

c. Health Care Use. A hospital, a medical laboratory, a medical office, a long term care facility, an out-patient clinic or a pharmacy.

d. Lot. The entire property within the boundaries of a particular HCO District, whether or not in common ownership.

e. Medical Laboratory. A facility for the provision of testing, analytical, diagnostic, pharmaceutical or other health care support services, equipment or procedures, whether or not owned by or affiliated with a hospital.

f. Pharmacy. A facility for the sale of prescription and/or non-prescription drugs, medications, and medical supplies to patients (whether ambulatory or in-patient) of any physician affiliated with a Hospital or other use in the same HCO District, or to members of any health maintenance organization or health plan affiliated with such Hospital, but does not mean a retail pharmacy serving the general public.

Health club. A building or portion of a building designed and equipped for the purpose of physical fitness or weight reduction, leisure activities, conduct of sports, or other customary recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests or open to the public for a fee.

Height, building. The vertical distance measured from the mean ground level of the established grade at the base of a building to the mean roof level (see Figure 1).

Home occupation/office. A business use conducted within a dwelling unit that is incidental and secondary to the primary residential use, carried on by the inhabitants of the dwelling, and does not alter the residential character of the property.

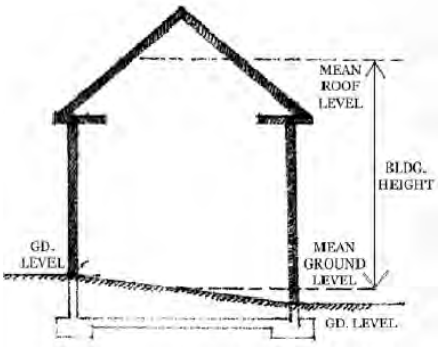


Figure 1. Building Height

Horticulture. The use of land for the growing or production for income of fruits, vegetables, flowers, nursery stock, including ornamental plants and trees, and sod.

Hospital. A facility for the provision of health care services, licensed as an acute, sub-acute or chronic care facility by an appropriate governmental authority if and to the extent required by applicable law, including a facility for the provision of health care services eligible for reimbursement under any governmental or private insurance or other program for payment of any portion of the cost of such service.

Hotel. A building in which lodging is offered for compensation, with access to a majority of all rooms necessitating passing through the main lobby. A central kitchen, dining room, conference and meeting rooms, and accessory shops catering to the general public can be provided.

Impervious surface. Any natural or manmade materials or structures on, above, or below the ground which do not allow surface water or precipitation to infiltrate the underlying soil, including, but not limited to building roofs, parking and driveway areas, compacted graveled areas, sidewalks and paved recreation areas.

Inn. See Bed and breakfast.

Interior drive. A roadway which is privately owned and maintained and serves a planned residential or commercial development. It may have many characteristics of a street but does not meet the legal standards for streets in accordance with City ordinances and regulations. An interior drive is not the same as a driveway, which is the means or access to a parking lot or parking space; an interior drive is the connecting link between a public street and a driveway.

Junk yard. Any land used for the deposit, collection or storage of waste, used or discarded things or materials, whether or not in connection with the dismantling, processing, salvage, sale or other use or disposition thereof.

Kennel. The boarding, breeding, raising, grooming, overnight boarding, or training of two (2) or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

Leachable wastes. Waste materials including solid wastes, sludge, sewage, pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

Life sciences. Advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenetics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science. (M.G.L, Chapter 130 of the Acts of 2008). Facilities that utilize animal testing of products are not included in this definition.

Light Manufacturing. An establishment or activity primarily engaged in manufacturing, production or assembly which does not involve, on the premises, the use of heat, noise, or odor generating/producing processes, which are detectable off-site. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted.

Livestock. Any grazing animal customarily kept in open fields or structures for training, boarding, breeding, home use, sale, or production including, but not limited to horses, cows, cattle, goats, pigs, sheep, alpacas, and llamas.

Live/work. A residential use within a commercial use that is incidental and secondary to the commercial use, and does not alter the commercial character of the property.

Loading, off-street. An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials, and merchandise.

Local access television station. A non-profit Media Arts Educational Organization, teaching media production, providing access to media equipment and hands-on training in media production to residents of Leominster, and overseeing Public, Educational, and Government broadcast on the local cable system.

Long-term care facility. An institution or distinct part of an institution that is licensed by the Massachusetts Department of Public Health to provide 24-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. Such facilities may include congregate living facilities, group care facilities, rest homes, nursing homes, long-term pediatric or geriatric care facilities, and rehabilitation or physical, psychiatric, psychological, cognitive or behavioral therapy facilities whether or not owned by or affiliated with a hospital.

Lot. A parcel of land used, or set aside and available for use as, the site of one (1) or more buildings, accessory buildings thereto or for any other purpose, including open space, under single ownership, not divided by a street, and not within the limits of a public or private way.

Lot, corner. A lot at the junction of and fronting on two or more streets. A corner lot has a front yard along each abutting way and no rear yard. A corner lot may have one or more side yards.

Lot width. The distance between the side lines of a lot measured at right angles to the mean direction of such side lot lines, which line of measurement shall touch, but not be in front of, the front yard. In the case of a corner lot, for the purpose of the measurement only, the front lot line which has the least dimension is the front lot line and the lot lines adjacent thereto are side lot lines.

Maneuvering aisle. An area on a lot which is immediately adjacent to one (1) or more parking spaces or loading bays, is necessary for turning, driving or backing a motor vehicle into such parking space or loading bay, but is not used for the parking or standing of motor vehicles, Article IX.

Manufacturing. The processing, fabrication, or assembly of materials or products, not inclusive of light manufacturing. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted.

Medical facility or office. The place of business of one or more uses concerned with the diagnosis, treatment and care of human beings. These include, but are not limited to, clinics, sanitariums, and providers of medical, dental, surgical, mental health, rehabilitation or other health care or health care support services, equipment or procedures. These uses may involve the proper disposal of medical waste.

Mixed Use Development. A development of two (2) or more compatible land uses, such as residential, office, retail, recreational, and industrial.

Mobile home. See Trailer.

Motel. A building in which lodging with or without meals is offered for compensation, with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby. A central kitchen, dining room, conference and meeting rooms, and accessory shops catering to the general public can be provided.

Motor vehicle body shop. A building or structure that provides collision repair, painting, and replacement of damaged motor vehicle parts.

Motor vehicle service station. A building or structure used for the servicing and repair of motor vehicles including transmission repair; engine overhaul; minor repairs such as engine tune-ups; dispensing of gas, oil, and other similar products; and the installation and repair of accessories such as radios, burglar alarms, and other electronic devices.

Motor vehicle trip. Use of one (1) motor vehicle by one (1) or more persons which either begins or ends (regardless of the duration of parking or standing) on a lot, or at a use or establishment.

Multi-family dwelling. See Apartment/multi-family dwelling.

Museum. Premises for the procurement, care and display of inanimate objects of lasting historical interest or value, with sale of objects only incidental to other activities. In the normal course of its operations, a museum can be expected to host openings, small receptions, collations and similar events with or without charging a fee.

Nonconforming building, structure or lot. A building, structure or lot that does not conform to a use or dimensional regulation prescribed in this Ordinance for the district in which it is located or to other regulations of this Ordinance but which building, structure or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

Nonprofit conservation or recreation organization. An organization whose express purposes include ownership and/or management of property for recreation or conservation purposes.

Nursing home. See Long-term care facility.

Open space. The portions of a lot open and unobstructed to the sky which are reserved for useable permanent active or passive recreation use; exclusive of required setbacks and of access and/or utility easements; and not covered by buildings, structures, canopies, off-street parking areas, maneuvering aisles, loading areas, driveways, or waterways. Open space may include fixed benches, fixed tables, fountains, pathways, bikeways, bicycle racks, period lighting, shade trees, perennial gardens, picnic areas, children's playgrounds, courtyards, trash receptacles, green space, lawn, landscaping, woodland, and/or wetland.

Outdoor display. The outside exhibition of retail items on a daily basis during business operating hours in a manner that is incidental to and part of the operation of the adjacent indoor business use on the same lot.

Outdoor storage. The outside stockpiling for at least 30 days of inventory that is incidental to the adjacent indoor business use on the same lot.

Parking lot. An authorized area not within a building where motor vehicles are stored for the purpose of temporary, daily, or overnight off-street parking.

Parking space. An off-street space available for parking one (1) motor vehicle in conformance with Article IX.

Personal service establishment. Establishment primarily engaged in providing individual services generally related to personal needs. Personal service establishments include, but are not limited to barber shops and beauty shops; laundering, cleaning, and other garment servicing establishments; tailors, dressmaking shops, shoe cleaning or repair shops; and other similar places of business.

Pet services. A business establishment maintained for the purposes of supporting pets to include, but not be limited to grooming, "day care," and bathing. Overnight boarding of pets is not included.

Poultry. Avian species, including, but not limited to, chickens, guinea fowl, peafowl, pheasants, partridges, quail and turkeys.

Printing establishment. A wholesale operation that provides duplicating services.

Private club. A building in which members of a community or association may gather for social, educational, or cultural activities.

Project. A particular development on an identifiable parcel of land.

Recharge area. That portion of the drainage basin where water enters the saturated zone and the net flow of ground water is directed from the saturated zone to a reservoir or aquifer.

Recombinant DNA. Molecular construction outside living cells by joining natural or synthetic deoxyribonucleic acid (DNA) segments to DNA molecules that can replicate in a living cell.

Recreation, indoor. The use of a structure for recreational, social, or amusement purposes, which may include accessory uses like the consumption of food and drink and education and retail services directed to patrons of the facility, including all connected rooms or space with a common means of ingress and egress. Such uses may include, but are not limited to, an athletic field or court, bowling alley, paint ball course, basketball court, tennis club, racquetball and handball courts, batting cages, miniature golf, skating rink, and swimming. These uses can be public or private in nature.

Recreation, outdoor. A use of land conducted for recreational, social, or amusement purposes outside of a building. Active recreational uses may include, but are not limited to, an athletic field, paint ball course, golf course, miniature golf, pitch and putt, skateboard park, swimming, tennis club, bocce, basketball court, batting cages, and driving ranges. Passive recreational uses may include, but not be limited to, parks, gardens, hiking trails, horseback riding, historic sites, picnic areas, and cross-country ski areas. These uses can be public or private in nature.

Recycling center. The use of land and/or structures for the collection and/or processing of used materials, excluding motor vehicles and excluding bottle and can redemption, whereby the resultant product is to be re-used in the same or different form or matter.

Research and development facility. A laboratory or similar facility that has as its primary purpose research, investigation, experimentation, and testing activities related to the fields of electronics, engineering,

geology, physics, or other scientific area, but which does not involve radioactive materials, high intensity electromagnetic radiation, recombinant DNA, or controlled substances, or processes that produce, biological, chemical, or radioactive wastes. Research and development facility does not include facilities for the manufacture or sale of products, except as incidental to the main purpose of the facility.

Restaurant. An establishment where food and drink is prepared, served, and consumed primarily within the principal building.

Restaurant with drive-through window. A restaurant where food and beverages are sold to the public for consumption either on the premises or elsewhere, by order from and service to vehicular passengers, whether or not there are seats inside the restaurant.

Rest home. See Long-term care facility.

Retail Store. A business that sells consumer products directly to consumers and may include, but is not limited to department stores, and stores that sell the following: furniture, clothing, hardware, household furnishing, sporting goods, electronics, and appliances.

Roof line. The eaves lines of a building in the case of a pitched roof or the line where a roof touches the sky otherwise.

Salvage yard. See Auto salvage.

Sawmill. A facility for cutting logs into lumber, firewood or other processed wood products.

Self-storage facility. A building or group of buildings consisting of separate, self-contained units leased to individuals, organizations, or business for self-service storage of personal property.

Service building. Any building included within a manufacturing or office complex that provides basic retail services for employees.

Service use, ancillary. Retail use, including Restaurant and Cafeteria; and Personal service establishment, including child day care, intended for employee use and part of Manufacturing and/or office development.

Setback. The minimum distance from a lot line to a building placed thereon, or feature thereof as is required in a particular situation by the Table of Dimensional Requirements, Article VII.

Setback line. A line, whether straight or not, which denotes the location of the minimum setback.

Side line of a lot. A line separating a lot from other lots or from land in a different ownership, other than a street line or a rear lot line.

Sign. A communication device, structure, or fixture that incorporates graphics, symbols, or written copy intended to promote the sale of a product, commodity, or service, or to provide direction or identification for a structure or area.

Sign, area of. The surface area within a single continuous perimeter consisting of straight lines enclosing all the display area of the sign, but not including structural members not bearing advertising matter unless internally or decoratively lighted.

Sign, attached. A sign permanently erected or affixed to a building.

Sign, freestanding. A sign permanently erected or affixed to the land and not attached to a building.

Sign, nonconforming. A sign lawfully existing before the adoption of this Ordinance which does not now conform to the regulations of the Ordinance.

Sign, off premises. A sign whose subject matter relates to products, accommodations, services or activities not exclusively located on the same premises as that sign. Also referred to as billboards.

Sign, temporary. A sign which, by its inherent nature, can be expected to remain in place for less than two (2) months and whose subject matter relates exclusively to the premises on which it is located or to products, accommodations, services, or activities on the premises.

Special Permit. The permit granted by the City Council, Planning Board or Board of Appeals acting as the Special Permit Granting Authority as hereinafter provided.

Special Permit Granting Authority. City Council, Board of Appeals or Planning Board, depending on the kind of Special Permit and as designated in the Zoning Ordinance.

Story. The portion of a building which is between the upper surface of one (1) floor level and the upper surface of the next higher floor level or the roof. If a mezzanine floor area exceeds one-third (1/3) of the area of the floor immediately below, it is a story. A basement is a story when its ceiling is at least four feet six inches (4' 6") above the finished grade. A cellar is not a story. An attic is not a story if unfinished and without human occupancy.

Street. A thoroughfare that affords the principal means of access to abutting property.

Street furniture. Those features associated with a street that are intended to enhance the street's physical character and use by pedestrians, such as benches, trash receptacles, kiosks, light fixtures, newspaper racks, etc.

Streetscape. The space between the buildings on either side of a street that defines its character. The elements of a streetscape include building frontage/façade, landscaping, sidewalks, street paving, street furniture, signs, awnings, and street lighting.

Street line. The established boundary line between the lot and the street. This is not to be considered as the edge of the traveled portion of the road or as the gutter or curb line of a paved street unless such edge, gutter or curb line is on a street line as defined in this paragraph.

Structure. Anything constructed or erected which requires location on the ground or attachment to something having location on the ground, including but not limited to signs and billboards and tight board and concrete block fences four (4) feet or more in height, but not including other fences.

Studio. A room or place for instruction in one of the performing arts, including but not limited to, music, theater, dance, or for training and instruction in martial arts or yoga.

Townhouse. A building containing three (3) or more dwelling units in a row in which each dwelling unit has its own front and rear access to the ground, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated from another dwelling unit by one (1) or more party walls.

Trailer. Any vehicle which is or can be used for sleeping, living, or working purposes and which is, has been, or can be mounted on wheels.

Transportation service facility or trade depot. An establishment providing transportation services including, but not limited to, air transportation, bus terminals, heliports and heli-stops, railroad yards, railroad passenger terminals, truck stops, and trucking terminals.

Trash transfer station. A handling facility used for the loading of solid waste (refuse) from one (1) container or vehicle to another prior to transporting to the location of further processing or treating or ultimate disposal.

Trucking terminal. A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use would be express and other mail and package distribution facilities, including those operated by the U.S. Post Office.

Two-family dwelling. A building designed for or containing two (2) independent dwelling units.

Undertaking facility. See Funeral home.

Unit parking depth. The distance required to accommodate two (2) rows of parking and a common maneuvering aisle.

Veterinary. A facility where animals are given medical or surgical treatment where boarding of animals is limited to short term care incidental to the medical or surgical treatment.

Warehouse, retail. An off-price or wholesale retail/warehouse establishment offering a full range of general merchandise to the public.

Warehousing. The holding or storage of goods, wares or merchandise in a facility, whether for the owner or for others.

Wholesale establishment. Place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Watershed. A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

Wind Energy Facility. All of the equipment, machinery and structures together utilized to convert wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one (1) or more wind turbines.

Wind Energy Facilities Definitions, Article XVI:

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

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

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

d. Wind Monitoring or Meteorological Tower. A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate.

e. Wind Turbine. A device that converts kinetic wind energy into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two (2) or more blades.

Wireless Communications. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services [47 U.S.C. Section 332 (c) (7) (C) (i)]. Functionally equivalent services are Cellular, Personal Communications Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging and Wi-Fi.

Wireless Communications Definitions:

a. Antenna. The surface from which wireless radio signals are sent and received by a Wireless Communications Facility.

b. Camouflaged. Disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

c. Carrier. A company that provides wireless services.

d. Co-location. The use of a single mount on the ground by more than one (1) carrier (vertical co-location) and or several mounts on an existing building or structure by more than one (1) carrier.

e. Equipment Shelter. An enclosed structure, cabinet, shed, or box, at the base of the mount within which are housed batteries and electrical equipment.

f. Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

g. Fall Zone. The area on the ground within a prescribed radius from the base of a Wireless Communications Facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

h. Lattice tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

i. Licensed Carrier. An entity or person authorized by the FCC to construct and operate a commercial mobile radio services system.

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

k. Mount. The structure or surface upon which antennas are mounted, including the following five (5) types of mounts:

1. Roof-mounted: Mounted on the roof of a building
2. Side-mounted: Mounted on the side of a building
3. Ground-mounted: Mounted on the ground
4. Structure-mounted: Mounted on a structure other than a building
5. Interior-mounted: Mounted within a building/structure such that the Wireless Communications Facility is not visible from the exterior of the building/structure

l. Panel Antenna. A flat surface antenna usually installed in multiples.

m. Radiofrequency engineer. An engineer specializing in electrical or microwave engineering, especially in the study of radiofrequencies.

n. Wireless Communications Facility. Facility for the provision of wireless communications services.

o. Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

p. Separation. The distance between one carrier's array of antennas and another carrier's array.

Yard. An unoccupied space, open to the sky, on the same lot with the building or structure.

Yard, front. A yard extending across the full width of the lot and lying between the front of the lot and the nearest line of the principal building.

Yard, rear. A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the principal building.

Yard, side. A yard extending along the full depth of the lot and lying between the side lot line of the lot and the nearest line of the principal building.

Section 22-5. Districts

The City is hereby divided into districts of eleven (11) underlying types with four (4) overlay districts and two (2) special districts to be known as:

Underlying Districts

Rural Residence and Agriculture (RR)
Residence A (RA)
Residence B (RB)
Residence C (RC)
Business A (BA)
Business B (BB)
Commercial (C)
Industrial (I)
Multi-Use 1 (MU1)
Multi-Use 2 (MU2)
Village (V)

Overlay Districts

Downtown (DO)
Mechanic Street (MSO)
Urban Corridor (UCO)
Health Care (HCO)

Special Districts

Floodplain (FP)
Water Supply Protection (WSP)

Section 22-6. Boundaries

The boundaries of each of the above-referenced zoning districts, except for the FP District, are shown on the map accompanying this section and on file with the City Clerk entitled "Zoning Map, Leominster, Massachusetts, January 14, 2013." The boundaries of the FP District are described in Article II, Section 22-34.

6.1 Where the boundary lines are shown upon such map within the street lines of public and private ways, railroads or utility lines, the center lines of such ways are the boundary lines.

6.2 Where the boundary lines are shown approximately on the location of property or lot lines and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines are the boundary lines.

6.3 Boundary lines located outside of such street lines, railroad or utility lines and shown approximately parallel thereto are parallel to such lines, and dimensions shown in figures placed upon such map between such boundary lines and street, railroad, and utility lines are the distances in feet of such boundary lines from such street, railroad or utility lines, such distances being measured at right angles to such street, railroad or utility lines unless otherwise indicated.

6.4 In all cases which are not covered by other provisions of this section, the location of boundary lines is determined by the distance in feet, if given, from other lines upon such map by the use of identifications as shown on the map or by the scale of the map.

6.5 Where the district boundary line follows a stream, lake or other body of water, such boundary line is at the center line of the channel of the stream unless otherwise indicated.

6.6 Where an underlying district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot may extend no more than thirty feet into the more restricted portion; provided that:

6.6.1 The lot has frontage in the less-restricted underlying district.

6.6.2 Where a lot extends from street to street, the frontage restriction prevails fifty percent of the depth.

6.7 Where property has not been specifically included within an underlying district, it is classed as lying in the most restricted underlying district which abuts it.

Section 22-7. Enforcement

The Director of Inspections is charged with the enforcement of the Zoning Ordinance and shall withhold a permit for the construction, alteration, or moving of any building or structure if the building or structure, as constructed, altered or moved would be in violation of the Zoning Ordinance. No permit or license may be granted for a new use of a building, structure, or land if such use would be in violation of the Zoning Ordinance.

The superior court has jurisdiction to enforce the provisions of the Zoning Act, and any ordinances adopted there under, and may restrain by injunction violations thereof.

Section 22-8. Filing of Plans and Specifications

With each application for a permit to build, the applicant shall file a plan showing the lot, the area, and location of such lot and building thereon. No building hereafter erected, altered, or relocated may be used and no change may be made of the use of any building or any parcel of land, except for the use of land for agriculture, horticulture, or floriculture, unless an occupancy permit signed by the enforcing officer (Director of Inspections) has been granted to the owner or occupant of such land or building. Such permit may not be granted unless the proposed use of the land or building and all accessory uses comply in all respects with the Zoning Ordinance, and no use may be made of such land or building except the use or uses authorized by such occupancy permit.

Section 22-9. Applicability to Existing Buildings and Uses

Any lawful building or structure or lawful use of a building, structure, land or part thereof existing at the time of the adoption of this ordinance is not affected by this ordinance to the extent of the use existing at the time of adoption.

Section 22-10. Recorded Lots

10.1 Any lot or lots of land described in a deed and officially recorded with the registry of deeds may be used for any permitted use in the district in which the lot or lots are located, provided that:

10.1.1 In the case of a nonconforming lot, no adjoining vacant lot is in the same ownership.

10.1.2 Lots which do not conform to the requirements of Article VII are used with the minimum nonconformance except that no lot may be less than 5,000 square feet, no lot may have less than fifty (50) feet of frontage, nor any side yard less than eight (8) feet.

10.2 If a definitive plan, or a preliminary plan followed within seven (7) months by a definitive plan, is submitted to the Planning Board for approval under the subdivision control law; and written notice of such submission has been given to the City Clerk before the effective date of this Ordinance; the land shown on such plan is governed by the applicable provisions of the Zoning Ordinance in effect at the time of the first submission of such plan. Provided that such definitive plan or amendments to is finally approved, the above mentioned exemption lasts for a period of eight (8) years from the date of endorsement of the definitive plan.

10.3 When, as provided for in Section 2.1 of Leominster's Subdivision Regulations, a "Plan Not Requiring Approval" is submitted to the Planning Board and written notice of such submission is given to the City Clerk, the use of the land shown on such plan is governed by the applicable provisions of the Zoning Ordinance in effect at the time of such submission. If such plan is approved, the exemption lasts for a period of three (3) years from the date of endorsement of such plan.

10.4 In the event that any lot shown on a plan endorsed by the Planning Board is the subject matter of any appeal or litigation, the exemption provisions of this section are extended for a period equal to that from the date of filing of the appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in

favor of the owner of said lot. The record owner of the land has the right, at any time, by an instrument duly recorded in the registry of deeds, to waive the provisions of this section, in which case the Zoning Ordinance then in effect applies.

Section 22-11. Lot Frontage

Any building or structure can be erected, altered, enlarged, remodeled, or moved for any lawful purpose in this Ordinance, provided that any lot on which a principal building is hereafter erected or remodeled or moved must have frontage in an amount as required in Section 22-40 on:

11.1 A public way or a way which the City Clerk certified is maintained and used as a public way.

11.2 A way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, M.G.L. Chapter 41, Sections 81K through 81GG.

11.3 An unaccepted street or way, but only after obtaining a Subdivision approval from the Planning Board, when the Planning Board has determined that such street or way has sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to serve such land and the buildings to be erected thereon.

Section 22-12. Nonconforming Uses, Structures and Lots

12.1 Overview

Nonconforming Lots, Uses, and Structures are regulated as provided in Chapter 40A, Section 6 of the General Laws and as provided in this Ordinance.

12.2 Nonconforming Lots

12.2.1 Notwithstanding the area and frontage requirements hereof, a detached one-family or two-family residential use or lawful building other than a dwelling may be constructed and used on a lot having less than the prescribed basic minimum area and/or minimum frontage, width, yard or depth requirements (provided that all other regulations of this Ordinance are complied with) if said lot, prior to the date of the adoption of the requirements in question was otherwise exempt from such requirements by the provisions of Chapter 40A, Section 6.

12.2.2 Such a nonconforming lot may not be further reduced in area or frontage, and if it is subsequently combined with other land in such a way as to reduce or eliminate the non-conformity, it may not again be subdivided except in accord with this Ordinance.

12.3 Nonconforming Uses and Structures

12.3.1 Any lawful building or structure, or use of a building, structure or land, existing at the time of adoption of this Ordinance or any amendment thereto which does not conform to the regulations thereof may be continued. However, except as hereinafter set forth, a non-conforming building or structure may not be structurally altered, enlarged, nor reconstructed.

12.3.2 For the purposes of this section a nonconforming use which has been discontinued for twenty four (24) consecutive months may not be re-established and any future use is to conform to

the regulations of this Ordinance. The discontinuance period is not broken by temporary occupancy, except when such temporary occupancy is for a period of sixty (60) or more consecutive days.

12.3.3 The Board of Appeals may authorize, under a Special Permit, a nonconforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Board may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that such alteration, enlargement, or reconstruction is not substantially more detrimental to the neighborhood than the existing nonconforming use or nonconforming building.

12.3.4 A building or structure devoted to a nonconforming use (whether in whole or in part) or a building or structure nonconforming as to setback, yards, coverage or height, may, if damaged or destroyed by fire or other accidental cause, be repaired or reconstructed within the same portion of the lot and used as before, provided that such repair or reconstruction is substantially completed within twenty four (24) months of the date of the damage or destruction.

12.4 As-of-Right Change, Extension, or Alteration

In either one or both of the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to a structure is not considered an increase in the nonconforming nature of the structure and is permitted by right:

12.4.1 Alteration to a structure which complies with all current setbacks, open space, lot coverage and building height requirements but is located on a lot with insufficient area, frontage and/or width, and the alteration will also comply with all of said current requirements;

12.4.2 Alteration to a non-conforming structure, which will not increase the footprint of the existing structure provided that existing height restrictions, may not be exceeded.

Section 22-13. Special Permits

13.1 The Zoning Ordinance and Article III: Tables of Uses, provide for specific types of uses which are permitted only in specified districts upon the issuance of a Special Permit. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the Ordinance, and are subject to general and specific provisions set forth herein. Such permits may also impose conditions, safeguards and limitations on time or use.

13.2 The Special Permit Granting Authority (SPGA) may grant a Special Permit authorized by this Ordinance if said Board finds, when applicable, that:

13.2.1 The proposal is suitably located in the neighborhood in which it is proposed and/or to the entire City, as deemed appropriate by the SPGA.

13.2.2 The proposal is compatible with existing uses and other uses permitted by right in the same district.

13.2.3 The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibration, lights, or visually offensive structures and accessories.

13.2.4 The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians.

13.2.5 Adequate and appropriate facilities would be provided for the proper operation of the proposed use.

13.2.6 The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance. Applicant will provide landscaping plan, see Subsection 22-62.3.

13.2.7 The proposal ensures that it is in conformance with the sign regulations of the Ordinance, Article XIII.

13.2.8 The proposal provides convenient and safe vehicular and pedestrian movement within the site in relation to adjacent streets, property or improvements.

13.2.9 The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use.

13.2.10 The proposal provides adequate methods of disposal and/or storage for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.

13.2.11 The proposal ensures protection from flood hazards, considering such factors as elevation of buildings, drainage, adequacy of sewage disposal, erosion and sedimentation control, equipment location, refuse disposal, storage of buoyant materials, extent of paving, effect of fill, roadways, or other encroachments on flood runoff and flow.

13.2.12 The proposal ensures protection of water quality in both public and private supplies.

13.3 Special Permits may only be issued following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority, which is either the Planning Board, the Board of Appeals or the City Council, depending on the type, as designated elsewhere in this Ordinance.

13.4 The Special Permit Granting Authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the Office of the City Clerk. Such rules shall prescribe a size, form, contents, style, and number of copies of plans and specifications and the procedure for a submission and approval of Special Permits.

13.5 The Special Permit Granting Authority shall take final action within ninety (90) days following a public hearing for which notice has been given by publication and posting, and by mail to all parties in interest.

13.6 Failure by the Special Permit Granting Authority to take final action upon an application within said ninety (90) days of the public hearing is a grant of the permit applied for.

13.7 Special Permits issued by the Special Permit Granting Authority require a two-thirds (2/3) vote of authorities with more than five (5) members and a vote of at least four (4) members of five (5) member authorities.

13.8 Special Permits lapse two (2) years after issuance if a substantial use thereof has not commenced except for good cause, or, in the case of a permit for construction, if construction has not begun within two (2) years except for good cause.

13.9 Pre-Application Meeting.

13.9.1 To facilitate review of a Special Permit at the pre-application stage, applicants are strongly encouraged to submit the information below using GIS information or other mapping resources such as USGS Quadrangles and aerial photography. This information need not be developed by a design professional.

13.9.1.1 Site Context Map. This map should illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it should show various kinds of major natural resource areas or developed features that cross parcel lines or that are located on adjoining lands. This map enables the Special Permit Granting Authority to understand the site in relation to what is occurring on adjacent properties.

13.9.1.2 Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map should locate and describe noteworthy site resources including existing buildings, parking areas, street names, and natural features.

13.10 Permit Withdrawal

Any application for a Special Permit may be withdrawn without prejudice by the applicant prior to the publication of the public hearing notice. Once the notice has been published, however, a withdrawal without prejudice may be permitted only with the approval of the Special Permit Granting Authority.

Section 22-14. Adoption and Amendment

14.1 The Zoning Ordinance may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereafter provided. Adoption or change of the Zoning Ordinance may be initiated by the submission to the City Council of a proposed zoning ordinance or amendment by the City Council, by the Board of Appeals, by an individual owning land to be affected by such change, by ten (10) registered voters, by the Planning Board, by the Regional Planning Agency, or by other methods provided for by municipal charter. The City Council shall within fourteen (14) days of receipt of such zoning ordinance submit such to the Planning Board for review.

14.2 No Zoning Ordinance or amendment thereto may be adopted until after the Planning Board and the City Council have held a public hearing thereon at which interested persons are given an opportunity to be heard.

14.3 Said public hearing shall be held within sixty-five (65) days after the proposed ordinance is submitted to the Planning Board by the City Council.

14.4 Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the City in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen (14) days before the day of said hearing.

14.5 Notice of said hearing shall also be sent by mail, postage prepaid, to the Executive Office of Housing and Economic Development, the Montachusett Regional Planning Commission, and to the planning boards of all abutting cities and towns.

14.6 A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under this section shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the City Clerk no later than January first of each year, and pays a five ($5.00) dollar fee to cover notification cost.

14.7 In cases involving boundary or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the City Clerk and whose property lies in the district where the change is sought.

14.8 No defect in the form of any notice under this section invalidates any provisions of the Zoning Ordinance unless such defect is found to be misleading.

14.9 No vote to adopt any such proposed ordinance may be taken until a report with recommendations by the Planning Board has been submitted to the City Council, or twenty-one (21) days after the public hearing has elapsed without submission of the report of recommendations.

14.10 After such notice, hearing, and report, or after twenty-one (21) days have lapsed after such hearing without submission of such report, the City Council may adopt, reject, or amend and adopt any such proposed ordinance.

14.11 If the City Council fails to vote to adopt any proposed ordinance within ninety (90) days after the public hearing, no action may be taken thereon until after a subsequent public hearing is held with notice and report as above provided.

14.12 No Zoning Ordinance may be adopted or changed except by a two-thirds (2/3) vote of all the members of the City Council. If there is filed with the City Clerk, prior to final action by the City Council a written protest against such change stating the reasons, and duly signed by owners of twenty (20) percent or more of the area of the land proposed to be included in such change, or if the area of land immediately adjacent extending three hundred (300) feet there from, no such change of any ordinance may be adopted except by a three-fourths (3/4) vote of all members.

14.13 No proposed Zoning Ordinance which has been unfavorably acted upon by the City Council may be considered by the City Council within two (2) years after the date of such unfavorable action unless the adoption of such changes is recommended in the final report of the Planning Board.

14.14 The effective date of the adoption or amendment of any ordinance is the date on which such adoption or amendment was voted upon by the City Council.

14.15 After adoption of the Zoning Ordinance or amendments by the City Council, a copy of the latest effective zoning ordinance shall be sent by the City to the Massachusetts Executive Office of Housing and Economic Development.

14.16 No claim of invalidity of the Zoning Ordinance arising out of any possible defect in the procedure of adoption or amendment may be made in any legal proceeding and no state, regional, county or municipal official shall refuse, deny, or revoke any permit, approval or certification because of any such claim of invalidity unless within one hundred and twenty days (120) after adoption legal action is commenced and notice specifying the court, parties, invalidity claimed, and date of filing if filed together with a copy of the petition with the City Clerk.

14.17 Severability. The provisions of this Zoning Ordinance are severable. If any of its provisions are held unconstitutional or otherwise unenforceable by any court of competent jurisdiction, remaining provisions of the Zoning Ordinance remain in full force and effect to the greatest extent possible.

Section 22-15. Penalty

A violation of the Zoning Ordinance is punishable by a fine of not more than $300 per violation; provided that each day such violation continues constitutes a separate offense.

As an alternative to initiating criminal proceedings, the Director of Inspections may enforce the Zoning Ordinance by noncriminal disposition in accordance with General Laws Chapter 40, Section 21D. For purposes of such enforcement, any person who violates any provision of this Ordinance shall be subject to a penalty of $100 for the first offense, $200 for a second offense, and $300 for the third and any additional offenses.

Article II: General Use Regulations

i. Article III: Tables of Uses sets forth how land and buildings can be used in the various zoning districts and whether the use is by-right or if Site Plan Approval and/or a Special Permit are required. All permitted uses must comply with the appropriate provisions of Section 22-16 and Article VII.

ii. A permitted use must not constitute a nuisance because it is objectionable to an occupant of an adjacent property due to cinders, dust, fumes, noise, odor, refuse, smoke, vapor, vibration, glare, or radiation resulting from the use; and the use must not be contrary to the general welfare, safety, health, and morals of the inhabitants of the City.

Section 22-16. Generally Permitted Uses

For the purposes of this section, the following uses of buildings, structures and land are permitted in all portions of the City subject to the provisions described below and in the Article III: Tables of Uses.

16.1 Any building or structure which conforms to the provisions of this section and with the Building Code of the City.

16.2 Home occupations/offices are allowed as an accessory use by right in residential zoning districts, provided that all of the following criteria are met:

16.2.1 No changes to the exterior of the property may be made that will alter the residential appearance or character of the building.

16.2.2 The principal operator of the business is a resident of the property with only two (2) additional nonresident employees allowed.

16.2.3 Not more than 25% or four hundred (400) square feet of the total floor area of the building, whichever is less, may be used for the business.

16.2.4 The business does not create a nuisance to others in the area by reason of noise, odors, vibration, unsightly conditions, significantly increased traffic, improper disposal of wastes, or other reason.

16.2.5 One (1) vehicle or piece of heavy equipment with gross vehicle weight exceeding 10,000 pounds may be stored or parked out of doors on a lot provided that such storage or parking area is substantially screened.

16.2.6 No outdoor storage of equipment or materials may be used in the home occupation.

16.2.7 No operation of the use may occur between 10:00 p.m. and 7:00 a.m.

16.2.8 Home occupations/offices are not permitted to generate nonresidential traffic or vehicle parking above and beyond what is normal for the typical residential occupancy for the area. A residential building may have not more than two (2) parking spaces to serve the in-home business. Parking on the street without causing an inconvenience may also be allowed.

16.2.9 One (1) display sign (non-illuminated not to exceed a total area of four (4) square feet) may be allowed that will indicate from the exterior of the dwelling that the building is being utilized in part for purposes other than that of a dwelling.

16.3 Governmental buildings, parks, playgrounds, parking facilities, and housing for the elderly under the jurisdiction of any governmental agency.

16.4 Tight board, concrete block, or any solid material fences four (4) feet or more in height, provided that such fences may not be erected beyond the front building line established for the building of houses.

16.5 A use which is incidental or accessory to the foregoing and which is the use of an owner or occupant, provided that:

16.5.1 For residences, such uses are limited to:

16.5.1.1 Tool sheds, playhouses, tennis courts, boat houses, or other buildings or structures for domestic use, storage of boats and boat trailers and private garages for motor vehicles, but not including more than one (1) commercial vehicle other than farm vehicles or more than one (1) vehicle owned by a nonresident of the premises.

16.5.1.2 No more than four (4) lodgers or boarders except in RB and RC districts.

16.5.1.3 Accessory Apartments authorized in accordance with the Special Permit requirements in Article XV of this Ordinance.

16.5.2 For farms, such accessory uses are limited to:

16.5.2.1 No more than four (4) lodgers or boarders except in RB and RC districts.

16.5.2.2 Garages for farm vehicles and equipment, barns, greenhouses, silos, storage or other buildings for temporary or permanent farm use.

16.5.2.3 Stands for the sale of produce mainly raised on the premises only.

16.6 Trailers and mobile homes that are being used as temporary housing and are situated outside of mobile home parks and trailer parks may be permitted in all portions of the City for periods of from more than one (1) year but not to exceed eighteen (18) months; provided that a permit in writing has been granted by the Building Department and provided further that the Building Department may renew such a permit for one (1) or more additional periods of six (6) months or less. For periods of time seven (7) days or less, such permits may be granted by the Chief of Police and are not renewable.

16.7 Accessory uses for activities which are necessary in connection with scientific research or scientific development or related production upon issuance of a Special Permit from the Planning Board, provided that such use does not substantially derogate from the public good.

16.8 Use of Undeveloped (Vacant) Lots

16.8.1 If one (1) undeveloped lot is in a zoning district in which a desired, but non-permitted residential use is sought, and the lot is bordered by other lots which are predominately nonconforming residential uses, by Special Permit of the Planning Board a similar nonconforming residential use of that lot may be permitted, consistent with the zoning requirements for residential structures in the closest neighboring residential zoning district.

16.8.2 In the case of an undeveloped lot of 1.5 acres or less zoned I and/or MU1 which was in existence prior to July 1, 2005, the Planning Board may, by Special Permit, allow use of that lot for any business use listed in Article III: Tables of Uses as permitted by right or by Special Permit in the BA or BB districts, if the Planning Board determines that there is no present, reasonable industrial use for the lot, and that the proposed use of the lot is not contrary to the general welfare, safety, health, and morals of the City. The lot and structures thereon must comply with all dimensional requirements for the BA District as set forth in Article VII Dimensional Regulations. Any Special Permit granted hereunder is subject to Site Plan approval by the Planning Board.

16.9 In an I, C, MU1, or MU2 district, the Planning Board may grant a Special Permit allowing the use of an existing building for a use not otherwise permitted in the district in which the building is located. The proposed use must be one of the specific uses itemized in Article III: Tables of Uses for Business Uses as being permitted by right or as being allowed subject to a Special Permit requirement in a RR, RA, RB, RC, BA, BB, C or I district, exclusive of Adult Entertainment uses.

16.9.1 The Planning Board shall find that the proposed use will not be substantially more detrimental to the neighborhood than the prior use and such permits may also impose conditions, safeguards, and limitations on size, time, use or such other items necessary to protect the character and integrity of the neighborhood.

16.9.2 Any use authorized by a Special Permit granted hereunder may be changed by right to any by right use described in Subsection 22-16.9 provided that the new use does not meet or exceed any of the thresholds requiring Site Plan Approval described in 22-57. All other proposed uses or expansions of the existing approved use must apply for a Special Permit. Condemned buildings and/or structurally unsound building may be razed or reconstructed provided all other conditions contained herein are satisfied and the size of the proposed building does not materially exceed the existing building. In granting this Special Permit, the Planning Board must find that no reasonable industrial alternative is available to the applicant.

16.10 An outdoor display must conform to all safety regulations the Fire Chief may require.

16.11 Outdoor storage must be fenced and screened from adjacent streets and adjacent properties.

Article III: Tables of Uses

The ***Underlying Districts Table of Uses*** and ***Overlay Districts Table of Uses*** contained in this article summarize principal and accessory use regulations of this Ordinance. They are not inclusive for all regulations and must therefore be used in conjunction with any and all other appropriate sections of this Ordinance. Overlay districts are supplementary and do not restrict what is allowed in underlying districts.

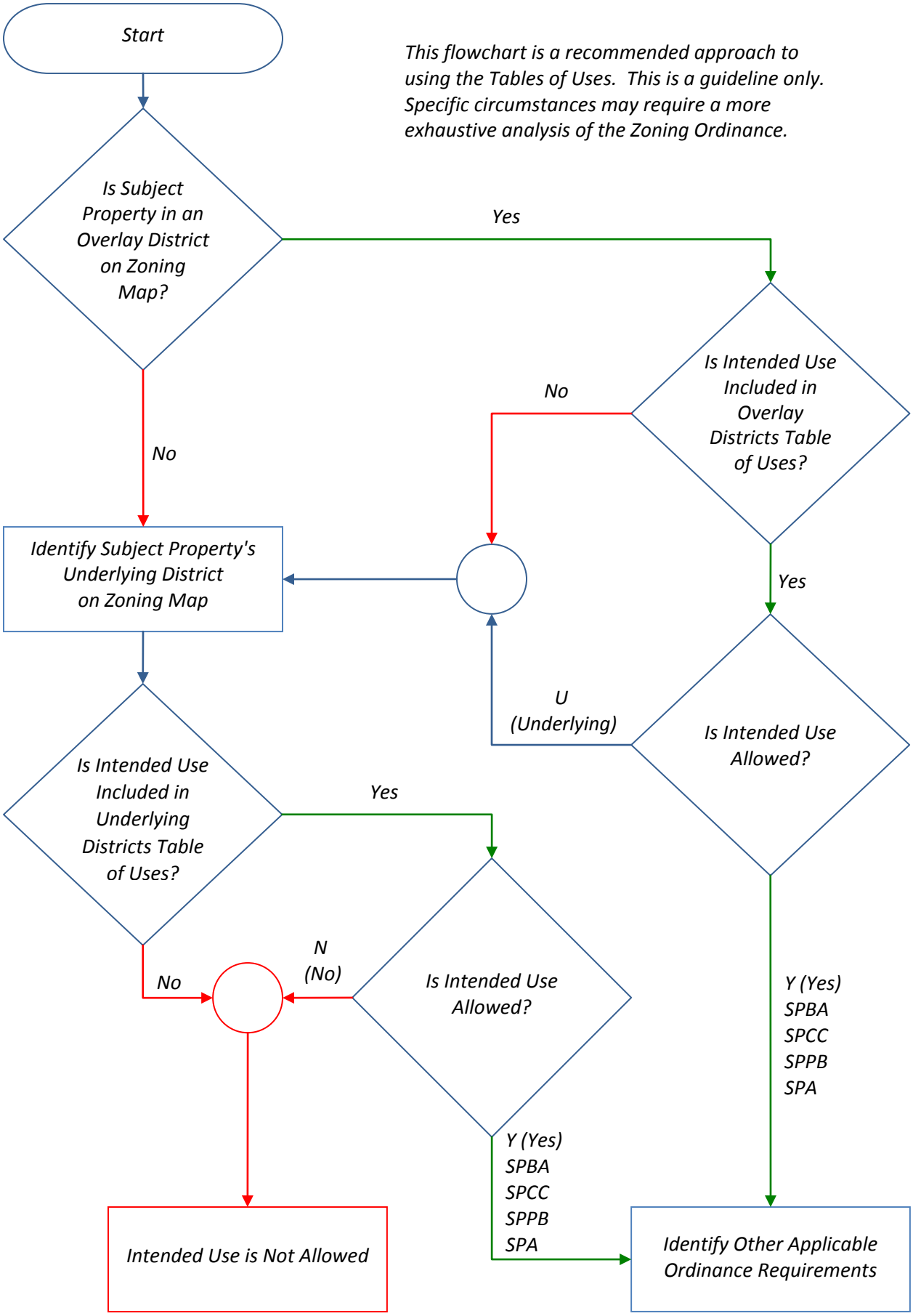
The Tables use the following abbreviations to designate the permissibility of each use:

Abbreviation	Use Permissibility
Y	Yes, allowed by right
SPBA	Board of Appeals Special Permit required
SPCC	City Council Special Permit required
SPPB	Planning Board Special Permit required
SPA	Planning Board Site Plan Approval required
N	No, not allowed
U	Only Underlying District rules apply

The following two charts indicate for each zoning district the abbreviation used in the applicable Table of Uses and the Ordinance section number and page containing additional district-specific requirements.

Abbreviation	Underlying District	Section	Page
RR	Rural Residence and Agriculture	22-19	38
RA	Residence A	22-20	38
RB	Residence B	22-21	39
RC	Residence C	22-22	40
BA	Business A	22-23	41
BB	Business B	22-24	42
C	Commercial	22-25	43
I	Industrial	22-26	44
MU1	Multi-Use 1	22-27	46
MU2	Multi-Use 2	22-28	47
V	Village	22-29	49

Abbreviation	Overlay District	Section	Page
DO	Downtown	22-30	51
MSO	Mechanic Street	22-31	57
UCO	Urban Corridor	22-32	59
HCO	Health Care	22-33	60


Start
This flowchart is a recommended approach to using the Tables of Uses. This is a guideline only. Specific circumstances may require a more exhaustive analysis of the Zoning Ordinance.
Is Subject Property in an Overlay District on Zoning Map?
Yes
No
Is Intended Use Included in Overlay Districts Table of Uses?
No
Yes
Identify Subject Property's Underlying District on Zoning Map
U (Underlying)
Is Intended Use Allowed?
Is Intended Use Included in Underlying Districts Table of Uses?
Yes
No
N (No)
Is Intended Use Allowed?
Y (Yes)
SPBA
SPCC
SPPB
SPA
Y (Yes)
SPBA
SPCC
SPPB
SPA
Intended Use is Not Allowed
Identify Other Applicable Ordinance Requirements

Section 22-17. Underlying Districts Table of Uses

General Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Cemetery	SPBA	N	N	N	N	N	N	N	N	N	N
Commercial greenhouse	Y	Y	SPBA	SPBA	SPBA	SPBA	Y	N	Y	Y	N
Day camp indoor or outdoor	SPBA	N	N	N	N	N	SPBA	SPBA	SPBA	SPBA	N
Foresting, wood lot, portable Sawmill and machinery	Y	N	N	N	N	N	N	SPBA	SPBA	SPBA	N
Horticulture, Floriculture on less than five (5) acres	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Livestock, Agriculture on less than five (5) acres	Y	SPBA	SPBA	SPBA	N	N	N	N	N	N	N
Livestock, Agriculture, Horticulture, Floriculture on more than five (5) acres (only if it is the primary use)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Poultry, ten (10) animals or less, for use by residents of the premises	Y	Y	SPBA	SPBA	SPBA	SPBA	N	N	N	N	N
Recreation, indoor	N	N	N	SPBA	SPBA	SPBA	Y	SPBA	SPBA	SPBA	N
Recreation, outdoor, or conservation use under management and control of any governmental agency or authority or Nonprofit conservation or recreation organization	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Sand, gravel, rock, stone, or loam removal not incidental to construction for which a building permit or Site Plan Approval or Definitive Subdivision Approval has been issued	N	N	N	N	N	N	N	SPPB	SPPB	SPPB	N
Sand, gravel, rock, stone or loam removal incidental to construction for which a building permit or Site Plan Approval or Definitive Subdivision Approval has been issued	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Institutional Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Assisted living facility	N	SPPB	SPPB	SPPB	SPPB	SPPB	Y	N	SPPB	SPPB	N
Day care center, Family child care, adult day care	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Educational use on land owned or leased by the Commonwealth or any of its agencies or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Institutional Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Government building, park, playground, parking facility, or housing for the elderly	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Long-term care facility	N	N	SPPB	SPPB	SPPB	SPPB	Y	N	SPPB	SPPB	N
Medical facility or office	N	N	SPPB	SPPB	SPPB	SPPB	Y	N	SPPB	SPPB	Y
Private club	SPPB	SPPB	N	N	Y	Y	Y	N	SPPB	SPPB	SPPB
Public and private library or Museum	N	N	N	N	Y	Y	Y	N	Y	Y	Y
Public utility building, subject to M.G.L. Chapter 40A Section 3 re: public service corporations	N	N	N	N	SPPB	SPPB	Y	Y	Y	Y	SPPB
Religious organization, including churches and parish houses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Residential Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Accessory apartment, subject to Article XV	SPBA	SPBA	SPBA	SPBA	N	N	N	N	N	N	N
Apartment/multi-family dwelling	N	N	SPPB and/or SPA [1]	SPA	SPPB SPA	SPPB SPA	N	N	N	SPPB and/or SPA [2]	SPA
Bed and breakfast or inn	Y	Y	Y	Y	Y	Y	Y	N	N	N	SPPB
Boarding or lodging house	N	N	SPPB	SPPB	SPPB	SPPB	N	N	N	N	SPPB
Detached single-family dwelling	Y	Y	Y	Y	N	N	N	N	N	N	N
Two-family dwelling	N	N	Y	Y	N	N	N	N	N	N	SPPB
Mobile home or Trailer park	N	N	N	N	N	SPPB SPA	SPPB SPA	N	N	N	N
Open Space Community Development, subject to Article XII	SPPB	SPPB	N	N	N	N	N	N	N	N	N
Townhouse	N	N	SPA	SPA	N	N	N	N	N	Y	SPA

Business Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Adult Entertainment Use	N	N	N	N	N	N	SPCC	N	N	N	N
Automobile public parking garage or lot	N	N	N	SPPB	SPPB	SPPB	Y	N	SPPB	SPPB	N
Automobile dealer for new car sales	N	N	N	N	N	N	SPPB	N	N	N	N
Automobile dealer for used car sales	N	N	N	N	N	N	SPBA	N	N	N	N
Bank	N	N	N	N	SPPB SPA	Y	Y	N	Y	Y	Y
Big box retail	N	N	N	N	N	N	Y	N	N	Y	N

[1] See subsections 22-21.5.3 and 22- 21.5.4.

[2] See Section 22-36, Table of Dimensional Regulations.

Business Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Building supplies and equipment rental	N	N	N	N	N	N	SPPB SPA	Y	Y	Y	N
Business and professional office	N	N	N	SPPB	Y	Y	Y	Y	Y	Y	Y
Business or vocational training	N	N	N	N	N	Y	Y	Y	Y	Y	Y
Business services to actuarial, advertising, janitorial, office equipment rental, printing and photocopying, and other such services	N	N	N	N	N	Y	Y	N	Y	Y	Y
Convenience store	N	N	N	N	SPA	SPA	Y	N	SPPB	SPPB	SPPB
Copy shop	N	N	N	N	SPA	Y	Y	N	Y	Y	Y
Crematorium	N	N	N	N	N	N	N	SPPB	N	N	N
Funeral home or Undertaking facility	N	N	Y	Y	N	SPPB	Y	N	N	N	N
Health club	N	N	N	N	N	SPPB	Y	Y	Y	Y	SPPB
Home occupation/office (See Subsection 22-16.2)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Hotel	N	N	N	N	N	N	Y	SPPB	SPPB	Y	N
Kennel	SPPB SPA	N	N	N	N	N	N	SPPB SPA	SPPB	SPPB	N
Motel	N	N	N	N	N	N	Y	N	SPPB	Y	N
Motor vehicle service station	N	N	N	N	SPPB	SPPB	Y	N	SPPB	SPPB	N
Motor vehicle Gas station minimart and Car wash	N	N	N	N	N	N	SPPB SPA	N	N	N	N
Motor vehicle body shop	N	N	N	N	N	N	SPPB	SPPB	N	N	N
Music, martial arts, yoga, or dance studio	N	N	N	N	Y	Y	Y	Y	Y	Y	Y
Office display or interior sales space of custom shops & wholesale jobbing, assembly, distributing or Printing establishment	N	N	N	N	N	Y	Y	Y	SPPB	SPPB	N
Personal service establishment	N	N	N	N	Y	Y	Y	SPPB	Y	Y	Y
Pet services	N	N	N	N	Y	Y	Y	Y	Y	Y	N
Processing of grain, vegetables or dairy products for human consumption without the outside storage of products, by-products or waste	N	N	N	N	N	N	N	Y	SPPB	SPPB	N
Restaurant	N	N	N	N	Y	Y	Y	N	Y	Y	Y

Business Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Restaurant, fast food/take out without drive-through	N	N	N	N	SPA	SPA	Y	N	SPPB	Y	SPPB
with drive-through	N	N	N	N	N	SPPB	SPA	N	N	Y	N
Retail Store	N	N	N	N	SPA	Y	Y	N	Y	Y	Y
Salesroom and place for repair and service of boats or farm equipment	N	N	N	N	N	N	Y	N	N	Y	N
Self-storage facility	N	N	N	N	N	N	N	Y	N	N	N
Television or radio broadcasting studio, Local access television station	N	N	N	N	N	Y	Y	Y	Y	Y	N
Veterinary	N	N	N	N	Y	Y	Y	Y	Y	Y	N
Warehouse, retail	N	N	N	N	N	N	SPPB SPA	SPPB SPA	SPPB	Y	N
Wholesale establishment	N	N	N	N	N	N	Y	N	SPPB	Y	N

Industrial Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Auto salvage	N	N	N	N	N	N	N	SPPB	N	N	N
Contractor's yard	N	N	N	N	N	N	N	Y	SPPB	SPPB	N
Energy system, renewable	SPPB SPA	SPPB SPA	N	N	N	N	SPPB SPA	Y	SPPB SPA	SPPB SPA	N
Junk yard	N	N	N	N	N	N	N	SPPB	N	N	N
Light Manufacturing	N	N	N	N	N	N	SPPB SPA	Y	Y	Y	N
Life science as defined by Chapter 130 of the Acts of 2008.	N	N	N	N	N	N	SPPB SPA	Y	SPPB SPA	SPPB SPA	N
Manufacturing, including for Energy system, renewable	N	N	N	N	N	N	N	Y	Y	Y	N
Manufacturing of products for on-site retail sale	N	N	N	N	N	N	SPPB	Y	Y	Y	N
Printing establishment	N	N	N	N	SPPB	SPPB	SPPB	Y	Y	Y	N
Recycling center	N	N	N	N	N	N	N	SPPB	SPPB	SPPB	N
Research and development facility, including for Energy system, renewable	N	N	N	N	N	SPPB	Y	Y	Y	Y	N
Research and development facility and production utilizing Recombinant DNA	N	N	N	N	N	N	N	Y	Y	Y	N
Service use, ancillary	N	N	N	N	N	N	Y	Y	Y	Y	N
Storage and distribution of home heating fuels	N	N	N	N	N	N	N	SPPB	SPPB	SPPB	N
Trash transfer station	N	N	N	N	N	N	N	SPPB SPA	N	N	N

Industrial Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Warehousing	N	N	N	N	N	N	SPPB	Y	Y	Y	N
Wind Energy Facility, subject to Article XVI	SPPB SPA	N	N	N	N	N	SPPB SPA	SPPB SPA	SPPB SPA	SPPB SPA	N
Wireless Communications Facility, subject to Article XIV	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]	SPPB [3]

Transportation Uses	RR	RA	RB	RC	BA	BB	C	I	MU1	MU2	V
Bus depot or other passenger stations	N	N	N	N	N	N	SPPB SPA	SPPB SPA	SPPB SPA	SPPB SPA	N
Taxi stands	N	N	N	N	SPPB	SPPB	SPPB	SPPB	SPPB	SPPB	SPPB
Transportation service facility or trade depot	N	N	N	N	N	N	SPPB SPA	SPPB SPA	SPPB SPA	SPPB SPA	N
Trucking terminal	N	N	N	N	N	N	N	SPPB	SPPB	SPPB	N

[3] Except as noted in Subsections 22-81.1 and 22-81.2.

Section 22-18. Overlay Districts Table of Uses

General Uses	DO	MSO	UCO	HCO
Recreation, indoor	SPBA	SPBA	SPBA	SPBA [1]

Institutional Uses	DO	MSO	UCO	HCO
Assisted living facility	U	U	U	SPPB
Clinic, Out-Patient	U	U	U	Y
Hospital	U	U	U	Y
Long-term care facility	U	U	U	Y
Medical facility or office	Y	SPPB	U	Y
Medical Laboratory	U	U	U	Y
Pharmacy	U	U	U	Y
Public and private library and Museum	Y	Y	Y	Y
Public utility building, subject to M.G.L. Chapter 40A Section 3 re: public service corporations	SPPB	SPPB	SPPB	Y [1]

Residential Uses	DO	MSO	UCO	HCO
Apartment/multi-family dwelling	SPPB SPA	U	U	U
Bed and breakfast or inn	Y	U	Y	Y [1]
Boarding or lodging house	SPPB	SPPB	SPPB	U
Detached single-family dwelling	U	U	Y	U
Two-family dwelling	U	Y	Y	U
Townhouse	SPPB	U	U	U

Business Uses	DO	MSO	UCO	HCO
Automobile public parking garage or lot	SPPB	U	U	Y [1]
Bank	Y	Y	U	Y [1]
Business and professional office	Y	Y	Y	Y [1]
Business or vocational training	Y	Y	Y	Y [1]
Business services to actuarial, advertising, janitorial, office equipment rental, printing and photocopying, and other such services	Y	Y	U	U
Convenience store	SPPB	SPPB	U	SPPB [1]
Copy shop	Y	Y	U	U

Business Uses	DO	MSO	UCO	HCO
Funeral home or Undertaking facility	SPPB	Y	SPPB	Y [1]
Health club	Y	Y	U	Y [1]
Hotel	Y	U	U	U
Motor vehicle service station	U	SPPB	U	U
Motor vehicle Gas station minimart and Car wash	U	SPPB	U	U
Music, martial arts, yoga, or dance studio	Y	Y	U	SPPB [1]
Personal service establishment	Y	Y	SPPB	SPPB [1]
Pet services	Y	Y	U	U
Restaurant	Y	Y	U	SPPB [1]
Restaurant, fast food/take out without drive-through	SPPB	SPPB	U	SPPB [1]
Retail Store	Y	Y	U	SPPB [1]
Television or radio broadcasting studio, Local access television station	Y	U	U	U
Veterinary	Y	Y	U	U

Industrial Uses	DO	MSO	UCO	HCO
Energy system, renewable	U	U	U	SPPB
Life science as defined by Chapter 130 of the Acts of 2008.	SPPB SPA	U	U	U
Service use, ancillary	Y	U	U	U

Transportation Uses	DO	MSO	UCO	HCO
Taxi stands	SPPB	U	U	U

[1] Only if within the Multi-Use Area Development Envelope and subject to the requirements of Article IX: Off-Street Parking and Loading.

Article IV: Underlying Districts Regulations

Section 22-19. Rural Residence and Agriculture District (RR)

19.1 Purpose: Set aside rural areas of the City for residential and farming uses.

19.2 General Provisions: None

19.3 Allowed Uses

19.3.1 Farms may include: poultry farms, pig farms, market gardens, orchards, nurseries, greenhouses, and farm-stands for the sale of produce mainly raised on the premises.

19.3.2 See Article III for additional use regulations.

19.4 Dimensional Regulations

19.4.1 Cultivated uses are allowed up to all property lines and street lines.

19.4.2 All other uses permitted in this section must be not less than twenty-five (25) feet from any street line.

19.4.3 For foresting, wood lots, portable saw mills, and machinery, there may be no storage within fifty (50) feet of any property line and one hundred (100) feet of any street line.

19.4.4 See Article VII for additional dimensional regulations.

19.5 Performance Standards: See Article VIII.

19.6 Other:

19.6.1 Parking

19.6.1.1 Customer parking is allowed up to the street line.

19.6.1.2 See Article IX for additional parking regulations.

19.6.2 Signs: See Article XIII.

19.6.3 Site Plan: See Article XI.

Section 22-20. Residence A District (RA)

20.1 Purpose: Set aside areas of the City for residential uses that include a limited ability to farm.

20.2 General Provisions: None

20.3 Allowed Uses: See Article III.

20.4 Dimensional Regulations

20.4.1 The principal buildings of uses permitted by Special Permit must be at least one hundred (100) feet from all residential buildings.

20.4.2 See Article VII for additional dimensional regulations.

20.5 Performance Standards: See Article VIII.

20.6 Other:

20.6.1 Parking: See Article IX.

20.6.2 Signs: See Article XIII.

20.6.3 Site Plan: See Article XI.

Section 22-21. Residence B District (RB)

21.1 Purpose: Set aside areas of the City for denser residential uses that include single-family, two-family dwellings, and limited apartments.

21.2 General Provisions: None

21.3 Allowed Uses: See Article III.

21.4 Dimensional Regulations: See Article VII.

21.5 Performance Standards

21.5.1 Conversion of a single-family or two-family residence building to accommodate one additional dwelling unit is permitted by right provided that:

21.5.1.1 The exterior character of the building may not be altered other than by an additional exit.

21.5.1.2 Each dwelling unit has at least six hundred (600) square feet of floor area and each dwelling unit has separate toilet and cooking facilities.

21.5.2 The conversion of any building into a funeral home or undertaking establishment, is permitted by right provided that if a residential building is converted into such use, the exterior residential character of the building may not be altered.

21.5.3 Multi-family dwellings, as defined in Section 22-4, are permitted by right, provided that:

21.5.3.1 Screening and buffer strips required by Subsection 22-21.6.3.1.1 are at least thirty (30) feet in width.

21.5.3.2 The total number of units in multi-family structures whether on one (1) or a number of abutting lots may not exceed sixty (60).

21.5.4 Multi-family dwellings, as defined in Section 22-4, are permitted by Planning Board Special Permit provided that screening and buffer strips required by Subsection 22-21.6.3.1.1 are at least fifty (50) feet in width.

21.5.5 See Article VIII for additional performance standards.

21.6 Other:

21.6.1 Parking: See Article IX.

21.6.2 Signs

21.6.2.1 Boarding or lodging houses, bed and breakfasts or inns, and long term care facilities must have no external evidence except an announcement sign in connection with any of the permitted uses; provided further that such signs are located on the premises with the use which they announce and do not exceed six (6) square feet in area.

21.6.2.2 See Article XIII for additional sign regulations.

21.6.3 Site Plan

21.6.3.1 Multi-family dwellings require Site Plan Approval. Site Plans must include:

21.6.3.1.1 Screening and buffer strips when a multi-family dwelling lot abuts a single-family dwelling lot or a more restrictive zoning district. The strip width is as specified in Subsection 22-21.5.3 or 22-21.5.4, whichever is applicable, must contain a screen of plantings in the center of the strip not less than three (3) feet in width or six (6) feet in height at the time of occupancy, and is to consist of individual shrubs or trees, of which at least fifty (50) percent is evergreen, planted not more than three (3) feet on the center. The strip must thereafter be maintained by the owner so as to maintain a dense screen year round. A solid fence or wall, not to exceed eight (8) feet or less than four (4) feet in height, complemented by suitable plantings, may be substituted for such center screen.

21.6.3.1.2 Wetland boundaries, 100 foot wetland buffer zones, 100 and 200 feet riparian zones and/or 400 foot water protection zone, if applicable.

21.6.3.1.3 Density calculations.

21.6.3.2 See Article XI for additional site plan regulations.

Section 22-22. Residence C District (RC)

22.1 Purpose: Set aside areas of the City for denser residential uses that include single-family, two-family dwellings, and apartments.

22.2 General Provisions: None

22.3 Allowed Uses:

22.3.1 Conversion of a single-family or two-family residence building to accommodate one additional dwelling unit is permitted by right.

22.3.2 See Article III for additional use regulations.

22.4 Dimensional Regulations: See Article VII.

22.5 Performance Standards: See Article VIII.

22.6 Other:

22.6.1 Parking: See Article IX.

22.6.2 Signs: See Article XIII.

22.6.3 Site Plan

22.6.3.1 Multi-family dwellings, as defined in Section 22-4, require Site Plan Approval. Site Plans must include:

22.6.3.1.1 Wetland boundaries, 100 foot wetland buffer zones, 100 and 200 feet riparian zones and/or 400 foot water protection zone, if applicable.

22.6.3.1.2 Density calculations.

22.6.3.2 See Article XI for additional site plan regulations.

Section 22-23. Business A District (BA)

23.1 Purpose: Set aside areas of the City for low-intensity business uses.

23.2 General Provisions: None

23.3 Allowed Uses: See Article III.

23.4 Dimensional Regulations

23.4.1 Residential uses must conform with the most restrictive residential zone abutting that particular BA district.

23.4.2 Property used for a motor vehicle service station or for a taxi stand may not be within two hundred (200) feet measured along the street frontage of a place of assembly or residential district unless the property so used is separated by a street from the place of assembly or residential district.

23.4.3 See Article VII for additional dimensional regulations.

23.5 Performance Standards

23.5.1 Motor vehicle service stations must meet the following requirements:

23.5.1.1 Exterior storage of motor vehicles on the premises is limited to the vehicles of employees and customers.

23.5.1.2 No repairs of motor vehicles may occur outside of the service bays.

23.5.2 See Article VIII for additional performance standards.

23.6 Other:

23.6.1 Parking: See Article IX.

23.6.2 Signs

23.6.2.1 Outdoor advertising is regulated by M.G.L. Chapter 93, Sections 29-33 inclusive and is allowed as permitted there under. See subsections 22-3.2 and 22-68.2 herein.

23.6.2.2 See Article XIII for additional sign regulations.

23.6.3 Site Plan: See Article XI.

Section 22-24. Business B District (BA)

24.1 Purpose: Set aside areas of the City for business uses.

24.2 General Provisions: None

24.3 Allowed Uses

24.3.1 Residential uses in the BB District are not permitted on the ground or street level, but are permitted on upper levels.

24.3.2 Office displays or interior sales space of custom shops and wholesale, jobbing, assembling, distributing, or printing establishments are permitted, provided that the ground floor premises facing upon and visible from the street may be used only for entrances, sales, office, or displays.

24.3.3 See Article III for additional use regulations.

24.4 Dimensional Regulations: See Article VII.

24.5 Performance Standards: See Article VIII.

24.6 Other:

24.6.1 Parking: See Article IX.

24.6.2 Signs: See Article XIII.

24.6.3 Site Plan: See Article XI.

Section 22-25. Commercial District (C)

25.1 Purpose

25.1.1 Set aside areas of the City for business uses.

25.1.2 Address and mitigate the secondary effects of adult entertainment establishments and sexually oriented businesses. Secondary effects have been shown to include increased crime, adverse impacts on public health, on the business climate, on property values, and on the quality of life. All of said secondary impacts are adverse to the health, safety, and general welfare of the City of Leominster and its inhabitants. The provisions of this section have neither the purpose nor the intent of imposing a limitation 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 section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor 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 section to legalize the sale, rental, distribution, or exhibition of obscene or other illegal matter or materials.

25.2 General Provisions

25.2.1 Adult Entertainment Use conditions are provided herein to serve the compelling City interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

25.3 Allowed Uses

25.3.1 Office displays or interior sales space of custom shops and wholesale, jobbing, assembling, distributing, or printing establishments are permitted, provided that the ground floor premises facing upon and visible from the street may be used only for entrances, sales, offices, or displays.

25.3.2 No Adult Entertainment Use Special Permit may be issued to any person convicted of violating the provisions of M.G.L. Chapter 119, Section 63 or M.G.L. Chapter 272, Section 28.

25.3.3 See Article III for additional use regulations.

25.4 Dimensional Regulations

25.4.1 The operation of an Adult Entertainment Use may not be situated within one thousand (1,000) feet of any establishment that serves or sells alcoholic beverages that are consumed on the premises or taken out.

25.4.2 An Adult Entertainment Use may not be located within one thousand (1,000) feet of any other Adult Entertainment Use.

25.4.3 In granting, a Special Permit, the City Council shall provide that an Adult Entertainment Use will not be located within one thousand (1,000) feet of the following:

25.4.3.1 A residential use or zoning district;

25.4.3.2 A structure or parcel used for educational or religious purposes;

25.4.3.3 A structure or parcel owned, operated or maintained by the Federal Government, the Commonwealth or the City for use by, or with activities open to, the general public, such as a library, park, playground, or recreational area;

25.4.3.4 A structure or parcel used for a childcare facility;

25.4.3.5 A structure or parcel used for a hospital or medical clinic;

25.4.3.6 A structure or parcel used for a senior center, long-term care facility or assisted living facility;

25.4.3.7 A bus stop;

25.4.3.8 A cemetery; and

25.4.3.9 An historic district or site.

25.4.4 See Article VII for additional dimensional regulations.

25.5 Performance Standards: See Article VIII.

25.6 Other:

25.6.1 Parking: See Article IX.

25.6.2 Signs

25.6.2.1 No Adult Entertainment Use is allowed to display for advertisement or other purposes any sign, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. Chapter 272, Section 1. No Adult Entertainment Use may have a freestanding accessory sign.

25.6.2.2 See Article XIII for additional sign regulations.

25.6.3 Site Plan: See Article XI.

Section 22-26. Industrial District (I)

26.1 Purpose: Set aside areas of the City for manufacturing and research and development uses.

26.2 General Provisions: None

26.3 Allowed Uses

26.3.1 Research, development, and production utilizing recombinant DNA technology are permitted, provided that the uses fully comply with the provisions of Chapter 19A of the Leominster Municipal Code.

26.3.2 Manufacturing uses are permitted, except that the following uses are specifically prohibited:

26.3.2.1 Blast furnaces.

26.3.2.2 Cement, gypsum, lime, or plaster of paris manufacture.

26.3.2.3 Coke manufacture.

26.3.2.4 Creosote manufacture.

26.3.2.5 Distillation of bones, coal, or wood.

26.3.2.6 Explosives or fireworks manufacture.

26.3.2.7 Fat, grease, lard, or tallow rendering.

26.3.2.8 Gas (fuel or illuminating) manufacture in excess of one thousand (1,000) cubic feet per day or storage in excess of ten thousand (10,000) cubic feet, except in a municipal or public service plant.

26.3.2.9 Gelatin, glue or size manufacture from fish, animal refuse, or offal.

26.3.2.10 Hair manufacture.

26.3.2.11 Hot rolling mill for steel manufacture only.

26.3.2.12 Hydrochloric, nitric, picric, sulfuric, or sulphurous acid manufacture.

26.3.2.13 Incineration, reduction, or dumping of dead animals, garbage, offal or refuse except by the City or its agents or when accumulated and consumed on the same premises without the emission of odor.

26.3.2.14 Asphalt (otherwise known as felt-base linoleum).

26.3.2.15 Match manufacture.

26.3.2.16 Petroleum production or refining.

26.3.2.17 Slaughtering, except as permitted by the Board of Health, or stock yards, except as appurtenant thereto.

26.3.2.18 Tanning, curing or storage of raw hides or skins.

26.3.2.19 Turpentine manufacture.

26.3.2.20 Storage-collection, treatment, burial, incineration, or disposal of radioactive wastes.

26.3.2.21 Manufacture of pesticides.

26.3.2.22 Piggeries.

26.3.3 See Article III for additional use regulations.

26.4 Dimensional Regulations: See Article VII.

26.5 Performance Standards: See Article VIII.

26.6 Other:

26.6.1 Parking: See Article IX.

26.6.2 Signs: See Article XIII.

26.6.3 Site Plan: See Article XI.

Section 22-27. Multi-Use District 1 (MU1)

27.1. Purpose:

27.1.1 Provide for the coordinated and mixed development of institutional, business, and/or industrial uses;

27.1.2 Encourage adaptive reuse of abandoned, vacant, or underutilized business or manufacturing buildings or structures on industrially zoned land or land previously used for an industrial use;

27.2 General Provisions

27.2.1 An applicant for a Special Permit within the MU1 District shall provide the site plan contents required under Section 22-60 for Site Plan Approval.

27.3 Allowed Uses: See Article III.

27.4 Dimensional Regulations

27.4.1 The Planning Board may grant a Special Permit to reduce front, side and rear yard setbacks to as low as zero (0) feet for an addition to an existing building provided that:

27.4.1.1 Primary entrances to proposed and existing buildings are situated on pedestrian amenities (e.g., sidewalks, plazas, or open space) with a minimum width of ten (10) feet;

27.4.1.2 The setback is consistent with the fabric of the existing street and does not preclude pedestrian access;

27.4.1.3 Adequate access for loading and emergency vehicles is maintained on one (1) side of the building;

27.4.1.4 Adequate natural lighting and air circulation for businesses and occupants is maintained; and

27.4.1.5 Adequate management strategies for stormwater and waste management are provided.

27.4.2 See Article VII for additional dimensional regulations.

27.5 Performance Standards: See Article VIII.

27.6 Other:

27.6.1 Parking: See Article IX.

27.6.2 Signs: See Article XIII.

27.6.3 Site Plan: See Article XI.

Section 22-28. Multi-Use District 2 (MU2)

28.1 Purpose:

28.1.1 Provide for the coordinated and mixed development of institutional, multi-family residential, business, and/or industrial uses;

28.1.2 Encourage adaptive reuse of abandoned, vacant, or underutilized business or manufacturing buildings or structures on industrially zoned land or land previously used for an industrial use;

28.2 General Provisions

28.2.1 The multi-family housing component of a Mixed Use project may not commence until the non-residential portion of the project is at least 60% complete taking into consideration buildings previously constructed as part of a mixed use project.

28.2.2 A site on which a Mixed Use project is undertaken may be made up of parcels in separate ownership, but are considered as a single lot for the purposes of all use, dimensional, open space, landscaping and design requirements of this Ordinance including yards, setbacks, buffers, the number and design of parking spaces and areas, location or design of driveways or interior drives, and location and quantity of open space.

28.2.3 For any proposed project greater than twenty (20) acres in size, an informational meeting with the City Council must be scheduled prior to the filing of an application for Site Plan Approval and/or a Special Permit.

28.3 Allowed Uses

28.3.1 Although mixed use developments are encouraged, a single use development may be permitted provided that such use is allowed in the MU2 District.

28.3.2 Notwithstanding the provisions of Section 22-28.3.1 above, multi-family housing is not permitted unless there is a non-residential component to the Mixed Use project, such as, industrial, retail, or office space.

28.3.3 If multi-family housing is proposed as part of a Mixed Use project, it may be built within the same structure as a non-residential use, but may not be contained on the first floor.

28.3.4 A Mixed Use project may be permitted in the MU2 District and planned, developed, owned or managed as a cohesive unit.

28.3.5 See Article III for additional use regulations.

28.4 Dimensional Regulations

28.4.1 In no case may the multi-family housing component of a Mixed Use project (when located within a separate building) comprise more than 33% of the land area of the entire project.

28.4.2 Any setback or yard requirement otherwise applicable at the perimeter of a lot applies only at the perimeter of the site of a Mixed Use project.

28.4.3 See Article VII for additional dimensional regulations.

28.5 Performance Standards

28.5.1 Buffer:

28.5.1.1 A minimum landscaped, or naturally vegetated if determined to be adequate by the Planning Board, buffer area of thirty (30) feet must be established between different uses within the MU2 District.

28.5.1.2 A minimum landscaped, or naturally vegetated if determined to be adequate by the Planning Board, buffer area of one hundred fifty (150) feet must be established between any development within the MU2 District and an adjacent residence zoning district.

28.5.1.3 The buffer area required by this Section must be provided along the side or rear lot lines of abutting uses.

28.5.1.4 When planting, the buffer area must be planted with a mixture of canopy trees with a minimum measure of 2 ½ inches diameter at four feet (4') above the grade and shrubs, at least two feet high, 50% of which are evergreen. Trees and shrubs must be immediately replaced if they die (or in the next growing season if the tree or shrub dies in the fall or winter).

28.5.1.5 Any buffer requirement otherwise applicable at the perimeter of a lot applies only at the perimeter of the site of a Mixed Use project.

28.5.2 See Article VIII for additional performance standards.

28.6 Other:

28.6.1 Parking: See Article IX.

28.6.2 Signs: See Article XIII.

28.6.3 Site Plan: See Article XI.

Section 22-29. Village District (V)

29.1 Purpose:

29.1.1 Encourage redevelopment of abandoned, vacant, or underutilized buildings or structures where appropriate;

29.1.2 Allow for Mixed-Use structures with retail, office, and multi-family residential uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods;

29.2 General Provisions: None

29.3 Allowed Uses

29.3.1 A use in the V District must be either a residential use or a mixed use.

29.3.2 In a Mixed Use project:

29.3.2.1 The area of a particular use, other than public open space, is determined by dividing its Gross Floor Area (GFA) by the total GFA in the project.

29.3.2.2 The project must contain a minimum of fifty (50) percent, but not more than seventy-five (75) percent residential use.

29.3.2.3 The project may not contain more than fifty (50) percent office use.

29.3.2.4 The project may not contain more than fifty (50) percent retail use.

29.3.3 See Article III for additional use regulations.

29.4 Dimensional Regulations

29.4.1 A Mixed Use project must contain a minimum of fifteen (15) percent of the site as open space.

29.4.2 See Article VII for additional dimensional regulations.

29.5 Performance Standards

29.5.1 Residential and retail uses on the ground floor in a Mixed Use project must have separate primary entrances.

29.5.2 See Article VIII for additional performance standards.

29.6 Other:

29.6.1 Parking: See Article IX.

29.6.2 Signs: See Article XIII.

29.6.3 Site Plan

29.6.3.1 A Mixed Use project is subject to Site Plan Approval with the following conditions.

29.6.3.1.1 Continued compliance with the proposed use profile.

29.6.3.1.2 Documentation of ownership of open space within the proposed project

29.6.3.1.3 A detailed maintenance schedule to ensure the long term care of open space areas.

29.6.3.2 See Article XI for additional site plan regulations.

Article V: Overlay Districts Regulations

Land in an Overlay District is subject to the requirements for the corresponding Underlying District provided in Article XI: Site Plan Approval. In no event may Site Plan Approval requirements for land in an Overlay District be less restrictive than the requirements for the corresponding Underlying District.

Section 22-30. Downtown Overlay District (DO)

30.1 Purpose:

30.1.1 Encourage a diverse mix of business, commercial, office, residential, and institutional uses for workers, visitors, and residents;

30.1.2 Encourage pedestrian-friendly environment and pedestrian-oriented commercial enterprises and consumer services that do not rely on automobile traffic to bring consumers into the area;

30.1.3 Allow for an appropriate mix and density of land uses to encourage people to live, work, and shop to support a vibrant downtown.

30.2 General Provisions: None

30.3 Allowed Uses

30.3.1 The ground floor of a mixed-use development may be occupied by pedestrian-oriented nonresidential uses only.

30.3.2 Criteria for Review/Approval for Live/work Units

30.3.2.1 The principal operator of the business must be a resident of the property with no more than two (2) outside employees allowed.

30.3.2.2 Not more than fifty (50) percent of the total floor area of the buildings may be used for the residence.

30.3.2.3 The hours of operation for the business are limited to 7:00 a.m. to 10:00 p.m.

30.3.3 See Article III for additional use regulations.

30.4 Dimensional Regulations

30.4.1 Height Incentives

30.4.1.1 The Planning Board may grant a Special Permit to allow a total structure height of at most seventy-five (75) feet and at most six (6) stories provided that the additional height is consistent with the scale of adjoining structures, and will not negatively impact abutting properties.

30.4.1.2 The Planning Board may grant a Special Permit to allow a building height increase of one (1) story or up to twelve (12) feet as follows:

30.4.1.2.1 For a building containing four (4) or more Live/work units as defined in Section 22-4; and/or

30.4.1.2.2. When more than twenty (20) percent of the total number of dwelling units are made available for people whose income is at eighty (80) percent of the area median income or less.

30.4.2 See Article VII for additional dimensional regulations.

30.5 Performance Standards

30.5.1 Vehicular Access (Curb Cuts)

30.5.1.1 Curb cuts are limited to one (1) for a project unless the Planning Board determines that an additional cut is warranted because the applicant has demonstrated that traffic flow in and out of the project site would be enhanced with an additional curb cut.

30.5.1.1.1 A curb cut must be placed as far as possible from the intersection of two or more streets.

30.5.1.2 To the maximum extent feasible, access to Business uses as listed in Article III: Tables of Uses must be provided through one of the following methods:

30.5.1.2.1 Vehicular access from a public alley is preferred over vehicular access from a primary street.

30.5.1.2.2 Common drives serving one or more adjacent properties are encouraged with Planning Board approval when demonstrated that a shared driveway provides more efficient and safe site access than two (2) curb cuts.

30.5.2 Pedestrian and Bicycle Access. Pedestrian and bicycle paths should connect safely and conveniently with abutting areas and each other. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.

30.5.2.1 Any new or redeveloped buildings must provide bicycle racks for at least three (3) bicycles unless waived by the Planning Board because of the existence of bicycle racks within 100 feet of the side lot lines of the new or redeveloped building.

30.5.3 Landscaping. Landscaping must create visual relief and interest, provide shade for pedestrian areas, screen parking and loading areas, and must meet the requirements set forth in this section below. Landscape plans must be prepared by a registered landscape architect and must show the location, type, and size of all proposed plantings and the surrounding area.

30.5.3.1 Side Yard Treatment

30.5.3.1.1 Where the distance between structures on adjacent lots is ten (10) feet or less the side yard must be screened by a solid fence, wall or landscape treatment of evergreen plantings at a height not to exceed three (3) feet.

30.5.3.1.2 Where the distance between structures on adjacent lots is greater than ten (10) feet landscaping must consist of a combination of materials sufficient to break up the view into the side yard but, for safety reasons, in no case should this planting be impermeable.

30.5.3.1.3 Side yards may, in the alternative, be established as pedestrian walkways to access parking areas to the rear of the building. Such walkways must be landscaped and lighted for safety.

30.5.3.2 Parking Areas

30.5.3.2.1 Large parking areas must be relieved by landscaped islands of a minimum of eight (8) feet in width, equal in depth to the depth of a typical parking space and located such that there is one (1) island per ten (10) continuous spaces.

30.5.3.2.2 Alternatively, at least five (5) percent of the interior area of the lot must be devoted to landscaping. Areas described in the above must have at a minimum one (1) shade tree with a minimum caliper of two and a half (2½) inches diameter at four feet (4') above the grade. Trees planted in such locations must be planted in protected pervious areas which have a minimum dimension of five (5) feet.

30.5.3.2.3 Where lots abut public rights of way, shade trees with a minimum caliper diameter at four feet (4') above the grade of two and a half (2½) inches, must be provided within a planting strip no less than four (4) feet in width and at a rate of one (1) tree per every six (6) continuous spaces.

30.5.3.3 Trash and Service Areas

30.5.3.3.1 All service, loading and trash storage areas viewable from a public right of way or from an adjacent residential area must be screened by one (1) or a combination of masonry, wood, or evergreen plantings to reduce their visual impact.

30.5.3.3.2 Loading and service areas may not face any residential area unless no other location is possible.

30.5.3.3.3 Garage doors and loading spaces are prohibited on the front façade of any building unless no other location is feasible.

30.5.4 Design Regulations

30.5.4.1 Orientation. Buildings must be oriented parallel to the front lot line to preserve a consistent façade line with the street. Primary building entrances should be easily identified and be oriented to the street. The primary entry should be clearly visible from the public street which provides the building's main orientation.

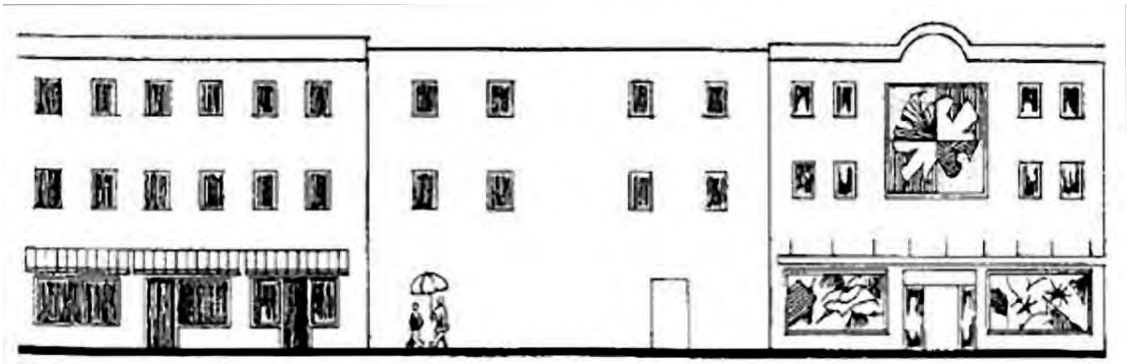
30.5.4.2 Articulation. New and redeveloped buildings should reinforce the character of the existing streetscape by creating visual interest and reinforcing pedestrian scale. The apparent bulk and large wall expanses of multi-story buildings as well as single story buildings of fifteen (15) feet in height or more should be minimized by incorporating one (1) or preferably a combination of the following:

- Windows
- Architectural Details
- Canopies

- Overhangs
- Indented Bays
- Change of Building Materials

The top of such buildings should display a distinct profile or outline incorporating such elements as a projecting parapet, cornice, upper level setback or pitched roofline. When immediately adjacent a building with such articulation, new and redeveloped buildings should provide a treatment that is respectful, such as providing a consistent cornice line where possible.

Large expanses of blank walls are prohibited for commercial and mixed-use development. The ground floor facade along the primary street must have continuous storefront windows, with the exception of necessary piers, columns, pilasters, etc.



Friendly retail façades

30.5.4.3 Transparency. For commercial and mixed-use buildings, a minimum of sixty (60) percent of the building façade oriented to the street must feature clear windows that provide views to indoor retail space, dining space or product areas when applicable. Where parking occupies the ground floor, the same solid to void ratio must be achieved utilizing techniques such as half-walls, grillwork, or landscaped trelliswork, or their equal.

30.5.4.4 Doors and Entrances. In buildings with multiple ground-floor tenants, entries should provide a coordinated design theme, e.g. a common canopy, architectural projection or awning design.

30.5.4.5 Pedestrian Spaces and Comfort.

30.5.4.5.1 To provide a pedestrian friendly environment, new and redeveloped buildings should provide outdoor seating areas scaled to the size and demands of the proposed use, where feasible. For example, a large, multi-story project should provide a patio or small plaza area located near the front entry with multiple benches and landscaping. A mixed-use development with ground floor retail such as a restaurant may provide an area for outdoor dining that extends the indoor dining space for seasonal use. A ground floor use may provide a sidewalk bench where there is sufficient width.

30.5.4.5.2 Such pedestrian areas are best located when they take advantage of southern exposure and provide space that affords visual connectivity but are setback from major pedestrian flow and vehicular ways and are appropriate to the location.

30.5.4.5.3 Outdoor sales and display areas should be well organized and located such as not to impede pedestrian circulation if located on a public walk or way.

30.5.4.5.4 The following guidelines should be considered in the design and location of pedestrian spaces:

30.5.4.5.4.1 Flexible design to allow for flexible use.

30.5.4.5.4.2 Buffering from major vehicular areas such as parking lots or main traffic ways.

30.5.4.5.4.3 Lighting for nighttime comfort and safety.

30.5.4.5.4.4 Appropriate street furnishing (e.g. benches, trash receptacles).

30.5.4.5.4.5 A focal element where appropriate such as a water feature, special landscape feature or public art installation.

30.5.4.5.4.6 Decorative paving and seasonal planting.

30.5.4.5.4.7 South facing locations.

30.5.4.5.4.8 Visual connectivity, especially to important views such as an historic structure.

30.5.4.5.4.9 Appropriately scaled to the development.

30.5.4.6 Utilities. Underground utilities for new and redeveloped building are required unless physically restricted or blocked by existing underground obstructions.

30.5.4.7 Lighting. Site lighting, security lighting, and architectural/landscape lighting should provide the user with illumination levels appropriate for the designed activity (e.g. parking, walking, outdoor dining) while meeting minimum requirements. Illumination levels should also be reasonably uniform throughout the site and strive to minimize glare.

Provide adequate lighting levels in all pedestrian areas, including building entries, along walkways, parking areas, and other public areas. Provide the following in lighting plans:

30.5.4.7.1 An overlapping pattern of light at a height of ten (10) to fifteen (15) feet in lighted areas within pedestrian walkways and twenty (20) to twenty-four (24) feet in parking areas.

Do

Don't

30.5.4.7.2 Lighting at consistent lumens with a gradual transition to unlighted areas. Highly contrasting pools of light and dark can be temporarily blinding and should be avoided.

Highlighting of Pedestrian Zones *Overall Illumination*

30.5.4.7.3 In each lighted area, design lighting levels that will allow pedestrians to

identify a face fifteen (15) yards away (generally, a minimum of four (4) foot-candles). Adequate lighting reduces anonymity and gives pedestrians an opportunity to choose another route.

30.5.4.7.4 Adequate lighting at all building entrances, exits and corridors between buildings, at least four (4) foot candles during active use.

30.5.4.7.5 Confine site lighting to the project site; use shields or other methods to eliminate glare on adjacent properties.

30.5.4.7.6 Place light posts and standards so that they do not create hazards for pedestrians or vehicles.

30.5.4.7.7 Indicate specific lighting levels in each lighted area.

30.5.4.8 Quality of site furnishings. Provide for the following site plan elements:

30.5.4.8.1 High-quality materials in site furnishings and features, such as durable and easily maintained walls and paving.

30.5.4.8.2 Site features and furnishings that discourage vandalism. Furnishings that are easily removed or do not convey an image of care invite misuse.

30.5.4.8.3 Safety materials, such as non-slip walkway surfaces.

30.5.5 See Article VIII for additional performance standards.

30.6 Other:

30.6.1 Parking

30.6.1.1 Parking lots must be located to the side and/or rear of the principal use unless no other location is feasible.

30.6.1.2 Parking lots that abut public rights of way or parking under the building must be screened with one or a combination of the following:

30.6.1.2.1 A low wall made of concrete, masonry or other suitable material not exceeding a height of three (3) feet.

30.6.1.2.2 Raised planters planted with a minimum of eighty (80) percent evergreen shrubs not to exceed a total height of four (4) feet (including planter).

30.6.1.2.3 Landscaping consisting of a mix of trees and shrubs provided that eighty (80) percent of the shrub plantings are evergreen. See Subsection 22-30.5.3 above for landscaping requirements for the interior of the parking lots.

30.6.1.3 Walls, fencing, and architectural details must complement the materials of adjacent architectural styles. Where walls are provided, planting areas must be a minimum width of four (4) feet and should be located adjacent to the public right of way.

30.6.1.4 Where possible, parking areas must be interconnected in a manner that allows the unobstructed flow of pedestrians between uses and parking areas.

30.6.1.5 In large parking lots with twenty (20) or more spaces, bicycle racks must be provided in locations that are safely segregated from automobile traffic and parking.

30.6.1.6 See Article IX for additional parking regulations.

30.6.2 Signs: See Article XIII.

30.6.3 Site Plan

30.6.3.1 Site Plan Approval is required where a new use or expansion of an existing use will result in any one or more of the following conditions:

30.6.3.1.1 Mixed-use development.

30.6.3.1.2 The creation of 2,500 sq. ft. of new gross floor area on a single lot.

30.6.3.1.3 A new curb cut.

30.6.3.2 See Article XI for additional site plan regulations.

Section 22-31. Mechanic Street Overlay District (MSO)

31.1 Purpose:

31.1.1 Enhance business maintenance and growth while preserving the integrity of adjacent residential neighborhoods.

31.1.2 Promote revitalization.

31.1.3 Reduce conflict caused by incompatible development.

31.2 General Provisions

31.2.1 The MSO District includes the portion of each property existing on November 20, 2012 located one (1) lot deep along and within 150 feet of the right-of-way lines of Mechanic Street, extending from Whitney Street to Seventh Street.

31.2.2 Exceptions. The following projects are not required to comply with the standards set forth in this section.

31.2.2.1 Improvements and additions that are made to a single-family residence previously permitted and built on a lot of record prior to November 20, 2012.

31.2.2.2 Construction of a single-family dwelling on an existing lot of record approved prior to November 20, 2012, provided that the new construction is of a similar floor area, materials, and design as the single-family dwellings on adjacent lots.

31.2.2.3 Construction, rehabilitation, restoration, repair of a nonresidential structure, interior renovations or interior finishes within an existing structure, or addition to an existing nonresidential structure that was permitted prior to November 20, 2012, provided that such construction is on a lot of record and does not affect a change to more than twenty (20) percent of the existing permitted structure or two thousand five hundred (2,500) square feet, whichever is less.

31.3 Allowed Uses

31.3.1 Conversion of a single-family or two-family residence building to accommodate one additional dwelling unit is permitted by right.

31.3.2 See Article III for additional use regulations.

31.4 Dimensional Regulations: See Article VII.

31.5 Performance Standards

31.5.1 Landscaping and Buffers

31.5.1.1 An application for a Building Permit or for a Special Permit must include a landscape plan that:

31.5.1.1.1 Demonstrates compliance with Subsection 22-62.3;

31.5.1.1.2 Identifies the location, species/common name and size of landscaping required by this section; and

31.5.1.1.3 Includes provisions for protection of preserved vegetation during development.

31.5.1.2 Within the required front yard, landscaping must, at a minimum, consist of two (2) deciduous shade or ornamentals, or evergreen trees and ten (10) shrubs per one hundred (100) linear feet of frontage.

31.5.1.3 Where a commercial property abuts a residential property, a landscaped buffer area must be provided to minimize the visual effect and glare onto the residential properties.

31.5.1.3.1 A buffer area of a minimum fifteen (15) feet wide must be provided along the property line that abuts the residential structure. However, for any property on which the use structure exceeds 20,000 gross square feet in area, a buffer area must be increased to a minimum of twenty-five (25) feet in width.

31.5.1.3.2 Landscaping must be provided at the rate of at least three (3) deciduous shade trees and ten (10) shrubs per one hundred (100) linear feet of buffer.

31.5.1.3.3 For buffer areas of a required minimum width of 25 feet, there must be additional landscaping consisting of six (6) evergreen trees per one hundred (100) feet.

31.5.1.4 For commercial properties, a landscape buffer of a minimum ten (10) feet in width from the property line must be provided along side and rear lot lines not adjacent to residential districts.

Within such buffer, a minimum of two (2) deciduous shade trees must be planted per one-hundred (100) linear feet of length.

31.5.1.5 Free-standing signs must be landscaped with flowers and other plants around the base of the sign.

31.5.1.6 When feasible, existing vegetation must be preserved and may be substituted for required new vegetation.

31.5.1.7 Required plantings must be maintained during the course of construction and thereafter. Should the vegetation fail to survive, new vegetation must be installed in accordance with the requirements of this section.

31.5.2 Off-Street Loading Area and Dumpster Screening

31.5.2.1 No off-street loading areas may be located on the sides of buildings fronting onto Mechanic Street.

31.5.2.2 No dumpsters may be located on the sides of buildings fronting onto Mechanic Street, except if, in the opinion of the Planning Board, no other suitable location is reasonably available for such purpose, and provided the dumpster area is developed in a manner so as to minimize its appearance from Mechanic Street.

31.5.2.3 All dumpsters must be entirely screened by a masonry or solid wooden fence, with gate, or a comparable screening at least six (6) feet in height.

31.5.3 Design Regulations. The requirements of Subsections 22-30.5.4 through 22-30.5.4.8.3 apply.

31.5.4 See Article VIII for additional performance standards.

31.6 Other:

31.6.1 Parking

31.6.1.1 No parking is permitted within the front yard setback of any lot.

31.6.1.2 Off-street parking must be to the rear of the building to the maximum extent possible.

31.6.1.3 See Article IX for additional parking regulations.

31.6.2 Signs: See Article XIII.

31.6.3 Site Plan: See Article XI.

Section 22-32. Urban Corridor Overlay District (UCO)

32.1 Purpose: Encourage the creation of small business opportunities and allow conversions of residential properties to small businesses where compatible with residential nature of the district.

32.2 General Provisions

The UCO District includes the portion of each property existing on November 20, 2012 located one (1) lot deep along and within 150 feet of the right-of-way lines of:

32.2.1 Merriam Avenue, from Foster Court to Church Street;
32.2.2 West Street, from Exchange Street to Cotton Street;
32.2.3 Franklin Street;
32.2.4 Pleasant Street, from Franklin Street to Pond Street; and
32.2.5 The easterly side of Pond Street, extending 550 feet northerly of Pleasant Street.

32.3 Allowed Uses: See Article III.

32.4 Dimensional Regulations: See Article VII.

32.5 Performance Standards

32.5.1 Buffers

Except as modified in accordance with Section 22-, where a conversion occurs from a residential to non-residential use, a buffer must be established if the new commercial use is adjacent to a residential use. Such a buffer must be landscaped with trees and/or shrubs and must be a minimum of ten (10) feet in width along the property lines adjoining the residential use. The buffer may be located on the subject property and/or the adjacent residential property. When feasible, existing vegetation must be preserved. Required plantings must be maintained during the course of construction and thereafter. Should the vegetation fail to survive, new vegetation must be installed.

32.5.2 See Article VIII for additional performance standards.

32.6 Other:

32.6.1 Parking

32.6.1.1 Parking. No parking is permitted within the front yard setback of any lot.

32.6.1.2 See Article IX for additional parking regulations.

32.6.2 Signs: See Article XIII.

32.6.3 Site Plan: See Article XI.

Section 22-33. Health Care Overlay District (HCO)

33.1 Purpose: Facilitate the use and development of health care and related activities in designated suitable areas and allow health care providers located therein flexibility to respond to changes in the nature of and the demand for health care services.

33.2 General Provisions

33.2.1 The provisions of this section prevail where they differ from those specified elsewhere in this ordinance.

33.2.2 Construction of a new building, structure, or other improvement outside a designated Development Envelope requires a Planning Board Special Permit.

33.2.3 Buildings, structures and improvements existing as of November 20, 2012 within the Development Envelopes indicated on the Zoning Map referenced in Section 22-6 are not included in the Development Limit.

33.3 Allowed Uses: See Article III.

33.4 Dimensional Regulations

33.4.1 The Development Limit of Development Envelope #2, as defined in Section 22-4, is 300,000 square feet.

33.4.2 The Development Limit of the Multi-Use Area, as defined in Section 22-4, is 100,000 square feet.

33.4.3 A building used for health care use may not be located less than fifteen (15) feet from a development envelope. This provision does not apply to any building or structure used for a purpose accessory to a Health Care Use.

33.4.4 See Article VII for additional dimensional regulations.

33.5 Performance Standards: See Article VIII.

33.6 Other:

33.6.1 Parking: See Article IX.

33.6.2 Signs: See Article XIII.

33.6.3 Site Plan: See Article XI.

33.6.3.1 Site Plan Approval for Construction Development Envelope. No Site Plan Approval is required for the renovation, rehabilitation, repair or replacement of any building, structure, or other improvement existing within a designated Development Envelope as of November 20, 2012 or constructed thereafter in accordance with the provisions of this Ordinance. For purposes of this subsection, "replacement" means the construction of a new building, structure, or other improvement that is not substantially higher than, and that is substantially contained within the footprint of, the building, structure, or improvement it replaces, so long as such renovation, rehabilitation, repair, or replacement does not create any greater nonconformity with the requirements of this Ordinance than existed prior to such renovation, rehabilitation, repair, or replacement.

33.6.3.2 Site Plan Approval is required for the construction of any new building or of any new addition to an existing building to be used for a Health Care Use within a designated Development Envelope only if the aggregate net floor of the newly proposed construction, when added to all such construction for which building permits have been issued since November 20, 2012 exceeds the Development Limit. The area of any building, structure or improvement used for an accessory use is not included in the computation described in this subsection, and does not require Site Plan Approval hereunder.

33.6.3.3 Construction of a new building, structure, or other improvement outside a designated Development Envelope requires Site Plan Approval.

33.6.3.4 See Article XI for additional site plan regulations.

Article VI: Special Districts Regulations

Section 22-34. Floodplain District (FP)

34.1 Purpose:

34.1.1 Protect human life and property from the hazards of periodic flooding;

34.1.2 Preserve the natural flood control characteristics, and the flood storage capacity of the floodplain;

34.1.3 Ensure proper floodplain management consistent with criteria established by the National Flood Insurance Program;

34.1.4 Preserve and maintain the ground water table and water recharge areas within the floodplain;

34.1.5 Take into account floodplain management programs of neighboring areas.

34.2 General Provisions

34.2.1 The FP District includes those areas designated as a floodway on the Leominster, Massachusetts Flood Boundary and Floodway Map (the "FBFM"), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, and all special flood hazard areas designated as either Zone A or Zone A-I through A-30 on the Leominster, Massachusetts Flood Insurance Rate Map (the "FIRM"), Community Panel Numbers 250314-0001-0010, effective September 16, 1982 and Community Panel Number 250314-0003, amended April 3, 1989.

34.2.2 All other zoning districts within the confines of the FP District remain in force as specifically allowed and described in other sections of this Ordinance. Said other zoning districts are subject also to the further requirements of this section.

34.2.3 The Planning Board, in accordance with M.G.L. Chapter 40A, Section 9, may issue a Special Permit hereunder, subject to other applicable provisions of this Ordinance, if the application is compliant with the following provisions:

34.2.3.1 The applicant has submitted adequate information upon which to base a decision, including, but not limited to:

34.2.3.1.1 A Site Plan prepared by a Massachusetts registered professional engineer showing the proposed activity, existing and proposed topography at two (2) foot contour intervals and

34.2.3.1.2 Lowest floor elevations of any new or expanded building

34.2.3.1.3 Certification by a Massachusetts registered professional engineer or architect that the proposed use, structure, building, encroachment, improvement, development, dumping, filling,

excavation or transfer will not result in any increase in the flood level during the occurrence of the 100-year flood discharge

34.2.3.1.4 Meets the minimum standards set forth in the National Flood Insurance Program rules and regulations;

34.2.3.2 The applicant has demonstrated that the project will not encroach upon the regulatory floodway so as to result in any increase in flood levels within the community during the occurrence of the base flood discharge;

34.2.3.3 If the applicant proposes to relocate or alter a watercourse, the applicant has provided, prior to or at the time of application, written notification by certified mail to:

34.2.3.3.1 Adjacent downstream and upstream communities;

34.2.3.3.2. NFIP State Coordinator, MA Department of Conservation and Recreation, 251 Causeway St., Suite 600-700, Boston, MA 02114-2104; and

34.2.3.3.3. NFIP Program Specialist, FEMA Region I, 99 High St., 6th Floor, Boston, MA 02110

34.2.3.4 Within ten (10) days of receipt of the application, the Planning Board shall transmit one (1) copy of the development plan to the Conservation Commission, Department of Public Works, Board of Health and the Director of Inspections. Final action may not be taken until reports have been received from the above boards or until thirty-five (35) days have elapsed from the date of transmittal to such boards; and

34.2.3.5 The Planning Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use.

34.3 Allowed Uses: See Article III.

34.3.1 Within those areas designated as a ~~floodway~~ floodplain on the FBFM, the following uses of low flood damage potential and causing no obstruction to flood flows are allowed provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

34.3.1.1 Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;

34.3.1.2 Forestry and nursery uses;

34.3.1.3 Fishing, boating, play areas;

34.3.1.4 Conservation of water, plants, wildlife;

34.3.1.5 Wildlife management areas, foot, bicycle and/or horse paths;

34.3.1.6 Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and

34.3.2 Other than as permitted by Subsection 22-34.3.1, no use, structure, building, encroachment, improvement or development may be erected, constructed, improved, created or moved, no earth or other materials may be dumped, filled, excavated, or transferred, within those areas designated as a floodway on the FBFM or as Zone A, Zone AO, Zone AH, Zone Al through A30, or Zone A99 on the FIRM, without first obtaining a Special Permit from the Planning Board.

34.3.3 See Article III for additional use regulations.

34.4 Dimensional Regulations: See Article VII.

34.5 Performance Standards

34.5.1 All development, including structural and nonstructural activities, whether permitted by right or by Special Permit, must be in compliance with M.G.L. Chapter 131, Section 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains. Whenever the requirements of this section differ from those prescribed in other laws, Ordinances and codes, those requirements designed to reduce flood losses take precedence.

34.5.2 See Article VIII for additional performance standards.

34.6 Other:

34.6.1 Parking: See Article IX.

34.6.2 Signs: See Article XIII.

34.6.3 Site Plan: See Article XI.

Section 22-35. Water Supply Protection District (WSP)

35.1 Purpose

35.1.1 Protect, preserve, and maintain present and potential sources of water supply for the public health and safety;

35.1.2 Protect, preserve, and maintain the existing and potential groundwater supply and groundwater recharge areas within the City;

35.1.3 Reduce erosion of topsoil and the subsequent sedimentation of surface water bodies; and

35.1.4 Prevent blight and pollution of the environment.

35.2 General Provisions

35.2.1 Scope and Authority

The WSP District overlaps other zoning districts. Any uses permitted in the portions of the district so overlapped are permitted subject to all the provisions of this district. Whenever the requirements of this Article differ from those prescribed in other laws, ordinances and codes, the stricter requirements designated to protect water supplies take precedence.

35.2.2 WSP District Delineation

35.2.2.1 The WSP District is defined as all lands within the City lying within the primary and secondary recharge areas of groundwater and watershed areas of reservoirs and aquifers in areas of wells that provide public water supply. These areas are designated on the zoning map referenced in Section 22-6.

35.2.2.2 Where bounds as delineated are in doubt or in dispute, the burden of proof is upon the owner(s) of the land in question to show where they should properly be located. However, the Planning Board retains its authority to determine property location with regard to said WSP District.

35.2.2.3 At the request of the owner(s), the City may engage a professional geologist, soil scientist, or engineer trained in hydrogeology to determine more accurately the location and extent of a protection area, and charge the owner(s) for the cost of the investigation.

35.2.3 Special Permit Application

Each application for a Special Permit in the WSP District must be accompanied by six (6) copies of a Site Plan that is prepared and stamped by an Engineer that is registered in the Commonwealth of Massachusetts. The Site Plan must include, at the minimum, the following:

35.2.3.1 Provisions to prevent contamination of groundwater by petroleum products, hazardous materials, or wastes.

35.2.3.2 Drainage recharge features and provisions to prevent loss of recharge.

35.2.3.3 Provisions to prevent soil compaction.

35.2.3.4 Provisions to prevent seepage from sewer pipes.

35.2.3.5 A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Those businesses using or storing such hazardous materials shall file a definitive operating plan.

35.2.3.6 A plot plan showing:

35.2.3.6.1 Location of wetlands, streams, water bodies, and flood plain. Site Plan must indicate wetland boundaries, 100 foot wetland buffer zones, 100 and 200 feet riparian zones and 400 foot water protection zone if appropriate;

35.2.3.6.2 Existing drainage patterns;

35.2.3.6.3 Existing woodland;

35.2.3.6.4 Areas having slopes exceeding fifteen (15) percent;

35.2.3.6.5 Areas to be disturbed by construction, including proposed building and structure locations;

35.2.3.6.6 Areas where earth and other material subject to erosion will be temporarily stockpiled;

35.2.3.6.7 Areas to be used for disposal or storage of construction debris, stones, stumps, etc. if within the WSP District;

35.2.3.6.8 Temporary and permanent erosion control measures planned, such as sediment basins, stormwater basins, diversions, rip-rap, stabilization seeding, etc.;

35.2.3.6.9 Temporary work roads to be used during projects;

35.2.3.6.10 Locations and size of septic system; and

35.2.3.6.11 Method to contain spillage in fuel filling areas.

35.2.3.7 A storm drainage plan showing:

35.2.3. 7.1 Locations of drains and culverts, and names of streams, rivers, ponds, or reservoirs in the City into which they flow;

35.2.3. 7.2 Discharge peaks and expected velocities at drain or culvert outlets;

35.2.3. 7.3 Conditions above and below outlets and expected flow velocities; and

35.2.3. 7.4 Supporting computations for the above.

35.2.3.8 A grading plan showing existing topography and planned grade along existing and/or proposed street or highway profiles.

35.2.3.9 A siltation and sedimentation control plan including:

35.2.3.9.1 Sediment and erosion control structures such as diversions, waterways, slope stabilization structures, sediment basins, etc., in sufficient detail to implement their installation together with referred standards for soil erosion and sediment as appropriate, and design calculations as required for each structure;

35.2.3.9.2 Seeding and/or sodding requirements for all exposed areas including seedbed preparation, seed mixtures, lime, fertilizer and mulching requirements with referenced standards;

35.2.3.9.3 Schedule or sequence of operation with starting dates for clearing and/or grading, timing for storm drain and culvert installation, duration of exposure of soils and critical area stabilizations, both temporary and permanent. Indicate dates when critical area stabilization, paving, seeding, mulching or sodding is to be completed; and

35.2.3.9.4 General notes for sediment control that spell out the procedures for implementing the plan.

35.2.3.10 Potable and irrigation water supply source locations and descriptions.

35.2.4 Special Permit Review

Upon receipt of an application, the Planning Board shall transmit one (1) copy of the Site Plan to the Conservation Commission, Board of Health, Department of Public Works and the Director of Inspections. Final action may not be taken until reports have been received from the above Boards or until 35 days have elapsed.

35.2.5 Special Permit Decision

The Planning Board may, after notice and public hearing as required, grant such a Special Permit if it:

35.2.5.1 Is in harmony with the purpose and intent of this Ordinance and will promote the purposes of the WSP District;

35.2.5.2 Is appropriate to the natural topography, soils and other characteristics of the site to be developed;

35.2.5.3 Will not, during construction or thereafter, have an adverse environmental impact on any surface water, aquifer or recharge area;

35.2.5.4 Will not adversely affect an existing or potential water supply; and

35.2.5.5 Is consistent with existing and probable future development of surrounding areas.

35.2.5.6 Recommendations will also be sought from other appropriate boards and commissions.

35.3 Allowed Uses

35.3.1 The following uses are permitted within the WSP District by right where allowed by law or regulation.

35.3.1.1 Nature study, boating, fishing, and hunting where otherwise legally permitted;

35.3.1.2 Duck walks, landings, and foot and bicycle paths;

35.3.1.3 Proper operation and maintenance of existing water bodies and dams, flash boards and other water control, supply and conservation devices;

35.3.1.4 Maintenance and repair of any existing structure provided there is no increase in permeable areas;

35.3.1.5 Non-intensive agricultural uses (pastures, light grazing, hay), nursery, conservation, forestry and harvesting provided that fertilizers, herbicides, and other leachable materials are not stored outdoors nor used in excessive amounts; and

35.3.1.6 Necessary public utilities and facilities designed so as to prevent contamination of surface water and groundwater.

35.3.2 The following uses are prohibited within the WSP District:

35.3.2.1 Disposal of solid wastes, other than brush and stumps;

35.3.2.2 Storage and/or transmission of petroleum or other refined petroleum products except within buildings which they will heat;

35.3.2.3 The disposal of liquid or leachable wastes, wastewater and/or septage residuals, brush and stumps, except residential subsurface waste disposal systems and normal agricultural operations;

35.3.2.4 The use of septic system cleaners which contain toxic organic chemicals;

35.3.2.5 Industrial uses which discharge process wastewater including any commercial and service uses discharging wastewater containing contaminants other than normal organic waste;

35.3.2.6 Storage of road salt or deicing chemicals;

35.3.2.7 Use of chemicals for deicing unless deemed necessary for public safety;

35.3.2.8 Dumping of snow brought in from outside the WSP District;

35.3.2.9 Animal feedlots;

35.3.2.10 The storage of manure;

35.3.2.11 The mining of land except as incidental to a permitted use; mining to closer than four (4) feet of the water table is absolutely prohibited;

35.3.2.12 The storage or disposal of hazardous or toxic wastes, as defined by the U.S. Environmental Protection Agency under 40 CFR 260 and the Regulations of the Massachusetts Hazardous Waste Management Act, M.G.L., Chapter 21C;

35.3.2.13 Motor vehicle service stations and motor vehicle body shops, junk and salvage yards, trucking and bus terminals, car and truck washes, and airports;

35.3.2.14 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, excavation, grading, transferring or removing of any gravel, sand, loam or other soft material, rock or ledge on land for which an intended use requires permits or approvals under this Ordinance until all such permits and approvals are obtained.

35.3.2.15 Business and industrial uses or facilities which generate, treat, store, or dispose of hazardous or toxic materials or waste, including, but not limited to, chemical manufacturing, metal plating, wood preserving, furniture stripping, leather finishing, metal fabricating or manufacturing, electrical equipment manufacturing, dry cleaning, petroleum product manufacturing, photographic processing, and printing;

35.3.2.16 Outdoor storage of pesticides or herbicides.

35.3.3 The following uses may be permitted by a Special Permit from the Planning Board in accordance with the Site Plan review standards in Subsection 22-35.2.3:

35.3.3.1 General, commercial and industrial uses permitted in the underlying district, except for those uses expressly prohibited in Subsection 22-35.3.2.

35.3.3.2 Residential developments requiring approval under the Subdivision Control Law (M.G.L. Chapter 41).

35.3.3.3 Water discharged from detention facilities or other structures provided it is released in a manner that will prevent erosion and sedimentation and minimize accumulation of debris.

35.3.3.4 Residential development of single-family dwellings for which the Planning Board may reduce the minimum lot frontage to no less than 120 feet and for which the Planning Board may reduce the minimum lot width to no less than 130 feet.

35.3.3.5 Sanitary waste discharge, not exceeding one hundred fifty (150) gallons per day per acre, to an on-site sewerage system.

35.3.3.6 Poultry farms and other intensive agricultural operations that are primarily carried on within buildings.

35.3.3.7 Rendering impervious of more than 15 percent of any lot.

35.3.4 See Article III for additional use regulations.

35.4 Dimensional Regulations: See Article VII.

35.5 Performance Standards: See Article VIII.

35.5.1 Where the application of fertilizers, pesticides, herbicides, or other potential contaminants is being made, groundwater quality monitor test wells will be installed and periodically sampled and tested by the City. Such installation and sampling will be conducted by an agent of the Board of Health.

35.5.2 Petroleum products stored within a building must be placed on a diked, impermeable surface to prevent spills or leaks from reaching groundwater.

35.5.3 The amount of sanitary waste discharged to an on-site sewerage system may not exceed 150 gallons per day per acre.

35.5.4 All runoff from impervious surfaces or otherwise due to development, must be recharged on the site by being diverted to stormwater infiltration basins covered with natural vegetation.

35.5.5 Stormwater infiltration basins must be designed to handle a twenty-five (25) year storm.

35.5.6 Dry wells may be used only where other methods are infeasible, and must be preceded by oil, grease and sediment traps to facilitate removal of contamination.

35.5.7 Any and all recharge areas must be permanently maintained in full working order by the owner.

35.5.8 Technical Reference

The Technical Reference to be used to prepare and review Site Plans is "Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas," May 2003, Franklin, Hampden, Hampshire Conservation Districts, Northampton, Massachusetts. Specific guidelines to be used include, but are not limited to:

35.5.8.1 Limit grading to only those areas actively undergoing current construction;

35.5.8.2 The smallest practical area of land should be exposed at one time during development;

35.5.8.3 Limit the length of time graded areas are exposed;

35.5.8.4 Provide temporary or permanent stabilization of disturbed areas at the earliest opportunity. Limit exposure to less than sixty (60) days;

35.5.8.5 Retain and protect as much of the natural vegetation as possible;

35.5.8.6 Permanent improvements such as streets, utilities, storm sewers, vegetated waterways, and other features of the development should be scheduled for installation to the greatest extent possible before removing the vegetative cover from an area scheduled for building construction;

35.5.8.7 Protect all fill slopes and cut slopes exceeding five (5) feet in height from storm run-off through the use of diversion berms, drop chutes, or other acceptable means;

35.5.8.8 Rough-graded rights-of-way awaiting installation of utilities and/or pavement should be protected by the installation of interceptor berms across the right-of-way as to reduce the length of slope between berms to not more than two-hundred fifty (250) feet; and

35.5.8.9 On sites where the above procedures are impractical or not acceptable where the topography permits, install sediment basins, desilting basins, or silt traps to remove sediment from runoff waters.

35.5.9 See Article VIII for additional performance standards.

35.6 Other:

35.6.1 Parking: See Article IX.

35.6.2 Signs: See Article XIII.

35.6.3 Site Plan: See Article XI.

Article VII: Dimensional Regulations

Section 22-36. General Requirements

For the purpose of this section, all principal buildings may be built on any lot located in a district in which building is permitted, provided:

36.1 It is located so as to comply with the requirements for height and yard setbacks set out in Subsection 22-40.3.

36.2 The lot contains at least the area required by Subsection 22-40.3.

36.3 The lot is shaped such that it is capable of containing a circle with a diameter equal to at least the minimum frontage for that district and within which any principal building placed is the minimum yard requirements from any lot lines.

36.4 No lot on which a building is located in any district may be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, setback, yard or height provisions of this section applicable to the construction of the building on the lot, provided that this section does not apply when a portion of lot is taken or conveyed for a public purpose. [In the RR and the RA Districts, no width dimensions of a Yard, front as defined in Article I, Section 22-4, may be less than the required lot frontage distance for the applicable district.]

36.5 No building in any district need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwelling or other principal buildings located on the lots adjacent thereto on each side. In determining such average, a vacant side lot having a frontage of fifty (50) feet or more is considered as though occupied by a building having the required setback set out in Subsection 22-40.3. If the lot adjacent to the lot in question has a frontage of less than fifty (50) feet, then the lot next adjacent thereto is the adjacent lot.

36.6 Nothing contained in this section prevents the projection of cornices or eaves not exceeding eighteen (18) inches in width or of uncovered steps, unroofed porches, or window sills into a required yard or other open space.

36.7 In all districts except within the flight path of commercial or governmental airports, farm buildings, churches, and municipal buildings and spires, domes, steeples, radio towers, chimneys, broadcasting and television antennas, bulkheads, cooling towers, ventilators, and other appurtenances usually carried above the roof may have any height, unless otherwise provided in this Ordinance.

36.8 A trailer must be set back at least fifteen (15) feet from any street line or driveway serving such trailer. A trailer must be placed at least five (5) feet from any side lot line, and no trailer may be nearer than ten (10) feet from any other trailer. A trailer must be placed at least six (6) feet from any rear lot line.

Section 22-37. Location of Accessory Structures

37.1 The yard provisions for principal structures apply to accessory structures, both detached or attached to the principal structure, when used for human occupancy.

37.2 Accessory structures, such as sheds and garages, both detached or attached to the principal structure, when not used for human occupancy and not more than one story in height, must be set back at least five (5) feet from any side or rear lot line.

37.3 A detached accessory structure of one (1) story may not be closer to the principal structure than ten (10) feet. A detached accessory structure of more than one (1) story may not be closer to the principal structure than fifteen (15) feet and may not be closer than ten (10) feet to any side or rear lot line.

37.4 No accessory structure or structures may occupy more than twenty-five (25) percent of the required rear or side yard areas.

Section 22-38. Floor Area for Motel and Hotel Units

Motels and hotels must have a minimum of one hundred twenty-five (125) square feet of floor area per dwelling unit.

Section 22-39. Corner Clearance

On a corner lot in any district, in order that visibility is unobstructed at intersections, no sign, fence, wall, tree, hedge, or other vegetation greater than three (3) feet above the established street grades may be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line adjoining each street line at points which are twenty (20) feet distant from the point of intersection measured along such street lines.

Section 22-40. Development Intensity Standards

40.1 Ten (10) percent of all lots must be open space.

40.2 Gross floor area may not exceed three (3) times the total lot area.

40.3 Intensity regulations for principal structures are as set out in the following table. Residential lots in any other district than which they are permitted must comply with the intensity regulations of the Residence District adjacent to that district, and in the case where two (2) or more Residence Districts are adjacent to the district, the intensity regulations of the least restricted Residence District apply.

Table of Dimensional Regulations

DISTRICT	QUALIFIER		MINIMUM LOT AREA , SQUARE FEET (ACRES)	MAXIMUM IMPERVIOUS COVERAGE, PERCENT OF TOTAL LOT AREA	MINIMUM, FEET					MAXIMUM	
					LOT FRONTAGE	LOT WIDTH	SIDE YARD	FRONT YARD	REAR YARD	HEIGHT, FEET	NUMBER OF STORIES
WSP	All		130,680 [1] (Three)	15 [2]	175 [1]	200 [1]	20	30	40	30	2.5
RR	Not Sewered		43,560 (One)	None	175	130	20	30	40	30	2.5
	Sewered				120						
	Poultry and/or Pig Farm	Not Sewered	217,800 (Five)	None	175	130	100	100	100	30	2.5
		Sewered			120						
RA	All		21,780	None	80	100	15	20	30	30	2.5
RB	Two-family dwelling		12,500	50	50	80	10	15	20	35	3
	Conversion of single- or two-family residence for one additional dwelling unit		6,500	None							
	By Right Multi-family		8,500 per unit	50	120						
	Special Permit Multi-family		5,000 per unit	30	100						
	All other		10,000	None	50						
RC	Conversion of single- or two-family residence for one additional dwelling unit		5,000	None	50	70	8	15	15	35	3
	Multi-family		5,000 non-wetland / unit	50							
	All other		8,000	None							
BA	All		5,000	None	20	None	10 [3]	15	15	25	2
BB	All		5,000	None	20	None	10 [3]	None	None	60	5
C	All		5,000	None	20	None	10 [3]	25	None	60	5
I	Abutting Residence District		5,000	None	30	None	50	25	50	90	5
	Not abutting Residence District						25		25 [4]		
MU1 [5]	Abutting Residence District		5,000	None	30	None	50	25	50	70 [6]	4 [6]
	Not abutting Residence District						25		25 [3]		

DISTRICT	QUALIFIER			MINIMUM LOT AREA , SQUARE FEET (ACRES)	MAXIMUM IMPERVIOUS COVERAGE, PERCENT OF TOTAL LOT AREA	MINIMUM, FEET					MAXIMUM	
						LOT FRONTAGE	LOT WIDTH	SIDE YARD	FRONT YARD	REAR YARD	HEIGHT, FEET	NUMBER OF STORIES
MU2	Non-Multi-family	Abutting Residence District		5,000	None	30	None	150	25	150	70	4
		All other						25		25 [4]		
	Multi-family	By Right	Abutting Residence District	3,500 per unit		50		150		150		
			All other					25		25 [4]		
		Special Permit	Abutting Residence District	2,500 per unit				150		150		
			All other					25		25 [4]		
V	Residential			8,000	None	50	70	8	15	15	35	3
	All other			5,000		None	None	50	None	50	50	4
DO	Residential Redevelopment			See underlying district								
	Nonresidential			See underlying district							60 [7]	5 [7]
MSO	Conversion of single- or two-family residence for one additional dwelling unit			5,000	See underlying district							
	All other			See underlying district								
UCO	All			See underlying district								
HCO	District #1			653,400 (Fifteen)	None	50	None	15	20	30	35	2.5
								30	35	40	63	4.5
								50	50	50	98	5
	Development Envelope #2			5,000	None	None	None	None	None	None	126	7
	Multi-Use Area			5,000	None	25	None	15	20	30	35	2.5
								30	35	40	63	4.5
								50	50	50	98	5

[1] Planning Board may reduce frontage and lot width per Subsection 22-35.3.3.4.

[2] Planning Board may allow impervious coverage greater than 15 percent per Subsection 22-35.3.3.7.

[3] Where abuts Residence District

[4] Except none for building extending to a railroad siding

[5] Planning Board may reduce setbacks per Subsection 22-27.4.1.

[6] A new or rehabbed building replacing an existing building may be as tall as or have as many stories as the existing building.

[7] May go up to six (6) stories and seventy-five (75) feet per Subsection 22-30.4.1.1.

Article VIII: Performance Standards

Section 22-41. Environmental Performance Standards

Any use permitted by right or by Special Permit in any district may not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in any amount as to affect adversely the surrounding environment. The following standards apply. The Planning Board may waive any of these standards for a use in the MU1 or MU2 districts provided that the application preserves the historic quality of existing buildings and sites.

41.1 Emissions.

41.1.1 Emissions must be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.

41.1.2 No emission that can cause any damage to health of animals or vegetation or that can cause excessive soiling, at any point, is permitted.

41.1.3 No emission of odorous gases or odoriferous matter in such quantities as to be offensive is permitted. Any process that may involve the creation and/or emission of any odors must be provided with a secondary safeguard system.

41.2 Erosion Control.

Erosion of soil and sedimentation of watercourses and water bodies must be minimized by employing the following "best management" practices:

41.2.1 Exposed or disturbed areas due to stripping of vegetation, soil removal, and re-grading must be permanently stabilized within six (6) months of occupancy of a structure; and

41.2.2 During construction, temporary vegetation, filter fabric and/or mulching must be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff must be trapped by using staked hay bales or sedimentation traps.

41.2.3 Permanent erosion control and vegetative measures must be in accordance with erosion/sedimentation vegetative practices recommended by the Natural Resources Conservation Service.

41.2.4 All slopes exceeding fifteen (15) percent resulting from the site grading must be either covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or be stabilized by a retaining wall.

41.2.5 Dust control must be used during grading operations if the grading is to occur within two hundred (200) feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.

41.3 Discharge.

No discharge, at any point, into a private sewer system stream or the ground of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects is permitted.

41.4 Glare.

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding is permitted beyond the lot lines onto neighboring properties, or onto any street.

41.5 Hazardous Activities.

41.5.1 No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, are permitted.

41.5.2 All activities that involve hazardous materials at any point must be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

41.6 Hazardous Materials Storage.

41.6.1 All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, must be located on impervious pavement, and must be completely enclosed by an impervious dike that is high enough to contain a volume of liquid kept within the storage area, at least equal to one hundred and ten (110) percent of the capacity of the container(s), so that such liquid is not able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement.

41.6.2 All storage of hazardous materials, at any point, must be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

41.7 Noise.

Excessive noise at unreasonable hours must be muffled so as not to be objectionable due to the intermittence, beat frequency, shrillness, or volume. All uses must comply with the Department of Environmental Protection's Division of Air Quality Noise Regulations (310 CMR 7.10) and Noise Policy as they may be amended.

41.8 Run-off.

41.8.1 To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:

41.8.1.1 Prevent non-point sources pollution from urban runoff to streams, water bodies, or groundwater;

41.8.1.2 Prevent flooding of neighboring or other down-gradient properties; and

41.8.1.3 Promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

41.8.1.3.1 Appropriate recharge or detention methods may include detention basins, vegetated swales, filter media, oil/water separators, or other similar methods. Stormwater runoff design must be in harmony with regulations set forth by the City of Leominster and the Commonwealth of Massachusetts.

41.9 Vibration.

41.9.1 No offensive vibration is permitted at any time.

Section 22-42. Building Design Standards

42.1 V District.

42.1.1 All buildings must have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one (1) principal façade and/or entry;

42.1.2 Building finish materials must be appropriate to traditional New England architecture and may include, but are not limited to brick or high-quality brick face, wood, stone or high-quality stone-face. The use of vinyl, unfinished metal other than copper, or fiberglass as a primary finished surface is prohibited;

42.1.3 Blank walls adjacent to streets, alleys or open spaces are not permitted. The ground floors of all buildings must be designed to encourage and complement pedestrian-scale activity by the use of windows and doors visible and accessible to the street. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces must be used to break up blank walls;

42.1.4 New retail uses must have one of the following features along the front surface at intervals sufficient to provide a continuity to pedestrians: awning, marquee, arcade and/or colonnade;

42.1.5 Flat roofs are prohibited on buildings unless the roofline projects outward from the building surface as a decorative cornice or parapet or other similar architectural design feature;

42.1.6 Where existing structures of architectural value are to remain in use, the architectural integrity of these existing structures may not be significantly altered through the use of different signage, building materials or other architectural features.

42.1.7 All street-level retail uses with sidewalk frontage must be furnished with an individual entrance and direct access to the sidewalk in addition to any other access that may be provided;

42.1.8 Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, must be screened from view at the front property line.

42.1.9 No residential dwelling units may be located on the ground floor of buildings proposed to include a mix of residential and non-residential uses.

42.1.10 Buildings with multiple nonresidential tenants on the first floor must articulate the façade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations in acceptable signage, awnings, marquees, colonnades, or arcades.

42.1.11 Newly constructed building façades for nonresidential use must have a minimum of sixty (60) percent of the building façade oriented to the street and must feature clear windows that provide views to indoor retail space, dining space or product areas when applicable;

Section 22-43. Performance Site Design Standards

43.1 V district.

43.1.1 Street level frontage must be devoted to entrances, shop windows, or other displays.

43.1.2 Clear pedestrian pathways must be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district.

43.1.3 Where a use abuts a residential use, appropriate transitional features must be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features.

43.1.4 For developments of thirty (30) or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets must be provided. The Planning Board has the discretion to determine an appropriate length for such landscaped median based upon the size of the project.

43.1.5 Sidewalks must be constructed within the interior of the development to link residential buildings with other facilities and amenities serving said residential buildings, e.g., but not limited to, parking, adjoining sidewalks and streets, mailboxes, trash disposal, greenways, and recreation areas.

43.1.6 For every new dwelling unit created, 450 square feet of open space must be established.

43.1.7 Buildings must be arranged in a manner that optimizes the ability of residents and consumers to access public spaces and pedestrian amenities;

43.1.8 Buildings must be oriented toward each other in a way that minimizes conflicts between pedestrians and automobiles.

43.1.9 Primary entrances to proposed and existing buildings must be situated on pedestrian amenities (e.g., sidewalks, plazas, or open space) with a minimum width of ten (10) ft.; for a particular use.

43.1.10 Setbacks must be consistent with the fabric of the existing street and must not preclude pedestrian access;

43.1.11 Adequate access for loading and emergency vehicles must be maintained on one (1) side of the building; and

43.1.12 Adequate natural lighting and air circulation for businesses and residents must be maintained.

43.1.13 Open space provided pursuant to this section must be designed for public use. Arcades, courtyards, parks, green space, or other common areas must be located in a manner that connects buildings to each other and to public sidewalks without interruption from parking areas or automobile travel lanes to the greatest practicable extent.

Article IX: Off-Street Parking and Loading

Section 22-44. Objectives, Applicability

44.1 Any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, must be designed and operated to:

44.1.1 Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;

44.1.2 Promote more efficient utilization of on-street curbside parking;

44.1.3 Reduce hazards to pedestrians upon public sidewalks;

44.1.4 Protect adjoining lots and the general public from nuisances and hazards such as: (1) noise, glare of headlights, dust, and fumes resulting from the operation of motor vehicles, (2) glare and heat from parking lots, (3) a lack of visual relief from expanses of paving, and (4) accelerated runoff of surface water from land covered by impervious materials.

44.2 No building permit or certification of occupancy may be issued for the erection of a new building, the enlargement of an existing building, the development of a use not located in a building, or the change from one type of use to another, Sections 22-46 to 22-47, unless off-street parking spaces or loading bays are provided in accordance with this Article.

Section 22-45. Parking, Loading Plan Required

45.1 Each application for a Special Permit or Site Plan Approval, or where needed, for a building permit, must be accompanied by an off-street parking and loading plan showing:

45.1.1 The number, location, elevation, and dimensions of all driveways, maneuvering spaces or aisles, parking spaces including Americans with Disabilities Act (ADA) accessible spaces, and loading bays, that comply with this Ordinance;

45.1.2 The construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening, and lighting;

45.1.3 The location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back;

45.1.4 Where landscaping is to be provided, the species and size of plant materials; and

45.1.5 A summary schedule showing the amount of floor space, or other parking or loading factor to be met, the number of standard and ADA accessible parking spaces and the number of loading bays.

45.1.6 Such plan must be a drawing at a scale of one (1) inch equals twenty (20) feet or one (1) inch equals forty (40) feet or at such other scale as the Director of Inspections may approve. Where necessary, the Director of Inspections may require that the owner or operator of a use, building, or establishment furnish a statement as to the number of employees working at the use, building, or establishment, or the number of motor vehicle trips (by type of motor vehicle) that are made to and from the use, building, or establishment.

Section 22-46. Number of Parking Spaces

The number of parking spaces indicated for the corresponding types of uses must be provided in all zoning districts, except as otherwise indicated. See the DO District, Section 22-30, for specific parking requirements in that district.

The symbols under the column parking factor mean: s.f.: square feet of net floor area.

General Uses	MINIMUM PARKING SPACES
Cemetery	1 per full-time employee during maximum daily shift
Greenhouse, nursery, roadside stand	1 per 1,000 s.f. of display area whether indoors or outdoors
Recreation, indoor	1 per 200 s.f. of gross floor area; plus 1 per 350 s.f. of retail space; plus 40 per athletic field.
Recreation, outdoor	1 per 4 visitors at peak capacity
All Other	As needed, usually 1 per full-time employee during maximum daily shift

Institutional Uses	MINIMUM PARKING SPACES
Assisted, congregate, independent or retirement living facility	1.1 per employee during maximum daily shift plus 1 per 2 bedrooms
Church, temple, auditorium, Private club, lodge, community center	1 per 10 seats in largest assembly area
Clinic, Out-Patient	1 per 400 s.f. of net floor area
Day care center, Family child care, nursery school, kindergarten, school, or other educational institution for persons less than 14 years of age	1 per employee during maximum daily shift plus 1 per 15 clients of the licensed capacity. Off-street space for loading and unloading must consist of an additional 1 space per 12 clients of the licensed capacity
Hospital	1.1 per employee during maximum daily shift plus 1 per bed
Long-term care facility, except assisted, congregate, independent or retirement living facilities.	1.1 per employee during maximum daily shift plus 1 per 4 beds
Medical Laboratory, Medical facility or office or Pharmacy	1 per 500 s.f. of net floor area
Public library, art gallery, Museum or other non-recreational public facility	1 per 600 s.f. of floor area open to the public
Schools or other educational institution for persons age 14 and over	1 per employee during maximum daily shift, plus 1 per 8 students based on the licensed capacity
All Other	As needed, usually 1 per full-time employee during maximum daily shift

Residential Uses	MINIMUM PARKING SPACES
Accessory apartment	1
Apartment/multi-family dwelling	1.5 per dwelling unit with 2 or fewer bedrooms; 2 per dwelling unit with more than 2 bedrooms
Conversion of a single-family residence to a two-family residence	3
Conversion of a two-family residence to a three-family residence	5
Detached single-family dwelling	2
All Other	As needed, usually 1 per full-time employee during maximum daily shift

Business Uses	MINIMUM PARKING SPACES
Barber Shop, Hairdresser	1 per chair
Business and professional office , except in the UCO District	1 per 400 s.f. of net floor area, excluding basement storage
Business and professional office in the UCO District	1 per 600 s.f. of net floor area, excluding basement storage
Funeral home	1 per 4 seats in the largest assembly area
Health club	1 per 200 s.f. of gross floor area; plus 1 per 350 s.f. of retail space
Hotel, Motel	1 per guest room, plus 1 per 4 seats in the largest assembly area, plus 1 per 500 s.f. of meeting, banquet, or restaurant area
Motor vehicle service station or Body Shop	2 per bay
Restaurant	1 per 100 s.f. of gross floor area, excluding basement storage
Restaurant, Fast Food/Take-Out, with Customer Service or Dining Area	1 per 100 s.f. of customer service or dining area, plus 3 stacking spaces for the drive-through window.
Restaurant, Fast Food/Take-Out, without Customer Service or Dining Area	1 per 100 s.f. of gross floor area, plus 3 stacking spaces for the drive-through window.
Retail Store	1 per 250 s.f. of gross leasable area
Theater, other Public Assembly	1 per 6 seats
Veterinary	1 per 250 s.f. of gross floor area, excluding basement storage
All Other	As needed, usually 1 per full-time employee during maximum daily shift

Industrial Uses	MINIMUM PARKING SPACES
Manufacturing and other uses	1 per 3 employees during maximum daily shift, plus 1 per company-owned and operated vehicle, plus spaces for customer vehicles as determined adequate by the Director of Inspections
Research and development facility	1 per 500 s.f. of gross floor area, excluding basement storage
Warehousing	1 per employee during maximum daily shift but not less than 1 per 10,000 s.f. of gross floor area

Transportation Uses	MINIMUM PARKING SPACES
All	As needed, usually 1 per full-time employee during maximum daily shift

Section 22-47. Rules for the Interpretation of Parking Spaces Required

47.1 Where the number of spaces is expressed as a ratio to dwelling units, floor area, beds, employees, etc., any fraction thereof requires one (1) parking space but after the first such parking space, only a fraction of one half (1/2) or greater requires an additional space or bay.

47.2 Where the requirement is stated "as needed," the applicant for a permit shall estimate the number of parking spaces required to serve the use. They will provide the number to the Director of Inspections who shall verify that the number is adequate and shall, if necessary, order that additional spaces be provided.

47.3 To simplify the determination of net floor area, eighty (80) percent of the gross floor area may be used.

47.4 Where off-street parking serves two (2) or more activities that are different types of uses, including two (2) or more activities that are part of the same principal use, the number of spaces provided is the sum of the requirements for the various individual uses which is determined, by computing the number of parking spaces and loading bays required for the various individual uses and by then adding those numbers including any fractional number. Parking spaces for one (1) activity or use do not provide the required parking for any other use, except as provided in Subsections 22-53.1, 22-53.4 or 22-53.5.

47.5 Where the requirement is based on the number of employees, the number of spaces is based on the number of employees in the peak period, which is at least three (3) hours per day for at least three (3) days per week.

47.6 Where fixed seats are not used in a place of assembly, each forty (40) square feet of floor area in the largest assembly area equals one (1) seat.

47.7 Where uses are of the open air type and are not enclosed in a structure, each square foot of lot devoted to such use is considered to be equivalent to one-fifth (1/5) of a square foot of net floor area.

47.8 Required off-street parking spaces which, after development, are later dedicated to and accepted by the City and are maintained by the City for off-street parking purposes, continue to serve the uses or structures for which they were originally provided.

Section 22-48. Parking Spaces for Persons with Disabilities

48.1 Specially designated parking spaces for the persons with disabilities must be provided in accordance with 521 CMR 23:00, current edition, except that three is the minimum total number of parking spaces in a parking lot requiring at least one accessible space.

48.2 Accessible spaces must be clearly identified by a sign indicating those spaces are reserved for disabled persons. Such spaces must be located in that portion of the parking lot nearest to the entrance to the use or structure that the parking lot serves and designed in accordance with standards established by the Americans with Disabilities Act.

Section 22-49. Location of Off-Street Parking, Loading Bays

49.1 Required off-street parking spaces and loading bays must be provided on the same lot as the principal or accessory use they are required to serve, except that some parking spaces may be provided on a separate lot as provided in Section 22-53.

49.2 No area may be utilized and counted as both a required parking space and a loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each. Existing areas used for both parking and loading must be counted for loading purposes.

49.3 Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.

49.4 Off-street parking spaces required for two (2) or more buildings, uses, or establishments may be provided in a common lot where it is evident that such facilities will continue to be available for the several buildings, uses, or establishments, if the Planning Board grants a Special Permit in accordance with Section 22-53.

49.5 Parking areas must be located in the rear of buildings in the V District.

Section 22-50. Driveways

50.1 Each parking space and loading bay must be connected by a driveway to a street or to an interior drive that leads to a street. Parts of a driveway may be partly on another lot or may straddle a lot line provided the Planning Board grants a Special Permit under Subsection 22-53.3

50.2 In all districts, the number of driveways permitting entrance to and exit from a lot is limited to two (2) per street line. Driveways must be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

50.3 Driveways in all residential districts may not extend closer than three (3) feet to the side lot line. A strip of greenery of not less than three (3) feet must be provided along the full length of each such driveway and the property line.

50.4 Common Driveways

50.4.1 Except as specified in Subsections 22-50.4.2 and 22-50.4.3, common driveways shall service no more than two (2) lots.

50.4.2 Common Driveway in the C, I, MU1 or MU2 Districts. A common driveway may serve two (2) or more lots used for business or industrial use and located in the C, I, MU1 or MU2 districts. The Planning Board shall ensure that the common driveway enables suitable open space on each site.

50.4.3 Common Driveway in an HCO District. The Planning Board may permit a common driveway to serve two (2) or more principal uses located in an HCO District, notwithstanding that the principal uses in such HCO District are different.

Section 22-51. Driveways Serving Nonresidential Districts

No private way or driveway that serves a nonresidential use in a nonresidential district may be built through a residential district.

Section 22-52. Design Standards

It is the intent of this section to limit the paved surface of a parking lot or loading area to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this section. The off-street parking and loading plan required by this section must demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the Director of Inspections may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this section.

52.1 Exception for Single-Family and Two-Family Dwellings. The provisions of Subsections 22-52.2.5 (backing into a public street), 22-52.4 (marking of pavement), 22-52.5 (moving of vehicles) and 22-52.6 (surfacing, drainage) do not apply where parking is provided for any single-family or two-family dwelling.

52.2 Dimensions

52.2.1 On any lot in any district, parking spaces and maneuvering aisles must have the minimum dimensions set forth in the following table and elsewhere in this section:

MINIMUM PARKING SPACE AND PARKING LOT AISLE DIMENSIONS, FEET								
PARKING ANGLE, DEGREES (°)	PARKING SPACE WIDTH		PARKING SPACE DEPTH [2]		MANEUVERING AISLE WIDTH		UNIT PARKING DEPTH	
	Standard	Accessible	Standard	Accessible	Standard	Accessible	Standard	Accessible
61 – 90°	9 [1]	12 [1]	18	18	22	22	60	60
46 – 60°	9	12	18	18	16	16	56	56
45°	9	12	18	18	14	14	53	54
Parallel	8	12	22	22	12	12	N/A	N/A

[1] Where one or both of the long sides of a parking space abuts a wall or similar obstruction, the width is 12 feet.

[2] Up to 2 feet of unpaved landscaped space may be included in the depth provided there are no obstructions to the vehicle's overhang.

52.2.2 To be counted as a required parking space, a parallel parking space must have maneuvering space at least twenty (20) feet deep in front of it in an aisle parallel to and abutting such parking space.

52.2.3 Where columns of a building or structure are located in a parking lot (such as a parking garage under a building) no part of a column may be within three (3) feet of a maneuvering aisle or within the minimum dimensions of a parking space as set forth in Subsection 22-52.2.1.

52.2.4 The width of a driveway for a one-way use is a minimum of eight (8) feet and for two-way use is a minimum of eighteen (18) feet and a maximum of thirty (30) feet, as measured at the setback line. The maximum width does not apply in the HCO District.

52.2.5 Where access or egress is provided for a parking lot (five (5) or more spaces), or one (1) or more loading bays, such access or egress must be so arranged to provide a circulation system or maneuvering space on the lot. This will allow vehicles the ability to exit from and enter onto a public street by being driven in a forward direction. A vehicle must not be required to enter or leave by backing and a vehicle must not have to stand within a street right-of-way waiting to enter the lot.

52.3 Loading Bays. All required loading bays must have minimum dimensions as follows: thirty (30) feet long, ten (10) feet wide and twelve (12) feet high. Each loading bay must have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Director of Inspections requests, evidence must be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles and trailers.

52.4 Marking. In a parking lot or loading area the surface of the parking lot or loading area must be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent. Where fifty (50) percent or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in an apartment building, parking spaces for guests or visitors to the use or establishment, not to exceed ten (10) percent of the required parking spaces, must be located and designated as visitor parking near the principal entrance to the building that it serves.

52.5 Availability. To ensure the availability and utilization of required parking spaces and loading bays on a year-round basis:

52.5.1 No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, must be made for a parking space or loading bay required to serve a use, building, or establishment.

52.5.2 Snow Storage. An area off the parking and loading surface equal to at least five (5) percent of the gross parking and loading area must be provided and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area; such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building.

52.5.3 Each required off-street parking space and loading bay must be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or bypassing over any other space or bay.

52.5.4 Parking spaces for vehicles larger than automobiles, such as large trucks or buses, must be specifically identified and must be of such dimension as to accommodate the specified type of vehicle. Such vehicles are permitted to park only in the spaces so designated.

52.6 Surfacing, Drainage. All required parking spaces and loading bays, maneuvering aisles, and driveways must have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, unless the Planning Board grants a Special Permit authorizing an alternative surface, and must dispose of surface water by grading and drainage in such a manner that no surface water drains onto any public way (except as permitted under Site Plan Approval) or onto any lot in other ownership (except as permitted by the owner of such lot).

52.7 Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay is five (5) percent. The maximum grade of any outdoor driveway is ten (10) percent.

52.8 Landscaping.

52.8.1 Except in the HCO District, parking areas greater than twenty-five (25) parking spaces must be separated by landscaped islands of eight (8) to ten (10) feet in width. In addition, a minimum of one (1) shade tree must be planted for every three (3) parking spaces required or built, within appropriate locations on the lot(s). The plan must show the location of plantings, including use of plantings to buffer neighboring properties, and along the street frontage and pedestrian ways. Trees planted within parking areas must be planted in protected pervious plots of at least sixty (60) square feet of area.

52.8.2 In the HCO District, on at least three (3) sides of the perimeter of an outdoor parking lot containing twenty (20) or more parking spaces, there must be planted at least one (1) tree for every five (5) parking spaces abutting the perimeter. Such trees must generally be located such that all required trees are no further than forty (40) feet from the nearest edge of the parking area. For purposes of this subsection, "parking area" includes any driveways, interior drives, access drives or ring roads. A tree may not be required to be located in such a manner as to impair the sight lines of pedestrians or motorists at any driveway intersection or point of ingress or egress.

52.8.3 In the interior part of an outdoor parking lot where two (2) rows of parking spaces containing a total of ten (10) or more parking spaces face each other, a landscaped open strip not less than five (5) feet in width must be provided. The landscaped strip may be provided either:

52.8.3.1 Between the rows of parking spaces parallel to the aisle or

52.8.3.2 In two (2) or more strips parallel to the spaces and extending from the aisle serving one (1) row of spaces to the aisle serving the other row of spaces. There must be planted in each strip at least three (3) trees and in all such strips not less than one (1) tree for every ten (10) parking spaces in the interior part of the parking lot in the HCO District or for every eight (8) parking spaces in the interior part of the parking lot elsewhere. Trees must be spaced so that some part of a parking space is not more than thirty (30) feet from a tree.

52.8.4 Trees required by this section must be at least two (2) inches diameter at a height four (4) feet above the ground at the time of planting and must be of a species characterized by suitability and hardiness for location in a parking lot. In the HCO District, such trees must be not less than six (6) feet tall. All landscaped areas must be properly maintained. Shrubs or trees which die must be replaced within one (1) growing season. To the extent practicable, existing trees must be retained and used to satisfy this section.

Section 22-53. Exceptions, Special Permits

53.1 Required parking spaces may be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted under the following circumstances:

- By right in the HCO District if the use is allowed by right in the district where the separate lot is located;
- By Planning Board Special Permit in the HCO District if the use is allowed by Special Permit in the district where the separate lot is located;
- By Planning Board Special Permit in the BB, C, I, MU1 and MU2 districts;

Provided:

53.1.1 For a use in the HCO District:

53.1.1.1 All such parking spaces are within five hundred (500) feet walking distance of the boundary of the HCO District that they serve or within one thousand five hundred (1,500) feet of such boundary, if public or private bus or shuttle transportation is available between such parking spaces and the HCO District which they serve;

53.1.1.2 A pedestrian must not be required to cross a public way at grade to reach the building from the parking spaces; and

53.1.2 In a BB district all such parking spaces may be within twelve hundred (1200) feet walking distance of the entrance of such building if located on a lot within the BB district.

53.1.3 In the C, I, MU1 and MU2 districts, all such parking spaces are within seven hundred fifty (750) feet walking distance of an entrance to the building which they serve.

53.1.4 In the BB, C, I, MU1 and MU2 districts, all such spaces are for employees only and not clientele.

53.1.5 Where such lot is not in the same ownership, a lease guaranteeing long term use of such lot, and satisfactory in form to the City Solicitor is executed and filed in the Registry of Deeds of Worcester County (Northern District).

53.2 By right in the HCO District or by Planning Board Special Permit in the C, MU1 and MU2 District, a driveway on one (1) lot may lead to a parking space or loading bay on another lot; be located partly on another lot; or straddle a lot line; provided that:

53.2.1 The parking spaces or loading bays so served, or a portion of such driveway, is located in a zoning district in which the principal use served thereby is permitted; and

53.2.2 A binding easement or other appropriate agreement is entitling the owner of such principal use to use such driveway, parking spaces or loading bays is executed and recorded in the Worcester County (Northern District) Registry of Deeds and/or filed with the Worcester County (Northern District) Registry District of the Land Court.

53.3 By right in the HCO District or by Planning Board Special Permit elsewhere, where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by Section 22-46, the Planning Board may reduce the number of such spaces or bays required by not more than thirty (30) percent in the HCO District or fifty (50) percent elsewhere. The applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays. A reserve area, to be maintained as landscaped open space, must be provided sufficient to accommodate at least one-half (1/2) of the difference between the spaces or bays required and the lesser number provided. The off-street parking and loading plan must show how the reserve area would be laid out in compliance with this section. The Planning Board may, by Special Permit, waive the provision of a reserve area.

53.3.1 In the HCO District, if after one (1) year after the Certificate of Occupancy is issued for the building or use, the Planning Board determines that additional parking spaces are needed, it may require that all or any portion of the spaces shown on the approved Site Plan as "Reserve Parking" be constructed.

53.3.2 Elsewhere, the term of a Special Permit for such reduction initially may not exceed two (2) years, but may be granted subsequently for a longer period upon verification that the parking is adequate. A Special Permit granted under this authority lapses upon change to a different type of use and does not constitute any non-conformity.

53.4 Shared Parking.

53.4.1 In all districts except HCO, by Planning Board Special Permit, where two (2) or more activities or uses provide for required parking or loading in a common parking lot, consideration may be given to the hours of usage of the proposed use, hours of usage of other uses, amount of shared parking with other uses, as well as other relevant information to determine the need for additional parking for motor vehicles.

53.4.1.1 The Planning Board may require the applicant to provide a parking study with all information deemed necessary to render a decision. Said information must include, but not be limited to:

53.4.1.1.1 The hours of operation and parking demand for each use.

53.4.1.1.2 The hours of peak demand for parking.

53.4.1.1.3 A description of the character of the land use and the parking patterns of adjacent uses.

53.4.1.1.4 An estimate of the anticipated turnover in parking space use over a 24 hour period of time.

53.4.1.1.5 A site plan showing the shared use spaces in the lot and the walking distance to the uses sharing the lot.

53.4.1.2 Relief may be granted by the Planning Board provided that it is demonstrated that the additional demand for such spaces can be reasonably met without placing an undue burden on existing facilities already relying on such spaces under the following conditions:

53.4.1.2.1 Allow parking areas to be shared with adjoining businesses based upon having peak user demands at different times provided that all businesses sharing parking are located on the same lot.

53.4.1.2.2 On-street parking spaces within a radius of two hundred (200) feet may be counted as part of the required parking need.

53.4.1.2.3 Parking spaces on a separate lot or lots within a radius of six hundred (600) feet, measured from the lot line of the principal use, may be counted.

53.4.1.2.4 A reciprocal agreement must be executed by all parties concerned that ensures the long-term joint use of such common parking, and that a copy has been submitted, and is acceptable to the Planning Board.

53.4.2 In the HCO District, where two (2) or more uses provide for required parking or loading in a common parking lot or loading area, the number of parking spaces or loading bays required may be reduced below the sum of the spaces or bays required for the separate uses or if it can be reasonably demonstrated to the Planning Board that the hours, or days, of peak parking or loading need for the uses are so different that a lower total will provide adequately for all uses served by the parking lot or loading bay.

53.5 The Planning Board may grant a Special Permit to allow the design of a parking lot that differs from the design provisions of Sections 22-52 and/or 22- , provided such design complies with the intent of Sections 22-52 and/or 22-, respectively, and is prepared by a professional engineer or landscape architect.

Article X: Board of Appeals

Section 22-54. Creation, Membership, Appointments

A Zoning Board of Appeals consisting of five (5) members and two (2) associates must be appointed by the Mayor subject to confirmation of the City Council as provided for in M.G.L. Chapter 40A, Section 12. The Board of Appeals shall act on all matters pursuant to M.G.L. Chapter 40A and this Ordinance. In performing its function, the Board of Appeals shall give due consideration to promoting the public health, safety, convenience, and welfare, encouraging the most appropriate use of land and conserving property values; that it shall permit no building or use of land or building that is injurious, noxious, offensive, or detrimental to a neighborhood and that it shall prescribe appropriate conditions and safeguards in each case.

The Board of Appeals shall adopt rules not inconsistent with the provisions of the Zoning Ordinance for the conduct of its business and for purposes of this Ordinance and shall file a copy of said rules with the City Clerk.

Section 22-55. Powers and Duties

55.1 The Board of Appeals has all the powers and duties prescribed by law and this Ordinance which are more particularly specified as follows:

55.1.1 To hear and decide any appeal from a decision by the Director of Inspections, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

55.1.2 To hear and decide applications for Special Permits upon which the Board is empowered to act in accordance with the provision concerning Special Permits contained in Section 22-13 of this Ordinance.

55.1.3 To hear and decide petitions for Variances in the case of exceptionally irregular, narrow, shallow, or steep lots or other exceptional physical conditions whereby strict application of the Ordinance would result in practical difficulty or unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved. In granting such a Variance, the Board of Appeals must find that all of the following are met:

55.1.3.1 That there are unique circumstances relative to the soil conditions, shape, topography, or other similar physical characteristics which specifically affect the land or structure in question, but not affecting generally the zoning district in which the land or structure is located.

55.1.3.2 That literal enforcement of the Ordinance would involve substantial hardship, financial or otherwise.

55.1.3.3 That desirable relief may be granted without substantially derogating from the intent and purpose of the Zoning Ordinance.

55.1.3.4 That desirable relief may be granted without substantial detriment to the public good.

55.2 The Board of Appeals may impose conditions, safeguards, and limitations of time and use. However, the conditions cannot require continued ownership of the land or structure to which the Variance pertains.

55.3 If the rights authorized by a Variance are not exercised within one (1) year of the date of approval, they lapse and may be reestablished only after notice of a new hearing is held.

Section 22-56. Procedures

56.1 The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and by this section.

56.2 All appeals and applications made to the Board must be in writing on forms prescribed by the Board.

56.3 Any appeal to the Board must be filed within thirty (30) days from the date of the order or decision which is being appealed.

56.4 Every appeal must refer to the specific provisions of the section involved and must exactly set forth the interpretation that is claimed, the details of the Variance that is applied for and the grounds on which it is claimed that the Variance should be granted.

56.5 Meetings of the Zoning Board of Appeals may be held at the call of the Chair or when called in such other manner as the Board shall determine in its rules.

56.6 The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it within sixty-five (65) days from the transmittal to the Board of such appeal, application, or petition.

56.7 The Board shall cause notice of such hearing to be given in accordance with M.G.L. Chapter 40A, Section 11.

56.8 The Chair, or in his/her absence, the acting Chair, may administer oaths, summon witnesses, and call for the production of papers.

56.9 The concurring vote of four (4) members of the Board is necessary to reverse any order or decision of the Director of Inspections or to effect any Variance in the application of any Ordinance or to grant any special permit.

56.10 Decisions of the Board of Appeals must be made and filed in accordance with M.G.L. Chapter 40A.

Article XI: Site Plan Approval

Section 22-57. Site Plan Approval Applicability

In all instances specified in Article III: Tables of Uses, indicating that Site Plan Approval is required, and in all cases listed below, approval of a Site Plan may not be granted except in conformity with a Site Plan bearing an endorsement of approval by the Planning Board and other boards as deemed appropriate by the Planning Board, including the following: Director of Inspections, Board of Health, Conservation Commission, Fire Department, Police Department, Historical Commission, and Department of Public Works.

A Site Plan Approval from the Planning Board is required where a new use or expansion of an existing use will result in any one or more of the following conditions:

57.1 Ten (10) or more new parking spaces

57.2 An increase of parking spaces of twenty-five (25) percent or more

57.3 The creation of 10,000 square feet of new gross floor area on a single lot

57.4 More than one (1) building on a lot

57.5 Any business that will utilize a drive-through facility or window

57.6 Change of use classification on a lot.

Section 22-58. General Purpose and Objectives

Site Plan Approval is a regulatory role of the Planning Board, intended to control site development. The Planning Board may not deny Site Plan Approval based upon the proposed use of the property if that use is one which is allowed by right. Site Plan Approval is utilized to accomplish the purposes set forth in Article III: Tables of Uses of this Ordinance as to the specific goals of:

- Facilitating traffic channelization and control
- Providing for safe pedestrian and bicycle access
- Assuring drainage of surface water
- Protecting the environment, property values, abutting properties, and visual amenities

To facilitate the administration of this section, no building permit for the construction, exterior alteration, relocation, occupancy or change in use of any building, structure or premises, may be granted until the provisions of this Ordinance have been fulfilled.

In reviewing a Site Plan application, the Planning Board shall take into consideration the health, safety, and welfare of the public in general and the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the following general objectives:

58.1 That the proposed Site Plan is in conformance with the intent of the zoning district and does not take precedence over specific provisions of the Zoning Ordinance.

58.2 That all buildings, structures, uses, equipment, and materials are readily accessible for police and fire protection.

58.3 That off-street parking and loading spaces are provided to prevent traffic congestion; that all parking spaces and maneuvering areas are suitably identified and designed to meet standards specified within this Ordinance; and that provision is made for safe pedestrian movement within and adjacent to the property by the installation of sidewalks.

58.4 That all proposed pedestrian access ways do not create traffic hazards and are:

58.4.1 Not excessive in number;

58.4.2 Not less than five (5) feet in width;

58.4.3 No steeper in grade than ten (10) percent; and

58.4.4 Aligned generally parallel or perpendicular to buildings, driveways or parking areas.

58.5 That the general landscaping of the site complies with the purpose and intent of this Ordinance; that existing trees are preserved to the maximum extent possible; that parking storage, refuse, and service areas are suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way.

58.6 That lighting of the site maintains a level of 1.0 foot-candle in driveway, parking and pedestrian areas; that the glare from the installation of outdoor lights and illuminated signs is properly shielded from the view of adjacent property and public rights-of-way.

58.7 That all utility systems are suitably located, designed to meet the standards of the applicable utility company or department, and properly installed to serve the proposed uses and to protect the property from adverse pollution.

58.8 That the development of the site will preserve sensitive environmental land features such as steep slopes, wetlands, and large rock outcroppings and will attempt to preserve public scenic views or historically significant features.

58.9 That the location and size of proposed buildings, uses or structures, as well as the nature and intensity of the operations involved or conducted in connection therewith, will be in general harmony with the surrounding neighborhood.

Section 22-59. Application

Each application for Site Plan Approval must be submitted to the Planning Board with ten (10) copies of the Site Plan. The Planning Board shall, within five (5) days, transmit one (1) copy each to the Director of Inspections, Board of Health, Conservation Commission, and other appropriate boards and departments.

The Planning Board may waive the necessity for Planning Board approval for changes in use of existing buildings or any other changes deemed to be minor in nature.

Section 22-60. Procedure for Review

60.1 Said Site Plan must be prepared by a Massachusetts registered professional architect, landscape architect, or a registered professional engineer, and must show the following, unless waived by the Planning Board:

60.1.1 All property boundaries and the use and ownership of adjacent land and the location and use of any building thereon within three hundred (300) feet of the boundary of the subject property. The "City of Leominster, Assessor Maps" as amended to the date of filing said Site Plan is acceptable to show the information required by this paragraph.

60.1.2 Date, North arrow, and numerical and graphical scale.

60.1.3 The Site Plan map must illustrate the existing and proposed conditions of the property including existing and proposed contours at intervals of two (2) feet, and the location of all existing wooded areas, watercourses, wetlands, and other significant natural features and, where, appropriate, the boundary of the flood hazard area. The Site Plan must show 100 foot wetland buffer zones, 100 and 200 foot riparian zones and 400 foot water protection boundary zone if appropriate.

60.1.4 All existing and proposed buildings, structures, parking spaces, driveways, driveway openings, loading areas and service areas on the subject property.

60.1.5 A written description of the proposed use or uses.

60.1.6 Location Map. An accurate scale map at a scale of 1"=1000' must be submitted showing the subject property and all property and streets within one thousand (1000) feet.

60.1.7 Easements. Location, width and purpose of all existing and proposed easements and rights-of-way on the property.

60.1.8 Provisions for screening, surfacing, lighting, landscaping (including fences, wall, planting area, and walks) and signs. The landscaping plan must illustrate the existing and proposed landscape development of the property, including the location, general layout, type and size of buffer or landscape area, plant material, fencing, screening devices, decorative paving or other materials proposed. A landscaping maintenance plan must be prepared and submitted as part of the design plan.

60.1.9 Provisions for waste disposal, drainage, dust, erosion control, water, and power supply. All refuse containers must be screened from view from the street, and wherever possible must be located at the rear of the property.

60.1.10 Provisions for snow removal.

60.1.11 Location, arrangement and dimensions of automobile parking spaces, aisles, vehicular drives, fire lanes, entrances, exits and ramps.

60.1.12 Location, arrangement, and dimensions of loading and unloading areas.

60.1.13 Location and dimensions of the pedestrian walkways, entrances, and exits.

60.1.14 Location, size, height, orientation, and design of all signs.

60.1.15 Location, size, height, orientation, and design of any outdoor lighting.

60.1.16 Location and design of all existing and proposed sanitary sewer, storm drainage, water supply facilities, and above-ground utilities. All public utilities shall substantiate that such underground placement is impractical.

60.1.17 Architectural elevations for proposed new buildings.

60.2 Period of Review - The period of review for a Site Plan Approval is as follows:

60.2.1 Within five (5) days of receipt of a complete application, the Planning Department shall forward copies of the Site Plan to all departments and boards deemed relevant by the Planning Board.

60.2.2 Within sixty-five (65) days of submission, the Planning Board shall hold a public informational meeting on the application.

60.2.3 Within ninety (90) days of the informational meeting, the Planning Board shall act on the application.

60.3 Pre-Application Meeting.

60.3.1 To facilitate review of a Site Plan at the pre-application stage, applicants are strongly encouraged to submit the information below using GIS information or other mapping resources such as USGS Quadrangles and aerial photography. This information need not be developed by a design professional.

60.3.1.1 Site Context Map. This map should illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it should show various kinds of major natural resource areas or developed features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.

60.3.1.2 Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map should locate and describe noteworthy site resources including existing buildings, parking areas, street names, and natural features.

60.4 Land in an Overlay District is subject to the requirements for the corresponding Underlying District provided in this Article. In no event may Site Plan Approval requirements for land in an Overlay District be less restrictive than the requirements for the corresponding Underlying District.

Section 22-61. Approval by the Director of Inspections

61.1 In reviewing a Site Plan under this section, the Planning Board shall give due consideration to the Director of Inspections reports and shall communicate all subsequent decisions to the Board of Health and Conservation Commission, Department of Public Works, and appropriate Boards and

Commissions. The following standards must be considered by the aforementioned Boards in the review and evaluation of a Site Plan to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:

61.2 Protection from flood hazards as stated in Section 22-34 considering such factors as elevation of buildings, drainage, adequacy of sewage disposal, erosion and sedimentation control, equipment location, refuse disposal, storage of buoyant material, extent of paving, effect of fill, roadways or other encroachments on flood runoff and flow, storage of chemicals and other hazardous substances, and provisions for snow removal.

Section 22-62. Site Plan Standards for Nonresidential Development

The purpose of the following site plan standards is to ensure that consideration will be given to the natural resources and characteristics of a site; to its topographic, hydrologic, and geologic conditions; to public convenience and safety, particularly with regard to abutters; incorporate streetscape improvements; and to the suitability of a proposed use on a site. Before the granting of any Site Plan Approval, the Planning Board shall assure that each Site Plan submitted complies in full with the following site design standards:

62.1 Stormwater Runoff - For any site containing one half (.5) acre or more of land area, the applicant shall provide pre and post run-off rate analysis that is certified by a Massachusetts registered civil engineer. All plans must show the limit of work and erosion controls applicable to the site. The Planning Board may authorize the use of stormwater drainage facilities located off the development site and designed to serve one (1) or more lots provided it finds that:

62.1.1 The peak rate of stormwater runoff from such off-site facilities does not exceed the rate existing prior to the new construction based on a twenty-five (25) year design storm; and

62.1.2 The applicant has retained the rights and powers necessary to assure that the off-site stormwater drainage facilities will be properly maintained in good working order.

62.2 Outdoor Lighting - In the area of new construction, outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, must be arranged to minimize glare and light spilling over to neighboring properties. Except for low-level intensity pedestrian lighting with a height of less than eight (8) feet, all outdoor lighting must be designed and located so that:

62.2.1 The luminaire has an angle of cutoff (as measured from the fixture down to the ground) less than seventy-six (76) degrees; and

62.2.2 A line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site. On sites abutting residential properties, there must be no obtrusive lighting from 10:00 p.m. to dawn.

62.3 Landscaping Standards

62.3.1 Appropriate landscaping and design must be incorporated into new and expanded development within nonresidential zoning districts. Landscape design plans must be prepared by a registered landscape architect, although the Planning Board may accept a plan prepared by one other than a landscape architect if it believes the plan meets the design guidelines noted below and is in concert with the intent of this regulation. Wherever possible, naturally occurring vegetation must be incorporated into the landscape plan. For landscaping of parking areas, Subsection 22-52.8.

62.3.2 Side yard setbacks in accordance with the Dimensional Regulations - Article VII must be landscaped, except where used for parking or driveways. This side yard must be planted with a combination of grass, appropriate height shrubs and shade trees. If there is not an adequate amount of side yard area to landscape, a fence may be allowed as an alternative, although chain link fencing is not permitted.

62.3.3 Exposed storage areas, machinery, garbage dumpsters, service areas, truck loading areas, utility buildings, and structures must be screened from the view of abutting properties and streets using plantings, fences, and other methods compatible with the goals of this regulation.

62.3.4 All landscaped areas must be properly maintained. Any tree or shrub that dies within one (1) growing season must be replaced. Replacement trees or shrubs must be of similar type and size to the one(s) approved as part of the original approval.

62.3.5 Trees are to be planted where necessary, as determined by the Planning Board. Trees must be the equivalent of well-rooted nursery-grown stock, free of injury, harmful insects, and diseases. They must be well-branched, and the branching structure must be sound. Trees may only be planted after April 15 and before September 30. Any planting outside of those dates must be approved by the Forest Warden.

62.3.6 No more than fifty (50) percent of the trees, approved to be planted, may be of any one (1) species and no less than twenty-five (25) percent of the total trees planted may be of any one (1) species. Trees must be chosen from a list provided by the Forest Warden and on file with the City Clerk, unless an alternative is specifically approved by the Planning Board.

62.3.7 Street trees must be spaced at intervals of fifty (50) feet. No street trees may be planted within fifty (50) feet of an intersection or future intersection. Street trees on one (1) side of the street may be set either opposite or diagonally to trees on the opposite side. Street trees must be planted two and a half (2 ½) feet behind the sidewalk or six (6) feet behind the gutter line and always within the right-of-way. No trees may be planted in any easements. The location of all the proposed street trees must be reviewed by the Forest Warden on-site and approved prior to installation.

62.3.8 Minimum acceptable size of tree to be planted is two and a half (2½) inches trunk caliper at four feet (4') above the grade. At the time of delivery the proposed trees must be approved by the DPW or Forest Warden. Evergreen trees must be at least eight (8) to ten (10) feet tall at the time of planting.

62.3.9 Specifications for planting operations and for support stakes, guy wire and cable, ground anchors, hose, and strapping material must be as specified in the American Standard for Nursery Stock published by the American Nursery & Landscape Association.

62.3.10 Where a business or industrial use abuts a residential district, a landscape buffer of a minimum of fifty (50) feet in depth designed to mitigate the impact of the business or industrial use on abutting residential districts may be required.

62.3.11 All parking lots and loading facilities must be suitably landscaped to minimize their visual impact on the lot and upon adjacent property by the use of existing vegetation where appropriate and

by the use of trees, shrubs, walls, fences or other landscape elements as described in Subsection 22-52.8.

Section 22-63. Additional Site Plan Standards for Business, C, Multi-Use & Overlay Districts

To receive Site Plan Approval, all multi-family residential and all nonresidential projects or uses must demonstrate compliance with the following standards, and abide by the Environmental Performance Standards set forth in Section 22-41.

63.1 Standards that apply to projects or uses in the BA, BB, C, MU1, MU2, and Overlay Districts

63.1.1 Parking Standards.

Proposed projects or uses must comply with Off-street Parking and Loading regulations in Article IX and the following standards:

63.1.1.1 No parking is permitted within the required front yard setback of a structure. If the physical configuration of the lot creates a hardship for the property owner to meet this requirement, the Planning Board may allow parking in the front, with screening, as noted in Subsection 22-63.1.5.1.

63.1.1.2 To the extent feasible, parking areas must be shared with adjacent businesses Subsection 22-53.4.

63.1.1.3 For developments that make a long-term commitment to actively promote employee and public use of transit, ridesharing, and other means to reduce single occupant vehicle (SOV) trips, minimum parking standards may be reduced by a percentage, up to a maximum of twenty (20) percent to be determined by the Planning Board based upon the adequacy of trip reduction plans submitted in accordance with Subsection 22-63.2.4.

63.1.2 Appearance/Architectural Design Standards (See the specific standards that apply to the V District, Section 22-42; DO District, Section 22-30; and the MSO District, Section 22-31).

63.1.2.1 Architectural design must be compatible with the character and scale of buildings in the City through the use of appropriate building materials, screening, breaks in roof and wall lines, and other architectural techniques. Variation in detail, form, and siting must be used to provide visual interest and avoid monotony. Proposed buildings must relate harmoniously to each other with light, air, circulation, and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with Leominster's character. For example, exterior materials such as wood, metal, vinyl clapboards, stone or brick, and treatment compatible on all four (4) sides, are considered consistent with Leominster's character. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the City's character. Large work area doors or open bays may not open toward or face roadways.

63.1.2.2 The Planning Board may adopt regulations to further specify design standards.

63.1.2.3 In particular, developments and projects which are located at the gateways or highway corridor entry points to Leominster must be reviewed for consistency with neighboring uses and the impact the development has to the appearance of the entry to the City.

63.1.3 Lighting Standards.

63.1.3.1 Any outdoor lighting fixture newly installed or replaced must be shielded so that it does not produce a strong, direct light beyond the property boundaries.

63.1.3.2 No light standard may be taller than twenty-four (24) feet.

63.1.4 Access Standards.

63.1.4.1 Curb cuts are limited to the minimum width for safe entering and exiting and may in no case exceed twenty-four (24) feet in width, per lane.

63.1.4.2 All driveways must be designed to afford motorists exiting to highways with safe sight distance.

63.1.4.3 Pedestrian and bicycle access must be provided as follows:

63.1.4.3.1 Sidewalks must be provided to enable pedestrian access to adjacent properties, and between individual businesses within a development. Provisions must be made to include bicycle racks to accommodate the parking of bicycles. The appropriate authority may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes stated in Section 22-13 and Article XI. The appropriate authorities are the Director of Inspections for by-right uses, the Special Permit Granting Authority for Special Permit uses, and the Planning Board for Site Plan Approval.

63.1.5 Landscaping Standards, Subsection 22-62.3.

63.1.5.1 Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures, and other unsightly uses must be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with the capacity to grow to full screening of the unsightly use. Plantings must be four (4) feet at planting when abutting a residential zone.

63.1.5.2 All landscaped areas must be properly maintained. Shrubs or trees which die are to be replaced within one (1) growing season.

63.1.5.3 Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of project completion due to winter weather conditions.

63.2 Standards that Apply to Projects or Uses in C, MU1 or MU2 Districts.
Projects or uses in the C, MU1, and MU2 districts must abide by the standards in this section in addition to the standards set forth in Subsection 22-63.1.

63.2.1 Access Standards. Applicants for projects or uses within the C, MU1 or MU2 districts must demonstrate that the project or use will minimize traffic and safety impacts on highways.

63.2.1.1 The number of curb cuts on state and local roads must be minimized. To the extent feasible, access to businesses must be provided via one of the following:

63.2.1.1.1 Access via a common driveway;

63.2.1.1.2 Access via an existing side street; or

63.2.1.1.3 Access via cul-de-sac or loop road shared by adjacent lots or premises.

63.2.1.2 One (1) driveway is permitted by right per business or per project, if a project includes several businesses within a structure or group of structures. Entering and exiting lanes must be separated by a median strip. Where deemed necessary by the appropriate authority, two (2) driveways may be permitted as part of the Site Plan Approval process which must be clearly marked "entrance" and "exit." The appropriate authorities are the Director of Inspections for by-right uses, the Special Permit Granting Authority for Special Permit uses, and the Planning Board for Site Plan Approval.

63.2.2 Landscaping and Screening Standards.

63.2.2.1 A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, must be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip must be planted with grass, medium (3 feet to 4 feet) height shrubs, and shade trees (minimum two (2) inch caliper, planted at least every fifty (50) feet along the road frontage). At all street or driveway intersections, trees or shrubs must be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk required in Subsection 22-63.1.4.3.1 must be incorporated into the buffer strip.

63.2.3 Traffic Impact Statement.

63.2.3.1 A traffic impact statement must be prepared, which must contain:

63.2.3.1.1 Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site;

63.2.3.1.2 A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections; and

63.2.3.1.3 Sidewalks for pedestrian and bicycle access must be provided to adjacent properties and between individual businesses within a development.

63.2.3.2 An additional traffic impact statement must be prepared for buildings/projects over ten thousand (10,000) square feet, which must contain:

63.2.3.2.1 A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means; and

63.2.3.2.2 An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.

63.2.4 Trip Reduction Plan.

63.2.4.1 When requested by the Planning Board and where a new building(s) or new use of more than ten thousand (10,000) square feet is proposed, the applicant shall prepare and submit a "Trip Reduction Plan" clearly identifying a combination of transportation systems management strategies that are designed to reduce anticipated vehicle trips by thirty-five (35) percent. These strategies may include, but are not limited to:

63.2.4.1.1 Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services, and providing parking at the vanpool/carpool pick-up site;

63.2.4.1.2 Allowing and encouraging flexible work hours and flexible work weeks;

63.2.4.1.3 Encouraging pedestrian and bicycle commute modes by providing on-site bicycle parking storage, locker room facilities, bicycle and walking paths, and similar features;

63.2.4.1.4 Site designs that are conducive to transit or vanpool use, such as convenient, weather protected transit shelters;

63.2.4.1.5 Encouraging employee and customer use of transit services, including providing transit subsidies for improved transit service and accessibility;

63.2.4.1.6 Provision of on-site services, retail opportunities, and housing if allowed in the zone; and

63.2.4.1.7 Naming a full-time or part-time transportation systems management coordinator to oversee implementing all strategies identified in the "Trip Reduction Plan."

Article XII: Open Space Community Development Regulations

Section 22-64. Purpose

64.1 Allow for greater flexibility and creativity in the design of residential subdivisions.

64.2 Encourage the permanent preservation of open space, agricultural lands and other natural resources.

64.3 Maintain the traditional New England character and land use pattern in which clustered communities connect with open spaces and farmland.

64.4 Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner.

Section 22-65. Design Requirements

A design concept plan, prepared by a professional landscape architect or by a registered civil engineer, must be submitted to the Planning Board for review. Provisions of RR and RA may be modified as indicated below when authorized by the Planning Board subject to all other requirements in this and all pertinent requirements of the Zoning Ordinance and Subdivision Regulations:

65.1 Minimum Tract Sizes. A tract of land to be developed may be not less than two (2) acres in size, and must be in single ownership or must be the subject of an application signed jointly by the owners of the entire tract. The maximum allowable built area per tract is thirty-five (35) percent.

Density and Lot Area. In no case may the number of dwellings permitted on a tract of land exceed a number that would have been permitted were the district regulations complied with fully. This density maximum is contained in the appropriate district regulations. All wetlands and floodplains are excluded from the parcel in calculating the allowable density. The following dimensional requirements apply. These requirements reflect developments where individual lots are created as well as developments where all land is kept under common ownership.

Separate Lots							Commonly Owned
			Minimum Yard Requirements				
District	Lot Area	Minimum Lot Width	Front	Side	Rear	Frontage	Minimum Distance Between Buildings
RR	15,000	85	10	15	15	60	30
RA	10,000	75	8	10	10	30	20

The yard requirements may not be reduced from those specified in the District. Minimum lot width is measured at building line.

65.2 Permitted Uses. Single-family detached dwelling.

65.3 Common Land.

65.3.1 The area of Common Land must equal at least twenty-five (25) percent of the total area of the Open Space Community Development tract. Such land must have a shape, dimension, character

and location suitable to assure its use for park, recreation, conservation or agricultural purposes by all the residents of the development or by the public. No more than fifty (50) percent of the minimum required Common Land must be situated within the floodplain or wetland. Each parcel of Common Land must have at least thirty-five (35) feet of frontage and no structure may be constructed thereon in excess of fifteen (15) feet in height nor may the maximum lot coverage, including paved areas, exceed ten (10) percent without Planning Board approval.

65.3.2 Provision must be made so that the Common Land is readily accessible to the owners and occupants of the lots in the Open Space Community Development or to the public.

65.3.3 Subdivision of the Common Land is prohibited, and a notation to this effect must be shown on the Definitive Subdivision Plan. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but may not exceed five (5) percent coverage of such common land.

65.3.4 At the developer's option and subject to approval by the Planning Board, the Common Land must be preserved and owned as follows:

65.3.4.1 The City of Leominster, acting through the City Council, may accept at no cost to the City conveyance of the Common Land for open space, agricultural, natural resource protection, recreation or for parks.

65.3.4.2 If the City Council declines acceptance of the Common Land:

65.3.4.2.1 The Common Land may be conveyed to a homeowners association owned by the owners of lots within the development. If such an Association is utilized, ownership thereof passes with conveyances of lots in perpetuity.

65.3.4.2.2 The Common Land may be conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space.

65.3.4.2.3 The Planning Board must approve each use proposed for the Common Land.

65.3.5 In all cases a perpetual restriction of the type described in M.G.L., Chapter 184, Section 31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the City must be recorded in respect to such land. Such restriction must provide that the Common Land must be retained in perpetuity for one (1) or more of the following uses: open space, agricultural, natural resource protection, recreation or for parks. Such restriction must be in such form and substance as the Planning Board prescribes and may contain such additional restrictions on development and use of the Common Land as the Planning Board may deem appropriate.

65.3.6 To ensure that the homeowners association, non-profit organization or trust will properly maintain the Common Land, an instrument(s) must be recorded at the Worcester County Registry of Deeds (Northern District) which must, as a minimum, provide:

65.3.6.1 A legal description of the Common Land;

65.3.6.2 A statement of the purposes for which the Common Land is intended to be used and the restrictions on its use and alienation;

65.3.6.3 The type and name of the homeowners association, non-profit organization or trust that will own, manage, and maintain the Common Land;

65.3.6.4 If a homeowners association is the method of ownership of the common land, a list of each owner of a dwelling in the Open Space Community Development and a provision that such ownership or beneficial interest is appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately there from;

65.3.6.5 Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and/or officers of the homeowners association, or non-profit organization or trustees of the trust;

65.3.6.6 Procedures for the conduct of the affairs and business of the homeowners association, or non-profit organization or trust, including provision for the calling and holding of meetings of members and directors and/or officers of the homeowners association, and provisions for quorum and voting requirements for action to be taken. In the case of a homeowners association, each owner of a dwelling shall have voting rights proportional to his/her ownership;

65.3.6.7 Provision for the management, maintenance, operation, improvement, and repair of the Common Land and facilities thereon, including provisions for obtaining and maintaining adequate insurance. In the case of a homeowners' association, there must be provisions for levying and collecting from the dwelling owners common charges to pay for expenses associated with the Common Land, including real estate taxes. It must be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership. There must be a provision that failure to pay the common charge will result in a lien against the real estate that will have priority over all other liens with the exception of municipal liens and first mortgages of record in accordance with M.G.L. Chapter 59, Section 11; and

Section 22-66. Plan Requirements and Application Procedures

66.1 Application Procedure

66.1.1 As a condition of approval, the applicant shall demonstrate to the Planning Board that the proposed development will result in a desirable and stable residential environment and that both the benefits to the City and the improved design justify modification of the basic district regulations.

66.1.2 Each application for subdivision approval hereunder must be accompanied by a plan in duplicate of the Open Space Community Development prepared in accordance with the specifications of the Planning Board for preliminary subdivisions. A separate grid plan must be submitted showing the subdivision design in conformance with the zoning lot area requirements for the appropriate residential district.

66.1.3 An application for an Open Space Community Development must include a narrative description that demonstrates that the requirements for obtaining a Special Permit can be met.

66.1.4 An approval for an Open Space Community Development issued hereunder by the Planning Board is primarily an authorization for the use of lots which have less than the normal minimum area or frontage. Approval by the Planning Board of a Definitive Subdivision Plan for the area will be required as set forth in the Subdivision Regulations.

66.2 Submission of Subdivision Plan. In connection with the submission of a subdivision plan for Planning Board approval under the Subdivision Control Law or, if no such approval is required after consultation with the Planning Board, any person who desires an Open Space Community Development shall submit an application in writing in such form as the Planning Board may require which must include plans meeting the requirements set forth in the Subdivision Rules and Regulations of the Planning Board and such additional information as the Planning Board may require, including:

66.2.1 A development statement consisting of a petition, a list of parties in interest, the names of the development team and a description of the tract and the development, including the size of the tract, number of lots together with sufficient information to make a determination on the number of permissible lots, the size of the Common Land parcels, including the area and percent of any Common Land zoned FP District and a development schedule for all site construction, including the projected completion date of Common Land improvements.

66.2.2 Copies of all proposed instruments are to be recorded with the plans, including the Common Land perpetual restriction, the deed, and the membership of the homeowners' association, non-profit organization, or trust.

66.3 Referral. If the applicant seeks City acceptance of the Common Land and the Planning Board concurs, then the Planning Board shall refer the application to the City Council for the City Council to decide if it wishes to accept the Common Land. The Planning Board may not then take action on the application until it receives the City Council's decision.

66.4 Conditions. The issuance of the Special Permit is conditional upon the conveyance of the Common Land, free of any mortgage interest or security interest and subject to a perpetual restriction of type described above. The petitioner shall provide the Planning Board with satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp.

Section 22-67. Amendments

67.1 Minor Revisions. Following the granting of an approval by the Planning Board under this subsection, it may for good cause shown amend the plan solely to make minor changes in lot lines consistent with the Definitive Plan, provided, however, that no such amendment may:

67.1.1 Grant any reduction in the size or change in location of the Common Open Land;

67.1.2 Grant any change in the layout of the ways;

67.1.3 Increase the number of lots; or

67.1.4 Decrease the dimensional requirements of any lot below the minimum permitted by this Ordinance.

67.2 Changes. Any change in the number of lots, the layout of ways, the Common Land and its ownership or use, or any other conditions stated in the original approval requires a new Subdivision Plan issued in accordance with the provisions of this Ordinance.

Article XIII: Sign Regulations

Section 22-68. Purpose and Applicability

Purpose

Place limitations on the display of signs to meet the following goals:

- Encourage the effective use of signs as a means of communication in Leominster;
- Maintain and enhance the aesthetic environment and Leominster's ability to attract sources of economic development and growth;
- Improve pedestrian and traffic safety;
- Minimize the possible adverse effect of signs on nearby public and private property;
- Enable the fair and consistent enforcement of these sign restrictions;
- Avoid excessive competition among sign displays in their demand for public attention;
- Ensure that the design of each sign respects and is compatible with the architecture of surrounding buildings, and the general character of the surrounding neighborhood; and
- Ensure that signs will be adequate, but not excessive for the intended purpose of identification, protection or advertisement.

68.1 Any sign placed on land or on a building for the purposes of identification or protection of the same or for advertising a use conducted thereon is accessory and incidental to such land, building or use.

68.2 Applicability

68.2.1 All signs must comply with applicable requirements of the Massachusetts Building Code (780 CMR), the provisions of M.G.L. Chapter 93, Sections 29-33, inclusive, and M.G.L. Chapter 93D and the rules and regulations of the Massachusetts Electric Code (527 CMR 12.00), as they may be amended. Whenever the requirements of such regulations differ from those prescribed in this section, the requirement that imposes the greater restriction or higher standard governs. No signs may be erected, displayed, or maintained within the City, except those specifically provided for hereinafter.

68.2.2 Signs placed or erected by governmental agencies on the premises of governmental property and uses are not included herein, however, this section must be used as a guide in the placement or erection of any governmental agency signs.

Section 22-69. Permit Procedure

69.1 No sign, unless specifically exempted by this section, may be erected without a permit from the Director of Inspections, application for which must be accompanied by scale drawings, certificate of insurance as required herein. The location, type and area of all signs on the premises are to be

submitted in addition to information required for the sign for which the permit is being sought. Permits are required for all temporary signs not located inside a building.

69.2 Application for Permit. The owner or lessee of the premises on which a sign is to be erected shall file the following with the Director of Inspections:

69.2.1 Application for a permit on appropriate forms furnished by the Director of Inspections including the written consent of the owner of the premises concerned or of his authorized agent.

69.2.2 Full name, residence and business address of the owner of the property, of the lessee if any, and of any authorized agent to whom notices may be sent.

69.2.3 Locations, position, and dimensions of sign.

69.2.4 Such plans, structural drawings and specifications as the Inspector may require for temporary examination and permanent record.

Section 22-70. Signs Not Requiring Permit

70.1 The following signs are allowed by right without the necessity of a permit.

70.1.1 Signs erected by or on the order of a governmental agency when limited to governmental or public safety purposes, and excluding any advertising.

70.1.2 Names of buildings, date of erection, monumental citations and commemorative tablets, when made a permanent and integral part of a building, not to exceed ten (10) square feet.

70.1.3 Banners or flags emblematic of or issued by national, state, or local governments.

70.1.4 Signs indicating the name and address of the occupant of a residential dwelling, not to exceed two (2) square feet. Where a permitted accessory use or occupation exists, the sign for such use may not exceed two (2) square feet.

70.1.5 Window signs, in nonresidential buildings, and, if in the BA, BB, C, I, MU1, MU2 or V districts, in residential buildings, not to exceed twenty (20) percent of the area of the window.

70.1.6 Customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof.

70.1.7 A-frame or banner-stand signs located in the BA, BB, C, I, MU1, MU2 and V zones, no larger than two (2) feet by four (4) feet. These signs must be professionally lettered and properly weighted down. Any sign located on a sidewalk must have a minimum of three (3) feet of clearance for pedestrian traffic and must be moved inside at the end of the business day.

70.1.8 Clocks and thermometers displaying no information other than the time and temperature.

70.1.9 Holiday decorations and lights when in season.

70.1.10 Signs not to exceed two (2) square feet that indicate warnings, hazards, or public conveniences such as “No Trespass,” “Beware of Dog,” or rest room signs.

70.2 All other signs permitted in this Article require a permit from the Director of Inspections to be erected.

Section 22-71. General Sign Regulations

All signs must meet the following restrictions regardless of zoning district.

71.1 Sign Location

Signs must be located so as not to detract from a building's architecture. A sign may not be placed such that it covers the view of architectural elements such as cornices, columns, arches, details, or other such building features or ornamentation. Signs may not extend above the building's roofline and/or the wall upon which the sign is located. A business's wall sign may only be placed on the sides of the building in which the advertised business resides that are visible to or accessible to the public.

71.2 Style and Design of Sign

Lettering, shape, and color employed in a sign must be compatible with the form, color, and materials of the building that the sign identifies. Letters must be carefully formed and properly spaced, to be neat and uncluttered. Generally, no more than sixty (60) percent of the total sign area may be occupied by lettering.

71.3 Signs for Different Businesses

Signs for different businesses within the same building, or for a collection of buildings that form a retail, commercial, or industrial center, must be of similar style and design, but not necessarily the same color scheme.

71.4 Sign Message

A sign's message should clearly and simply identify a business. A sign should include lettering and symbols to indicate such primary information as name, function and/or the address of a business. If space permits, secondary information may be included in the sign message. Secondary information includes: service or facility conducted on the premises, the year the business was established, a slogan, hours of operation, website address, and time and temperature.

71.5 Trademark

The use of pictorial symbols or logos is encouraged. However trademarks may occupy no more than thirty (30) percent of the area of a sign, unless sale of the specific product is the major business conducted on the premises, in which case one hundred (100) percent of the sign can be occupied by the trademark.

71.6 Illumination, Motion and Noise

71.6.1 Signs may be illuminated either internally through the use of some sort of translucent materials with lights behind or with neon tubing or externally through mounting of incandescent, halogen, light emitting diode (LED) or fluorescent lamps on the building directed at the sign, provided that

the type of illumination employed does not distract from the building's architecture. Colored lighting, open flame, or bare bulbs may not be used. All lighted signs must be lighted by continuous light and contain a factory-applied label supplied to the manufacturer and controlled by an approved testing agency.

71.6.2 Signs must not cause glare to motorists, pedestrians or neighboring premises.

71.6.3 No sign or part of any sign may flash, move or make noise, except such portions of a sign as consists solely of indicators of time, temperature, or changing message as allowed under Section 22-75.

71.6.4 No sign in RR, RA, RB or RC Districts may be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless indicating an establishment that is open to the public during those hours.

71.6.5 No sign may contain red or green lights if such colors would in the opinion of the Chief of Police constitute a driving hazard.

71.7 Calculations

The following principles control the calculation of sign area and sign height:

71.7.1 Calculation of Area of Individual Signs

The area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) is calculated by the area contained entirely within the smallest square, circle, triangle or rectangle which completely encloses the outer extremities of all graphic material of a sign. This does not include any supporting framework or bracing.

71.7.2 Calculation of Height

The height of a sign is calculated as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade is the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot be reasonably determined, sign height is computed as the elevation of the nearest point of the crown of the street along which the lot has frontage or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

71.7.3 Calculation of Area

71.7.3.1 The area of a façade is calculated by means of the smallest rectangle that will encompass the extreme limits of the wall behind which the business or establishment is located.

71.7.3.2 The area of a freestanding sign consists of the sum total of the area of all sides except in the case of parallel back to back signs, where the area is computed as that of one (1) side.

71.8 Hazards prohibited

71.8.1 No signs may be erected, relocated or maintained so as to prevent free access to any door, window or fire escape.

71.8.2 No sign, except for a traffic regulatory or informational sign, may be erected that uses the words "stop," "caution," or "danger," or other similar words in such a manner as to present or imply the need or requirement or stopping or caution or the existence of danger, or which, for any reason in the opinion of the Chief of Police, is likely to be confused with any traffic regulatory or informational sign.

71.8.3 Traffic hazards. No sign may be erected or maintained so as in any way to create a traffic hazard or so as to obscure or make difficult the reading of signs or signals designed to regulate and control traffic.

71.9 Height Regulations

71.9.1 No sign, together with any supporting framework, may extend to a height above the maximum building height allowed in the district in which the sign is located. In any residential district, the top of a sign, together with any supporting framework, may not extend above the roof line. In any other district, the top of a sign, together with any supporting framework, may not extend more than eight (8) feet above the roof line. In the case of a building with a pitched roof, the eaves line of the building is the roof line.

71.9.2 Within two hundred (200) feet of centerlines of intersecting streets, the bottom of any sign must be at least eight (8) feet above the normal grade as defined in Subsection 22-71.7.2. This section does not apply to any property that is located across the street from the aforesaid intersection.

71.10 Location requirements

71.10.1 No freestanding sign may be located nearer to the street line than one-half (1/2) the distance of the required front yard and may in no instance be closer than ten (10) feet from the street line. If the Zoning Board of Appeals grants a variance for the above-referenced requirement, it shall ensure that the bottom of any freestanding sign is at least eight (8) feet above the normal grade as defined in Subsection 22-71.7.2.

71.10.2 No sign may be located in the required side or rear yard.

71.10.3 No attached sign may project more than twelve (12) inches out from the wall to which it is attached except in BB Districts, and except in the BA District where there is insufficient frontage to erect a freestanding sign.

71.10.4 No sign may be posted directly on the exterior surface of any wall but rather must be affixed to a substantial intermediary removable surface securely affixed to the structure.

71.10.5 No sign may be posted upon any tree, bridge, fence, guidepost, or pole used for the transmission of electricity in the City.

Section 22-72. Off Premises Signs

Off premises signs are permitted by Special Permit of the Board of Appeals, subject to the following requirements:

72.1 In any Residence or BA District, the sign must pertain to a permitted home occupation/office.

72.2 At least fifty (50) percent of the buildings for a distance of three hundred (300) feet on both sides of a street which the sign faces must be predominantly used for business, commercial, or industrial uses.

72.3 A minimum front yard setback of twenty-five (25) feet applies. The Board of Appeals may, however, require a setback of more than twenty-five (25) feet.

72.4 The sign must not obstruct the view of vehicular traffic within a distance of two hundred (200) feet from any point where the centerlines of public ways intersect.

72.5 The sign may not be located within three hundred (300) feet of any other visible off-premises sign, unless the sign is placed back to back with the other sign.

72.6 The sign may not be located in an area as designated by the Board of Appeals as being of historic or scenic significance or as being such that existing signs of all types are so large or numerous that the erection of further off-premises signs would create or contribute to unsightly view from a street, public park, or reservation.

72.7 The sign may not be located within three hundred (300) feet of any church, synagogue, school, court house, public playground, hospital, public building, museum, public park or reservation or a permanently erected memorial to veterans of the armed forces.

72.8 The sign may not project more than thirty-five (35) feet above the normal grade directly below such sign, as defined in Subsection 22-71.7.2.

72.9 A person may not carry or hold business advertising signs off the business premises or on City property. These signs include, but are not limited to, any sign advertising going-out-of-business sales.

72.10 The Board of Appeals may require other appropriate safeguards and conditions consistent with the purpose and intent of the Zoning Ordinance and Zoning Act.

72.11 Governmental signs or signs promoting City run events and/or happenings are exempt from this provision.

Section 22-73. Temporary Signs

73.1 A sign appertaining to campaigns, sales, promotions, drives, or events of political, civic, philanthropic, educational or religious organizations will be permitted as follows:

73.1.1 Residential Districts. In the case of such an organization, one (1) temporary sign per candidate or event with an area not to exceed six (6) square feet is allowed per lot.

73.1.2 Nonresidential Districts. One (1) temporary sign per candidate or event is allowed for any nonresidential lot in a nonresidential district. No single sign may exceed sixteen (16) square feet in area.

73.1.3 No such sign may be lighted and such signs must be removed within fifteen (15) days of the election or event.

73.2 Temporary means a period not exceeding two consecutive months, unless the Director of Inspections permits an extension of the two month period or unless otherwise provided in this section. No temporary sign may be displayed longer than five (5) months, except as otherwise provided by this section.

73.3 Temporary signs outside a building.

73.3.1 Temporary signs may be located outside of a building, provided that any such sign must be securely affixed to a freestanding sign structure.

73.4 Subdivision or construction signs. One (1) unlighted sign, set back at least ten (10) feet from the street lot line, or one-half (1/2) of the building setback distance, whichever is less, not to exceed an area of thirty-two (32) square feet for residential property and sixty-four (64) square feet for nonresidential property indicating parties involved in subdivision or construction on the premises; provided that it does not remain erected more than six (6) months after the occupancy of the first structure.

73.5 For residential properties, one (1) unlighted temporary sign offering premises for sale or lease for each parcel in one (1) ownership is permitted provided: it may not exceed six (6) square feet in surface area; and it is set back at least ten (10) feet from the street lot line or one-half (1/2) of the building setback distance, whichever is less. A sign of thirty-two (32) square feet is permitted for nonresidential property pertaining to lease or sale of the premises. Real estate brokers may apply annually for permits to erect such signs throughout the City for the purposes of advertising the sale or lease of any property in the City.

Section 22-74. Dimensional Requirements for Permitted Signs

74.1 Signs for premises in an Overlay District must comply with the provisions for the corresponding Underlying District except as further regulated by Subsection 22-74.10.

74.2 Directional Signs. In all districts, signs indicating "entrance," "exit," "parking," or the like may be erected on a premises for the direction of persons or vehicles, but may not exceed three (3) square feet per sign.

74.3 Signs Permitted in Residence Districts.

74.3.1 For each dwelling within a residential building housing not more than two (2) families, there may be one (1) sign displaying the name of the occupant and address of the premises permitted without a permit. Such sign may not exceed one (1) square foot, except where a permitted accessory use or occupation exists, it may not exceed two (2) square feet.

74.3.2 For each residential building housing more than two (2) families, or in the case of a group of such buildings forming a single housing development, there may be one (1) principal wall sign, not to exceed twelve (12) square feet, or one (1) free-standing sign not to exceed twelve (12) square feet. In addition, there may be one (1) secondary wall sign for each separate building in a group of such buildings that may not exceed two (2) square feet.

74.3.3 There may be two (2) signs identifying churches, schools, and other institutional uses on each street frontage, one (1) of which may not exceed twenty (20) square feet in area and one (1) of which may not exceed ten (10) square feet in area. One (1) sign per each street frontage may be freestanding and may be used for notices and announcements of services and events. In addition, if there are a group of buildings forming a complex or campus, there may be any number of additional signs located within the campus, not to exceed ten (10) square feet per sign.

74.3.4 There may be one (1) wall sign, not to exceed twenty (20) square feet, for a valid nonconforming or permitted nonresidential use. The Director of Inspections may permit one (1) freestanding sign to identify a valid nonconforming or permitted nonresidential use, however, such sign may not exceed fifteen (15) square feet.

74.4 Regulation of Signs in BA, BB, C, I, MU1 MU2, and V districts

Only those signs may be erected or maintained that are permitted without a permit in Section 22-70 or which are allowed in a Residence district as provided in the previous section, or which comply with the following provisions:

74.4.1 Principal signs. Except as provided in this section, for each business establishment there may be one (1) principal wall sign not exceeding three (3) square feet for each foot of building length of the wall to which it is affixed or one hundred (100) square feet, whichever is less. In any case where a building exceeds fifty (50) linear feet it is allowed one (1) extra square foot of signage for each linear foot over the fifty (50) linear feet stated above but not to exceed two hundred (200) square feet. Where a business establishment is located on a corner lot, there may be two (2) such principal wall signs. 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 of the principal wall sign, as specified in the formula above, may be divided between two (2) such wall signs that would together constitute the principal wall sign.

74.4.2 Where permission is granted for one (1) freestanding sign, where the lot has frontage of one hundred fifty (150) feet or less, the freestanding single use or main tenant sign may not exceed one hundred (100) square feet. Any additional tenant signs located on the freestanding sign may not exceed fifty (50) square feet each. Where the lot frontage exceeds one hundred fifty (150) feet, the freestanding sign single use or main tenant sign may not exceed one hundred fifty (150) square feet. Any additional tenant signs located on this freestanding sign may not exceed sixty (60) square feet.

74.4.3 For a lot located on a corner lot with at least one hundred fifty (150) feet of frontage on a second street, a second freestanding sign may be granted. Where permission has been granted for a second freestanding sign, such single use or main tenant sign may not exceed seventy (70) square feet. Any additional tenant signs located on this freestanding sign may not exceed thirty (30) square feet. The distance between pole signs on a single lot must be a minimum of two hundred (200) feet.

74.4.4 Secondary signs. For each separate building, entrance, or frontage on a street or parking area, there may be one (1) secondary wall sign not exceeding one (1) square foot for each foot of building length of the wall to which it is affixed, or fifty (50) square feet, whichever is less. Secondary signs may not be erected on the same wall as a principal sign, and there may not be more than two (2) secondary signs.

74.5 Directory Signs. There may be one (1) directory wall sign indicating the occupants or tenants of the building to which the sign is affixed, said sign not exceeding an area determined on the basis of one (1) square foot for each occupant or tenant. If a building has a second entrance with frontage on a street or parking area, there may be a second directory wall sign as provided above. Such signs are not non-accessory directory signs.

74.5.1 Freestanding directory signs in the V District may be permitted where several nonresidential operations are accessed through a common vehicular entrance. Such freestanding signs may not exceed eight (8) feet in height, six (6) feet in width and each tenant is allowed a maximum of four and a half (4½) square feet to display the company or agency name.

74.6 Marquee Signs. There may be one (1) marquee sign for a theater.

74.7 Awning signs. Awning signs are permitted, provided sign lettering does not occupy more than twenty (20) percent of the awning area.

74.8 Gasoline station signs. Gasoline selling and service stations may maintain product identification signs (tires, oil, etc.) provided that said signs are consolidated in one (1) display on the subject premises and do not exceed twenty (20) square feet in the aggregate.

74.9 For open-lot uses, where a calculation of aggregate sign area based on building face dimensions would result in inequitable deprivation of identification, the Board of Appeals, by Special Permit, may authorize an aggregate sign area up to but not more than one (1) square foot in area for each linear foot of street lot lines.

74.10 Regulation of Signs in V, DO, MSO, and UCO Districts:

74.10.1 Signs that project from buildings must have at least ten (10) feet of clearance from the ground level;

74.10.2 Signs may be externally lit from the front. Back lighting of signs may not be used;

74.10.3 Neon and roof signs may not be used;

74.10.4 Sign materials for hanging and projecting signs: Traditional-looking materials such as wood, brass, bronze, or others are to be used, as they are most appropriate. Wooden signs should be constructed of dense wood that will accept paint readily. These projecting signs must have mounting hardware approved by the Director of Inspections.

74.10.5 Pre-existing signs that do not conform to the provisions of this Ordinance may be allowed through the Special Permit application. The Board of Appeals shall require, as a condition of the permit, that the applicant sign an agreement to maintain the sign on a schedule satisfactory to the Board.

74.10.6 Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

74.11 The limitations as to the number of signs permitted does not apply to traffic or directional signs that are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry, or residence. Such signs may not carry the name of any business or project.

Section 22-75. Electronic Message Boards

75.1 Electronic signs. In any non-residential district, an electronic message board is allowed if in compliance with all other applicable provisions of this ordinance and in compliance with the following provisions:

75.1.1 The changeable area of the sign may be no greater than thirty-two (32) square feet.

75.1.2 The message that is displayed may change not more frequently than every three (3) seconds.

75.1.3 No more than one (1) electronic message board with two (2) sides is permitted per lot.

75.1.4 No message may scroll across the board.

75.1.5 No electronic sign may be erected at the intersection or edge of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, or obstruct the view of, or be confused with any authorized traffic signal, sign or device.

Section 22-76. Nonconforming Signs

76.1 Signs legally erected before the adoption of this ordinance that do not conform to the provisions of this Article may remain erected, provided however, that no such sign may be relocated, enlarged, or altered in any such way except for the changing of moveable parts that are designed for such changes including painting or reposting of display matter. A permit is required for any such sign change. Any sign deemed abandoned or discontinued use for a period of two (2) years must comply completely with this Article.

76.2 Nonconforming signs that have deteriorated or are damaged by an act of God, vandalism or accident to such an extent that the cost of restoration exceeds fifty percent of the replacement cost of the sign at the time of restoration may not be repaired or rebuilt or altered, except to conform to the requirements of this Article.

Section 22-77. Construction and Maintenance

All signs must be maintained by the owner of the property on which the sign is located in a safe, clean, sanitary and inoffensive condition and all freestanding signs must be kept free and clear of all obnoxious substances, rubbish and weeds. The owner of the property on which a sign requiring permanent insurance is located shall have a sign installer inspect such sign every two (2) years to assure its structural integrity, and shall submit the results of each such inspection forthwith to the Director of Inspections.

Section 22-78. Sign Removal

The owner of the property on which the sign is located is responsible for its removal within twenty-four (24) hours of the issuance of a notice of violation by the Director of Inspections.

Section 22-79. Exceptions

79.1 The Board of Appeals may grant a Special Permit to allow standing signs and exceptions to the limitations imposed by this section on the number, size, location, and height of signs if it

determines that the nature of the use of the premises, the architecture of the building or its location with reference to the street is such that freestanding signs or exceptions should be permitted in the public interest.

79.2 In granting such a permit, the Board shall specify the size, type, and location and shall impose such other terms and restrictions as it may deem to be in the public interest and in accordance with the building code, provided that, except as further limited in Building Code 780 CMR Appendix H, any such standing sign may not exceed thirty-five (35) square feet in area, or ten (10) feet in any linear dimensions, or sixteen (16) feet in height from the ground.

79.3 Where a single lot is occupied by more than one (1) establishment, whether in the same structure or not, there may not be more than one (1) freestanding sign for each lot, except that if a lot has frontage on more than one (1) street, there may be a freestanding sign for each street frontage.

Article XIV: Wireless Communications Facilities

This article does not apply to satellite dishes and antennas for residential use.

Section 22-80. Purpose

80.1 Protect the general public from hazards of structural failure associated with wireless communications facilities;

80.2 Minimize visual impacts from wireless communications facilities on city residential districts.

Section 22-81. Use Restrictions

81.1 When camouflaged in accordance with Subsection 84.1.1, side-mounted, roof-mounted, structure-mounted, and interior-mounted, Wireless Communications Facilities require only a building permit.

81.2 The co-location of a new Wireless Communications Facility on any existing guyed tower, lattice tower, or monopole requires only a building permit, provided that the installation of the new Wireless Communications Facility does not increase the height of the existing structure nor the size of the existing secured area at the base of the facility where the equipment cabinet/shelters are located.

Section 22-82. Location

82.1 The applicant shall submit documentation of the legal right to install and/or use the proposed Wireless Communications Facility mount at the time of application for a building permit and/or Special Permit.

82.2 If feasible, Wireless Communications Facilities must be located on existing structures, including, but not limited to buildings, water towers, existing Wireless Communications Facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one (1) or more Wireless Communications Facilities.

82.3 If the applicant for a Special Permit demonstrates that it is not feasible to locate on an existing structure, the Wireless Communications Facility must be designed so as to be camouflaged to the greatest extent possible, including, but not limited to: disguising the facilities to look like other structures (e.g. flagpoles, trees, etc.), the use of compatible building materials and colors, screening, landscaping, and placement within clusters of trees.

Section 22-83. Dimensional Requirements

Wireless Communications Facilities must comply with the following requirements:

83.1 Height, Roof-Mounted, Structure-Mounted, or Side-Mounted Facilities: Roof-mounted, structure-mounted, or side-mounted Wireless Communications Facilities may not project more than ten (10) feet above the height of the existing building or structure upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a building or structure that is legally nonconforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing building or structure height.

83.2 Height, Interior-Mounted Facilities: Interior-mounted Wireless Communications Facilities may not exceed the height of the building or structure upon which the Wireless Communications Facility is proposed to be located and must be completely camouflaged such as within a flagpole, steeple, chimney or similar structure.

83.3 Height, Ground-Mounted Facilities: The Special Permit Granting Authority has the authority to authorize the height of a ground-mounted Wireless Communication Facility to exceed the applicable height limits under Article VII, provided, however, that it may not authorize a height in excess of one hundred ninety (190) feet.

83.4 Setbacks: All Wireless Communications Facilities and their equipment shelters must comply with the building setback provisions of the zoning district in which the Wireless Communications Facilities are located.

83.5 Fall Zone: To ensure public safety, the minimum distance from the base of any ground-mounted Wireless Communications Facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area is the height of the Wireless Communications Facility including any antennas or other appurtenances.

Section 22-84. Performance Standards

All Wireless Communications Facilities must comply with the following Performance Standards set forth in this section:

84.1 Design Standards

84.1.1 Visibility/Camouflage: Wireless Communications Facilities must be camouflaged as follows:

84.1.1.1 Camouflage by Existing Buildings:

84.1.1.1.1 When a Wireless Communications Facility extends above the roof height of a building on which it is mounted, every effort must be made to conceal the Wireless Communications Facility within or behind existing architectural features to limit its visibility from adjoining ways. Wireless Communications Facilities mounted on a roof must be stepped back from the front façade to limit their impact on the building's silhouette.

84.1.1.1.2 Wireless Communications Facilities that are side-mounted must blend with the architecture of the existing building and must be painted or shielded with material that is consistent with the design features and materials of the building.

84.1.1.1.3 Camouflage by Vegetation: All ground-mounted Wireless Communications Facilities and equipment shelters must be surrounded by buffers of tree growth and under story vegetation in

all directions to create an effective visual buffer at the street level. Ground-mounted Wireless Communications Facilities must provide a vegetated buffer of sufficient height and depth to effectively screen the Wireless Communications Facilities at the street level. Trees and vegetation may be existing on the subject property or installed as part of the proposed Wireless Communications Facility or a combination of both. The Special Permit Granting Authority shall determine the types of trees and plant materials, depth, and overall appropriate design of the needed buffer on site conditions.

84.1.1.1.4 To the extent that any Wireless Communications Facility extends above the height of the vegetation immediately surrounding it, it must be appropriately camouflaged.

84.1.2 Equipment Shelters: Equipment shelters for Wireless Communications Facilities must be designed consistent with one of the following design standards:

84.1.2.1 Equipment shelters may be located in underground vaults; or

84.1.2.2 Equipment shelters may be designed in accordance with architectural styles and materials reflective of the uses within a three hundred (300) foot radius of the location acceptable to the Special Permit Granting Authority; or

84.1.2.3 Equipment shelters may be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, cabinets, or wooden fence. The Special Permit Granting Authority shall determine the style of the fencing and/or landscape buffer that is compatible with the neighborhood.

84.1.3 Lighting and Signage

84.1.3.1 Wireless Communications Facilities may be lighted only if required by the Federal Aviation Administration. Lighting of equipment, structures, and any other facilities on site must be shielded from abutting properties.

84.1.3.2 Signs are limited to a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis, a no trespassing sign, a sign displaying the FCC registration number and, any signs required to warn of danger. All signs must comply with the requirements of Article XIII.

84.1.3.3 All ground-mounted Wireless Communications Facilities must be surrounded by a security barrier of a design and material acceptable to the Special Permit Granting Authority.

84.1.4 Historic Buildings and Districts

84.1.4.1 All Wireless Communications Facilities proposed to be located within an historic district or on an historic structure must be reviewed by the Leominster Historical Commission.

84.1.4.2 Any Wireless Communications Facilities located on or within an historic structure may not alter the character-defining features, distinctive construction methods, or original historic materials of the building.

84.1.4.3 Any alteration made to an historic structure to accommodate a Wireless Communications Facility must be fully reversible.

84.1.4.4 Wireless Communications Facilities within an historic district must be concealed within or behind existing architectural features, or must be located so that they are not visible from adjoining ways and viewing areas within the district.

84.2 Environmental Standards

84.2.1 Wireless Communications Facilities must comply with M.G.L. Chapter 131, Section 40 and city wetland ordinances as they may be adopted from time to time.

84.2.2 No hazardous waste may be discharged on the site of any Wireless Communications Facility.

84.2.3 Stormwater run-off must be contained on-site or adequately disposed of off-site via connection to an existing stormwater drainage system.

84.3 Safety Standards

84.3.1 All equipment proposed for a Wireless Communications Facility must comply with the Federal Communications Commission Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) and must be maintained so as to remain in compliance with such guidelines as they may be amended.

Section 22-85. Special Permits

85.1 The Special Permit Granting Authority has the authority to hire a consultant to review any proposed Wireless Communications Facility submission at the expense of the applicant.

85.2 Application Filing Requirements: An application for a Special Permit must be filed in accordance with Section 22-13 and must be accompanied by seven (7) copies of the following information:

85.3.1 Before a Special Permit for any new Wireless Communications Facility is approved, the applicant has the burden of proving that it is not feasible to locate its antenna and facilities on an existing Wireless Communications Facility, structure or building. Before a Special Permit for a new Wireless Communications Facility in a residential district is approved, the applicant must also demonstrate that it is not feasible to locate its antenna and facilities in other districts or on municipal facilities. Such demonstration studies must include a summary of propagation studies and a plan for any network of facilities.

85.3.2 Details of the Wireless Communications Facility, guy wires and anchors (if any), lighting, and all structures located within three hundred (300) feet of the Wireless Communications Facility.

85.3.3 Location of alternate sites, if any.

85.3.4 Color photographs, computer simulation or renditions illustrating the proposed Wireless Communications Facility with its antenna and/or panels or dishes and its location. The Planning Board may require additional visual analysis such as, among other items, enhanced landscaping plans and line-of-site drawings.

85.3.5 Within thirty (30) days after filing the application for any new Wireless Communications Facility or extension in height thereto, if requested by the Planning Board, the applicant shall arrange to

fly a balloon at the site at the maximum height of the proposed installation. The balloon must be of a size and color that can be seen from every direction for a distance of one (1) mile.

85.3.6 A certification that the applicant possesses all necessary licenses to operate such a facility and has complied with all federal and state requirements to provide the proposed service.

85.3.7 Reports prepared by one (1) or more registered professional engineers, which must:

85.3.7.1 Demonstrate that the Wireless Communications Facility complies with all applicable standards of the Federal and State governments; and

85.3.7.2 Describe the capacity of the Wireless Communications Facility including the number and type of transmitting and receiving antennas that it can accommodate and the basis for the calculation of capacity; and

85.3.7.3 Demonstrate that the Wireless Communications Facility and site comply with this regulation; and

85.3.7.4 Describe the auxiliary power source, if any.

85.3.8 A copy of the FCC registration, FCC license, and FAA opinion letter or registration for the proposed Wireless Communications Facility and applicant.

85.3.9 For facilities proposed on municipally owned land or structures, evidence of contractual authorization from the City of Leominster to conduct wireless communications on municipally owned property.

85.3.10 File an approval letter from the Massachusetts Department of Public Health confirming that the proposed filing meets the requirements of Massachusetts Department of Public Health regulation 105 CMR 122.000 for Wireless Communications Facilities with respect to emissions.

Section 22-86. Approval

A Special Permit may be granted by the Special Permit Granting Authority in accordance with the Massachusetts General Law and Article I of this Ordinance. Any extension of height or replacement of a Wireless Communications Facility is subject to a new application or an amendment to the Special Permit.

Section 22-87. Conditions of Use

87.1 The Wireless Communications Facility and its transmissions must comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council on Radiation Protection & Measurements (NCRP), whichever are stricter.

87.2 All Wireless Communications Facilities may be operated only at Federal Communications Commission (FCC) designated frequencies and power levels, and the applicant shall provide certification that the allowable frequencies are not deviated from, and power levels will not be exceeded. Certification must include technical specifications, an explanation of those specifications, and, if necessary, field verification.

87.3 All unused Wireless Communications Facilities or parts thereof or accessory facilities and structures which have not been used for one (1) year must be dismantled and removed at the owner's expense.

87.4 All Wireless Communications Facilities must be maintained in good order and repair. Any paint and finish must be annually maintained and repaired when the blemishes are visible from the property line. Annual inspection and maintenance reports for the Wireless Communications Facility and site must be filed with the Director of Inspections and, when applicable, the Special Permit Granting Authority.

Section 22-88. Performance Guarantees

88.1 Insurance in a reasonable amount determined and approved by the Special Permit Granting Authority after consultation at the expense of the Applicant with one (1) or more insurance companies must be in force to cover damage from the structure and other site liabilities. Annual proof of said insurance must be filed with the Special Permit Granting Authority.

88.2 An initial bond must be posted for annual maintenance for any access road, site and Wireless Communications Facility in an amount approved by the Special Permit Granting Authority.

88.3 The Special Permit Granting Authority may require an additional financial performance guarantee to ensure that facilities which have not been used for one (1) year are removed.

88.4 Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute must be filed with the Director of Inspections and the Special Permit Granting Authority by the Special Permit holder at the operator's expense.

Article XV: Accessory Apartments

Section 22-89. Purpose

The purpose of this Accessory Apartment Article is to expand the types of housing permitted in the City to provide opportunities for persons who may need or desire to share the premises of a single-family residence with relatives, to do so. It is intended that the provisions of this Article will be implemented in a manner which will protect the stability, property values, and single-family residential character of neighborhoods, and ensure building and health code compliance.

Section 22-90. Special Permit Procedures and Conditions

90.1 The Board of Appeals may authorize an Accessory Apartment as an accessory residential use by Special Permit in any residential district provided that each of the following standards and criteria are met:

90.1.1 Only one (1) Accessory Apartment may be created within a single-family dwelling.

90.1.2 An Accessory Apartment may only be created in a dwelling that would otherwise be classified as a single-family detached dwelling.

90.1.3 The lot on which the single-family residence dwelling is located must have a minimum of ten thousand (10,000) square feet and must comply with all applicable zoning requirements for its district after the accessory apartment has been created.

90.1.4 Adequate provision must be made for the disposal of sewage, waste and drainage generated by the occupancy of the entire dwelling, including the Accessory Apartment, in accordance with the requirements of the Leominster Department of Public Works.

90.1.5 The Accessory Apartment must be designed so that the appearance of the building remains that of a single-family residence dwelling as much as is feasibly possible. Any new entrances must be located on the side and rear of the building.

90.1.6 The Accessory Apartment must be clearly a subordinate part of the single-family dwelling. It may be no greater than seven hundred fifty (750) square feet or thirty-three (33) percent of the total square footage of the primary dwelling, whichever is greater, nor have more than two (2) bedrooms.

90.1.7 At least three (3) off-street parking spaces must be provided for any single-family dwelling that has an Accessory Apartment. No new driveway or curb cut may be created to service the accessory apartment

90.1.8 The construction of an Accessory Apartment must be in conformity with State Building Code Requirements.

90.1.9 An Accessory Apartment Special Permit may be issued solely in the name of the record owner(s) of the single-family residence dwelling premises and terminates upon either: (1) the transfer of

the ownership of the premises, except in the instance where there is a transfer between co-owners; or (2) cessation of the record owner(s)' occupancy of either the single-family residence dwelling or the Accessory apartment as his, her, or their principal place of residence; or (3) permanent occupancy of either the single-family dwelling or the Accessory apartment by persons unrelated to the record owner(s). For purposes of this section, a bona fide temporary absence will not be considered a cessation of occupancy, and a bona fide temporary occupancy by guests will not be considered permanent occupancy.

90.1.10 A Special Permit is issued for the Accessory Apartment accessory to a single-family residence dwelling does not authorize apartment, multi-family, or two-family dwelling use of the subject premises.

90.1.11 To provide for disabled and handicapped family members in accordance with M.G.L. Chapter 40A, Section 3 and 521 CMR 23:00 the Board of Appeals may allow reasonable deviation from the above-stated conditions of this section where necessary to install features that facilitate access and mobility for disabled persons.

Section 22-91. Application Procedure

The application for the submission and approval of a Special Permit for an Accessory Apartment in an owner-occupied single-family dwelling is the same as prescribed in Article I, Section 22-13, Special Permits.

Section 22-92. Transfer of Ownership of a Dwelling with an Accessory Apartment

92.1.1 As stated in Subsection 22-90.1.9, each Accessory Apartment Special Permit terminates upon any transfer of title except between the owners of the single-family dwelling premises.

92.1.2 No successor in title to a single-family dwelling for which an Accessory Apartment Special Permit has been granted may use the apartment as a separate dwelling unit unless a new Special Permit is first obtained.

Section 22-93. Existing Accessory Dwelling Units

93.1 Any accessory dwelling unit existing in a single-family dwelling on September 12, 2005 may continue in use, although not originally authorized under the Zoning Ordinance.

93.2 A pre-existing accessory dwelling unit is grandfathered provided that the accessory unit was constructed with a building permit or is recognized by the Assessor's Office as being an approved accessory unit.

93.3 Any existing dwelling unit that applies to the Board of Appeals under new ownership is exempt from the conditions as set forth in Subsection 22-90.1.5 and Subsection 22-90.1.6.

Article XVI: Wind Energy Facilities

Section 22-94. Purpose

94.1 Provide standards for the placement, design, construction, operation, monitoring, modification, and removal of wind facilities that address public safety, minimize impacts on scenic, natural, and historic resources.

94.2 Provide adequate financial assurance for the eventual decommissioning of such facilities.

Section 22-95. Applicability

This Article applies to all utility-scale and on-site wind facilities proposed to be constructed after November 20, 2012. This Article also pertains to physical modifications to existing wind facilities that materially alter the type, configuration, or size of such facilities or related equipment. This Article does not apply to roof-mounted, building-integrated, building-mounted, or architectural wind systems; this Article only covers stand-alone tower mounted systems. The provisions set forth in this Article take precedence over all other sections of the Ordinance when considering applications related to the construction, operation, and/or repair of land-based wind energy facilities.

Section 22-96. General Requirements for all Wind Energy Facilities

96.1 Compliance with Laws, Ordinances, and Regulations. The construction and operation of all such proposed wind energy facilities must be consistent with all applicable local, state, and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications, and aviation requirements.

96.2 Building Permit and Building Inspection. No wind energy system may be erected, constructed, installed, or modified as provided in this Article without first obtaining a building permit.

96.3 Site Plan Approval. No wind energy facility may be erected, constructed, installed, or modified as provided in this Article without first undergoing site plan approval by the Planning Board.

96.3.1 General. All plans and maps must be prepared, stamped, and signed by a professional engineer licensed to practice in Massachusetts.

96.3.2 Required Documents. Pursuant to the site plan approval process, the project proponent shall provide the following documents.

96.3.2.1 A site plan showing the following with additional guidelines in Article XI:

96.3.2.1.1 Property lines and physical dimensions of the site parcel and adjacent parcels within three hundred (300) feet of the site parcel;

96.3.2.1.2 Outline of all existing buildings, including purpose (e.g., residence, garage, etc.) on site parcel and all adjacent parcels within five hundred (500) feet of the site parcel, including distances from the wind facility to each building shown;

96.3.2.1.3 Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment;

96.3.2.1.4 Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within five hundred (500) feet of the site parcel;

96.3.2.1.5 Any existing overhead utility lines;

96.3.2.1.6 Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the wind turbine foundation, of 1.2 times the height of the wind turbine;

96.3.2.1.7 Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;

96.3.2.1.8 Tower foundation plans;

96.3.2.1.9 Tower plans;

96.3.2.1.10 One (1) or three (3) line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

96.3.2.1.11 Documentation of the wind energy facility's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;

96.3.2.1.12 Name, address, phone number and signature of the applicant, as well as all co-applicants or property owners, if any;

96.3.2.1.13 The name, contact information and signature of any agents representing the applicant; and

96.3.2.1.14 A maintenance plan for the wind energy facility.

96.3.2.2 Documentation of actual or prospective access and control of the project site (see also Section 22-97)

96.3.2.3 An operation and maintenance plan (see also Section 22-98)

96.3.2.4 A location map consisting of a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two (2) miles from the facility. Zoning district designation for the subject parcel should be included; submission of a copy of a zoning map with the parcel identified is suitable for this purpose.

96.3.2.5 Proof of liability insurance

96.3.2.6 Certification of height approval from the FAA

96.3.2.7 A statement that evidences the wind energy facility's conformance with Subsection 22-41.7, listing existing ambient sound levels at the site and maximum projected sound levels from the wind energy facility; and

96.3.2.8 Description of financial surety that satisfies Subsection 22-103.3.

Section 22-97. Site Control

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed wind energy facility. Control includes the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

Section 22-98. Operation and Maintenance Plan

The applicant shall submit a plan for maintenance of access roads and stormwater controls, as well as general procedures for operational maintenance of the wind facility.

Section 22-99. Utility Notification

No wind energy facility may be installed until evidence has been given that the utility company that operates the electrical grid where the facility is to be located has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

Section 22-100. Temporary Meteorological Towers (Met Towers)

A building permit is required for stand-alone temporary met towers. No site plan approval is required for met towers.

Section 22-101. Design Standards

101.1 Appearance, Color and Finish. Color and appearance must comply with Federal Aviation Administration (FAA) safety requirements.

101.2 Lighting. Wind turbines may be lighted only if required by the FAA. Lighting of other parts of the wind energy facility, such as appurtenant structures, is limited to that required for safety and operational purposes, and must be reasonably shielded from abutting properties. Except as required by the FAA, lighting of the wind energy facility must be directed downward and must incorporate full cut-off fixtures to reduce light pollution.

101.3 Signage. Signs on wind energy facilities must comply with Article XIII – Sign Regulations. The following signs are required:

101.3.1 Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger; and

101.3.2 Educational signs providing information about the facility and the benefits of renewable energy.

101.3.3 Wind turbines may not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

101.4 Utility Connections. Reasonable efforts, as determined by the Planning Board, must be made to place all utility connections from the wind energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

101.5 Appurtenant Structures. All appurtenant structures to wind energy facilities are subject to the regulations of this Ordinance concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, must be architecturally compatible with each other and contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

101.6 Height. The height of wind energy facilities may not exceed four hundred (400) feet in height.

101.7 Safety and Environmental Standards

101.7.1 Emergency Services. The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the wind energy facility must be clearly marked. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.

101.7.2 Unauthorized Access. Wind energy facilities must be designed to prevent unauthorized access. For instance, the towers of wind turbines must be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of eight (8) feet above the ground. Electrical equipment must be locked where possible.

101.7.3 Setbacks/Fall Zone. A wind turbine may not be sited within:

101.7.3.1 A distance equal to the height of the wind turbine from buildings, critical infrastructure, or private or public ways that are not part of the wind energy facility;

101.7.3.2 Three (3) times the height of the turbine from the nearest existing residential structure; or

101.7.3.3 One and a half (1 ½) times the height of the turbine from the nearest property line.

101.7.4 Setback Waiver. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a building permit under the provisions of this Article.

101.7.5 Shadow/Flicker. Wind energy facilities must be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

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

Section 22-102. Monitoring and Maintenance

102.1 Wind Energy Facility Conditions. The applicant shall maintain the wind energy facility in good condition. Maintenance includes, but is not be limited to, painting, structural repairs, and integrity of security measures. Site access must be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The project owner is responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way.

102.2 Modifications. All material modifications to a wind energy facility made after issuance of the required building permit require approval by the Planning Board.

Section 22-103. Abandonment or Decommissioning

103.1 Removal Requirements. Any wind energy facility which has reached the end of its useful life or has been abandoned must be removed. The owner/operator shall physically remove the facility no more than one hundred fifty (150) days after the date of discontinued operations. The applicant shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning consists of:

103.1.1 Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site;

103.1.2 Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and

103.1.3 Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner to leave landscaping or designated below-grade foundations to minimize erosion and disruption to vegetation.

103.2 Abandonment. Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the wind energy facility is abandoned when the facility fails to operate for more than one (1) year without the written consent of the Planning Board. If the applicant fails to remove the facility in accordance with the requirements of this section within one hundred fifty (150) days of abandonment or the proposed date of decommissioning, the City may enter the property and physically remove the facility.

103.3 Financial Surety. Applicants for utility-scale wind energy facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than one hundred twenty-five (125) percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount must include a mechanism for calculating increased removal costs due to inflation.