OFFICIAL ZONING ORDINANCE ADOPTED ON APRIL 28, 2011 AND AS AMENDED THROUGH SEPTEMBER 26, 2019

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DISCLAIMER
ZONING MAP

Section 1: General*

SECTION SUMMARY

1.1 Authority
1.2 Purpose
1.3 Scope
1.4 Applicability
1.5 Nonconformance
1.6 Exemptions
1.7 Prohibited Uses

1.1 AUTHORITY

This zoning ordinance is adopted in accordance with the provisions of the Massachusetts General Laws, Chapter 40A and any and all amendments thereto. This ordinance shall be known and may be cited as "The Zoning Ordinance of the City of Peabody, Mass."

1.2 PURPOSE

The purposes of this ordinance include, but are not limited to, the following: 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 overcrowding of land; to avoid undue concentration of population; to protect the integrity of neighborhoods; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; 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, including consideration of the recommendations of the comprehensive plan, if any, adopted by the planning board and the comprehensive plan, if any, of the Metropolitan Area Planning Council; and to preserve and increase amenities in the City of Peabody.

Regulations adopted pursuant to these purposes may include, but are not limited to, restricting, prohibiting, permitting or regulating the use, alteration, height, area and location of buildings and structures and the use of premises in the City of Peabody.

Cross References: Fees, Code § 2-236.

1.3 SCOPE

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* **Editors Note:** Printed herein is the zoning ordinance of the city adopted in 1975 and revised and codified by ordinance of 6-27-78 and printed in pamphlet form entitled "Peabody Zoning Ordinance--1978". Amendments have been included and are indicated in the history note immediately following the amended section or subsection. Absence of a history note indicates the section is unchanged from the original section appearing in the zoning pamphlet of 1978. Style and form have been made uniform. Obvious misspellings have been corrected without notation. A new table of contents has been included. Capitalization has been made uniform. Words in brackets [] have been added by the editor for clarity.

State Law References: Zoning and planning, M.G.L.A., c. 40, § 32A accepted by city council on April 27, 1967; publication of compilations of zoning ordinances; supplements; distribution and sale, M.G.L.A. c. 40, § 32B; ordinances amending zoning ordinances, M.G.L.A. c. 40A§ 55.

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

1.4 APPLICABILITY

All buildings and structures hereinafter erected, reconstructed, altered, enlarged or moved, and the use of all premises in the City of Peabody shall be in conformity with the provisions of this ordinance. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the district in which such building, structure or land is located. Any use not specifically or generically enumerated in a district herein shall be deemed prohibited.

1.5 NONCONFORMANCE

1.5.1 Any existing nonconforming use of a structure or use of a structure and land in combination may be changed or extended, and, any existing nonconforming structure may be altered or extended provided that the special permit granting authority determines, after a public hearing, by the grant of a special permit that such change, extension or alteration:

(a) Is to a use or structure which existed or began with all appropriate permits or a building permit issued before the first publication of notice of a public hearing on this ordinance or any amendments thereto and is therefore lawful;

(b) For situations involving use of a structure or the use of a structure and land in combination:

(1) Includes adequate provision for off street parking;
(2) Complies with the provisions of section 6.2 of this ordinance.

(c) Is similar in:

(1) Character;
(2) Intensity of use;
(3) Size (structure only);
(4) Effect on adjacent property;
(5) Effect on public hearing, morals or safety.

As to be not substantially more detrimental to the neighborhood, than the existing nonconforming use or structure or both.

Provided that in permitting such a change, alteration or extension, the special permit granting authority may require appropriate conditions, on time or use. Violation of such conditions as are made a part of the terms under which the special permit is granted shall be deemed a violation of this ordinance.

Provided further that any alteration or extension of a nonconforming structure shall not further violate the dimensional requirements of the existing ordinance or any amendment thereto.

Provided further that no special permit shall be required for the alteration, reconstruction, extension or structural change to a legally existing nonconforming single- or two-family residential dwelling when said alteration, reconstruction, extension or structural change does not increase the nonconforming nature of the dwelling. The Building Commissioner shall determine if the proposed alteration does not increase the nonconforming nature of the dwelling or if the proposed alteration or extension requires approval by the Zoning Board of Appeals only.

However, no special permit shall be granted for the purposes of increasing the number of residential units in a structure that is entirely residential with three (3) or more residential dwellings.

However, no special permit shall be granted for the purposes of increasing the number of residential units in a structure that is entirely residential when the increase will result in the expansion of the extension envelope of the building. (Ord. of 5-14-92, § 1) (Ord. of 12-08-16)

1.5.2 Each application to the special permit granting authority for a special permit involving a use of a structure or the use of a structure and land in combination under the provision of this section shall be accompanied by a site plan as described in section 6.2 of this ordinance.

1.5.3 The application for a special permit under this section and the costs of advertising related thereto and any other fees required by this ordinance shall be the responsibility of the applicant.

1.5.4 A structure or use of a structure and land in combination which does not conform to the regulations of the district in which it is situated, but, because it existed lawfully before this ordinance was adopted, may be rebuilt if damaged or destroyed, provided that a building permit is obtained within six (6) months of the damage or destruction and the rebuilding is completed within one (1) year of the damage or destruction unless extenuating circumstances exist in which case the special permit granting authority may grant an extension of up to two (2) years to complete the rebuilding.

1.5.5 Any structure, or structure and land in combination, in or on which a nonconforming use is changed to a permitted use, shall thereafter conform to the use regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.

1.5.6 A nonconforming use of a structure or structure and land in combination may not be resumed after it has been abandoned for a period of two (2) years. (Ord. of 9-8-83, § 1(1.5))

1.5.7 Expansion or upgrading of nonconforming mobile home parks that existed prior to the adoption of this ordinance would be allowed through the grant of a special permit provided that such expansion or upgrading is within the existing bounds of the mobile home park and provided that such expansion or upgrading meets the requirements of the MH district. (Ord. of 10-11-84, § 1)

1.6 EXEMPTIONS

In accordance with Massachusetts General Laws, Chapter 40A, and notwithstanding any provisions to the contrary, this ordinance shall not prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation; provided however, that such land or structure may be subject to reasonable regulations concerning the bulk and height of structures, yard size, lot area, open space, parking and building coverage requirements in accordance with the provisions of this ordinance.

This ordinance shall not prohibit, unreasonably regulate or require a special permit for the use of land for the primary purpose of agriculture, horticulture or floriculture and shall not prohibit or unreasonably regulate the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture except that all such activities may be limited to parcels of more than five (5) acres which are not zoned for agriculture, horticulture or floriculture.

In accordance with Massachusetts General Laws, Chapter 40A, Section 3, this ordinance shall not prohibit licensed day care centers or licensed family day care homes as defined in Section 2 of this Ordinance.

1.7 PROHIBITED USES

1.7.1 In any district no use will be permitted which will produce a nuisance or hazard from fire or explosion, toxic or corrosive fumes, gas, smoke, odors, obnoxious dust or vapor, harmful radioactivity, offensive noise or vibration, flashes, objectionable effluent or electrical interference which may affect or impair the normal use and peaceful enjoyment of any property, structure or dwelling in the city.

(AMENDED 01/24/2013)
(AMENDED 06/22/2017)

Section 2: Definitions

For the purposes of this ordinance, the following terms shall have the following meanings unless a contrary meaning is clearly required by the context or is specifically indicated:

Accessory building or structure: A building or structure customarily incidental and subordinate to and detached from and located on the same lot as a principal building. (See Figure 1, at right)

Accessory use: A use incidental and subordinate to and customarily associated with a specific principal use, located on the same lot.

***Affordable housing*:** Housing, the use and price or rent of which is restricted for sale, lease or rental to households within specific income ranges as defined by Section 6.12 of this Ordinance.

***Alteration, significant*:** Any change in the structural components of a building or structure, such as bearing walls, columns, beams, or girders. Also included is any aesthetic change that alters the character of a building façade or wall, such as the addition or removal of doorways and windows in the B-C Downtown District.

Apartment: A room or suite of rooms used as a residence by a family, having individual living, sleeping, cooking, and sanitary facilities, and located in a building accommodating two (2) or more families or one or more families located above a first floor used for nonresidential purposes.

Aquifer: A water-bearing geologic formation sometimes confined between clay layers and sometimes on the surface. The source of ground water for drinking and irrigation.

> ***Aquifer recharge area, primary:*** Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.
>
> ***Aquifer recharge area, secondary:*** Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface water flow is toward public water supply wells or potential sites for such wells.

Arborist, registered: A professional individual registered in the Commonwealth of Massachusetts to practice arboriculture. An arborist is one who is trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees.

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. Care is provided in a way that promotes maximum independence for each resident. Such facilities may include common dining and recreation areas and shall be licensed by the Commonwealth of Massachusetts.

Automotive repair services: Any building, structure, improvements, or land used for the repair and maintenance of motor vehicles including but not limited to upholstery work, oil change and lubrication, tire service and sales, or installation of electronic equipment, but not including dismantling or salvage, body work or painting. The sale of gasoline is not permitted.

Automotive body shop: Any building, structure, improvements, or land which provides collision repair services to motor vehicles, including body frame straightening, replacement of damaged parts, and painting. Body and frame repair does not include mechanical engine or power train repair. The sale of gasoline is not permitted.

Automotive service station: Any building, structure, improvements, or land used for any of the following: the sale of motor vehicle accessories which are installed on the premises; the minor repair of motor vehicle engines, transmissions or other mechanical parts; the sale of gasoline or any other motor vehicle fuel, oil or other lubricating substances, dispensed by an employee who is an attendant or through a self-service, automated dispensing system which is in full compliance with the board of fire prevention regulating office of the state fire marshal 527 CMR-504(16) and which has received the approval of the state fire marshal. Use of the premises for junk yard, open storage of abandoned vehicles, or for rebuilding, reconditioning, painting, or other body repair services is not permitted.

Bakery, retail: An establishment primarily engaged in the retail sale of bakery products and which produces some or all of the products on the premises. (AMENDED 09/12/2013)

Bedroom: A room that is designed for the purpose of providing a place to sleep for one or more inhabitants, containing a closet or closets, a door, and windows.

Brewery, distillery or winery with a tasting room: A business located in a building where the primary use is for the production and distribution of malt, spirituous or vinous beverages with a tasting room. Any such facility that only provides samples at no charge and limited in size as set forth in M.G.L. c. 138 shall have a Commonwealth of Massachusetts issued Farmer Series License and any such facility that sells alcoholic beverages to be consumed on the premises shall have a Commonwealth of Massachusetts issues Farmer Series Pouring License. The facility may host marketing events, special events and/or factory tours. The facility may only sell beverages produced by, and commercial goods branded by, the brewery, distillery or winery. The facility may sell permitted beverages by the bottle to consumers for consumption off the premises.

Buffer: A landscaped area sufficient in depth and screening to visually separate one land use or lot from another. (See Figure 2: Buffer)

Buildable area: The portion of a lot or site within which a structure may be built, exclusive of required yard areas, setbacks, landscaping, or open space.

Business support services: Services rendered to a business establishment or individual on a fee or contract basis including, but not limited to, actuarial, advertising, copying and printing shops, credit reporting, janitorial, office or business equipment rental or leasing, photofinishing, telecommunications, window cleaning, blueprinting and photocopying, and other such services.

Capital facilities: Include the planning of, engineering for, acquisition of land for, and construction or reconstruction of the road, electrical, water, sewer and drainage systems serving new development in the Designated Development District.

Cluster development: A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, open space, or preservation of sensitive areas.

Common area: Common areas and facilities, except as otherwise provided or stipulated in the applicable documents of title, such as:

1. The foundations, columns, girders, beams, supports, party walls, common walls, main walls, roofs, halls, corridors, lobbies, public stairs and stairways, fire escapes and entrances and exits of the building;
2. Installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;
3. The elevators, tanks, pumps, motors, fans, compressors, ducts, and in general, all apparatus and installations existing for common use;
4. The land on which the building is located, including all roadways and areas used for maintenance and safety;
5. The basements, yards, lawn, gardens, recreational facilities, parking areas, and storage spaces; and
6. The premises for the lodging of custodian or persons in charge of the building.

Common Space FALA: Common space within a Family Accessory Living Area (FALA) routinely used by both parties that is not exclusive to one party, such as a common hallway, utility room or a laundry room in which common space must be accessible from both the primary dwelling and the FALA. Under new construction, the common space shall only be accessed through the primary residence. No new construction will be considered common space, unless approved by the Building Inspector.

Community center: A place, structure, area or other facility used for and providing religious, fraternal, social or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

Community Development Authority (CDA): An authority created in 1977 as an agency within the meaning of Chapter 121B of the Massachusetts General Laws. The CDA is also responsible for performing the development review function in the Designated Development District.

Continuing care retirement community (CCRC): A development comprised of housing and other associated services operated or sponsored as a coordinated unit by a corporation or organization having as its principal purpose the provision of housing and associated services, including those designed to provide for medical care and assistance with activities of daily living, for elderly persons. The CCRC shall consist of a building or group of buildings, which, through common management or contractual agreement, provides services that assist the elderly in maintaining an independent lifestyle and meeting the needs resulting from the aging process. Such services may include health care maintenance, home health care, security, maintenance, emergency call systems, assistance with activities of daily living, and personal services such as transportation, financial services, barber/beautician, retail, food services, housekeeping, laundry services, exercise/recreation, continuing education and training, administrative offices, and any other services, activities and accessory uses incidental to the operation and maintenance of the CCRC. Such services shall be ancillary to residential use, and shall be intended primarily for the residents and employees of the CCRC.

Convalescent home: A facility that is publicly or privately operated and intended for long-term patient care due to human illness or infirmity, including the elderly or developmentally disabled, normally employing the services of skilled and licensed practitioners, excluding hospitals.

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

Cornice: Any permanent, continuous horizontally projecting feature surmounting a wall or other portion of a building.

Day care center, Licensed: As defined in M.G.L. Chapter 28A §9, and as licensed or approved by the Department of Education and Early Care, or its successor, 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 years of age, or under sixteen 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 shall 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; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

Deck**:** A structure, without a roof or a foundation, directly adjacent and attached to a principal building.

Drive-through establishment: A retail or service establishment, excluding restaurants, that dispenses products or services to patrons who remain in vehicles. A drive-through establishment may be in conjunction with, or exclusive of, any other form of service. See also *Restaurant with drive-through window*.

Dry cleaning establishment, retail: An establishment which launders or dry cleans articles dropped off on the premises directly by the customer or where a delivery service drops off and picks up articles to be laundered or dry cleaned.

Dry cleaning establishment, commercial: An establishment used or intended to be used for high volume cleaning of fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not limited to, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto. Where the services are rendered to non-household clients, including restaurants and hotels and a delivery service is provided to pick up/drop off articles to be laundered.

Dwelling: A building or portion thereof designed exclusively for residential occupancy, containing provisions for sleeping, cooking, and sanitation. Dwelling includes single-family, two-family, or multi-family dwelling units, but not hotels, motels, rooming houses, or structures primarily for transient or overnight occupancy.

> ***Dwelling, multi-family:*** A building or group of dwelling units on one lot designed for or occupied by three (3) or more families, living independently in dwelling units separated by vertical walls or horizontal floors, having separate sleeping, cooking, and sanitary facilities, and with separate or joint services for heat, lighting, and other utilities (including apartments, townhouses, row-houses, condominiums, and cooperatives).
>
> ***Dwelling, single-family:*** A detached dwelling unit designed for and occupied for residential purposes exclusively by one family.
>
> ***Dwelling, two-family:*** A detached dwelling unit designed for and occupied by no more than two (2) families, or two (2) attached single-family dwelling units built together at the same time and separated by a fire-proof division with no openings.
>
> ***Dwelling unit:*** One or more rooms providing complete living facilities for an individual or one family, including provisions for sleeping, cooking, and sanitation.

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

Fair share: The calculated value to offset the impacts a development project has on municipal facilities based upon the amount of square footage being developed and the cost of constructing the needed facilities in the DDD only.

Family: One or more persons related by blood, adoption, or marriage living together as a single housekeeping unit, excluding household servants.

Family Accessory Living Area (FALA): A dwelling unit located within a single-family dwelling, which is subordinate in size to the main dwelling. Such a unit is to be used for residential purposes only, containing sleeping, cooking and sanitary facilities, as needed, by an immediate family member to the owner/occupier, as defined in the FALA ordinance. (See Section 6.7 of this Ordinance)

Family day care home, Licensed: As defined in M.G.L. Chapter 28A §9, and as licensed or approved by the Department of Education and Early Care, or its successor, any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor.

Flood Hazard Area: Total stream and adjacent area periodically covered by overflow from the stream channel containing 1) the floodway, which is the channel itself, and portions of the immediately adjacent overbank, that carry the major portion of flood flow, and 2) the flood fringe beyond it, which is inundated to a lesser degree as depicted in the Federal Emergency Management Agency (FEMA) Map.

Flood Plain: Nearly level area adjacent to a water body, subject to inundation under heavy rain or blockage conditions (overflow area) as reflected in the city's Flood Boundary District and Wetlands Conservancy Map.

Floor area ratio (FAR): The ratio of gross floor area of all structures on a lot to the total land area of the lot on which it sits. FAR is used to regulate building volume.

Frontage, lot: The uninterrupted linear or curvilinear extent of a lot measured along the street right-of-way from the intersection of one side lot line to the intersection of the other side lot line, or in the case of a corner lot to the intersection of the street lines or the street lines extended. The measurement of lot frontage shall not include jogs in street width, back-up strips and other irregularities in the street line, and in the case of a corner lot, may at the option of the owner extend to the midpoint of the curve connecting street lines, instead of to their intersection.

Frontage, street: The contiguous linear distance of the line separating the lot from a public or private street. When a lot is bounded by more than one street, any of them, but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirements and the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two streets forming an interior angle of more than one hundred thirty-five (135) degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

Garage, community: A building or group of buildings, not more than one story high, serving two or more residences and used jointly for the parking or storage of not more than ten (10) cars, arranged in a row or surrounding a common means of access and erected for the use of owners having no private garage on their individual lots. A community garage accessory to a multi-family dwelling may contain space for one automobile for each family, provided that the rear yard provisions are observed.

Garage, private: An accessory structure designed or used for the storage of not more than three motor vehicles, and in which no business or occupation is carried on, other than home occupations.

Garage, public: A structure used primarily for the parking and storage of 10 or more motor vehicles, which is available to the general public for free or for a fee.

Governing water protection district: The person or persons responsible for the daily operation and maintenance of the city water supplies, being under the jurisdiction of the Peabody Department of Public Services.

Gross leasable area: The total gross floor area within a building, which is or can be occupied exclusively by a tenant.

Ground cover: Any evergreen plant that does not attain a mature height of more than eighteen (18) inches which forms a dense, continuous surface on the ground plane.

Ground-Mounted Solar Photovoltaic Installation: A large-scale solar photovoltaic (PV) system that is structurally mounted on the ground, not roof-mounted, and has a nameplate capacity of at approximately 650 kW-DC or greater.

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.

Groundwater protection district: The total area of the well aquifer defined in total as including Zone I, Zone II, and Zone III, within the city or its neighboring communities, which is intended to be protected under this ordinance.

Hazardous material: Any material that (including, but not limited to) 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 shall not include oil, but shall include waste oil and all those substances which are included under 42 U.S.C. section 9601 (14) and 310 CMR 30,000, but it is not limited to those substances or as may be defined by any other local, state or federal regulations.

Hazardous waste: Waste, singularly, or in combination, which because of their quantity, or concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in serious, or incapacitating illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. These wastes shall include, but not be limited to, any wastes which fall within the definitions of hazardous waste under the Hazardous Waste Regulations, promulgated by the Department of Environmental Protection under chapter 21 of the General Laws or as may be defined by any other local, state or federal regulations.

Health club: A building or portion of a building designed and equipped for the purpose of physical fitness or weight management, 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 height of a building shall be the vertical distance measured from the mean ground level of the established grade at the base of the building to the mean roof level.

Home occupation: An owner occupied business use conducted within a dwelling 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. (Amended 3/28/13)

Hotel: A building intended and designed primarily for transient or overnight occupancy, divided into separate units within the same building and with or without public dining facilities.

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, graveled areas, sidewalks and paved recreation areas.

Interim wellhead protection area: A one-half-mile radius of a public supply well in the absence of a defined Zone II.

Landscape Architect, registered: An individual registered in the Commonwealth of Massachusetts to practice in the field of landscape architecture.

Live/work: A residential occupancy of a dwelling unit and adequate working space accessible from the living area, reserved for, and regularly used by, one or more persons residing therein. Live/work differs from "home occupation" in that the residential space is secondary or incidental to the work use. (See Section 5: BC/GBD Downtown Districts)

Lot: A parcel of land used, or set aside and available for use as, the site of one or more buildings, accessory buildings thereto or for any other definite purpose, under single ownership, not divided by a street, and not within the limits of a public or private way upon which such lot abuts.

Lot area: The total square footage of horizontal area included within the property lines.

Lot, corner: A lot bounded by two or more streets which have an angle of intersection of no more than one hundred thirty-five (135) degrees. A lot bounded by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form, or would form if extended, an interior angle of one hundred five (105) degrees or less.

Lot coverage: The area of a lot covered by a building or buildings, including all accessory structures and roof overhangs, expressed as a percentage of the total lot area.

Lot, width of: The distance between opposite side lot lines measured through any part of the principal structure. At no point between the frontage line and principal structure shall the lot be narrower than 75% of the required lot frontage.

Lumen: Unit used to measure the actual amount of visible light which is produced by a lamp as specified by the manufacturer.

Luminaire: A complete lighting unit consisting of one or more lamps, together with the components designed to distribute light, to position and protect the lamps, and to connect the lamps to the electrical power supply; also called the lighting fixture.

Manufacturing, light: The processing, fabrication, or assembly of materials or products provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building.

Marine/Boat repair facility: A facility (which could include a boat repair garage or boat storage yard) where boats are repaired, built and/or stored out of the water. This does not include the provision of fuel or sale/rental of boats. Facility must have direct frontage on a navigable waterway.

Marine/Boat sales/rental: A marine retail sales use in which boats are rented or sold.

Medical facility: A building or structure containing uses concerned with the diagnosis, treatment and care of human beings. These include, but are not limited to, hospitals, medical services or clinics. These uses may involve the proper disposal of medical wastes.

Mixed use: A single building or group of buildings in a single development designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: residential, office, retail, recreational, light industrial, and other miscellaneous uses.

Mobile home: Any vehicle without motive power designed, constructed, reconstructed or added to by means of accessories in a manner to permit the use and occupancy thereof as a one-family dwelling unit, whether resting on wheels, foundation structures or other support, but constructed so as to permit its occasional movement over a street or highway.

Mobile home park: A piece of land owned by one (1) individual or entity in which lots are rented to mobile home owners for placement of their homes and includes water, electric, gas and other service hookups, and common recreation space.

Motel: A building intended and designed primarily for transient or overnight occupancy, divided into separate units within the same building, with or without public dining facilities, and characterized by direct access to every unit from an automobile parking space or facility including motor hotels and motor inns.

Natural woodlands: A grouping of mature indigenous trees with a minimum density of twenty (20) trees of six (6) inches diameter or greater per ten thousand (10,000) square feet throughout.

Nursing home: Any place or institution for the aged, infirm, chronic or convalescent, whether conducted for charity or for profit, which is established to render domiciliary care, custody, treatment or lodging for three (3) or more unrelated persons who require or receive assistance in ordinary daily activities of life or who are confined to bed or chair. Nursing home includes boarding and rooming houses for aged people, rest homes, homes for the aged or infirm and convalescent homes for children, but does not include hospitals, clinics and similar institutions devoted primarily to the diagnosis and treatment of disease, injury, maternity cases or mental illness.

Off-Grid System: A solar photovoltaic installation where all energy generated on the installation site is consumed on that site and does not send any energy into the electrical grid for distribution.

Office: A building or portion of a building in which work of a predominantly administrative, professional, or clerical nature is performed. There are no walk-in retail consumer sales nor services nor production/manufacture of any physical products for sale.

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

Oil: Any insoluble or partially soluble oils of any kind or origin or in any form, including, without limitation, crude or fuel oils, lube oil or sludge, asphalt, insoluble or partially insoluble derivatives of mineral, animal or vegetable oils and white oil.

Open Space: Used to describe undeveloped land or land that is designed and accessible for outdoor living, recreation, pedestrian access, buffers or landscaping, but excluding parking facilities, driveways, utility or service areas, decks, porches and hardscape terraces. Farmland as well as all natural habitats (forests, fields, wetlands etc.) is included.

Outdoor storage: The keeping of personal or business property or motor vehicles, which is not within a structure with a roof, floor and at least three (3) sides, all of impervious material.

Overlay zoning district: An area where certain additional requirements are superimposed upon the underlying zoning district.

Parking, shared: Off-street parking spaces for more than one type of use.

Parking space: The covered or uncovered land area to be utilized for the parking of a motor vehicle on a site and conforming to parking standards.

Premises: A lot, together with all structures, buildings, uses and water thereon.

Principal building or structure: That building or group of buildings in which the main or primary use of the premises occurs. (See Figure 7, at right)

Process wastewater: Nondomestic, nontoxic, nonhazardous liquid associated with the manufacture or preparation of a product, including but not limited to, hardware, dry goods, food stuffs, and printed materials.

Potential drinking water sources: Areas which could provide significant potable water in the future.

Public well: A well providing potable water to at least fifteen (15) service connections or serving on a regular basis at least twenty-five (25) people.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in direct current (DC) is 650kW or greater.

Recharge: The process by which water is added to the saturated zone of any aquifer either by direct infiltration of precipitation or by indirect inputs from surface sources or from adjoining subsurface sources and either by reason of natural flow or by reason of pumping from a present or future public well.

Recharge areas: Any area which collects precipitation or surface water and carries it to aquifers. Recharge areas are designated in 310 CMR 22.00 as Zone I, Zone II and Zone III.

Recreation, indoor: The use of a structure for recreational, social or amusement purposes, which may include as accessory uses 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 athletic field or court, bowling alley, paint ball course, miniature golf, skating rink, and swimming. These can be public or private in nature.

Recreation, outdoor: A use of land [conducted for recreational, social or amusement purposes?] outside of a building, characterized by potentially moderate impacts on traffic, the natural environment, and the surrounding neighborhood. Such uses may include athletic field, paint ball course, miniature golf, pitch and put, skateboard park, swimming, tennis club, basketball court, batting cages and driving ranges. In addition, passive recreational uses may include park, garden, hiking trail, horseback riding, historic site, picnic area, and cross country ski area. These can be public or private in nature.

Research and Development: 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 research with radioactive materials, high intensity electromagnetic radiation, or controlled substances, or ordinarily involve processes that produce, biological, chemical, or radioactive wastes. But not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Restaurant: A commercial establishment where food and beverages are prepared, served, and consumed primarily within the building and whose principle method of operation is characterized by customers being provided with an individual menu and being served their food and drink at the same table or counter at which said items are consumed. Take-out and delivery are allowed.

Restaurant with drive-through window: A commercial establishment whose primary business is serving food and beverages to the public for consumption either on the premises or elsewhere, by order from and service to vehicular passengers outside the structure, whether or not seats are provided for inside the structure.

Restaurant, fast food: Any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready to consume state for consumption, either on the premises or off the premises, and whose design or principal method of operation is such that customers are normally served their foods, frozen desserts, or beverages in edible containers or in paper, plastic or other disposable containers. (Amended 3/28/13)

Retail: A commercial operation which involves the display, sale, and/or lease/rental to the general public of physical goods available for immediate purchase and removal from the premises by the purchaser.

Retail, big-box: A retailer or wholesale user who occupies no less than 50,000 square feet of gross floor area, typically requires high parking to building area ratios, and draws customers from a regional market.

Retail facility: A group of retail and service establishments, originally planned and built as a single development, with immediate adjoining off-street parking spaces.

Rooming house: A dwelling in which more than four (4) unrelated persons are housed or lodged by the day, week, or month, either with or without meals.

Runoff: The water that flows off the surface of the land, ultimately into our streams and water bodies, without being absorbed into the soil.

Saturated zone: The area below ground in which all interconnected openings within the geologic medium are completely filled with water.

Service Bar: An area of a restaurant that allows for the preparation and service of alcoholic beverages to be accessed by waitstaff only.

Setback: The required distance measured from the street right-of-way in which construction may not encroach (Rear, Side and Front).

Shrub: An evergreen or deciduous plant no less than eighteen (18) inches in height at installation, with a mature height of not less than three (3) feet and not more than fifteen (15) feet.

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: The sum of the area of the smallest rectangle or other geometric figure encompassing all the letters and symbols of the sign message or such message together with any frame, background, trim, or other integral part of the display on which such message is placed.

Sign, awning: Any sign placed on the vertical face of an awning or other fabric, plastic, or structural protective cover over a door, entrance, or window of a building and attached to said building.

Sign band: A horizontal band, usually located at the top or just above the first level, but below any second level, which lends itself as the logical place on the building in which to place a wall sign.

Sign, cluster: Two (2) or more signs integrated into one freestanding sign structure.

Sign, directory: Any sign located on a building, or freestanding within the area between the building and the nearest property line, the purpose of which is to identify the occupants and provide on-site directions, but containing no advertising.

Sign, electronic message board: Any sign using electronic means to display text or image, either static or moving, to advertise a commodity, service or event or direct attention to a business which provides a commodity, service, or entertainment. This also includes any equipment that projects a sign, message or image onto a building, wall, or other surface for commercial advertisement purposes.

Sign, flashing: Any illuminated sign on which the artificial light is not maintained stationary, or constant in intensity and color at all times when such sign is in use. For this purpose, any revolving, illuminated sign shall be considered a "flashing sign."

Sign, freestanding: Any nonmovable sign not part of or attached to any building, but supported by some structure such as a pole, mast, frame or other structure. (See Figure 9, Sign Types)

Sign, hanging: Any wall-mounted sign perpendicular to the building surface which projects eight inches or more.

Sign height: The vertical distance from the uppermost point used in measuring the area of a sign to the average grade immediately below and adjoining the sign.

Sign, home: Any sign noting the name of the owner or occupant of a single-family dwelling.

Sign, message board: Any sign to advertise a commodity, service or event or direct attention to a business which provides a commodity, service, or entertainment with changeable text capability through manual effort. Message is changed by removing, replacing, or adding letters, numbers, or grammatical symbols.

Sign, projecting: Any sign attached to a building or other structure and protecting in whole or in part more than twelve (12) inches beyond the wall surface of the building or structure on which the sign is positioned.

Sign, sandwich board: A movable sign not secured or attached to the ground or surface upon which it is located. Typically observed in two boards together forming an "A" and used to announce daily specials or sales.

Sign, temporary: Any sign intended to be maintained for a limited period of time, not to exceed thirty (30) days.

Sign, wall: Any sign or letters mounted flat against and projecting no more than twelve (12) inches from, or painted on the wall of, a building or structure with the exposed face of the sign parallel to the face of the building wall.

Sign, window: Any sign painted, posted, placed or affixed in or on an interior translucent surface including windows or doors so as to attract the attention of persons outside the building.

Site plan review: The process whereby the planning board shall review the site plans and maps of the developer to ensure they meet the development criteria as outlined in Section 12 (or Section 5.2 when referencing the BC or GBD Districts) of this ordinance.

Solid waste: Any garbage, refuse, rubbish or other discarded solid material as defined in 310 CMR 19, with the exception of brush, yard trimmings and grass clippings.

Special permit: A special approval that may be granted by the Special Permit Granting Authority, based on positive findings and determinations, pursuant to Section 7 of this ordinance.

Special Permit Siting: The ground-mounted solar photovoltaic installation may proceed by a special permit consistent with the obligations set forth in GL c40A, §9 and §6.1 through 6.2.1 of the Zoning Ordinance.

Storage operations: Any area used or intended for the storage of materials, refuse, or vehicles and equipment not in service. Storage areas shall be separate and distinct from parking areas, landscaping, and yard areas unless specifically authorized by the ordinance.

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

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.

Structure: Anything constructed or erected at a fixed location on the ground to give support, provide shelter, or satisfy other purposes, including buildings.

Studio, motion picture and television filming. A building used for creating, editing, and producing film or video without spectators.

Surface water: All water on the Earth's surface, exposed to the atmosphere and subject to surface runoff, such as rivers, lakes and creeks, and as defined in 310 CMR 10.04.

Surface water protection district: The district which is defined by the surface water protection district map.

Swimming pool: A private or public structure, located above or below surrounding grade, exceeding one hundred (100) feet of surface area, designed to hold water more than eighteen (18) inches deep (as measured from the lowest point in the pool a vertical distance to the grade level or top of the pool) and intended to be used for swimming, diving and various water sports.

Tasting Room: A room attached to either a brewery, distillery or winery that allows patrons to sample or consume wine, beer and other alcoholic beverages that are produced on-site in accordance with M.G.L. c. 138. A tasting room may not be greater than 33% of the main building's gross square footage.

Townhouse: A single structure consisting of three or more dwellings having one or more walls abutting another dwelling and designed to have all exits open directly to the outside.

Tree, ornamental: A small to medium size deciduous tree, noted for its form, leaf color, texture, flowers, or fruit, used to provide vegetative screening along a driveway, beside a building, or within a landscaped buffer.

Tree, street: Any large canopy deciduous tree, capable in size and mass of forming a vegetative screen along a roadway, driveway or parking lot and usually located within the public or private right-of-way or easement for vehicular access, or associated public utility easements.

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.

Unit: A part of a multi-family dwelling including one or more rooms, with appurtenant areas, such as balconies, terraces, and storage lockers, if any are stipulated in the applicable document of title, occupying one or more floors or part of parts thereof, including the enclosed space therein, intended for use by a family, and with a direct exit to a street or way or to a common area leading to a street or way.

Variance: An authorization by the Board of Appeals to locate a structure contrary to the terms of the zoning ordinance. A variance relates to a particular parcel of land, is specifically limited and is granted only when strict statutory requisites are satisfied.

Vehicle, Commercial: (1) any vehicle designed, used or maintained, as a means of transportation of people, goods or things used in trade, services, or commerce in general; (2) any vehicle with a curb weight (vehicle only) exceeding 12,000 GVW (gross vehicle weight); (3) any vehicle having unenclosed space designed for and capable of carrying property, cargo, or bulk material and which unenclosed space is not occupied by passenger seating; or (4) any use in accordance with MGL/RMV as defined as commercial. All commercial vehicles shall bear, display, or have affixed to it marking, sign, lettering, logo, picture, symbol, number, or the like, whether alone, or in combination, which identifies or advertises or advertises a business or similar commercial venture or use related thereto, including any applicable license information. (Amended 3/28/13)

Warehouse operation: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

Water supply: A groundwater aquifer, surface water, and surface water recharge to a groundwater aquifer, which is a present or potential future drinking water supply source.

Yard: An unoccupied space open to the sky and located on the same lot with a building or structure. A raised deck is not considered a yard. See Figures 10, 11 and 12 which depict how a rear, side or front yard is measured.

(Amendment 08/27/2015)
(Amendment 12/08/2016)
(Amendment 03/14/2019))

Section 3: Establishment of Zoning Districts

SECTION SUMMARY

3.1 Classes of Districts
3.2 Description of Zoning District
3.3 Incorporation into Zoning Maps
3.4 Boundaries of Districts
3.5 Lots in Two Districts

3.1 CLASSES OF DISTRICTS

For the purpose of this ordinance, the City of Peabody is hereby divided into the following zoning districts:

District	General Purpose
R-1	Single-Family Residence
R-1A	Single-Family Residence
R-1B	Single-Family Residence
R-2	Single-Family and Two-Family Residence
R-3	Multi-Family Residence
R-4	Multi-Family Residence
R-5	Multi-Family Residence
MH	Mobile Homes
BR	Regional Business
BR1	Regional Business 1
BC	Central Business
BN	Neighborhood Convenience Business
BN2	Neighborhood Convenience Business
GB	General Business
GBD	General Business Downtown
IL	Light Industry
IP	Industrial Park
DDD	Designated Development District
DDOD	Designated Development Overlay District
FPWD	Flood Plain/Wetlands District
GMSPOD	Ground-Mounted Solar Photovoltaic Overlay District
SGWPD	Surface and Ground Water Protection Districts

(AMENDED 10/25/2012)
(AMENDED 08/27/2015)

3.2 DESCRIPTION OF ZONING DISTRICTS

3.2.1 R-1, R-1A, and R-1B – Single-Family Residences

To provide sites for single-family residential development, while respecting the existing character of the neighboring homes and properties. Intensive land uses and uses which would detract from the desired residential character are not permitted.

3.2.2 R-2 – Single- and Two-Family Residences

To provide sites for single-family and two-family residential development, while respecting the existing character of the neighboring homes and properties. The predominant uses are single- and two-family dwellings.

3.2.3 R-3, R-4, and R-5 – Multi-Family Residences

To provide sites for multi-family residential development, with a mix of density standards. Additionally, R-4 districts allow more intensive multi-family development, as well as some commercial and retail uses.

3.2.4 MH – Mobile Homes

To provide proper siting for mobile home dwelling units.

3.2.5 BR – Regional Business

To provide space for large mixed commercial development that serves a regional market, which customers generally access by car so there is ample parking to serve the facility. Outdoor storage and use is allowed. (Amended 3/28/13)

3.2.6 BC – Central Business

To provide for a mix of commercial, office and residential uses in close proximity to each other and to allow a mix of uses within the same structure. Predominant uses are smaller retail, service and office buildings. This district should be more pedestrian-oriented so that residents can walk to local retail and service businesses. Mixed-use development is permitted, such as retail on the ground floor with office or business and residential above by Special Permit. Businesses which consume large amounts of land and interrupt pedestrian circulation and shopping patterns are not permitted.

3.2.7 BN – Neighborhood Convenience Business

To provide for uses including small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. Uses which would detract from this small-scale business character are not allowed.

3.2.8 BN2 – Neighborhood Convenience Business

To provide for uses including small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. To allow a restaurant to serve alcoholic beverages from a service bar only by Special Permit. Uses which would detract from this small-scale business character are not allowed.

3.2.9 IL – Light Industry

To provide for areas that allow uses requiring the manufacture, assembly, processing or handling of materials which because of their traffic, noise, appearance, odor, or hazards would be disruptive to residential and other business uses. Residential uses or uses which would otherwise interfere are not allowed. Outdoor storage and use is allowed. (Amended 3/28/13)

3.2.10 IP – Industrial Park

To provide for a large area where uses requiring the manufacture, assembly, processing or handling of materials can locate, along with related office facilities.

3.2.11 DDD – Designated Development District

To provide for professional uses like office, research and development, and light manufacturing as well as support services like hotels, restaurants, retail shopping and recreational facilities. Development should facilitate creative and integrated physical designs which are compatible with the natural environment and which promote the overall improvement of the urban environment for the welfare of the city. Outdoor storage and use is allowed. (Amended 3/28/13)

3.2.12 GB - General Business

To provide for office, retail, service and small-scale production where noise and truck traffic impacts are minimal. This district shall allow for less intensive uses than the IL zoning district. Businesses can be accessed by auto or by pedestrian. Properties should be well maintained so as to achieve a quality aesthetic and visual cohesiveness within the district. Residential uses are not allowed.

3.2.13 GBD – General Business Downtown

To provide for office, retail, service and small-scale production businesses where noise and truck traffic impacts are minimal. Businesses should be primarily accessed by pedestrian, and properties should maintain a quality aesthetic and a consistency with the historic downtown setting wherever possible. Residential uses are not allowed.

3.2.14 BR1 – Regional Business 1

3.2.15 DDOD – Designated Development District Residential Overlay District

3.2.16 GMSPOD – Ground-Mounted Solar Photovoltaic Overlay District

A Ground Mounted Solar Photovoltaic Overlay District is established, and shall be considered as superimposed over all other districts established by this Zoning Ordinance pursuant to Section 3, and is shown as an overlay on the Official Zoning Map established pursuant to Section 3.3, Zoning Map.

(AMENDED 10/25/2012)
(AMENDED 08/27/2015)

3.3 INCORPORATION INTO ZONING MAPS

Said districts are as shown, defined and bounded on the maps accompanying this ordinance, as referenced in Appendices E and F, both of which are on file in the office of the city clerk and with the planning board. The zoning maps, with all explanatory matter thereon, are made part of this ordinance.

3.4 BOUNDARIES OF DISTRICTS

The district boundaries shall be as shown on the zoning maps, the scale of the maps and the figures entered to serve as guides. Where boundary lines run parallel to and a distance of approximately one hundred (100) feet from street lines, said distances shall be deemed to be one hundred (100) feet. Where building lines for business and industrial districts are hereafter established by the city, the district boundary lines may be measured from the

new street line.

3.5 LOTS IN TWO DISTRICTS

When a district boundary line divides a lot in single or joint ownership at the time such line is established, a use permitted on the less restricted portion may be extended into the more restricted portion, but in no case more than twenty-five (25) feet over the established line. This section shall not apply to the flood boundary district and wetlands conservation district.

Section 4: Use Regulations

SECTION SUMMARY

4.1 General Requirements
4.2 Schedule of Use Regulations

4.1 GENERAL REQUIREMENTS

No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as set forth in section 4.2 schedule of use regulations in this ordinance and in accordance with the following notation:

A	=	allowed by-right use.
sp	=	special permit use allowed by the City Council.
blank	=	prohibited use.

Allowed uses and special permit uses allowed by the City Council shall be in conformity with all the density and dimension of regulations and any other requirements of this ordinance.

Any use not specifically listed in the Schedule of Use Regulations shall be deemed to be prohibited.

4.2 SCHEDULE OF USE REGULATIONS

[See Pages 139-143]

Section 5: BC/GBD Downtown Districts

SECTION SUMMARY

5.1 Purpose of Site Design Criteria
5.2 Site and Design Criteria
5.3 Intensity of Use within the B-C District
5.4 Incentives
5.5 Design Guidelines

5.1 PURPOSE OF SITE DESIGN CRITERIA

A. Encourage a diverse mix of business, commercial, office, residential (in BC district only), governmental, institutional and entertainment uses for workers, visitors, and residents. Note that residential use is not allowed in the GBD district.
B. Limit and discourage development of highway-oriented strip commercial uses that create traffic hazards and congestion because they require numerous individual curb cuts and generally higher traffic volumes.
C. 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.
D. Permit uses that promote conversion of existing buildings in a matter that maintains the visual character and architectural scale of existing development within the district.
E. Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
F. Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl.
G. Encourage mixed uses within the same structure.
H. Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
I. Promote pedestrian and bicycle circulation and safety.
J. Encourage uses that minimize noise and congestion.
K. Encourage live/work or work/live space.
L. Encourage first floor retail space..

5.2 SITE AND DESIGN CRITERIA

5.2.1 Purpose

The site and design review process for the B-C district seeks to encourage visual harmony, respect historic integrity, and encourage creative design solutions. These guidelines are not intended to dictate style but rather to provide a framework of common principles that foster design compatibility within the district. This section supplements the existing site plan review and applies only to the B-C district.

5.2.2 Applicability

The site and design guideline criteria within this section shall be applicable to all residential buildings, mixed use projects and non-residential developments within the district. The Peabody Downtown Design Standards, created in January 2016 and as may be modified, shall apply to any new construction, exterior renovation, signage or site improvements in the BC zoning district and portions of the GB, GBD, BN, BN2, R2 and R4

zoning districts in the vicinity of the Downtown as set forth in the Main Street Subdistrict, Walnut/Foster Street Subdistrict and Washington Street Subdistrict versions of said standards. The Community Development & Planning Department, in conjunction with the Building Department, will apply said standards, and the Building Commissioner shall enforce said standards. This includes any new building construction; a change in building use (adaptive reuse of an existing building) or a significant alteration of the existing building facades; work which results in the increase or decrease of floor area through improvements to the principal structure; addition of a new accessory structure, or significant change to an existing accessory structure; or any activity requiring a new curb cut or the addition of three (3) or more parking spaces. This section is part of the site plan review process (see Section 12) specifically for the BC District. (Amended 12/08/2016)

5.2.3 Framework for review process

The site design review process will use the following as a framework for consideration:

A. Architectural Character

1. Building façade and exterior architectural features
2. Building height and setbacks
3. Rooftop features and cornice lines
4. Exterior materials and colors
5. Exterior illumination

B. Urban Design Considerations

1. Building placement and orientation
2. Relationship to parking and adjacent uses
3. Relationship of building to sidewalk, public ways and open space
4. Storage and loading

C. Site Improvements

1. Fences, walls and raised planters
2. Street and parking lot lighting
3. Street furniture-benches, trash containers, news racks, kiosks etc.
4. Plazas, squares and public spaces
5. Site landscaping and parking lot screening
6. Safety issues

5.2.4 Access

New curb cuts on existing public ways should be minimized. To the extent feasible, access to businesses shall be provided through one of the following methods: (a) from an existing side or rear street or public alley thus avoiding the principal thoroughfare or (b) from a common driveway serving one or more adjacent properties. Applicable projects should seek an ingress/egress easement for shared driveway use wherever feasible.

Garage doors and loading spaces are prohibited on the front façade of any building unless no other location is feasible. Loading areas shall be subject to screening requirements stated herein.

5.2.5 Parking

The following guidelines are included to ensure that new and renovated off-street parking areas are constructed in accordance with the district's desired design character, the provisions of this ordinance, and other city ordinances pertaining to parking.

A. Parking lots for new construction shall be located to the side and rear of the lot unless no other location is feasible. Parking is prohibited within the front yard setback. Parking lots that abut public rights of way or grade parking under the building shall be screened with one or a combination of the following:

   - A low wall made of concrete, masonry or other suitable material not exceeding a height of 3 feet.
   - Raised planters planted with a minimum of 80% evergreen shrubs not to exceed a total height of 3 feet (including planter).
   - Landscaping consisting of a mix of trees and shrubs provided that 80% of the shrub plantings are evergreen.

B. Walls, fencing and architectural details shall compliment the materials of adjacent architectural styles.
C. Where walls are provided planting areas shall be a minimum width of 4 feet and should be located adjacent to the public right of way.
D. Where possible, parking areas shall be interconnected in a manner that allows the unobstructed flow of pedestrians between uses and parking areas.
E. In large parking lots (20 or more spaces) provision for bicycle racks shall be provided in locations that are safely segregated from automobile traffic and parking.

5.2.6 Curb Cuts

Developments shall be designed in a manner that minimizes the number of curb cuts on primary streets. The Planning Board may deny a curb cut if the proposed development inconsistent with the following guidelines:

A. Curb cuts shall be limited to one unless the Board feels that due to large parcel size an additional cut is justified.
B. When access is available from a public alley the Board may deny a curb cut from a primary street.
C. Shared drives are encouraged between adjacent parcels when appropriate.
D. Curb cuts within 200 feet of an intersection are discouraged and subject to Site Plan Review.
E. Curb cuts greater than 30 feet (for commercial properties) and 22 feet (for residential properties) are subject to Site Plan Review. In no case shall a curb cut be the full length of the property.

5.2.7 Pedestrian and Bicycle Access

Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and should be designed in concert with landscaping plans noted below. New construction should improve pedestrian access to buildings, sidewalks and parking areas and should be completed with consideration of pedestrian safety, handicapped access and visual quality. Where appropriate, applicants are encouraged to provide pedestrian and/or bicycle paths connecting their site with abutting areas in order to promote pedestrian and bicycle circulation and safety in the village. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged.

5.2.8 Landscaping

Landscaping shall be incorporated into new and redeveloped properties in such a way as to create visual relief and interest, provide shade for pedestrian areas and to screen parking and loading areas. Landscape plans shall be prepared by a design professional or, if in the Board's discretion the plans submitted are consistent with the intent of this regulation and meet the specific guidelines as set forth herein. Landscape plans shall show the location, type, and size of all proposed plantings as well as enough of the surrounding context such that the Board may determine the plan's appropriateness.

A. Side Yard Treatment

1. Where the distance between structures on adjacent lots is 10 feet or less the side yard shall be screened by a solid fence, wall or landscape treatment of evergreen plantings at a height not to exceed 3 feet.
2. Where the distance between structures on adjacent lots is greater than 10 feet landscaping shall 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.
3. Side yards may, in the alternative, be established as pedestrian walkways to access parking areas to the rear of the building. Such walkways shall be landscaped and lighted for safety.

B. Parking Areas

1. Large parking areas shall be relieved by landscaped islands of a minimum of 8 feet in width, equal in depth to the depth of a typical parking space and located such that there is one island per 10 continuous spaces.
2. Alternatively, at least 5% of the interior area of the lot shall be devoted to landscaping. Areas described in the above shall have at a minimum one shade tree with a minimum caliper of 2½ inches diameter breast height (DBH). Trees planted in such locations shall be planted in protected pervious areas which have a minimum dimension of 5 feet.
3. Where lots abut public rights of way, shade trees with a minimum caliper DBH of 2½ inches, shall be provided within a planting strip no less than 4 feet in width and at a rate of one tree per every 6 continuous spaces.

C. Trash and Service Areas

1. All service, loading and trash storage areas viewable from a public right of way or from an adjacent residential area shall be screened by one or a combination of masonry, wood or evergreen plantings to reduce their visual impact.
2. Loading and service areas shall not face any residential area unless no other location is possible.

5.3 INTENSITY OF USE WITHIN THE B-C DISTRICT

5.3.1 Location and Distribution of Uses

The ground floor of a commercial building or mixed use building (any combination of retail, office, and residential) shall be occupied by commercial uses only.

5.4 DESIGN GUIDELINES

5.4.1 Orientation

Buildings shall be oriented parallel to the front setback line to preserve a consistent façade line with the street. Primary building entrances should 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. The building's address is where orientation shall apply.

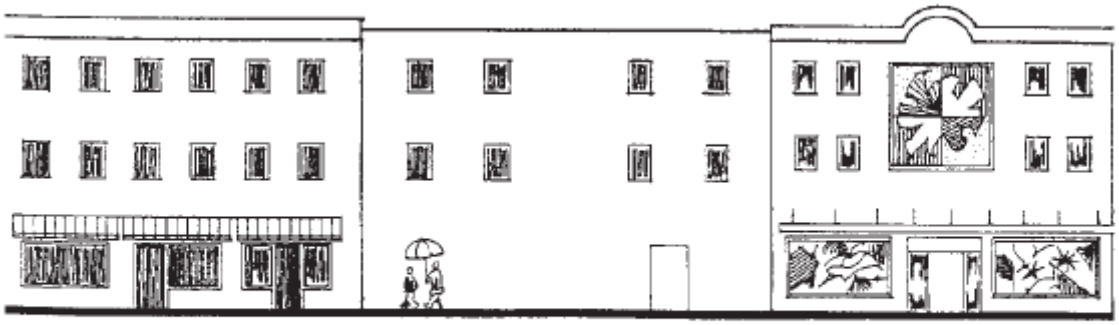
5.4.2 Articulation

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 15' height or more should be minimized by incorporating one 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 buildings.



Friendly retail façades

5.4.3 Transparency

For commercial and mixed- use buildings, a minimum of 60% of the building façade oriented to the street must be comprised of 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.

5.4.4 Doors and Entrances

A. Buildings must have a primary entrance facing a public street or way and should be visually prominent.
B. In buildings with multiple ground floor tenants entries should provide a coordinated design theme i.e. a common canopy, architectural projection or awning design.

5.4.5 Pedestrian Spaces and Comfort

For the purpose of providing a pedestrian friendly environment in the B-C District, new and redeveloped buildings should provide for 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 project with ground floor retail such as a restaurant may provide an area for outdoor dining which extends the indoor dining space for seasonal use. A ground floor use may provide a sidewalk bench where there is sufficient width.

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

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.

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

- Flexible design to allow for flexible use
- Buffering from major vehicular areas such as parking lots or main traffic ways
- Lighting for nighttime comfort and safety
- Appropriate street furnishing…i.e. benches, trash receptacles
- A focal element where appropriate such as a water feature, special landscape feature or public art installation
- Decorative paving and seasonal planting
- South facing locations
- Visual connectivity, especially to important views such as an historic structure
- Appropriately scaled to the development
- Must maintain adequate width access as required by the Americans with Disabilities Act.

5.4.6 Outdoor Dining

The purpose of this section is to provide for the licensing of outdoor dining areas of appropriate design, configuration and appearance that will serve as an amenity to the City during the spring, summer and fall. The City Council may issue annual outdoor dining area licenses which shall be for the period from April 1 through October 31. Licenses shall be valid for one season, and must be reapplied for annually. The City Council shall impose such conditions on each license as it determines to be appropriate and in the best interest of the City. License fees shall be established by the City Council. The City Council may also make such regulations governing such licenses as it deems necessary or appropriate to carry out the purposes of this section.

A. Outdoor dining areas containing nine (9) or more seats shall be separated from their surroundings by a perimeter fence or barrier. No such fences or barriers may damage the public sidewalk. Perimeter treatments, umbrellas, furniture and trash receptacles shall be supplied by the applicant and shall be maintained in a safe and sanitary manner by the applicant. All trash receptacles shall

be covered and trash removed nightly. All perimeter treatments, umbrellas, furniture and trash receptacles must be removed at the end of each season. All furniture must be secured during the hours not in use.

B. In no event shall the placement of outdoor dining furniture, umbrellas, perimeter fences or barriers create a pedestrian or wheelchair passage width of less than four (4) feet. Restaurants shall have an accessible path of travel through the dining area at least thirty-six (36) inches wide.

C. Outdoor food preparation shall not be allowed unless approved by the Board of Health in accordance with their procedures and regulations.

D. Approval of an outdoor dining area license shall not be construed as an approval of any other license or an approval for the alteration or extension of premises where alcoholic beverages are served. The serving or consumption of alcohol outside of premises duly licensed to serve alcohol is expressly prohibited unless approved by the City Council.

E. Due to the seasonal and temporary nature of an outdoor dining area, the seating within an outdoor dining area will not be considered an increase in the number of seats serving a restaurant and will not be counted toward any off-street parking requirement.

F. Application for outdoor dining area licenses shall be made to the City Council, with copies required to be submitted to the Building Inspector, Board of Health, Fire Department and Police Department for their review. Each application will include the name, address and telephone number of the restaurant owner, the proposed dates and times of operation, and a plan meeting the following requirements: a neatly drawn scaled plan and twelve (12) copies depicting the precise dimensions and location of the outdoor dining area; the arrangement of outdoor dining furniture, perimeter fencing, umbrellas and any other obstruction; and the width of sidewalk available for pedestrian and wheelchair passage. The plan shall also include a written description of the colors and materials to be used in the outdoor dining area. Photographs or samples of proposed furniture and materials shall be provided upon request of the City Council.

G. The licensee shall carry or require that there be carried workers' compensation insurance for all employees and those of its contractors and/or subcontractors engaged in work at the dining facility, in accordance with the state workers' compensation laws. The licensee shall, prior to the issuance of the license, furnish a certificate of insurance to the City evidencing coverage for workers' compensation insurance. In addition, the licensee shall carry comprehensive public liability and property damage liability insurance and, if applicable, liquor liability insurance, to cover the licensee and its contractors and subcontractors against claims due to accidents which may occur or result from operations under the license. Such insurance shall cover the use of all equipment related to the provision of sidewalk dining services. The comprehensive general liability policy shall insure against all claims and demands for bodily injury and property damage with respect to the sidewalk dining facilities and services and shall be in such form and amount as determined by the City Council. The City shall be named as an "additional insured" in all policies for such insurance. The licensee (and their heirs, successors and assigns in interest) shall also agree to hold harmless, defend and indemnify the City of Peabody and its employees and agents from any responsibility, liability and claims arising out of or related to the operations under the license. Where such insurance is renewed or replaced, the licensee shall furnish the City with a certificate of insurance evidencing same.

5.4.7 Utilities

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

5.4.8 Lighting

Site lighting, security lighting and architectural/landscape lighting should provide the user with illumination levels appropriate for the designed activity (i.e. 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:

A. An overlapping pattern of light at a height of about 10-15 feet in lighted areas.

DO

DON'T

B. 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.
C. In each lighted area, design lighting levels that will allow pedestrians to identify a face 15 yards away (generally, a minimum of 4 foot-candles). Adequate lighting reduces anonymity and gives pedestrians an opportunity to choose another route.
D. Adequate lighting at all building entrances, exits and corridors between buildings, at least 4 foot candles during active use, especially where doors are recessed.
E. Confine site lighting to the project site; use shields or other methods to eliminate glare on adjacent properties.
F. Place light posts and standards so that they do not create hazards for pedestrians or vehicles.

G. Indicate specific lighting levels in each lighted area.

5.4.9 Quality of site furnishings

Provide for the following site plan elements:

A. High-quality materials in site furnishings and features, such as durable and easily maintained walls and paving.
B. Site features and furnishings that discourage vandalism. Furnishings that are easily removed or do not convey an image of care invite misuse.
C. Safety materials, such as non-slip walkway surfaces
D. Recycled plastics or similar material are encouraged.

Section 6: Special Regulations

SECTION SUMMARY

6.1 General Requirements
6.2 Site Plan Requirements
6.3 Cluster Development Requirements
6.4 Multi-family Dwellings in R-5 District
6.5 Requirements for Adult Uses
6.6 Designated Development District
6.7 Family Accessory Living Areas Requirements
6.8 Continuing Care Retirement Communities Requirements
6.9 Surface and Groundwater Protection Districts
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6.12 General Attendance Events
6.13 Medical Marijuana Facilities
6.14 Temporary Moratorium on the Sale and Distribution of Recreational Marijuana

6.1 GENERAL REQUIREMENTS

6.1.1 Each application to the special permit granting authority for a special permit for a particular use in a specific district as enumerated in Subsection 4.2 Schedule of Use Regulations shall be accompanied by a site plan as described in Section 6.2 Site Plan Requirements herein.

6.1.2 No special permit shall be granted unless it is the judgment of the City Council that the use for which the permit is sought will satisfy a desirable local need, that its design and appearance will not be injurious to the established or future character of the vicinity and the neighborhood and that it shall be in harmony with the general purpose and intent of this ordinance.

6.1.3 For certain designated special permit uses there shall be compliance with the requirements and standards enumerated herein. All pertinent regulations related to special permit uses and contained elsewhere in this ordinance shall govern unless expressly contradicted by the requirements and standards for the designated uses set forth below.

6.1.4 Prior to granting a special permit, satisfactory provision and arrangement shall be made concerning the following where applicable:

A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe within the site and in relation to adjoining streets, properties or improvements;
B. Provisions for off-street loading and unloading of vehicles incidental to the service of the buildings and related uses on the site;
C. Possible noise, glare and odor effects of the use on adjoining properties and properties generally in the district;
D. Utilities, with reference to location, availability, and compatibility;
E. Screening and buffering with reference to type, dimensions and character;
F. Required yards, landscaping, and other open spaces;
G. Proximity to municipal facilities;

H. Projection of adjoining premises and the surrounding neighborhood from the proposed use of the site;
I. Adequacy of the construction and proposed maintenance of disposal facilities for sewage, refuse, and other waste and of the methods for drainage of surface water; and
J. Adequacy of all other municipal facilities relative to fire and police protection.

6.2 SITE PLAN REQUIREMENTS

6.2.1 A site plan shall be prepared by a registered architect, registered engineer or registered land surveyor at a scale of not less than forty (40) feet to an inch and shall include as necessary or applicable for each special permit use the following:

A. The extent of the site with all lot lines identified by metes and bounds;
B. Names of owners and abutters as shown on most recent real estate tax list;
C. Sizes and locations of existing and proposed structures and any adjacent structures within fifty (50) feet of the site and including proposed structures and any adjacent structures within fifty (50) feet of the site and including proposed type of construction and proposed building materials;
D. Existing and proposed contours at two-foot intervals;
E. Number and location of proposed parking spaces;
F. Sizes and locations of water, sewerage and drainage systems;
G. Driveways and vehicular circulation providing access to and egress from the site;
H. Walks and recreation, open space and conservation areas;
I. Land uses, both existing and proposed;
J. Landscaping and site development details including walls, fences, outdoor lighting and ground surface materials;
K. Bounding streets and any unused or unique natural features of public areas in the immediate vicinity; and
L. If an applicant or predecessor in title has previously filed a site plan with the permit granting authority regarding the subject parcel of land and/or building and use, no additional site plan shall be filed in the event the application refers only to a change in use.

6.3 CLUSTER DEVELOPMENT REQUIREMENTS

6.3.1 *Definition:* Single detached one-family dwellings may be constructed on certain lots in a cluster development in the following zones: R-1, R-1A, R-1B, R-2, R-3, and R-4 as hereinafter defined and limited, although such lots have less area or frontage, or both, than normally required. For this purpose, a cluster development is a division of not less than five (5) acres of land into lots used, or available for use as building sites, where said lots are clustered together and where there is provision of open space in common or public ownership. The City Council shall be the special permit granting authority for the cluster permit.

6.3.2 *Purpose:* The purposes of this provision of the ordinance allowing cluster developments are as follows:

A. To promote efficient subdivision of land, in harmony with its natural features and with minimal excavation and earth removal activities.
B. To preserve in their unaltered state unique or unusual natural features of the land to be developed especially where such features are not afforded protection under some other local, state or federal regulation or private deed restriction. Such natural features include but are not limited to: Scenic vistas and scenic road views; woodlands and site vegetation, especially where such natural vegetative cover serves to buffer new developments from established neighborhoods; slopes over 15% and

rock outcroppings; natural drainageways, stream banks, wetlands, and floodplains; aquifer recharge areas for public or private water supplies; wildlife habitat and vegetation, especially of rare or endangered species.

C. To provide suitable open space and facilities for active or passive recreation.
D. To provide open space as a buffer, where desirable and appropriate, between new developments and established neighboring uses.
E. To promote affordable housing in the city.

6.3.3 *Minimum requirements:* Such a cluster development containing lots with less than the minimum area or frontage or both may be permitted provided that:

A. Maximum number of lots in a cluster development shall be determined by taking total land area of the subdivision, exclusive of existing and proposed roads and other land areas not available to the developer for building because of local, state, or federal regulations or private deed restrictions, and dividing by the minimum lot size of the underlying zoning district.
B. Every individual lot shall have frontage of at least one-half of the frontage required in the district or fifty (50) feet, whichever is greater, measured as hereinafter provided, except that any lot abutting an existing or proposed major or through secondary street (as defined in the planning board's subdivision regulations or indicated on said board's future street system plan) shall have frontage on such street no less than the amount normally required in the district.
C. Except as provided in Section 6.3.3.D and Section 6.3.3.E of this ordinance, the special permit granting authority shall have the right to waive up to 50% of the minimum requirements in the district for setbacks, side yards and rear yards upon review of the locations of each dwelling and accessory building on a cluster lot.
D. Special provisions for cluster lots abutting other property:
    1. Purpose. The intent of the provision, below, is to provide for a minimum width of vegetated, unoccupied area, left in its natural state, between the periphery of a residential cluster and adjacent land uses. The purpose of this provision is to benefit both the cluster and noncluster landowners and land uses.
    2. Provision. Individual lots in the cluster development which abut property that is not part of the cluster shall have as their setback dimension of their abutting yard(s) the same as that required in the district underlying the cluster development. If there is undeveloped intervening common land or public open space between said yard and the abutting property this area may be included in the required dimensional setback for the subject cluster. However, in no case can the sum of the lot setback and the width of the buffer, be less than that required for the district underlying the cluster, or thirty-five (35) feet, whichever is more.
E. Every individual lot in the cluster development shall have an area of at least two-thirds of the minimum area per dwelling unit required in the district, or six thousand six hundred (6,600) square feet (whichever is larger), the balance, if any remaining in common land. The special permit granting authority shall have the right to further waive minimum lot area requirements up to one-half (50%) of the minimum required in the district provided that all the following apply:
    1. Such waivers result in a more efficient lot layout which affords protection of more natural features of the site or otherwise directly furthers the achievement of the purposes (Section 6.3.2) of this ordinance. When such a waiver is granted, a specific finding has to be made in the written decision of the special permit granting authority describing how such waiver complies with this provision of the ordinance; and
    2. Such a waiver shall not increase the number of lots allowed in the cluster beyond the number allowed under Section 6.3.3.A of this ordinance; and
    3. No lots smaller than six thousand (6,000) square feet are created by means of such a waiver.

F. The total area of common land within the development equals or exceeds the sum of the areas by

which any individual lots are reduced below the minimum lot area normally required in the district. The total area of common land may usually range from 20% to 50% of total land area within the development, exclusive of areas not available for development per Section 6.3.3.A.

G. All common land hereunder shall be held in common ownership by the owners of lots within the development. In the case of ownership by a separate legal entity, the developer shall include in the deed to the owners beneficial rights in said common land. Maintenance shall be the responsibility of the owners. A permanent conservation easement shall be conveyed to the City of Peabody prohibiting development of said common land and the erection thereof any structures other than for the noncommercial, recreational use of the residents of the cluster development. All common or public open space land shall have adequate access to a public way.

6.3.4 *Review criteria:* In reviewing the application for a special permit for a cluster development, the special permit granting authority shall consider the following in its decision.

A. The extent to which the plan for the cluster development is consistent with the purposes of this section of the ordinance.
B. The extent to which unique or environmentally important features of the development site, especially those not afforded protection under some other local, state or federal regulation as set forth in Section 6.3.2.B of this ordinance, have been adequately described in the site plan submitted with the special permit application and have been incorporated, to the maximum extent feasible, as permanent open space of the cluster.
C. Individual lots, buildings, and streets are designed and situated to minimize alteration of the natural site features and the need for excavation, cut and fill, or other types of earth moving operations.
D. That the location and quantity of any portion of the common land intended for active or passive recreational uses, as those uses may be set forth by the special permit granting authority, is adequate in terms of size, topography, drainage, public access, quality and other pertinent site characteristics.
E. The need for preservation of open space for scenic value shall be determined by the special permit granting authority based on its knowledge of the site of the proposed cluster development and comments received by the authority during the plan review and public hearing process. The special permit granting authority may impose restrictive covenants protecting such scenic areas or allowing access to such areas. The suitability of common land intended for scenic value shall be determined by the following criteria:
    1. Its visibility from a significant number of buildings or length of private or public streets; or
    2. The vistas such common land affords of significant or unusual:
        a. Landforms,
        b. Cityscapes,
        c. Historical sites, or
        d. Buildings.
F. The need for provisions of common land to act as an open space buffer, insulating existing developments from the cluster development, shall be determined by the special permit granting authority based on the purposes of this ordinance and upon its knowledge of the site and comments received during the plan review and public hearing process. The suitability of common land intended for such buffers shall be determined by the special permit granting authority based on its consideration of a variety of factors, including:
    1. The viewing distance and slope between the new buildings of the proposed cluster and the existing buildings of abutting properties; and
    2. The width and quality of intervening buffer land; and
    3. The height of post development trees, shrubs, fences or other man-made screens all as proposed by the developer or as may be required by the special permit granting authority.

6.3.5 *Application requirements:* Applications for special permits for clusters shall include, in addition to all the

data listed as (a) through (1) and information required under Section 6.2 Site Plan requirements, the following:

A. Wetland areas;
B. Lands included in the wetlands/floodplain conservancy district as defined in Section 8 of this Ordinance;
C. Wooded areas;
D. Slopes over 15%, shaded;
E. Rock outcroppings of a size that would require blasting;
F. A brief description of wildlife habitat and vegetative cover on the site;
G. Presence of any historical or archeological sites, endangered flora or fauna;
H. Standard subdivision layout of lots, roadways, and utility easements of the proposed development site at a level of detail comparable to that required for a preliminary plan filing under Section III B of the Rules and Regulations of the Peabody Planning Board. In addition, proposed grading plans, including "cuts and fills" shall be provided.
    1. Open space calculations. Detailed calculations of the area by which each individual lot has been reduced and the sum total of these areas as well as the sum total of all common land or public open space areas provided shall be submitted as a part of a plan.
    2. Purpose. The purpose of the submittal of the standard subdivision layout is to allow the special permit granting authority the opportunity to compare and contrast the advantages of the design of the two (2) plans.
I. The plans and information that are submitted by the applicant under Section III B of the Rules and Regulations of the Peabody Planning Board may also serve to satisfy the plan requirements of Sections 6.2 and 6.3(e) of this Ordinance provided all data and information required under said subsections of the zoning ordinance are also submitted as part of said definitive plan submission.
J. Both a definitive subdivision plan and a special permit must be approved before a cluster development can be built.

6.3.6 *Permit, authorization.* A special permit for a cluster development issued hereunder by the special permit granting authority is an authorization for the use of lots which have less than the normal minimum area or frontage or both.

6.4 MULTI-FAMILY DWELLINGS IN R-5 DISTRICT

6.4.1 The site shall not have more than a maximum average of four (4) dwelling units per acre, nor more than eight (8) bedrooms per acre. No building within the site shall be constructed within fifty (50) feet of a property line of an existing residence district.

6.4.2 Television, radio and communications services shall be supplied by a central system with underground connections.

6.4.3 All utilities shall be installed underground using standards promulgated by the planning, health, building and public service departments of the City of Peabody, and sewerage shall be disposed of by means of adequate connections to the municipal sewerage system.

6.4.5 Suitable recreation space with a cost of not less than five hundred dollars ($500.00) per unit shall be provided. Not less than 60% of the total land area of the site shall remain free from structures, parking and drives, and such area shall be left either in its natural state, attractively landscaped, or developed for uncovered recreational facilities.

6.4.6 Provision shall be made for not less than two (2) parking spaces per dwelling unit, one of which shall be completely enclosed, having dimensions of each space not less than ten (10) feet in width and twenty (20) feet in length. Detached parking garages will be permitted if located and designed so as to compliment the building design and site layout, but shall not be constructed within the setback areas.

6.4.7 The owner or owners shall be responsible for the maintenance of common areas, including, but not limited to, snow plowing within the site limits and rubbish disposal. No outside burning of rubbish or inside incineration shall be permitted.

6.4.8 All lighting shall be directed away from adjoining property.

6.5 REQUIREMENTS FOR ADULT USES

6.5.1 Definitions

"Adult bookstores", "adult motion picture theatres", "adult paraphernalia stores", "adult video stores" and "establishment which displays live nudity for its patrons" shall have the meanings set forth in Massachusetts General Laws, Chapter 40A, Section 9A.

6.5.2 Adult bookstores, adult motion picture theatres, adult paraphernalia stores, adult video stores and establishment which displays live nudity for its patrons may be allowed by Special Permit granted by the SPGA in the B-R District along the **southbound side of Route 1 only** and not in any other zoning district provided that all general requirements of Section 6.1 of the Ordinance and all the specific requirements enumerated in this section are met.

6.5.3 No adult bookstores, adult motion picture theatres, adult paraphernalia stores, adult video store or establishment which displays live nudity for its patrons shall be located less than two hundred (200) feet from the property boundary lines of any lots in residential use.

6.5.4 No adult bookstores, adult motion picture theatres, adult paraphernalia store, adult video store or establishment which displays live nudity for its patrons shall be located less than one thousand (1,000) feet from any other adult bookstores, adult motion picture theatres, adult paraphernalia stores, adult video stores or adult entertainment establishments.

6.5.5 No adult bookstores, adult motion picture theatres, adult paraphernalia stores, adult video stores and establishment which displays live nudity for its patrons shall be located less than two hundred (200) feet from the property boundary lines of any establishment licensed under the provisions of Chapter 138, Section 12 of the Massachusetts General Laws.

6.5.6 If substantial use or construction of any adult bookstores, adult motion picture theatres, adult paraphernalia stores, adult video stores and establishment which displays live nudity for its patrons has not commenced within one (1) year of the issuance of the Special Permit, or within one (1) year of such time required to pursue or await an appeal if such appeal be taken, the special permit shall lapse and shall be null and void.

6.5.7 In accordance with Chapter 40A, Section 9A, any existing adult bookstores, adult motion picture theatres, adult paraphernalia stores, or adult entertainment establishments which displays live nudity for its patrons, or adult video store shall apply for such permit within ninety (90) days following the adoption of said zoning ordinance.

6.6 DESIGNATED DEVELOPMENT DISTRICT (DDD)

6.6.1 Purposes

The designated development district and uses created herein are intended to:

A. Encourage a regional node and cohesive community of compatible mixed uses including office, research and development and light manufacturing supported by hotels, restaurants, retail shopping, and recreational facilities within the designated development district.
B. Establish incentives to encourage desirable land uses and coordinated land assembly for development.
C. Reduce the number of regulations to a small set of essential standards for density, dimensions, and parking.
D. Establish design and development guidelines to clarify city goals, assist developers, and result in coordinated signage and lighting, compatible architecture, and site work throughout the district.
E. Establish development plan review to ensure quality and intent of proposed projects.
F. Establish site specific performance standards to regulate impacts to the carrying capacity of the land and municipal facilities.

6.6.2 Reviewing authority

The community development authority will be responsible for development plan review and approval in the designated development district. The community development department will serve as professional staff to the authority, assisting the authority in all informal project review (including the pre-application conference) and coordination of all comments and recommendations from city agencies, including the public services department, board of health, building inspection, conservation commission, planning board, fire chief and police chief.

Development of all buildings and site improvements will be in accordance with the design and development guidelines prepared and adopted by the community development authority. The guidelines may be amended as necessary by the authority. The objectives of the design standards are to obtain consistency and quality in design, to protect and enhance values in the district, and to provide a high quality development area that will contribute positively to land values and the environmental quality of the surrounding area and the City of Peabody. It is intended that a basic design compatibility and harmony will result among the district buildings and site work.

The design and development guidelines will be used by the community development authority to set conditions for development plan approval, and as a basis for granting project approval.

Applicants can anticipate the city's concerns and comments by careful review of the guidelines prior to development plan submittals.

The building inspector will withhold a building permit for the construction, alteration or moving of any building or structure until a final development plan is approved in compliance with these district regulations. The CDA approval does not relieve the applicant of any of the provisions of MGL Chapter 143.

6.6.3 Development plan review

A. *Pre-application conference.* An applicant seeking to obtain development plan approval should request a pre-application conference with the community development department prior to submitting an

application for preliminary development plan review. At the pre-application conference, the community development department will familiarize the applicant with the process for obtaining development plan approval and will explain to the applicant issues to be considered in planning the project.

At this conference, the applicant may present the community development department with basic data regarding the proposal, such as development program, map showing the important existing and man-made features in and around the site, and/or sketch plan showing the major features of the proposed development. This information will enable the applicant and the community development staff to discuss and clarify site-specific planning and process issues related to the project in an informal manner.

B. *Preliminary development plan review.* A preliminary development plan may be submitted for community development authority review during the early stages of the project, prior to the submission of a final development plan. The purpose of the preliminary development plan is to elicit comments and recommendations from city agencies during the schematic design phase in which the general scope, scale, and relationship of project components are illustrated. It is strongly recommended that a preliminary development plan be filed in every case in order to incorporate agency and community concerns, and to identify major digressions from the intent of the designated development district before significant financial resources are committed by the applicant.

The preliminary development plan submittal should be prepared at a scale of not less than one (1) inch equals forty (40) feet unless another scale is requested and found suitable by the planning or engineering department. Plan shall be prepared by a registered land surveyor, and a registered architect, registered professional engineer and/or registered landscape architect and should include the following general information:

1. Name and address of applicant and person(s) responsible for preparation of drawings;
2. Graphic scale, date, north arrow, and vertical datum;
3. Property boundaries, rights-of-way, and easements and their uses within the lot;
4. Abutting streets and ways, and names of all abutters;
5. Existing and proposed topography at two-foot intervals;
6. Existing and proposed buildings and structures on site;
7. Existing and proposed utilities and storm drainage structures on and adjacent to the site;
8. Existing wetlands and watercourses;
9. Identification of any special site characteristics and noteworthy natural features such as views, existing vegetation, wetlands, topographic changes, soils, bedrock and required setbacks that are being considered in the siting and design of the building, roads, and parking areas;
10. Summary of the development program including gross square feet of floor area, use designation of each building or part thereof, number of parking spaces, and estimated number of employees;
11. Tabulation of area in square feet devoted to building footprint, parking and circulation areas, and open space;
12. List of all 'parties of interest' and their addresses, certified by the city assessor.
13. Architectural and site design documentation should illustrate the general scope, scale, and relationship of project components, including:

    a. Conceptual building footprint, location and use;
    b. Preliminary sections and elevations;
    c. Preliminary selection of building materials;
    d. Development of approximate building dimensions, areas, and volumes;
    e. Access and circulation patterns for pedestrians and vehicles;
    f. Functional relationships including entranceways, parking areas, service loading areas, and

open space;

g. Design objectives and environmental determinants;
h. Preliminary landscaping plan, including types and numbers of plants proposed, and other site amenities.

C. *Final development plan review.* A final development plan should be submitted for community development authority review during the design development phase of the project, in which the size and character of the entire project is fixed and described. The purpose of the final development plan review is to confirm that the intent of the proposed project as illustrated in the preliminary development plan is being carried out, and to confirm that the proposed project is in conformance with the intent and regulations of the designated development district.

The final development plan submittal should be prepared at a scale of not less than one (1) inch equals forty (40) feet by a registered land surveyor, and a registered architect, registered professional engineer, and/or registered landscape architect and should include the general information as specified under preliminary development plan review.

Architectural and site design and documentation should establish the final scope, relationship, form, size, and appearance of the project through:

1. Architectural plans, sections and elevations;
2. Typical building construction details;
3. Three-dimensional sketches;
4. Final selection of building materials and systems;
5. Building locations;
6. Roadways, walkways, parking areas;
7. Building entrances and service areas;
8. Utilities, on-site and off-site;
9. Fire protection systems;
10. Storm drainage including retention areas;
11. Site grading at two-foot intervals;
12. Lawns and plantings, including species, number of plants, and installation size;
13. Site lighting;
14. Signage;
15. Final selection of site materials, sizes, dimensions, and areas;
16. Typical site construction details;
17. Roadway profiles and cross sections.

D. *Procedure and time frame.* To start the approval process for preliminary plan review, and for final development plan review the applicant should file eight (8) copies of the application and accompanying documentation for the development plan review with the city clerk. The city clerk will transmit a copy of the submittal package to the planning board, community development department, board of health, department of public services, conservation commission, police department, fire department, and community development authority.

The agencies receiving copies of the development plan should submit to the community development department written recommendations on the proposed project within fifteen (15) days of filing. Failure to comment will be deemed lack of objection.

Within thirty-five (35) days of the filing of the development plan, the community development department should submit to the community development authority, accompanied by the agency comments, a report discussing the feasibility of the project and its consistency with the purposes of the designated development district.

The community development authority should within sixty (60) days of filing certify in writing to the applicant that the application is approved as submitted or approved subject to modification. Failure to take action within the said sixty-day period will be deemed to be a grant of development plan approval unless an extension is requested by the applicant and such requests approved by the authority.

Final development plan approval granted under this section will lapse within two (2) yeas if a substantial use has not commenced or if construction has not begun. The community development authority may grant an extension for good cause, and should grant an extension if the delay has been caused on account of the need to obtain other local, state, and federal permits.

6.6.4 Permitted uses

The intent of the use designations in the district is to promote a high quality employment center in this area of Peabody. Specific objectives are to encourage executive office, research and development, and light manufacturing activities which provide jobs for the community, and to support these businesses with auxiliary uses such as hotels, restaurants, retail shopping, and recreational facilities. Some of these auxiliary uses will require a special permit as a means of ensuring the appropriate location, mix, extent and quality of development. The special permit granting authority will be the city council as per Section 15.7.1 and applications reviewed according to procedures outlined in Section 15.7.3.

A. *Permitted uses as allowed in Section 4.2.*

1. Corporate headquarters, executive and clerical offices, banking and financial services;
2. High or advanced technology, research and development, testing laboratories;
3. Light manufacturing, processing and assembly;
4. Medical facilities;
5. Outdoor recreational facilities such as playing fields, exercise areas, jogging and walking paths;
6. Business support services;
7. Recycling Collection Centers; and
8. Printing/Binding/Publishing..

B. *Special permit uses as allowed in Section 4.2.*

1. Warehouses and distribution;
2. Hotels;
3. Restaurants and conference centers;
4. Commercial retail or wholesale businesses;
5. Private and public physical fitness and recreational facilities;
6. Day care centers provided they are located in conforming structures in the district;
7. Personal service establishments;
8. Indoor recreation facilities;
9. Reference laboratories;
10. Research and development, green development and new technologies;
11. Trucking Terminal;
12. Truck Services/Repair with no Outdoor Storage; and
13. Hospital

C. *Use limitations.*

1. All uses shall be completely enclosed in buildings. No merchandise materials, supplies or equipment shall be permitted to remain outside any building.
2. All uses must meet the design and development guidelines as set forth by the community development authority.

D. *Nonconformance.*

The regulations pertaining to nonconformance shall be the same as the amended Peabody Zoning Ordinance, section 1.5.

6.6.5 Schedule of density and dimensional regulations

A. For all as of right uses, and for hotels by special permit, dimensional standards shall be as follows:

Minimum lot size	2 acres
Maximum number of stories	6
Maximum building height	72 feet
Maximum floor to area ratio	0.4

B. For all uses allowed by special permit except hotels, dimensional standards shall be as follows:

Minimum lot size	2 acres
Maximum number of stories	6
Maximum building height	72 feet
Maximum floor to area ratio	0.3

C. All district uses except access should observe the following regulations:

(1) Building setbacks (minimum feet):	
Route 1	100
Residential abutters	100
District Access Road R.O.W.	50
Other property lines	30
(2) Impervious site coverage (maximum %)	60
(3) Compact parking (maximum % of total)	30
(4) Parking space size (minimum feet)	
Compact	8.0 × 16.6
Full	10.0 × 20.0
Handicap	12.0 × 20.0
Parking aisle (minimum feet)	24

6.6.6 Parking ratios

All parking shall be accommodated on-site and within designated parking areas for each building(s). No on-street parking will be allowed within the district.

The minimum number of off-street parking spaces should be two (2) spaces per one thousand (1,000) gross square feet of floor area, and the maximum number of off-street parking spaces should be four (4) per 1,000 gross square feet of floor area and determined specifically by individual users within the following exception:

1. Retail business uses should provide a minimum of five (5) spaces per 1,000 gross square feet of

floor area.

2. Restaurants and conference facilities should provide a minimum of one (1) space for each three (3) seats of seating capacity.
3. Hotels should provide a minimum of one 1) parking space for each unit plus one (1) space per five (5) employees.
4. Special purpose uses such as health related facilities, private recreation uses, training and conference centers, etc., as allowed in the study area would have parking requirements determined on a use-specific basis as approved by the community development authority.
5. Warehouse uses should provide a minimum of two (2) spaces per one thousand (1,000) gross square feet of building area allocated for office use as well as one (1) space per every one (1) person employed.
6. As a minimum, the following number of handicapped parking spaces must be provided:
   a. One (1) handicapped parking space per 10 to 25 parking spaces;
   b. Two (2) handicapped parking spaces per 26 to 50 parking spaces;
   c. Three (3) handicapped parking spaces per 51 to 100 parking spaces;
   d. Four (4) handicapped parking spaces per 101 to 200 parking spaces;
   e. Six (6) handicapped parking spaces per 201 to 500 parking spaces;
   f. Ten (10) handicapped parking spaces per 501 to 1,000 parking spaces;
   g. Fifteen (15) handicapped parking spaces per 1,001 or more parking spaces.

6.6.7 Peabody designated development district capital facility ordinance

A. *Title.* This ordinance shall be known and may be cited as the "Peabody Designated Development District Capital Facility Ordinance".
B. *Authority.* The community has authority to adopt this ordinance through its special permit and site plan review regulations pursuant to Chapter 40A, Section 9, Massachusetts General Law. This law allows a community to grant permitted increases in density for the provision of community amenities, in this case capital facilities needed to accommodate the increased density.
C. *Intent and purpose.*
   1. Planning for the necessary capacity expansion of road, electrical, water, sewer and drainage facilities serving new development in the Peabody Designated Development District to ensure the health, safety, welfare and economic well being of the citizens of Peabody is the mandated responsibility of the community pursuant to Chapter 40A, Massachusetts General Laws.
   2. This ordinance is intended to implement and be consistent with the Peabody Comprehensive Plan, the Route 1/Route 128 Economic Development Strategy, subsequent city planning efforts, and Chapter 40A, Massachusetts General Laws.
   3. The objective of this ordinance is to require all land development activity that places additional demand on road, electrical, water, sewer and drainage facilities serving the Peabody Designated Development District to contribute its proportionate share of the construction or cost of providing road, electrical, water, sewer and drainage facilities.
   4. It is not the purpose of this ordinance to require improvements or to collect any funds from new land development activity in excess of the actual amount necessary to offset the demand on the community's facilities identified below. This ordinance is intended to be consistent with the principles for allocating a fair share of the cost of the new public facilities to new users as established in Emerson College v. City of Boston, 462 NE2d 1098 (MA, 1984).

D. *Site plan review and special permit requirements.*
   1. Capital facility requirements.
      a. Any person who proposes any development in the Peabody Designated Development District requiring site plan review or building permit plan review shall be obligated to provide the necessary road, electrical, water, sewer and drainage capital facilities in the manner and

amount set forth in this section. Development proposals, which in the opinion of the CDA, do not place additional demand on the electrical, water, sewer and drainage capacities of the district shall not be required to contribute to capital improvements.

b. The capital facilities shall be in the form of a constructed improvement as per plans prepared by the City of Peabody and inspected following established city inspection procedures and construction standards or a fee in-lieu thereof paid to the community development authority or its designee.

c. The value of the improvement or fee in-lieu of an improvement shall be computed on the basis of the capital needs of the district as they relate to the amount of square footage being built, as determined by the community development authority and set forth below.

2. Establishment of capital facility requirements. Any person who shall initiate any development in the Peabody Designated Development District requiring site plan review or a building permit plan review shall be required to undertake roadway, electrical, water, sewer and drainage improvements necessary to offset the impacts that the development will have on local facilities. These improvements will have been identified in the Peabody Comprehensive Plan, Route 1/Route 128 Economic Development Strategy or subsequent studies and will be listed in the Peabody Capital Improvement Program. The project proponent may select to construct improvements for the land development activity in-lieu of paying the established fee using the formula set out below for the district. The district boundaries are as stated in the zoning ordinance creating the Peabody Designated Development District and incorporated herein by reference.

3. Formula for calculating capital facility fees for Peabody Designated Development District.

a. The Peabody Community Development Authority maintains a capital facility fee schedule based upon the formula listed below:

$$\text{FEE} = \text{SQ. FT.} \times \frac{\text{CIP/CC}}{\text{FAR/CAP}}$$

SQ. FT		Gross square footage of the proposed development.
CIP/C	=	Cost of the capital improvement program for the designated development district.
FAR/CAP	=	The floor to area ratio theoretical yield for the district based on the most prevalent requirement of an FAR of .3.

There will be two (2) separate fee schedules. One for parcel one and another for both parcels two and three as described in the zoning ordinance creating the Peabody Designated Development District.

Editor's note-- Such description is not set out at length herein, but is on file and available for inspection in the office of the city clerk.

4. Management of capital facility fees. Management of all capital facility fees shall be as per the guidelines adopted by the community development authority, as approved by the city council and will be kept on file with the city clerk under the title of the "Designated Development District Capital Facility Fees Management Guidelines".

E. *Liberal construction and severability.*

1. The provisions of this ordinance shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety, welfare and convenience.

2. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or

unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and an independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

F. *Penalty provisions.* A violation of these provisions shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution, Peabody shall have the power to sue in civil court to enforce these provisions.

6.6.8 Designated Development District – Residential Overlay

a) Residential use shall be as of right in the Residential Overlay District.

b) A site plan shall be prepared and submitted in accordance with Sections 6.6.3 and 6.6.7 (D)) of this Ordinance.

c) Density may not exceed 20 units per acre.

d) For all residential use, the dimensional standards shall be as follows:

Minimum lot size	2 acres
Maximum number of stories	6
Maximum building height	72 feet
Maximum floor to area ratio	0.5

e) All district uses except for access should observe the following regulations:

1) Building setbacks (minimum feet) :

Route One (1)	100
Residential zoned land	100
District Access Road R.O.W.	40
Other property lines	30

2) Impervious site coverage (maximum percentage) 60

3) Compact parking (maximum percentage of total) 60

4) Parking space size (minimum feet)

Compact	8.0 x 16.6
Full	9.0 x 18.0
Handicap	12.0 x 12.0

5) Parking aisle (minimum feet) 20

f) Parking

All parking shall be accommodated on-site and within designated parking areas for each building(s).

The minimum number of off-street parking spaces should be one and three-quarters (1.75) spaces per residential unit.

g) Affordable Housing

All residential development constructed in this Designated Development Residential Overlay District must comply with the Inclusionary Zoning Requirements of Section 6.11
(AMENDED 10/25/2012 - SEE ORIGINAL ZONING AMENDMENT ADOPTED 4/10/2003))

6.7 FAMILY ACCESSORY LIVING AREAS REQUIREMENTS

6.7.1 Purpose

The requirements and procedures outlined in this section are not intended to encourage the public in acquiring variances to allow for the construction of larger dwellings for the use of accessory living areas, instead, they are intended to:

A. Assist families in Peabody to provide alternative housing options for their family members, not permanent housing, nor rental, but temporary housing to deal with family situations.
B. Create feasible housing alternatives for elderly people or other family members looking to stay in their homes, yet receive help they need for other family members, and to encourage a diverse population with a particular focus on young adults and senior citizens.
C. Increase the range of owner-occupied housing accommodations and encourage a more economic and energy-efficient use of the city's housing supply while preserving the character of the city's single-family neighborhoods by establishing parking, size, and family member occupancy guidelines for the use of family accessory living area.

6.7.2 Requirements

The building inspector shall issue a building permit to create an accessory living area in any detached single-family dwelling provided that each of the following conditions and requirements is met:

A. An affidavit, sworn under penalties of perjury, with proper documentation is required to certify that the accessory living area is for a family member. Family member shall constitute brothers, sisters, parents, grandparents, grandchildren and/or adult children,
B. Not more than one (1) accessory living area shall be located upon a single lot.
C. The size of the accessory living area shall not exceed the lesser of seven hundred (700) square feet or 50% of the principal dwelling.
D. *Exterior/Interior Changes; Access:* Exterior changes shall be constructed in a manner that allows for the accommodation of the accessory living area, but also is constructed in a manner that maintains the appearance of the structure as a single-family dwelling. The front door to the family dwelling must be utilized by the accessory living area, with construction of a secondary access only permitted if deemed necessary by the Building Inspector. If an additional secondary entrance is permitted for an accessory living area by the Building Inspector, it shall be located on the side or in the rear of the dwelling. In no event, shall access be gained to the FALA from the construction of a new front door in addition to the front door used as the primary entrance to the existing dwelling. Single family dwellings with two pre-existing front doors may allow access to the accessory living area through both doors, so long as there is also access to the accessory living area through the principal dwelling

via the main front door. A second front door shall be determined to be pre-existing if it existed for a period of 18 months or greater before the time of application for the FALA. External reconstruction for the accessory living area must be architecturally consistent with the exterior of the larger dwelling. Scaled plans must show all interior room and exterior building dimensions for existing home and proposed FALA, as well as identifying by size and name all the rooms in existence and proposed, and showing conversion or alteration of the single-family residence are required. Clear photographs of the interior and exterior of the family dwelling must be submitted with the application. Common space within a FALA is defined as any space routinely used by both parties that is not exclusive to one party, such as a common hallway, utility room or a laundry room and which common space must be accessible from both the primary dwelling and the FALA. Under new construction, the common space shall only be accessed through the primary residence. No new construction will be considered common space unless approved by the Building Inspector**.** The applicant shall be the owner occupant.

E. *Parking:* Owner occupied applicant for the accessory living area must certify that sufficient parking exists on the site. All parking is to be accommodated on site, except in the case where the person residing in the accessory living area does not drive or have a motor vehicle. A homeowner may add a maximum of two hundred (200) square feet of open parking area within his or her lot.

F. *Documentation of Legal Ownership of Residence:* Under no circumstances shall the FALA Special Permit be effective until the applicant is the legal owner of the property containing the Family Accessory Living Area. This provision would apply when the applicant presents a fully executed purchase and sale agreement with the FALA application, the applicant must be designated as the buyer on the P&S.

6.7.3 Procedure

A. No accessory living area shall be constructed without a building permit issued by the Building Inspector.

B. A certificate of occupancy shall be issued after the building inspector determines that the accessory living area is in conformity with the approved plans, the provisions of the ordinance, and all applicable codes.

C. Yearly certification from the owner occupied applicant that the family member still resides in the accessory living area is required every year. Once the family member leaves the accessory living area, it must be discontinued. The building inspector will inspect abandoned accessory living areas, without the need of a warrant by providing reasonable notice to the owner occupied applicant, on a yearly basis to make such [sure] they stay discontinued.

D. As per Section 15.5 of this Ordinance and penalties of perjury, prosecution will be levied against a homeowner who continues to occupy an accessory living area after it has been decertified.

E. An owner occupied applicant is responsible for recording the first certification with the registry of deeds and providing the city with copies of documentation prior to receiving an occupancy permit. Any accessory living area without proper documentation recorded and filed with the city will be subject to fines as per Section 15.5 of this Ordinance. This use shall expire upon terms established by the city council or upon the sale of the house whichever precedes.

F. Amnesty period is offered to those existing accessory apartment dwelling units one (1) year from the adoption of the family accessory living area ordinance.

G. There will be a seventy-five dollar ($75.00) fee for each yearly inspection.

6.8 CONTINUING CARE RETIREMENT COMMUNITIES /REQUIREMENTS

6.8.1 Scope

Notwithstanding any other provision of this ordinance, the following provisions of this section 4.8 shall apply to all CCRCs and shall supersede any requirements of this ordinance which are inconsistent with them so that in the event of contradictory provisions within this ordinance concerning CCRCs, the provisions of this Section 6.9 shall be deemed to govern.

6.8.2 Multiple lots

In the event a CCRC is located on multiple lots which are contiguous to one another, the provisions of this Section 6.9 shall apply to the CCRC as if such multiple lots were a single lot for all purposes of this Ordinance (so that, for example, any setback, yard depth or frontage requirement shall not apply with respect to lot lines between contiguous lots).

6.8.3 Requirements

A. The minimum lot area shall be twenty-five (25) acres. The definition of lot set forth in Section 2 of this Ordinance shall apply to a CCRC provided, however, that a lot in a CCRC may be divided by a roadway or street and may include the limits of a private way."
B. The maximum density shall be fifteen (15) independent living units per acre on average, and the calculation of maximum density shall not include any assisted living units, nursing home units or medical beds or any other uses that may be contained within the CCRC.
C. The maximum height of any building within the CCRC shall be eighty-five (85) feet.
D. No structure within the CCRC shall be nearer than fifty (50) feet to any lot line.
E. No parking area or vehicular circulation space shall be nearer than twenty (20) feet to any lot line.
F. The building permit plan required by Section 15.2.3 shall include the information required of a site plan pursuant to Sections 6.2.2 (a) through (l) of this ordinance.
G. The parking space requirement for the CCRC shall be one (1) parking space for each independent living unit contained therein. No other parking spaces shall be required as a result of other uses permitted in a CCRC.
H. Independent living units shall include private cooking and bathroom facilities.
I. Assisted living units shall include private bathroom facilities and common dining facility service shall be available to their occupants.
J. At completion, the CCRC shall provide a minimum of fifty (50) square feet of interior space per independent living unit for health/fitness, social activities of the residents, and personal service facilities for the residents. Corridors and other circulation space in buildings comprised of independent living units shall not be included in this calculation. Prior to the completion of the full development of the CCRC, the minimum amount of such interior space shall be thirty-five (35) square feet.
K. The CCRC shall provide for its residents a comprehensive system of outdoor recreational facilities such as gardens, seating areas, path networks, and game areas.

6.9 SURFACE AND GROUNDWATER PROTECTION DISTRICTS

6.9.1 Purpose of districts

This ordinance is established for the following purposes:

A. To protect the public health, safety and welfare of the residents, institutions, and businesses of the City of Peabody, Massachusetts, from contamination of existing and future public groundwater and surface water resources;
B. To protect, preserve and maintain the aquifers and recharge areas of existing and potential groundwater supplies within the city as sources of public water;

C. To conserve the natural resources of the city;
D. To prevent temporary and permanent contamination of the environment;
E. To comply with federal and state laws including, but not limited to the Federal Water Pollution Control Act, Safe Drinking Water Act Amendments and the Massachusetts Source Approval Regulations.

6.9.2 Scope of authority

The surface and groundwater protection districts are overlay districts superimposed on the zoning districts. These overlay districts shall apply to all new construction, reconstruction, expansion of existing buildings or changes in expanded uses. Applicable activities or uses in a portion of one of the underlying zoning districts which fall within the surface and groundwater protection districts must additionally comply with the requirements of these districts. Uses that are prohibited in the underlying zoning districts shall not be permitted in the surface and groundwater protection districts.

6.9.3 Establishment and delineation of surface and groundwater protection districts

For the purposes of these districts, there are hereby established within the city, certain surface and groundwater protection areas, consisting of aquifers or recharge areas which are delineated on maps. These maps are entitled "City of Peabody Surface Water Protection District" and "City of Peabody Groundwater Protection District". These maps are hereby made a part of the city zoning ordinance and are on file in the office of the city clerk.

6.9.4 Surface and groundwater protection district boundary disputes

A. If the location of the boundary line of the surface or groundwater protection district in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a special permit application to the special permit granting authority (SPGA) as defined in Section 6.10.6, Procedures for issuance of special permit.

B. The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. The owner(s) may engage a professional engineer (civil or sanitary), hydrologist, licensed site professional (LSP), geologist, hydrogeologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land. The determination of the location and extent of the districts shall be in conformance with the criteria set forth in 310 CMR 22.00 and in the DEP's Guidelines and Policies for Public Water systems.

6.9.5 Use regulations within the surface and groundwater protection districts

The following use table shows those uses which are regulated within a particular zone of the surface and groundwater protection districts. Zone I, II and III apply to the groundwater protection ordinance. The surface water protection district is governed by Zone III only. The restrictions of Zone I and II do not apply to the surface water protection district:

- "y" denotes a use which is allowed;
- "n" denotes a use which is prohibited;
- "sp" denotes a use which may be allowed by special permit.

Use Regulations	**Zone I**	**Zone II**	**Zone III**
(1) Conservation of soil, water, plants, and wildlife;	y	y	y

(2) Outdoor recreation and nature study where otherwise legally permitted;	y	y	y
(3) Foot, and/or bicycle paths and bridges;	y	y	y
(4) Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;	y	y	y
(5) Maintenance or repair of any existing structure, except as otherwise restricted in this section;	y	y	y
(6) Residential development, except as otherwise restricted in this section;	n	y	y
(7) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, except as otherwise restricted in this section;	y	y	y
(8) Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks, related to these activities are not categorically permitted;	y	y	y
(9) Landfills, open dumps, and transfer stations as defined in 310 CMR 19.006;	n	n	sp
(10) Storage of liquid petroleum products of any kind except incidental to (a) through (d) below, and as noted in (18) and (26) of this section;	n	n	n
(a) Normal household use, outdoor maintenance or heating of a structure;*	y	y	y
(b) Waste oil retention facilities required by MGL C.21, section 52A;*	n	y	y
(c) Emergency generators;*	y	y	y
(d) Treatment works approved under 314 CMR 5.00 for treatment of contaminated ground or surface waters;*	y	y	y
* Provided that storage listed in (a), (b), (c) and (d) above, is in a free-standing container, within buildings or above ground tank with secondary containment in accordance with 527 CMR 9.00 and other applicable regulations. Any underground fuel storage tank greater than 275 gallons' capacity will be a double-walled tank with interstitial space monitoring in accordance with 527 CMR 9.00. Associated piping shall also be protected in accordance with 527 CMR 9.00.			
(11) Landfills that receive only sludge and/or septage residuals as defined in 310 CMR 32.05;	n	n	n
(12) Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;	n	n	n
(13) Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater;**	n	n	y
(a) The replacement or repair of an existing sewage disposal system which will not result in an increase in design capacity above the original design;	n	y	y
** No individual sewage disposal systems, or other systems to collect and dispose of contaminated water, shall be located, constructed, or maintained within 100 feet of the high water mark of such source of surface water supply or tributary thereto;			
(14) Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated run-off or leachate;	n	sp	y
(15) Stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the Peabody Zone II district;	n	n	y

(16) Storage of animal manure. Storage is allowed by right if covered and/or contained in accordance with the specifications of the Natural Resource Conservation Service;	n	n	n
(17) Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data complied by the U.S.G.S., unless the substances removed are redeposited within 45 days of removal on site to achieve a final grading greater than 4 feet above the historical high groundwater mark, and except for excavations for building foundations, structures, roads, or utility works;	n	n	sp
(18) Facilities that generate, treat, store, or dispose of oil or hazardous waste or hazardous materials subject to MGL C. 21C and 310 CMR 30.00, except as listed in (a) through (e) below:	n	n	n
(a) Very small quantity generators as defined under 310 CMR 30.00;***	n	y	y
(b) Municipal household hazardous waste collection events under 310 CMR 30.390;***	n	y	y
(c) Waste oil retention facilities required by MGL C. 21C, section 52A;***	n	y	y
(d) Water remediation treatment works approved by 314 CMR 5.00;***	y	y	y
(e) Facilities that use oil and hazardous materials incidental to the primary use. These facilities shall store such materials in accordance with the standards of MGL C. 21C, and related regulations;***	n	y	y
*** Provided that storage listed in (a), (b), (c), (d), and (e) above, is in a free-standing container, within buildings or above ground tank with secondary containment in accordance with 527 CMR 9.00 and other applicable regulations. Any underground fuel storage tank greater than 275 gallons' capacity will be a double-walled tank with interstitial space monitoring in accordance with 527 CMR 9.00. Associated piping shall also be protected in accordance with 527 CMR 9.00.			
(19) Automotive graveyards and junk yards, as defined by MGL C. 140B, section 1;	n	n	n
(20) Treatment works which are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except as listed in (a) and (b) below;	n	n	n
(a) The replacement or repair of an existing treatment works which will not result in a design capacity greater than the design capacity of the existing treatment works;	n	y	y
(b) Treatment works approved or authorized by the Mass. Department of Environmental Protection designed for the treatment of contaminated ground or surface water;	y	y	y
(21) Temporary storage of oil and hazardous materials or hazardous wastes in accordance with MGL C. 21E. On-site permanent storage of hazardous waste in not allowed by MGL C. 21C and C. 21E;	y	y	y
(22) Industrial and commercial uses, which have on-site discharge of process wastes or process wastewater;	n	n	n
(23) Storage of commercial fertilizers and soil conditioners, as defined in MGL C. 128 section 64, within a structure designated to prevent the generation and escape of contaminated run-off or leachate;	n	y	y

(24) Nonresidential or nonagricultural use of fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials, unless used in accordance with the Mass. Soil Conservation Services and the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 CMR 10.03 (30, 31), as amended, and according to manufacturers label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater;	n	sp	sp
(25) The use of septic system cleaners which contain toxic or hazardous materials as described in Title V;	n	n	n
(26) Trucking terminals, bus terminals, car washes, motor vehicle fuel sales, automotive service and repair shops, providing that oil or hazardous materials, used incidental with the primary use, are managed in accordance with MGL C. 21C, C. 21E, and 527 CMR 9.00. No petroleum storage shall be made within 100 feet of the high water mark of a surface water supply or tributary thereto;	n	sp	sp
(27) Bulk storage and sales of oil or hazardous materials;	n	sp	sp
(28) Commercial or industrial application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for nondomestic or nonagricultural uses in accordance with state and federal standards. The applicant shall provide documentation of compliance with a yearly operating plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved pesticide management plan or integrated pest management (IPM) program under 333 CMR 12.00. Notification shall be provided to the department of public services. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater and surface water due to nutrient transport, deposition, and sedimentation;	n	sp	sp
(29) Those activities that involve the handling of oil or hazardous materials in quantities greater than those associated with normal consumptive use, permitted in the underlying zoning (except as prohibited under section 6.10.5(18);	n	sp	sp
(30) Any use that will render impervious more than 15% or 2,500 sq. ft. of any lot, whichever is greater, unless a system for groundwater recharge is provided that will not degrade groundwater quality. For nonresidential uses, recharge shall be by stormwater infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are not feasible. For all nonresidential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner;	n	sp	sp
(31) Any floor drainage system in industrial or commercial process areas, or hazardous waste/material storage areas which discharge to groundwater without a DEP permit or authorization;	n	n	n
(32) Burial of human remains. No burials shall be made within 100 feet of the high water mark of a surface water supply or tributary thereto;	n	n	sp

6.9.6 Procedures for issuance of special permit

A. The special permit granting authority (SPGA) under this ordinance shall be the city council. Such special permit shall be granted if the SPGA determines, in conjunction with the board of health, the conservation commission, department of public services, community development department, and the fire department that the intent of this ordinance, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other city boards or agencies in its decision.
B. Upon receipt of the special permit application, the SPGA shall transmit one (1) copy to the board of health, the conservation commission, and department of public services, the community development department and the fire department for their written recommendations. The necessary number of copies of the application shall be furnished by the applicant.
C. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 6.10 of this ordinance, and any regulations or guidelines adopted by the SPGA. The proposed use must:
    1. Utilize the best available stormwater management technologies in accordance with EPA, DEP, and other applicable laws and regulations, such that water quality impacts during construction, and thereafter, are minimized in the surface and groundwater protections districts; and
    2. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
D. If the permit is denied, specific reasons shall be provided. The petitioner will be entitled to reapply for the purpose of addressing deficiencies outlined in the denial. The applicant must meet the standards set forth in this ordinance.
E. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with federal, state, and local regulations.
F. The applicant shall file seventeen (17) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the SPGA and be stamped by a licensed surveyor or registered professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

    1. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other oil or hazardous materials to be used or stored currently, or in the future, on the premises in quantities greater than those associated with normal consumptive use;
    2. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the local emergency planning committee, fire chief, and board of health. The plan shall be in accordance with SARA Title III and related state regulations. The plan shall include:
        a. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
        b. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces;
        c. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
    3. Proposed location(s) for surface and groundwater monitoring point(s), should the SPGA deem the activity a potential surface and groundwater threat.
G. Failure of the SPGA to act within ninety (90) days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by MGL C. 40A,

section 11. If granted, permit must meet technical requirements set forth in this ordinance.

H. Written notice of any violations of this ordinance shall be given by the building inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the department of public services, board of health, and conservation commission. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises. For situations that require remedial action to prevent adverse impact to the water resources within the surface and groundwater protection districts, the City of Peabody, or any of its agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the City of Peabody, or any of its agents, is authorized to enter upon such premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

6.9.7 Severability

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

6.9.8 Design and operation requirements

Within the surface and groundwater protection districts, the following design and operations and maintenance requirements shall be observed:

A. *Safeguards:* Provision shall be made to protect against toxic or hazardous materials discharge or loss through corrosion, accidental damage, spillage, or vandalism through such measures as provision for spill control in the vicinity of chemical or fuel delivery points, secure storage areas for toxic or hazardous materials, and indoor storage provisions for corrosive or dissolvable materials.

B. *Location:* Where the premises are partially outside of the surface and groundwater protection districts, such potential pollution sources as on-site waste disposal systems shall, to the degree feasible, be located outside the boundaries of the district.

C. *Disposal:* Provisions shall be made to assure that any waste disposed into the sewers shall conform with the City of Peabody's and South Essex Sewerage District's sewer use regulations.

D. *Impervious surfaces:* Within the surface and groundwater protection districts all streets, sidewalks, parking areas, loading docks and exterior service areas shall be paved or surfaced with impervious materials and construction with curbing, slopes and similar design features so the water falling on such areas and on buildings on the same premises and spilled liquid substances on such areas and in adjacent buildings will be contained, controlled and directed into an approved system of drainage structures and pipes. Such drainage system shall trap for removal, all oil based pollutants and suspended sediment and materials, if not connected to a state or municipal sewer system, and shall provide for the full recharge of storm water and precipitation to the ground beneath the site by the use of leaching structures, pipes and fields. The outlet from such drainage system shall be designed to obtain the efficient operation of the leaching structures and to allow the passage of excess amounts of water so that no flooding of the site will occur. A drainage maintenance schedule shall be developed, subject to the approval of the department of public services, which provides for the semi-annual inspection and maintenance of all drainage structures and systems. The property owner shall be responsible for such drainage systems maintenance.

E. *Monitoring:* Periodic monitoring may be required as a condition of approval of a special permit or site plan by the city council, including sampling of wastewater disposed to off-site systems or dry wells and sampling from groundwater monitoring wells to be located and constructed as specified in the special permit. Reports to be submitted to the city council, department of public services, and the board of health. The costs of monitoring shall be borne by the owner or operator of the premises.

6.9.9 Nonconforming uses

Nonconforming uses which were lawfully existing or lawfully begun, or in receipt of a building permit or special permit prior to the first publication of notice of public hearing of this ordinance, may be continued. Such nonconforming uses may be extended, changed, or altered, as specified in Section 1.5 (Nonconformance) of this Ordinance, provided that there is a finding by the city council that such extension, change, or alteration brings the property into compliance with the intent of these regulations, and does not increase the danger of surface water or groundwater pollution or adversely affect surface water or groundwater quality from such use.

6.10 MOBILE HOME PARK REQUIREMENTS

A. The overall density of the park shall not exceed fourteen (14) mobile homes per acre.
B. A minimum of three thousand (3,000) square feet shall be required for each individual mobile home site.
C. An additional minimum of two hundred (200) square feet per individual mobile home site shall be reserved and developed for recreational use. This may be added to the area of each site or aggregated in one or more central locations.
D. A minimum of twenty (20) feet shall be required between individual mobile homes, and at least ten (10) of that twenty (20) feet shall be landscaped to provide a visual screen.
E. A minimum of two (2) parking spaces shall be required for each mobile home lot. Each parking space shall be an area not less than nine (9) feet wide by twenty (20) feet long and hard surfaced, together with a hard surface driveway connecting such parking space with the street and permitting ingress or egress of a motor vehicle.
F. All mobile home lots shall abut on a roadway not less than thirty (30) feet in width, where off-road parking is provided or forty (40) feet where no off-road parking is provided.
G. No mobile home or other structure associated with a mobile home park shall be located within fifty (50) feet of any property line in a residence district, nor within fifty (50) feet of any boundary line of a residence district.
H. The sale of mobile homes in conjunction with the operation of a mobile home park is prohibited except for use in the same mobile home park.
I. Limited commercial activity involving only convenience goods and service facilities for the exclusive use of the mobile home park residents is permitted, provided that no evidence of such activity is visible from the property line of the mobile home park, and that such activity does not occupy more than 5% of the area of the premises.
J. Before any individual mobile home site is occupied said site must be completely improved, including all necessary site preparation, sanitary sewerage provisions and utility connections including street lights, water supply, and telephone and electrical connections; and including ingress and egress.
K. There shall be strict adherence to all applicable local sanitation standards for mobile homes.
L. No mobile home shall be installed or occupied without an occupancy permit issued by the building inspector and the units shall be in accordance with the American National Standards Institute, Standards for Mobile Homes A119.1, and shall bear the label or mark of an independent, nationally recognized safety testing and inspection agency which is properly equipped and qualified for testing and inspecting of mobile homes at the point of manufacture.
M. Flood zones.

1. Within zone A1-A30 of the flood boundary district a mobile home shall provide that:

    a. Stand or lot is elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level, and
    b. Adequate surface drainage and access for a hauler/transporter is provided, and
    c. In the instance of elevation on pilings:

        1. The lot is of sufficient size to permit steps;
        2. Piling foundations are placed in stable soil no more than ten (10) feet apart;
        3. Reinforcement is provided for piers more than six (6) feet above ground level.
2. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision is prohibited in the floodway.

6.11 INCLUSIONARY ZONING REQUIREMENTS

6.11.1 Purpose

The City of Peabody declares that the provision of a decent home and a suitable living environment for all is a community priority of the highest order; and that this priority is consistent with state, regional and national policies. The purpose of this Ordinance is to enhance the public welfare through increasing the production of housing affordable to eligible households. In order to encourage utilization of the City's land in a manner consistent with local housing policies and needs, the City requires new, converted or renovated housing developments to include a proportion of housing units that shall be affordable to persons of low and moderate income. Accordingly, the provisions of this Ordinance are designed to: (1) increase the supply of rental and ownership housing in the City of Peabody that is available to and affordable to low and moderate income households; (2) exceed the 10% affordable housing threshold established by the Commonwealth in M.G.L. Chapter 40B, Section 20; (3) encourage a greater diversity and distribution of housing to meet the needs of families and individuals of all income levels.

6.11.2 Applicability

A. *General*. The provisions of this Ordinance shall apply in zoning districts R2, R3, R4, R5, BN, DDD, and BC to all residential developments that involve the creation of eight (8) or more housing units, whether rental or ownership, and shall apply to zoning districts R1, R1A, and R1B that involve the creation of fifteen (15) or more housing units.
B. *Types of developments*. This Ordinance shall apply to new housing units created by: new construction; renovation or reconstruction of an existing building that increases the number of residential units from the number of units in the original structure; or conversion of an existing building or other structure
C. *Segmentation*. Developments may not be segmented or phased to avoid compliance with these provisions.

6.11.3 Requirements for Provision of Affordable Units

A. *Number of units to be provided:* All developments including a residential component which are subject to this Ordinance shall be required to set aside a minimum of fifteen percent (15%) of the total number of dwelling units as Affordable Units that shall be made available for rent or sale to Eligible Households. Each Affordable Unit shall meet the standards established in Section 6.12.5.
B. *Fractions:* If when applying the percentage to the total number of units to determine the number

of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if over one-half (1/2), shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit equal to or less than one-half, the fraction shall be rounded down to the next whole number.

C. *Sale, lease or rental of Affordable Units:* Affordable Units shall be set aside for sale or rental to Eligible Households and shall be restricted for occupancy by Eligible Households set forth in this ordinance.

D. *Relationship to the affordable housing inventory*. All Affordable Units created to fulfill the requirements of this Ordinance must qualify as "Local Initiative Units" in compliance with the provisions of the Local Initiative Program (LIP) regulations, 760 CMR 45.00 and Local Initiative Program Guidelines, as promulgated and amended by the Commonwealth of Massachusetts Department of Housing and Community Development or other criteria as may be designated in the inclusionary zoning guidelines as approved by the City Council.

E. *Relationships to other organizations*. Subject to the approval of the City Council and the applicable subsidizing agency, developers may elect to work with a local nonprofit housing provider, such as the Peabody Housing Authority, to distribute, maintain or operate the units in accordance with the requirements and intent of this Section 6.12.

F. *Duration of affordability*: Affordable Units shall be subject to restrictions that to the extent legally possible shall preserve the permanent affordability (in perpetuity) of the units as defined by this ordinance, but in no case shall be fewer than thirty (30) years. Affordable Units purchased or rented by Eligible Households shall be subject to a deed rider that is approved as to form by the Department of Community Development and Planning and resale prices shall be calculated in accordance with the methodology set forth in the approved deed rider.

G. *Sales Prices:* Initial purchase prices and resale prices of Affordable Ownership Units shall be established so that households are not required to spend more than thirty percent (30%) of the income of a household earning eighty percent (80%) of area median income, with a ten percent (10%) window adjustment, for annual debt service on a mortgage (at 30 year fixed-interest rates at the time of initial sale), taxes, insurance, and condominium or homeowners fees with no more than a 5 percent down payment, including any required entrance deposit.

H. *Rental Costs:* Payment of housing and related costs for Affordable Rental Units shall be established so that households are not required to spend more than thirty percent (30%) of the income of a household earning eighty percent (80%) of area median income, with a ten percent (10%) window adjustment, for monthly rent and utilities (excluding cable and telephone service). Affordable Rents shall not exceed the current Fair Market Rents set by the U. S. Department of Housing and Urban Development.

I. *Marketing Plan:* Affordable Units must be rented or sold using marketing and selection guidelines approved by the Department of Community Development and Planning.

J. *Preference for City residents and persons employed within the City:* Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable units shall be initially offered *to (a)* individuals whose primary residence is in the City of Peabody, (b) to households that include an individual who attended Peabody public schools, (c) to municipal employees of Peabody employed at least thirty (30) hours per week, and (d) to persons employed at least thirty (30) hours per week within the City of Peabody, or in accordance with the inclusionary zoning guidelines as approved by the City Council.

6.11.4 Development standards for Affordable Units

A. *Location of affordable units*. Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.

B. *Comparability*. Affordable Units shall be comparable in size and materials to the market rate units in a development and consistent with local needs for affordable housing. Rental or ownership of affordable units shall proportionally mirror the project as a whole and Affordable Units should be sold if a majority of the units in a development are offered for sale.
C. *Unit size*. Except as otherwise authorized by the Department of Community Development, affordable units shall contain one or more bedrooms. The bedroom mix among the affordable units shall be proportionate to that of the development as a whole.
D. *Rights and privileges*. The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.
E. *Timeliness and Penalties*: Affordable units shall be built in a timely manner, with a specific phasing and construction schedule as outlined by the applicant and upheld in the approved Participation Agreement., with said schedule established before the issuance of the first permit from the Building Department. Phasing should be such that for every eight (8) market rate units constructed, one (1) affordable unit is constructed.

6.11.5 Incentives

To facilitate the objectives of this section, modifications to the dimensional or parking requirements in the applicable zoning district shall be permitted for projects subject to the requirements of this section. The modifications shall be permitted as set forth below. The following incentives are available only for projects in which the affordable units are provided on-site.

(1) ***In any R2 district:*** The minimum area of land required per lot shall be 5,000 square feet per two-family dwelling unit.
(2) ***In any R3 district:*** The maximum lot coverage may be increased to 30% from the currently allowed 20%. An area equal to twice the total area of the required affordable units may be exempted from the total square footage in calculations pertaining to the FAR. Twice the number of bedrooms in the affordable units may be exempted from the total number of bedrooms in calculations pertaining to land area required per bedroom.
(3) ***In any R5 district:*** Developments may exempt twice the number of affordable dwelling units required by current zoning and an equal number of additional market rate units when calculating the maximum number of dwelling units per acre. Concurrently, developments may exempt twice the number of affordable bedrooms required by current zoning and an equal number of additional bedrooms when calculating the maximum number of bedrooms per acre.
(4) ***In any R4 or BC district:*** The following requirements shall be substituted for the off-street parking space requirements listed in section 9.

Multifamily apartment or condominium complexes consisting of fifty (50) units or fewer, regardless of whether said units are contained within one (1) or more buildings or phases, shall provide a minimum of 2.0 spaces per unit inclusive of visitor parking. Multifamily apartment or condominium complexes consisting of greater than fifty (50) units shall provide a minimum of 1.8 spaces per unit inclusive of visitor parking.

6.11.6 Alternative Methods of Affordability

A. Section 6.12 mandates that affordable units shall be provided onsite. However, in certain exceptional circumstances the City Council may, at the formal written request of the applicant, consider an alternative method of compliance. In granting such authorization, the City Council shall consider the location of the development, access to transportation, the type and character of

the units proposed, and (if applicable) the number, quality and type of units off-site affordable units proposed. The Council must find that the applicant has demonstrated that such alternate method of compliance is in the best interests of the City. To have such a request considered, the burden of proof shall be on the applicant, who must make full disclosure to the City Council of all relevant information. Approval of alternate methods of compliance shall be only for the methods described below in Section 6.12.6. Except as set forth below, affordable units provided through an alternate method shall comply in all other respects with the requirements of this ordinance.

B. The following alternative method of compliance, may be considered by the City Council:

1. *Off-site Location*: With authorization by the City Council as described above, affordable units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development and must be within the City of Peabody; the project must add to the City's stock of affordable housing units, and must be in the best interests of the City of Peabody. If off-site Affordable Units are not comparable to the market-rate units, a greater percentage of affordability shall be required.

6.11.7 Administration

A. *Inclusionary Zoning Guidelines.* The City Council shall adopt Inclusionary Zoning Guidelines for the implementation and administration of this Ordinance. The Guidelines shall be reviewed and updated as needed by the City Council.
B. *Affordable Housing Application and Site Plan/Building Permit Review:* As part of the regular Site Plan or Building Permit Plan Review, the applicant shall submit to the Planning Board an Affordable Housing Plan. The Application shall indicate the number of units in the project and the number of Affordable Units required broken down by bedroom and square footage. The Application shall also include a building permit plan indicating the proposed location of the affordable units. The Planning Board shall forward the Affordable Housing Plan to the Construction Review Committee for review.
C. *Construction Review Committee:* At its next regularly scheduled meeting or within 30 days of submittal to the Planning Board, the Construction Review Committee shall review the Affordable Housing Plan to confirm that the intent of the Inclusionary Zoning Ordinance, in terms of the physical design and location of the Affordable Units, is being carried out. The Committee shall recommend to the Planning Board whether compliance with Inclusionary Zoning has been demonstrated. A copy of the application and recommendation shall be forwarded to the City Council as well.
D. *Planning Board Approval:* Upon receipt of the recommendation by the Construction Review Committee, and as part of the Site Plan or Building Permit Plan review, the Planning Board shall review whether the intent of Inclusionary Zoning Ordinance has been carried out by the Applicant. If the Planning Board deems that it has, it shall recommend approval of the Affordable Housing Application as part of Site Plan or Building Permit Plan approval.
E. *City Council Approval:* At its next regularly scheduled meeting, or within 30 days of receipt of a recommendation from Planning Board, the City Council shall review the Affordable Housing Plan and draft Participation Agreement for final approval. Within 30 days of receiving a recommendation from the Planning Board, the City Council shall certify in writing to the applicant whether or not the Affordable Housing Application has been approved. An extension may be requested by the applicant or the City Council. Approval of the Affordable Housing Application shall not be unreasonably withheld and any extension period shall not exceed an additional 30 day period.

F. *Participation Agreement:* After the Affordable Housing Plan has been approved by the City Council, a City/Developer Participation Agreement incorporating the approved Affordable Housing Plan shall be executed by the applicant, signed by the Mayor and recorded at the Essex County Registry of Deeds. The Agreement becomes an explicit acknowledgement of the affordability requirements and shall refer to the scope of the project, including the terms of affordability, as described by the Affordable Housing Plan approved by the City Council. The Agreement shall stipulate that an Affordable Housing Declaration of Restrictions shall be recorded with the deed and referenced with the deed prior to the occupancy of the project. The City/Developer Participation Agreement shall be legally binding as part of the building permit issued for construction. No building permit for the project shall be issued prior to the execution of the City/Developer Participation Agreement.

6.11.8 Enforcement

A. *Legal restrictions.* Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Department of Community Development. All condominium documents and fees shall be subject to review and approval by the Department of Community Development and the City Solicitor.
B. *Timing of commitments*. All contractual agreements with the City and other documents necessary to ensure compliance with this Ordinance shall be executed prior to and as a condition of the issuance of any approval required to commence construction.
C. *Timing of construction*. As a condition of the issuance of approval under this Ordinance, the Department of Community Development may set a time schedule for the construction of on-site affordable units. If the City Council approves an alternative method of compliance with this Ordinance, the Council may set a time schedule for the construction of off-site affordable units.

6.11.9 Needs Assessment Review

The City Council, in cooperation with the Department of Community Development and Planning, and relevant agencies, shall undertake an economic and housing market needs assessment not less than every fifth calendar year from the date of enactment of this Ordinance. The purposes of said assessment shall be to assess the performance of the provisions herein in terms of resultant affordable housing units, to assess any need for improved rules and regulations regarding implementation, and to ascertain the need for revision of any provisions of this Ordinance relative to the provision of affordable housing units in the City. Provisions subject to review shall include, at a minimum: revisions of the applicability requirements of this Ordinance, revisions to percentage requirements of affordable units in inclusionary zoning developments, revisions to income and affordability guidelines, and revisions to methodologies for alternative methods of compliance.

6.11.10 Severability

In case any paragraph or part of this Ordinance should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

6.11.11 Reserved

6.12 General Attendance Events

6.12.1 *Definition:* General Attendance Event - An event that is hosted by a landowner or the landowner's designee upon said landowner's property the use of which is not otherwise in violation of statutory and local zoning requirements that involves admission of invitees or licensees through a paid ticket, credential issued by said landowner or designee, or, an open invitation to the public where sales of goods or services are to be offered to the persons present and:

A. expected attendance is projected to exceed 250 persons through the ticket sales and/or credential issuance process and/or open invitation to the public as aforesaid and as estimated by the Building Commissioner; or,

B. requires any one of the City of Peabody's departments to allocate resources to the supervision or logistical support of the event including but not limited to assignments of special details of personnel from any said department or alteration of the delivery of municipal services to accommodate the proposed activity the necessity of either of which deviates from the normal operations of the impacted department or changes to state, municipal or utility owned infrastructure.

6.12.2 *Purpose:* In addition to the purposes enumerated at § 15.7.1 of the Zoning Ordinance to ensure that the public safety and security are adequately addressed, to assure that the City is reimbursed for its increased costs associated with the event and to provide for commentary to abutters to the land sought to be used for the event.

6.12.3 *Applicability:* A landowner, except the City of Peabody, its departments and subdivisions, their licensees and permit holders, and, Peabody Municipal Light Plant, seeks to use it's, his or her property to host a general attendance event, shall obtain a special permit in accordance with GL c 40A, §§9 and 11, and, §§1 and 15.7
of this Zoning Ordinance and the Rules/Procedures of the City Council established under §§15.7.2-3.

6.12.4 *Intra-municipal Coordination:* Department heads who receives a request for special details of personnel, alteration of the delivery of municipal services from the normal operations of the department or changes to state, municipal or utility owned infrastructure to accommodate a proposed event shall report same to the Building Commissioner to ascertain the applicability of this section and, in the event a special permit application is advanced and relative to the above-said request then the subject department head shall provide a report to the council evaluating the safety, security and costs of the resource allocating of the department towards the supervision and logistical support of the event.

6.12.5 *Consultant Fees:* To evaluate the safety and security attendant to a general attendance event proposed under this section the City Council shall be entitled to the services of an outside consultant paid by the special permit applicant and calculated to address anti-terrorism issues enumerated pursuant to Homeland Security Act of 2002 and its amendments and the costs thereof, and the advisability and costs of activating mutual aid via the Massachusetts Emergency Management Agency and/or the Northeast Massachusetts Law Enforcement Council (Ref. GL c40 §§ 4J and 8G. The City council may require said fee to be paid at any time during the pendency of the special permit application.

6.12.6 *Appeal:* Ay decision of the City Council pursuant to this section shall be appealed in accordance with GL c 40A, § 17 to a court of competent jurisdiction.

6.12.7 *Severability:* The invalidity of any subsection or provision of this section shall not invalidate any other subsection or provision of this section.

6.12.8 *Noninterference:* The provisions of this section are not intended to repeal, amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted charter provision, ordinance, regulation, rule, procedure or covenant, and, to the extent this section differs from the aforementioned authority that which imposes the greater restriction or the higher standard shall govern. Any and all other permits, approvals, variances or orders required from the various departments, boards and commissions to facilitate the undertaking of the proposed general attendance event are still must be secured by the petitioner.

(AMENDED 10/22/2015)

6.13 MEDICAL MARIJUANA FACILITIES

6.13.1 Purpose.

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have challenging operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public as well as patients seeking treatment. The specific and separate regulation of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes.

Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet State regulations as established by the Massachusetts Department of Public Health (DPH).

6.13.2 Definitions.

Registered Marijuana Dispensary (RMD): A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health in accordance with 105 CMR 725.000, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products.

The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

Off-Site Medical Marijuana Dispensary (OMMD) – A Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105 CMR 725.00.

6.13.3 Applicability.

This Section applies to all Registered Marijuana Dispensaries (RMD) and Off-site Medical Marijuana Dispensaries (OMMD) proposed to be constructed under 105 CMR 725.000.

6.13.4 Permitted District.

Medical Marijuana Treatment Center/Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)*: in BR1 that is sited east of US RT 1 and south of the access ramp from US RT 95 / RT128 – south to US RT 1 south excepting Assessors Map 88, Parcels 008C, 008X 009, AND 010.*

6.13.5 Operational Requirements.

1) Use:
   a) RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services within their designated square footage.
   b) No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
   c) In no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises except to an OMMD, between the hours of 8:00 p.m. and 8:00 a.m.

2) Physical Requirements:
   a) All aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building.
   b) No outside storage is permitted.
   c) No OMMD Facility shall have a gross floor area in excess of 5,000 square feet.
   d) Ventilation – all RMD and OMMD facilities shall be ventilated in such a manner that no:
      i) pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
      ii) no odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use or property.
   e) Signage shall be displayed on the exterior of the RMD and OMMD facility's entrance in plain sight of clients stating that "Registration Card issued by the MA Department of Public Health required" in text two inches in height. All other signage shall comply with 105 CMR 725.00 and Section 11.7 "Signs."

3) Location:
   a) An RMD or OMMD facility shall not be located in buildings that contain any pharmacy, medical doctor offices or the offices of any other professional practitioner authorized to prescribe the use of medical marijuana.
   b) An RMD or OMMD facility shall not be located in buildings that contain any residential units, including transient housing such as hotels, motels and dormitories.

4) Issuance/Transfer/Discontinuance of Use:
   a) A special permit shall be valid only for the registered entity to which the approval was issued and only for the site on which the RMD or OMMD has been authorized.
   b) A special permit shall be non-transferable and shall have a term limited to the applicant's ownership or control of the premises as an RMD or OMMD.
   c) Permitted RMD and OMMD facilities shall file an annual report to the City Council no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrating continued compliance with the conditions of the special permit.
   d) A special permit shall lapse if the applicant ceases operation of the RMD or OMMD and/or if the applicants' registration by DPH has been revoked, expires, is terminated, is transferred to another controlling entity or is relocated to a new site.
      i) The applicant shall notify the Zoning Enforcement Officer and City Council in writing within 48 hours of such lapse, cessation, discontinuance or expiration.

e) An RMD or OMMD facility shall be required to remove all material, plants, equipment and other paraphernalia in compliance with 105 CMR 725.105 (J), (O) prior to expiration of its DPH registration or immediately following revocation or voiding of its DPH registration, or upon ceasing its operation.

6.13.6 Application Procedure and Requirements.

1) *Application Requirements*: An application for a special permit shall include the following:
   a) The name and address of each owner of the RMD or OMMD facility/operation.
   b) Copies of all required registrations, licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility.
   c) Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
   d) A notarized statement signed by the RMD or OMMD organization's Chief Executive Officer and corporate attorney disclosing all of its designated owners, including officers, directors, partners, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
   e) A description of all activities to occur on site, including but not limited to: cultivating and processing of marijuana and marijuana infused products (MIPs), on-site sales, delivery of medical marijuana and related products to OMMDs, off-site direct delivery to patients, distribution of educational materials, and other programs or activities.
   f) A written notice from the Chief of Police shall be submitted to the City Council stating that an acceptable Security Plan has been reviewed and approved. The Security Plan shall include the location and details of all security measures for the site, including but not limited to lighting, fencing, gates, waste disposal, alarms and similar measures ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
   g) Details of all proposed exterior security measures for the RMD or OMMD facility.

2) S*ite Plan:* The special permit application shall include a Site Plan prepared by a Massachusetts registered Architect, Landscape Architect, Professional Engineer or other appropriate design professional. The site plan shall include the following components and information:

   a) **Locus Plan.** A locus plan showing the entire proposed development and its relation to existing areas, buildings and roads for a distance of 300 feet from the boundaries of the proposed development or such other distance as may be approved or required by the City Council. The plan shall also show all contiguous land owned by the applicant or by the owner of the property which is the subject of the application.
   b) **Improvements Plan.** A plan depicting all existing and proposed buildings, driveways or roads, parking areas, service areas, refuse collection areas, sidewalks, paths, landscaping etc.
   c) **Building Plan**. A detailed floor plan showing square footages for each use within the RMD or OMMD.
   d) **Details.** Detail sheets including, but not limited to, pavement markings, lighting fixtures, fencing, dumpster enclosures, signage (temporary and permanent), and any site improvements included in plans (a) – (c) above.

3) *Review Procedure:* upon receipt of an application, the City Clerk shall forward a copy for review and comment to Building Department, Fire Department, Police Department, Public Services Department, Board of Health, Planning Board and Conservation Commission if applicable. The Departments shall review the application and provide comments back to the City Council within twenty-one (21) calendar days.

4) **Applicant must also apply to the Planning Board pursuant to Section 12 SITE PLAN REVIEW of this ordinance comply with said section and Section 13 DEVELOPMENT IMPACT REVIEW.**

6.13.7 Findings.

1) In addition to the standard Findings for a Special Permit under Section 4 and GLc 40A, §9, the City Council must also find all the following:

   a) That the RMD or OMMD facility is designed to minimize any adverse impacts on abutters and other parties in interest.
   b) That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.
   c) That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Ordinance.
   d) That the RMD or OMMD project meets a demonstrated need.
   e) That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured.
   f) That the RMD or OMMD facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and it impact on neighboring uses.

6.13.8 Enforcement.

Any violation of this Section shall be enforced in accordance with Section 15.1 of the Zoning Ordinance.
(AMENDED 06/22/2017)

6.14 Marijuana Establishments Prohibited

The operation of any marijuana establishment, as defined in G.L. c. 94G, Section 1, including, without limitation, a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related facility, is prohibited in all zoning districts of the City. This prohibition shall not apply to the sale, distribution or cultivation of marijuana for medical purposes licensed under Chapter 369 of the Acts of 2012.
(AMENDED 06/22/2017)
(AMENDED 06/28/2018)

Section 6.15 Mill Overlay District (MOD)

6.15 Purpose

The purpose of the MOD is to:

a) Encourage a diverse mix of business, commercial, office, institutional, and other uses for workers and visitors within the existing envelope of existing buildings;
b) Not detract from the livability and aesthetic qualities of the existing neighborhood;
c) Permit the preservation of existing structures through conversion to new uses in a manner that maintains and enhances the visual character and architectural scale of existing development within the district;
d) Promote more efficient use of land while protecting natural resources, such as water resources, wetlands, floodplains, and wildlife. Building within the floodplain is prohibited.
e) Permit an appropriate density of new development to support a vibrant, mixed-use area;
f) Encourage first floor retail/restaurant space
g) Encourage an active site through mixed-uses and high-quality design;
h) Minimize visual and functional conflicts between nonresidential and residential uses abutting the district.
i) Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
j) Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl;
k) Encourage a pedestrian and bicycle friendly environment

6.15.1 Establishment

The MOD is superimposed over the underlying zoning districts established by the Zoning Ordinance now or hereafter applicable to the properties historically known as 58 Pulaski Street.

6.15.2 Boundaries

Boundaries of the MOD are shown on the Zoning Map.

6.15.3 Applicability and Relationship to Underlying Zoning

An application for a proposed use located within the MOD may either use the standards in the underlying zoning district in their entirety, or those standards contained within Section 6.15 in their entirety. If an applicant elects to file an application for a project in accordance with the requirements of this Section 6.15, then to the extent that there is any conflict between the provisions set forth in this Section 6.15 and any other provisions of the Zoning Bylaw, the terms of this Section 6.15 shall govern.

6.15.4 Permitted Uses

The following uses are permitted, as more specifically described below:

6.15.4.1 The following uses shall be permitted by right in the MOD:

a) Existing mixed-use buildings;
b) Retail sales establishments, excluding automobile related businesses, up to 4,500 square feet;
c) Bakery, retail;
d) Restaurant, café, or other establishment serving food and/or beverages, up to 3,000 square feet;
e) Personal service establishment;
f) Automated teller machine accessible only from the interior of the building;
g) Indoor recreation;
h) Museum;

6.15.4.2 The following uses shall be permitted by Special Permit in the MOD:

a) Retail sales, establishments excluding automobile related businesses, over 4,500 square feet;
b) Restaurant, café, or other establishment serving food and/or beverages, over 3,000 square feet;
c) Banks and financial institutions, free-standing automated teller machines are prohibited;
d) Any drive-through facility;
e) Any accessory use customarily incidental to any of the above permitted uses, provided that such use shall not be noxious or dangerous to the neighborhood

6.15.5 Parking, Landscaping, Façade, Signs and Pedestrian Accommodation.
An application seeking a proposed use under 6.15 shall provide a site plan for parking, landscaping, façade and signage for the entire property. The Building Commissioner, with a recommendation from the Community Development Office, has the authority to approve the plan based on the following:

a) Uses within the MOD shall provide adequate off-street parking for activities within the development in accordance with Section 9. Consideration will be given for shared parking for visitors to multiple uses on site and uses operating at different times of the day or week.
b) Landscaping shall enhance the character of the development as a former industrial site mill conversion. Landscaping shall promote pedestrian and bicycle safety and be used for screening where appropriate. Where appropriate, benches, planters, outdoor seating, bike racks and other amenities shall be installed to encourage pedestrian and bicycle use and safety.
c) New signs and façade improvements shall be based on the guidelines outlined in the City of Peabody Downtown Design Standards for the Main Street Subdistrict.
d) As a critical component to the MOD, parking, sidewalks, and landscaping areas shall provide for safe and convenient pedestrian circulation through the site, to buildings, parking areas, and public ways.

6.15.6 Noise.
As a mixed-use center containing office, retail, and light industrial uses among others, it is acknowledged that tenants as well as mechanical systems may emit noise. All development shall comply with applicable state air pollution control regulations and policies in connection with sound levels.

6.15.7 Light.
The site shall be adequately lit to provide for safety and visibility. Lighting instruments shall be oriented or shielded such that they do not have spillover of greater than one-foot candle onto abutting properties or interfere with public ways.

6.15.8 Relationship to Underlying Zoning.
The MOD is an overlay district superimposed on underlying zoning districts. Within the MOD, the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those uses undergoing development in accordance with this Section. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the MOD, the provisions of this Section shall govern.

6.15.9 Waivers.
The Zoning Board of Appeals shall have the ability to waive dimensional requirements under this application in consideration for the applicant's support of public projects.

(AMENDED 03/14/2019)

Section 6.16 Residential Overlay District

6.16.1 ESTABLISHMENT

The Residential Overlay District is established as an overlay district. The boundaries of the District are shown on the Zoning Map on file with the City Clerk.

6.16.2 PURPOSE OF RESIDENTIAL OVERLAY

A. Encourage residential development within a mix of business, commercial, office, and entertainment uses for workers, visitors, and residents.
B. Not detract from the livability and aesthetic qualities of the any neighborhood in an abutting district.
C. Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
D. Promote construction of new buildings that maintain visual character and architectural scale of existing development within the district.
E. Encourage multi-family residential as a transition between residential and nonresidential uses within and abutting the district.
F. Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl.
G. Promote more efficient use of land while protecting natural resources, such as water resources, wetlands, floodplains, and wildlife. Nothing in this Section 6.16 shall be deemed to supersede the provisions of Section 8.
H. Encourage mixed uses on the site or within the same structure and high-quality design.
I. Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
J. Promote pedestrian and bicycle circulation and safety in and around the project site.
K. Encourage residential living near or at commercial districts that provide employment and entertainment.
L. To allow for residential development on certain parcels where such residential development was previously not allowed prior to the adoption of this Section 6.16 as an incentive for the creation of a higher percentage of affordable housing units than set forth in Section 6.11.

6.16.3 DISTRICT REGULATIONS

Regulations and dimensional requirements for the Residential Overlay:

A. Residential use shall be by special permit in the Residential Overlay District as shown on the Zoning Map for new structures only.
B. Multiple buildings and uses on single lot is allowed and may be incorporated as part of overall site design and layout.
C. A site plan shall be prepared and submitted in accordance with Section 12 of this Ordinance.
D. Density may not exceed 18 units per 43,500 square feet for Category A.
E. Density may not exceed 24 units per 43,500 square feet for Category B. Property larger than 10 acres shall be limited to no more than 14 units per 43,500 square feet.

F. For all residential use, the dimensional standards shall be as follows:

Request	A	B
Minimum lot size	43,500	160,000
Maximum number of stories / height in feet (excludes parking garage)	3 / 36-feet	4 / 45-feet
Maximum single building size (excluding parking garage)	45,000	90,000 SF
Building setbacks		
Front yard (from street)	15	25
Side yard	20	35
Rear	20	30
From an existing Residential single-family dwelling	50	75
Impervious site coverage	70%	60%
Minimum Parking Spaces per Unit	1.25	1.5

G. The SPGA shall have the ability to waive dimensional requirements under this application in consideration for the applicant's support of public projects.

H. The provisions of Inclusionary Zoning, Section 6.11, shall apply to all residential developments under this Section 6.16 that involve the creation of one (1) or more housing units, whether rental or ownership. Affordable units must meet minimum criteria to be eligible for listing on the City's Subsidized Housing Inventory (SHI) as outlined by the Commonwealth. Projects under 6.16 will require an additional five per cent (5%) of the total number of units to be affordable for a minimum of twenty per cent (20%). **(AMENDED 9/26/2019)**

I. The maximum number of bedrooms per unit shall be two.

J. Building and residential development under this Section 6.16 within the flood boundary district and/or within the wetlands conservancy district is prohibited.

K. Residential buildings are required to either maintain the first floor as commercial or increase the setback by 300% when abutting other commercial buildings.

L. A capital facility assessment will be required as part of the application and subject to Section 6.16.4.9.

6.16.4 SITE AND DESIGN CRITERIA

6.16.4.1 Purpose

The site design review process for the Residential Overlay seeks to encourage visual harmony and encourage creative design solutions. These guidelines are not intended to dictate style but rather to provide a framework of common principles that foster creative design within the district. A special permit will only be granted when a proponent demonstrates that they met the intention of this ordinance.

6.16.4.2 Applicability

The site and design guideline criteria within this section shall be applicable to new buildings within the district seeking a Special Permit for multi-family residential, or structures seeking improvements greater than 25% that are part of the Special Permit application. The Residential Overlay is an overlay district superimposed on underlying zoning districts. Within the Residential Overlay, the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those uses undergoing development in accordance with this Section. Nothing in this Section 6.16 shall be deemed to grant relief from the standards in the underlying zoning district regarding non-residential uses.

6.16.4.3 Framework for review process

The site design review process will use the following as a framework for consideration. It is recommended that the following items are reviewed through the Construction Review Committee process prior to completing a special permit application:

A. Architectural Character and Energy Considerations
   1. Building façade and exterior architectural features
   2. Building height and setbacks
   3. Rooftop features and cornice lines
   4. Exterior materials and colors; vinyl siding or similar materials are not allowed
   5. Exterior illumination
   6. Energy efficiency
   7. Energy generation

B. Urban Design Considerations
   1. Building placement and orientation
   2. Relationship to parking and adjacent uses
   3. Relationship of building to sidewalk, public ways, bike paths, and open space
   4. Storage and loading

C. Site Improvements
   1. Fences, walls and raised planters
   2. Street and parking lot lighting
   3. Street furniture-benches, bike racks, trash containers, news racks, kiosks, signage etc.
   4. Plazas, squares and public spaces
   5. Site landscaping and parking lot screening
   6. Safety issues

6.16.4.4 Access

New curb cuts on existing public ways should be minimized and site access should avoid smaller residential streets and neighborhoods.

6.16.4.5 Parking

The following guidelines are included to ensure that off-street parking areas are constructed in accordance with the district's desired design character, the provisions of this ordinance, and other city ordinances pertaining to parking.

A. Parking lots shall be located to the side and rear of the lot unless no other location is feasible. Parking is prohibited within the front yard setback. Parking lots that abut public rights of way or grade parking under the building shall be screened with one or a combination of the following:

   1. A low wall made of concrete, masonry or other suitable material. Raised planters, or landscaping consisting of a mix of trees and shrubs provided that 90% of the shrub plantings are evergreen.

B. Walls, fencing and architectural details shall compliment the materials of the building's architectural style.

C. Where walls are provided, planting areas shall be a minimum width of 4 feet and should be located adjacent to the public right of way.

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

E. In large parking lots (20 or more spaces) provision for bicycle racks shall be provided in locations that are safely segregated from automobile traffic and parking.

6.16.4.6 Pedestrian and Bicycle Access

Provision for safe and convenient pedestrian access shall be incorporated into building and parking areas and should be designed in concert with landscaping plans noted below. Construction should provide pedestrian access to buildings, sidewalks and parking areas and should be completed with consideration of pedestrian safety, handicapped access and visual quality. Where appropriate, applicants are required to provide pedestrian and/or bicycle paths connections to their site with abutting areas to promote pedestrian and bicycle circulation. Consideration will be given for property owners dedicating access for paths.

6.16.4.7 Landscaping & Lighting

Landscaping shall be incorporated in such a way as to create visual relief and interest, provide shade for pedestrian areas and to screen parking areas. Landscape plans shall be prepared by a design professional and consistent with the intent of this regulation. Landscape plans shall show the location, type, and size of all proposed plantings as well as enough of the surrounding context such that the SPGA may determine the plan's appropriateness.

Site lighting, security lighting and architectural/landscape lighting should provide the user with illumination levels appropriate for the designed activity (i.e. 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.

A. Side Yard Treatment

1. Where the distance between structures on adjacent lots is 20 feet or less the side yard shall be screened by a solid fence, wall or landscape treatment of evergreen plantings at a height not to exceed 5 feet.
2. Where the distance between structures on adjacent lots is greater than 30 feet landscaping shall 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.
3. Side yards may, in the alternative, be established as pedestrian walkways to access parking areas to the rear of the building. Such walkways shall be landscaped and lighted for safety.

B. Parking Areas

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

2. Alternatively, at least 15% of the interior area of the lot shall be devoted to landscaping. Areas described in the above shall have at a minimum one shade tree with a minimum caliper of 2½ inches diameter breast height (DBH). Trees planted in such locations shall be planted in protected pervious areas which have a minimum dimension of 5 feet.
3. Where lots abut public rights of way, shade trees with a minimum caliper DBH of 3½ inches, shall be provided within a planting strip no less than 5 feet in width and at a rate of one tree per every 6 continuous spaces.

C. Trash and Service Areas

1. All service, loading and trash storage areas will not be viewable from a public right of way or from an adjacent residential area and shall be screened by one or a combination of masonry, wood or evergreen plantings to reduce their visual impact.
2. Loading and service areas shall not face any abutting residential area unless no other location is possible.
3. All trash storage (dumpsters) shall have closed covers.

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

A. Flexible design to allow for flexible use.
B. Buffering from major vehicular areas such as parking lots or main traffic ways.
C. Lighting for nighttime comfort and safety.
D. Appropriate street furnishing…i.e. benches, trash receptacles.
E. A focal element where appropriate such as a water feature, special landscape feature or public art installation.
F. Decorative paving and seasonal planting.
G. South facing locations.
H. Visual connectivity, especially to important views such as an historic structure.
I. Appropriately scaled to the development.
J. Must maintain adequate width access as required by the Americans with Disabilities Act.

6.16.4.8 Utilities

Underground utilities are required unless physically restricted or blocked by existing underground obstructions. Compensation will be required for offsite improvements when underground utilities are cannot be met.

6.16.4.9 Capital Facility Requirements.

A. Requirements
1. Any person who proposes any development under the Residential Overlay District shall be obligated to provide the necessary road, electrical, water, sewer and drainage capital facilities in the manner and amount set forth in this section. Development proposals, which in the opinion of the SPGA, do not place additional demand on the electrical, water, sewer and drainage capacities of the district shall not be required to contribute to capital improvements.
2. The capital facilities shall be in the form of a constructed improvement as per plans prepared by the City of Peabody and inspected following established city inspection procedures and construction standards or a fee in-lieu thereof paid to the City of Peabody or its designee.

3. The value of the improvement or fee in-lieu of an improvement shall be computed based on the capital needs of the district as they relate to the number of residential units, as determined by the SPGA and set forth below.

B. Establishment of capital facility requirements. An applicant seeking a development under the Residential Overlay District shall be required to undertake roadway, electrical, water, sewer and drainage improvements necessary to offset the impacts that the development will have on local facilities. Improvements shall be identified in the Peabody Capital Improvement Program. The project proponent may select to construct improvements for the land development activity in-lieu of paying the established fee using the formula set out below.

C. Formula for calculating capital facility fees for a proposed project seeking Residential Overlay District approval.

   a. Roadway Improvements
   b. Electrical/Utility
   c. Drainage/Stormwater
   d. Water/Sewer

6.16.4.10 Noise

As a mixed-use center containing office and retail uses among others, it is acknowledged that tenants as well as mechanical systems may emit noise. All development shall comply with applicable state air pollution control regulations and policies in connection with sound levels to mitigate impact on residential uses within and abutting the district.

Section 7: Dimensional Regulations

SECTION SUMMARY

7.1 Basic Requirements
7.2 Schedule of Dimensional Controls
7.3 Modifications of Dimensional Regulations
7.4 Development Standards for Child Care Facility
7.5 Storage and Storage Warehouse Operations
7.6 Alcoholic Beverages
7.7 Automotive Service Stations
7.8 Funeral Home
7.9 Communications Towers
7.10 Traffic Visibility Across Corners
7.11 Ground-Mounted Solar Photovoltaic Overlay District

7.1 BASIC REQUIREMENTS

7.1.1 Lot dimensions

A dwelling, building or other structure hereafter erected in any district shall not be located on a lot having less than the minimum requirements, and no more than one dwelling shall be built on any lot, except as hereinafter provided and no lot, or the building or buildings thereon, shall be changed in size so as to violate the provisions of this ordinance with respect to size of lots or yards.

7.1.2 Recorded lots

A lot or parcel of land having an area of frontage of lesser amounts than required on the following schedule of dimensional controls may be considered as coming within the area and frontage requirements of this section provided such lot or parcel of land was shown on a plan or described in a duly recorded deed or registered at the time of adoption of this ordinance and did not at the time of adoption adjoin other land of the same owner available for use in connection with such lot or parcel.

Any increase in the area, frontage, width, depth of yard requirements of this ordinance shall not apply to a lot for single- and two-family residential use which at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand (5,000) square feet of area and fifty (50) feet of frontage. The provisions of this paragraph shall not be construed to prohibit a lot being built upon if at the time of the building, building upon such lot is not prohibited by this ordinance.

7.1.3 Front yard dimensions

The minimum front-yard dimensions required in Subsection 7.2 Schedule of Dimensional Regulations are to be measured from the street line where a plan of the street is approved and on file with the planning board or with the registry of deeds to the minimum front yard depth, or in the absence of such a plan, from a line twenty-five (25) feet from and parallel with the center line of the traveled right-of-way.

7.1.4 Height limitation

The limitation on height of buildings and structures in the Schedule of Dimensional Regulations (Section 7.2) shall not apply in any district to chimneys, ventilators, skylights, solar panels, tanks, bulkheads and other accessory features usually carried above roofs, nor to towers or spires of churches and other buildings, if such features are in no way used for human habitation. In addition to the foregoing, in business and industrial districts, the limitation on height shall not apply to such features as water tanks, which shall be at every point sixty (60) feet back from the center line of any street and shall not cover more than 25% of the area of the building.

In all zoning districts, stone, masonry, reinforced concrete, steel sheet piling or other approved materials used for retaining walls over ten (10) feet in height shall be designed by a professional engineer, according to the Massachusetts State Building Code, and approved by the Special Permit Granting Authority designated as follows:

A. In all zoning districts, walls at least ten (10) feet in height and less than twenty (20) feet in height shall be designed by a professional engineer according to the Massachusetts State Building Code.
B. In all zoning districts, walls twenty (20) feet in height or greater shall be designed by a professional engineer and a Special Permit shall be required from the SPGA.

7.1.5 Location and height limitations of accessory structures and uses

A. *Location*: Accessory structures and uses may be located within the side or rear yards required herein. No accessory building or structure, except a sign, shall be located on a front yard.
B. *Setbacks*: No accessory structure shall be closer than six (6) feet to a primary structure. No accessory structure shall be closer than five (5) feet from a side or rear line of a lot. On lots larger than ten thousand (10,000) square feet, no accessory structure larger than one-hundred and twenty (120) square feet shall be located closer than ten (10) feet from a side or rear line of a lot.
C. *Height*: In any R1 R1A, R1B, or R2 zone the height of any accessory structure covered by a pitched roof may not exceed twenty (20) feet at the highest point, and the height of any accessory structure covered by a flat roof may not exceed twelve (12) feet at the highest point. Accessory structures may include a second story to be used only for storage.
(Amended 3/28/13)
D. *Uses:* Such accessory structures shall not include habitable space or separate electrical meters. Such accessory structures shall not include interior plumbing except for accessory structures maintained as pool cabanas.
E. *Pool Cabanas:* Not withstanding the foregoing, a pool cabana with plumbing may be maintained as an accessory structure in residential zones, provided that a building permit has been issued for a swimming pool on the property. Pool cabanas may be no larger than one hundred twenty (120) square feet, and are otherwise subject to setback and height restrictions as described above. Accessory structures maintained as pool cabanas may consist of storage space to house pool equipment, dressing rooms, and/or bathrooms. A building permit is required for the construction of a pool cabana with plumbing.
F. *Lot Coverage:* Accessory structures shall not exceed five (5) per cent of rear setback area or 500 square feet in area, whichever is smaller. Swimming pools are not considered to be accessory structures for the purpose of area calculation. (Amended 3/28/13)

7.1.6 Temporary Outdoor Storage Containers

A temporary outdoor storage container shall be properly maintained so as not to create a safety hazard to abutting properties, motorists or to the general public. A safety hazard shall be defined such as a structural deficiency or a visual obstruction that may cause an injury to a member of the general public. A temporary outdoor storage container may remain on any lot within any residential zoning district for a period not more than 90 consecutive days, which can be renewed for an additional 90 days at the discretion of the Building Commissioner. Not more than two temporary outdoor storage container permits can be issued within 365 days.

7.2 SCHEDULE OF DIMENSIONAL CONTROLS

No building or structure in any district shall be located, constructed, changed, enlarged or permitted and no use of premises in any district shall be permitted which does not conform to the dimensional controls set forth herein.

[SEE PAGES 146-147]

7.3 MODIFICATIONS OF DIMENSIONAL REGULATIONS

7.3.1 Where a business or industrial district adjoins a residence R-1, R-1A, R-1B, R-2, R-3, R-4, or R-5 District, the side yard requirement of the residence district, if more restrictive than that of the business or industrial zone, shall apply to all buildings in the business or industrial districts that are located within one hundred (100) feet of the boundary line between the districts.

7.3.2 The determination of construction type for purpose of height limitations shall be based upon definitions of the National Board of Fire Underwriters.

7.3.3 Portions of a lot, developed for multi-family dwellings which are not occupied by buildings or structures, and not used for off-street vehicular parking, walks or interior access roads, shall be landscaped. All landscaped areas, including lawns, trees, shrubs and other plantings shall be properly maintained in a sightly and well-kept condition.

7.3.4 Open space required in business or industrial districts shall be provided in the rear, or in part of the sides, so as, in the opinion of the Building Inspector, to insure the adequate lighting and ventilating of the building and access in case of fire.

7.3.5 Steps, roofs over steps and/or windows, open or lattice enclosed fire escapes and bay windows which do not project over four and one half (4 ½) feet beyond the foundation line, which do not exceed more than twenty-five (25) square feet, may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built.

7.3.6 Where an MH district adjoins any other district the side-yard requirements of the adjoining district, where more restrictive than the MH district, shall apply to the mobile home parks and to that portion of any mobile home parcel which adjoins the zoning district boundary line.

7.3.7 In I-P districts a building may be built so long as it is no nearer than one hundred fifty (150) feet from a property line in a residential area, and railroad tracks may be constructed from a rail facility so that they are no nearer than one hundred (100) feet from the property line in a residential area and yard.

7.3.8 All bulkheads, and chimneys which project no more than twenty-four (24) inches beyond the foundation line, may extend beyond the minimum side yard and rear yard regulations for the district in which the structure is built. (See Yard Definition in Section 2.0 Definitions)

7.3.9 An open deck built as an addition to a house may encroach into the rear setback by as much as 30% of the size of the required setback without requiring a variance. Any persons requesting that a deck extend into the side setback shall require a variance. (Amended 3/28/13)

7.3.10 Educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a non-profit educational corporation, provided, however, that all lots, structures or uses shall be subject to the following dimensional criteria in the Single-Family (R-1; R-1A; and R1B) Districts:

A. Maximum height as defined in Section 7.2 shall be 30 feet
B. Minimum lot area as defined in Section 7.2 shall be R1 – 20,000 s.f.; R1A – 15,000 s.f.; and R1B – 10,000 s.f.
C. Minimum frontage as defined in Section 7.2 shall be R1 – 125 ft; R1A – 125 ft; and R1B – 100 ft.

D. Minimum yard depths as defined in Section 7.2 shall be R1 - 25 feet (front), 20 feet (side), and 35 feet (rear); R-1A – 20 feet (front), 15 feet (side), and 35 feet (rear); R1-B – 25 feet (front), 20 feet (side), and 35 feet (rear). Additionally, a landscaped buffer zone shall be required comprising at least 50% of the minimum side yard and rear yard.
E. Driveway widths shall be limited to 40 feet maximum.
F. Sufficient off-street parking shall be provided so that no vehicle will be required to park on any street.

7.4 DEVELOPMENT STANDARDS FOR DAY CARE CENTERS

A Day Care Center as defined in MGL Chapter 28A, Section 9 shall be allowed in all zoning districts provided that:

A. The structure and the lot containing such facility shall meet the dimensional zoning requirement for the district in which the structure is located unless the structure is a legally pre-existing, non-conforming building or structure;
B. The structure containing such facility and the facility itself shall meet all applicable local, state and federal requirements;
C. The fire alarm shall be installed and tested by a qualified electrician or alarm company pursuant to the Massachusetts State Building Code, latest edition, and National Fire Protection Association standards; test certification shall be submitted to the Inspector of Buildings and the Fire Chief with periodic testing done at intervals specified by the Fire Chief;
D. The fenced outdoor play area shall be set back a minimum of 10 feet from any abutting land in single residence use;
E. One off-street parking space shall be provided for every paid and unpaid employee, not resident on the premises, so that there is no on-street parking by employees;
F. Off-street drop off and pick up area shall be provided at a ratio of one space for every 3 children, unless drop off and pick up area can lawfully be provided on a street abutting the lot;
G. Off-street parking areas devoted to the parking of 5 or more vehicles shall require a site perimeter landscape buffer as defined in Section 10.7; and
H. A day care center located within a Residence District shall not exceed a floor area of 2,500 square feet.

7.5 STORAGE AND STORAGE WAREHOUSE OPERATION

7.5.1 No part of any such establishment shall be located within one hundred (100) feet of any residence district.

7.5.2 Such uses, including vehicle storage areas, shall be screened from adjoining properties in residential districts by plantings or other suitable material.

7.5.3 Tanks, piping or other storage facilities, when unenclosed and above ground, shall be screened from view from the street and neighboring properties.

7.5.4 Entrances or exits for vehicles shall not be within two hundred (200) feet as measured along the same street frontage of a school, playground, church or related facility, library, museum, hospital or nursing home.

7.6 ALCOHOLIC BEVERAGES

No building for the sale of alcoholic beverages shall be permitted within two hundred (200) feet of a residential district, measured along the same street frontage, or within five hundred (500) feet similarly measured, of the property line of public or private school, church, a library other than Peabody Institute Library, park or playground.

7.7 AUTOMOTIVE SERVICE STATION

No automobile service station shall be permitted within two hundred (200) feet of a residence district, measured along the same street frontage, or within four hundred (400) feet similarly measured, of the property line of a public or private school, church, library, park or playground. Fueling pumps or other accessory use shall not be permitted in the setback area unless a variance is granted.

7.8 FUNERAL HOME

There shall be sufficient off-street area to allow the forming of vehicular funeral processions without interference with normal traffic circulation on adjacent streets. The area available for this purpose shall not be less than ten thousand (10,000) square feet.

7.9 WIRELESS COMMUNICATIONS FACILITIES (WCF)

7.9.1 Purpose

The purpose of this section is to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community; to regulate the permitting and installation of communication antennae, structures, buildings and appurtenances in order to:

A. Facilitate the provision of wireless telecommunications services to the residents and businesses of the City;
B. Minimize "adverse visual effects" of towers and antennae through careful design and siting standards;
C. Avoid potential damage to adjacent properties from tower or other structure failure through structural standards and setback requirements;
D. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunications antennae in order to reduce the number of towers needed to serve the community; and
E. Preserve property values and the aesthetic character of Peabody.

7.9.2 Definition

For the purpose of this Section:

A. <u>Minor Wireless Communication Facility (WCF):</u>

(i) Any WCF installed on or in or attached on or to an existing building or existing WCF tower, or mast, or pole or utility transmission tower, overhead cable, smokestack, steeple, water tank or billboard together with any guy wires and/or accessory structures used in the provision of wireless communication services composed solely of antennae and ancillary telecommunications equipment which do not extend higher than ten (10) feet above the highest point of the building or structure on which the

WCF is installed OR composed solely of antennae and ancillary telecommunication equipment totally enclosed within an existing building or structure and installation of antennae and ancillary telecommunications equipment requires no major alteration to the structure.

(ii) Replacement of any tower or pole that was previously authorized with a tower or pole which is substantially similar in design and is not greater than the same height or with a one-time increase in height of not more than ten (10) feet.

B. Major Wireless Communication Facility (WCF):

(i) A new, ground-based WCF tower, or mast, or pole or utility transmission tower, or other similar structure together with any guy wires and/or accessory structures used in the provision of wire less telecommunication services.

(ii) Any other WCF that is not a minor WCF.

7.9.3 Special Permit Granting Authority

The City Council shall be the Special Permit Granting Authority for the review of any Major WCF. The Building Commissioner shall be the permit granting authority through the building permit process for all existing Minor WCFs.

7.9.4 Use Regulations

All Applicants seeking approval for a WCF shall further comply with the following:

A. All WCF shall require a building permit in all cases.
B. All applicants must demonstrate that the proposed WCF is necessary in order to provide adequate service to the public.
C. A licensed carrier must be either the applicant or a co-applicant.
D. All WCF shall be located so as to minimize adverse visual effects on the landscape.
E. All applicants shall have the burden of proving that a good faith effort has been made to co-locate, and that it is not feasible to locate on an existing structure. Failure to meet this burden shall be grounds for denial of the application.
F. To the extent lawful and feasible, all service providers shall co-locate on a single tower, provided that if this is an existing structure, the applicant shall demonstrate that the additional equipment and/or installation thereof will not compromise the stability, safety or structural integrity of said structure. The applicant shall submit documentation of the legal right to install and use the proposed facility mount.
G. New ground-mounted towers, facilities or structures shall be considered only upon a finding by the City Council that existing or approved facilities or structures cannot accommodate additional wireless communications equipment as proposed.
H. New ground-mounted towers specifically built for communications purposes shall be designed to structurally accommodate the maximum number of foreseeable users (within a ten-year period) technically practicable. The applicant is required to document all co-location tenants and provide a tower design indicating types and locations of all facilities.

7.9.5 Height Limit

A. The height limit for a WCF shall be fifty (50) feet above the pre-construction natural grade for all WCFs, regardless of zoning district.
B. A minor WCF attached to pre-existing buildings or support structures or utility poles, which are otherwise in compliance with this ordinance, may be mounted not more than 10 feet above the highest point of an existing building or structure on which the WCF is installed.
C. WCFs may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
D. WCFs may locate on a utility transmission tower in a residential zone only if installation on any such utility transmission tower does not extend greater than five (5) feet above the utility transmission tower.

7.9.6 Setbacks

A. All WCFs and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Any guy wires, anchors or any part of the structure will be considered part of the WCF and must meet the required setbacks.
B. In order to ensure public safety, all WCFs shall comply with the following

   (i) The minimum distance from the base of every WCF to any property line or road shall be equal to the height of the tower plus fifty (50) feet including any antennae or other appurtenances.
   (ii) The minimum distance from the base of every WCF shall be at least five hundred (500) feet from any residence, wetland, historic district, school, playground or recreation center, medical facility or nursing home.
C. In the event that an existing structure is proposed as a mount for WCF, the setback provisions of the zoning district shall apply. In the case of pre-existing, non-conforming structures, WCFs and their equipment shelters shall not increase any non-conformity.

7.9.7 Fencing

All ground level components including but not limited to, antenna support structures, equipment enclosures and back-up power supplies shall have an eight (8) foot high secure fence surrounding the perimeter of the antenna support structure, which fence shall also be included in the setbacks. Access shall be through a locked gate.

7.9.8 Visibility/Camouflage

WCFs shall be camouflaged as follows:

A. Camouflage of WCF components mounted on or to existing buildings and structures:
   (i) When a WCF extends above the roof height of a building on which it is mounted, every effort shall be made to conceal every component within or behind existing architectural features to limit its visibility from public view.
   (ii) Any WCF component mounted on a roof shall be stepped back from the front façade in order to limit its impact on the building silhouette.
   (iii) WCFs that are side mounted shall blend with the existing building's architecture and, if over five (5) square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

B. Camouflage by vegetation:

(i) If WCFs are not camouflaged from public viewing areas by existing buildings or structures, or are not located on existing structures, they shall be surrounded by buffers or dense tree growth and under story vegetation in all directions to create an effective year round visual buffer.

(ii) A Major WCF shall have a vegetation buffer of fifty (50) feet or more in width, and of sufficient height to effectively screen the facility. Trees and vegetation may exist on the subject property or installed as part of the proposed facility or a combination of both.

(iii) The applicant shall submit a landscape design determining the types of trees and plant materials and depth of the needed buffer, based upon site conditions and the height of the proposed tower. To the extent that any WCF extends above the height of the vegetation immediately surrounding it, it shall be painted in a light gray or light blue hue that blends with sky and clouds.

7.9.9 Strength of structure

Any WCF structure or component shall be able to withstand sustained winds of 140 mph.

7.9.10 Lighting

Towers or masts shall not be illuminated except as required by the FAA or other applicable federal or state agencies.

7.9.11 Radio Frequency Emissions

An approval letter issued by the Massachusetts Department of Public Health stating compliance of the proposed WCF with maximum radio frequency emission standards shall be required before any permit is issued.

7.9.12 Testing

All WCFs shall be tested annually at the owner's expense by an independent professional technician. The results of the test shall be completed and submitted to the Board of Health no later than the anniversary of the date of the initial permit approval. All tests as required by the FCC or the Commonwealth of Massachusetts shall be sent to the Board of Health. In the event that state and federal standards are not met, including but not limited to FCC guidelines and Massachusetts Department of Public Health Regulations, the WCF shall cease to operate immediately until such time as such WCF passes such standards, as detailed in a subsequent written report of the independent technician.

7.9.13 Noise

No WCF shall emit noise greater than fifty (50) decibels as measured from the base of the facility. Any violation of this excessive noise provision must be corrected within five (5) business days of notice to the provider. The building commissioner shall immediately report any failure to correct such excessive noise violation to the City Council.

7.9.14 Modifications

Any major additions and alterations affecting permits issued under the terms of this ordinance shall be subject to review by the permit granting authority and shall require an amendment to the special permit, pursuant to a public hearing.

7.9.15 Change in Ownership

Any change in ownership of the WCF must be submitted to the City Council within 90 days.

7.9.16 Abandonment and Disassembly

Any WCF which becomes damaged to the extent of becoming a public hazard, and/or for which a permit has expired or been revoked, or which ceases to operate for a year or more shall be considered abandoned and must be disassembled and the site fully restored to its former condition, excepting vegetation, at the direction of the building commissioner and at the expense of the owner/operator.

7.9.17 Bond

Prior to the issuance of a building permit for a Major WCF, the applicant shall post and submit a bond or other financial surety acceptable to the City in an amount sufficient to cover the cost of demolishing and/or removing the facility. Said amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. In the event that the posted amount does not cover the cost of demolition and/or removal, the City may place a lien upon the property covering the difference in cost.

7.9.18 Exceptions

This ordinance shall not apply to an amateur radio or television antenna not licensed for any commercial purpose, or a tower or antenna erected by the City of Peabody, state or federal government for a public safety communication purpose.

7.10.1 TRAFFIC VISIBILITY ACROSS CORNERS

In any district where a front yard is required, no fence, planting or other structure shall be maintained between a plane four (4) feet above curb level and a plane seven (7) feet above curb level, so as to insure traffic visibility across the corner within that part of the required front or side yard which is within a triangle bounded by the street lot lines and a straight line drawn between points on each such lot line twenty-five (25) feet from the intersection of said lot lines or extension hereof. (Amended 3/28/13) (Amended 12/08/2016)

7.10.2 TRAFFIC VISIBILITY SETBACK FOR SIDE BY SIDE DRIVEWAYS

In residential districts where a lot line is also the boundary between two driveways, no fence, planting, wall or similar barrier shall be more than three feet high for the first sixteen feet of the fence, measured from the front lot line of the property with the driveway in question. (Amended 12/08/2016)

7.11 GROUND MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT

A. Purpose.

(1) This section promotes the creation of new large-scale, ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations.

(2) The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale, ground-mounted solar photovoltaic installations.

B. **Applicability**.

(1) This section applies to large-scale (650 kW-DC or greater), ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

C. **District established.**

(1) A Ground-Mounted Solar Photovoltaic Overlay District (GMSPOD) is hereby established, and shall be considered as superimposed over all other districts established by this Zoning Ordinance pursuant to §3, and is shown as an overlay on the Official Zoning Map established pursuant to §3.3, Zoning Map

D. **Definitions.**

(1) These definitions shall apply to §2 exclusively:

Ground-Mounted Solar Photovoltaic Installation
Off-Grid System
Rated Nameplate Capacity
Special Permit Siting

E. **Application and review.**

(1) Ground-mounted, large-scale solar photovoltaic installations with 650 kW-DC or larger of rated nameplate capacity shall undergo site plan review pursuant to §12 (Site Plan Review), prior to construction, installation or modification as provided in this section. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts. Deference is to be afforded to the use herein subject to reasonable regulation per GL c 40A, §3 and §9B "Solar Access."

(2) Required documents. In addition to the requirements of §12, Contents of site plan, the project proponent shall provide the following documents:

(a) A site plan showing:

[1] Property lines and physical features, including roads, for the project site;
[2] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
[3] Blueprints or drawings of the solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
[4] One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
[5] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;

[6] Name, address, and contact information for proposed system installer;
[7] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
[8] The name, contact information and signature of any agents representing the project proponent;
[9] Documentation of actual or prospective access and control of the project site. (See also Subsection **G** below.), specifically including but not limited to all licenses and sublicenses, and any payment in lieu of taxes agreements;
[10] An operation and maintenance plan (See also Subsection **H** below.);
[11] Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a Zoning Map with the parcel(s) identified is suitable for this purpose);
[12] Description of financial surety that satisfies Subsection **N(3)** below.

F. **Site control.**

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation. This shall be subject to site plan review.

G. **Operation and maintenance plan**.

The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include specific measures for maintaining safe access to the installation, a storm water management plan, and general procedures for and frequency of operational maintenance of the installation.

H. Utility notification.

No ground-mounted solar photovoltaic installation shall receive a building permit until an executed interconnect agreement with Peabody Municipal Light Plant has been submitted to the Building Commissioner. Off-grid systems are exempt from this requirement. Nothing in this Zoning Ordinance shall be construed as permitting the sale of output of such facilities to anyone other than the Peabody Municipal Light Plant.

I. Dimensional requirements.

Ground-mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s).

J. **Design standards**.

(1) Lighting. Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties.

(2) Signage. Signs on large-scale, ground-mounted solar photovoltaic installations shall comply with §11, Signs. A sign shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising.

(3) Accessory structures. All structures accessory to ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. To avoid adverse visual impacts, all such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other, multiple accessory structures shall be clustered to the greatest extent feasible and views of such structures to residential properties and roadways shall be screened with landscaping. Perimeter security fencing shall be required for all installations.

K. **Utility connections**.

Reasonable efforts, as determined by site plan review, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the Peabody Municipal Light Plant. Electrical transformers for utility interconnections may be above ground if required by the Peabody Municipal Light Plant

L. **Safety and environmental standards**.

(1) Emergency services. The large-scale solar photovoltaic installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

(2) Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale, ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.

M. **Monitoring and maintenance**.

(1) Solar photovoltaic installation conditions. The large-scale, ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to site plan review. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation.

(2) Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require site plan review approval.

N. **Abandonment or decommissioning**.

(1) Removal requirements. Any large-scale, ground-mounted solar photovoltaic installation which has been decommissioned or abandoned consistent with this section shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all large-scale, ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Building Commissioner may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(2) Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board or fails to operate as provided for in a power purchase agreement with the Peabody Municipal Light Plant. If the owner or operator of the large-scale, ground-mounted solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the City may enter the property and physically remove the installation, unless otherwise provided pursuant to a power purchase agreement with the Peabody Municipal Light Plant.

(3) Financial surety. Proponents of large-scale, ground-mounted solar photovoltaic projects shall provide a form of surety, either through escrow account or bond to cover the cost of removal and disposal in the event the City must remove the installation and remediate the landscape, in an amount and in a form acceptable to the City Solicitor but in no event to exceed more than 125% of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety will not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for pro rating removal costs as they may be affected by inflation or changes to disposal regulations. This provision shall not apply to projects pursuant to which 100 percent of the output is purchased by the Peabody Municipal Light Plant.

Section 8: Flood Boundary and Wetlands Conservancy District

SECTION SUMMARY

8.1 Purposes
8.2 Applicability
8.3 Flood Plain District Use Regulations
8.4 Wetlands Conservancy Use Regulations
8.5 Construction of Use Regulations

8.1 PURPOSES

The purposes of the flood boundary district and wetlands conservancy district are:

A. To provide that lands subject to seasonal or periodic flooding, as described in this ordinance, shall not be used for residence or for other purposes when such use will endanger the health or safety of the occupants thereof or of the public generally;
B. To minimize future flood damage by providing for protection and retention of existing water courses, water bodies and wetlands;
C. To protect, preserve and maintain the water table and water recharge areas so as to preserve present and potential water supplies for the public health and safety; and
D. To protect the community from unreasonable danger of pollution to its waterways by the detrimental use and development of lands adjoining these waterways.

8.2 APPLICABILITY

Land falling within the flood boundary district and/or the wetlands conservancy district may be used to meet the lot area requirements for the district in which the remainder of the lot is located.

8.3 FLOOD PLAIN DISTRICT USE REGULATIONS

A. The flood boundary district is hereby established as an overlay district. For the purposes of this ordinance, the flood boundary district includes all special flood hazard areas within the City of Peabody designated as Zone A or AE on the Essex County Flood Insurance Rates Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The map panels of the Essex County FIRM that are wholly or partially within the City of Peabody are panel numbers 25009C0383F, 25009C0384F, 25009C0391F, 25009C0392F, 25009C0394F, 25009C0411F, 25009C0412F, 25009C0413F, 25009C0414F, 25009C0416F, 25009C0418F, and 25009C0527F dated July 3, 2012. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 3, 2012. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Planning Board, and Building Inspector. The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit within section 4.2 in the portions of districts so overlays must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- Sections of the Massachusetts State Building Code (780 CMR) which address floodplain and coastal high hazard areas;

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00);

- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00);

- Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

B. The following additional requirements apply in the flood boundary district:

1. Within zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the state building code.

2. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

3. All subdivision proposals must be designed to assure that:

   a) such proposals minimize flood damage;
   b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
   c) adequate drainage is provided to reduce exposure to flood hazards.

4. In the floodway, designated on the Flood Insurance Rate Map, the following shall apply: All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited.

5. In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

C. In a riverine situation, the Building Inspector shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities

- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
  251 Causeway Street, Suite 600-700
  Boston, MA 02114-2104

- NFIP Program Specialist
  Federal Emergency Management Agency, Region I
  99 High Street, 6th Floor
  Boston, MA 02110

D. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1) Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2) Forestry and nursery uses.
3) Outdoor recreational uses, including fishing, boating, play areas, etc.
4) Conservation of water, plants, wildlife.
5) Wildlife management areas, foot, bicycle, and/or horse paths.
6) Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7) Buildings lawfully existing prior to the adoption of these provisions.

[AMENDED 8/23/2012)

8.4 WETLANDS CONSERVANCY USE REGULATIONS

A. The wetlands conservancy district is hereby established as an overlay district, which is separate from the flood boundary district. For the purpose of the ordinance, the wetlands conservancy district shall be defined as including all lands generally shown on the accompanying zoning maps as referred to in section 3.2. The wetlands conservancy district includes all lands generally shown on the accompanying zoning maps, as referred to in Section 3.2 more particularly, the "City of Peabody, Mass. Wetlands Conservancy Map, 1" = 800'". These lands, adjacent to the City's important waterways, namely Ipswich River, Norris Brook, Proctor's Brook, Goldthwaite Brook, Tapley Brook and Strongwater Brook are subject to seasonal, periodic, or continuing flooding. The boundaries of the district are specifically described as all lands below the elevations shown on the following table, and in addition, any area within thirty (30) feet, measured horizontally, of the following waterways:

- Location (Elevation*)

Ipswich River

- Entire length in Peabody from Peabody-Danvers boundary upstream to Peabody-Middleton boundary (50.0-52.0)

Norris Brook

- Ipswich River to Russell Street (50.0)
- Russell Street to Lowell Street (53.5)
- Lowell Street to Mill Pond Dam (54.0)
- Mill Pond (58.5)
- Elginwood Pond (59.0)
- Crystal Lake (59.5)
- Upstream of Elginwood Pond from Crystal Drive to Pine Street (61.0)
- Upstream of Pine Street (63.0)
- Devil's Dishful Pond (88.5)
- Winona Reservoir (105.0)
- Suntaug Lake (121.5)

Proctor's Brook

- Upstream of dam between Crowninshield Street and Endicott Street (35.0)
- Endicott Street to culvert under B & M Railroad right of way behind Municipal Light Plant on Warren Street Extension (35.5-40.0)
- Culvert under B & M Railroad right of way behind Municipal Light Plant to culvert under B & M Railroad right of way nearest Karelitz Road (40.5-43.5)
- Culvert under B & M Railroad right of way nearest Karelitz Road to Garden Road (44.0-47.0)
- Upstream of twin 66 inch culverts adjacent to Proctor's Circle (49.0)
- Downing Road to Nancy Road (59.5-62.0)
- Nancy Road to Albert Road (63.0-64.0)
- Albert Road to Peabody Road . (65.0-66.0)
- Peabody Road to Route I-95 (66.5)
- Upstream culvert under Route #1 (66.0)
- Upstream of first railroad culvert above Route #1 (66.6)
- Upstream of culvert under Pine Street (72.9)

Unnamed Brook

Upstream of Esquire Drive (55.0)

Goldthwaite Brook

- Flume Pond (37.3)
- Upstream of culvert under B & M Railroad right of way above Flume Pond (45.0)
- Upstream of culvert under B & M Railroad right of way nearest Summit Street (48.0)
- Upstream of Summit Street (64.0)
- Upstream of Corwin Street (80.0)
- Above Craigs Pond (88.0)
- Upstream of First Avenue (97.5)
- Upstream of spillway above First Avenue (99.0)

Tapley Brook

- Upstream of Washington Street (40.0)
- Sidney's Pond (52.0)
- Upstream of Cedar Grove Avenue (54.0)
- Lower Spring Road (64.0)
- Upper Spring Road (69.0)
- Brown's Pond (78.0)
- Bartholomew Pond (98.0)

Strongwater Brook

- Upstream of Clement Avenue (37.5)
- Meadow Pond (39.0)

*Elevations in feet above mean sea level (USGS) datum. When two (2) elevations are given, the lower elevation applies to the downstream end of the designated area while the higher elevation applies to the upstream end. The specific elevation for any land is determined by interpolation between the elevation figures shown on the basis of its relative distance in feet from the upstream and downstream ends.

B. Except as provided in paragraph "C" below, the following shall be prohibited within the wetlands conservancy district:

1. New buildings or structures, excepting herefrom the area upstream of the culvert under Route #1 to the culvert under Pine Street;
2. Filling, dumping, excavation, removal or transfer of any earth material which will restrict or increase flood water flow or reduce the flood water storage capacity;
3. Dumping of trash, rubbish or other waste materials;
4. Storage of any material or equipment which is toxic or floatable.

C. Subject to the approval of the conservation commission, the following uses shall be permitted in a wetland conservancy district:

1. Land used for conservation of water, plants, and wild life;
2. Recreation, including play areas, wild life preserves, golf, boating, fishing, and hunting where otherwise legally permitted;
3. Grazing, farming, forestry and nurseries;
4. Proper operation and maintenance of dams and other water control structures, including temporary alteration of the water level for emergency purposes;
5. Any building existing may be repaired, rebuilt, modified or flood-proofed in a manner which would not increase ground coverage.

8.5 CONSTRUCTION OF USE REGULATIONS

In the event that there is a conflict between the use regulations contained in section 8.3 and section 8.4, the most restrictive regulation shall prevail and control.

Section 9: Parking

SECTION SUMMARY

9.1 Off-street Parking General Requirements
9.2 Schedule of Parking Regulations
9.3 Driveways
9.4 Construction Requirements
9.5 Landscaping
9.6 Off-street Loading

9.1 OFF-STREET PARKING GENERAL REQUIREMENTS

In order to lessen congestion in the streets, every building hereafter erected shall be provided with adequate garaging or parking space having access to a public way, within such building, upon the lot upon which it is located or upon contiguous or nearby lots as provided herein. Except in the case of parking for single-family, two-family, and three-family residences, no parking space that would allow backing into a public way shall be permitted.

9.1.1 Location of space

Required spaces may be provided on the same lot with the principal use or on a contiguous or nearby lot, provided that said lot is owned by the same entity as the principal lot and the distance between such parking lot and the use it serves shall not exceed two hundred (200) feet.

9.1.2 Floor area computation

In computing gross floor area, the entire floor area of each structure shall be included.

9.1.3 Size of parking space

General: A parking space shall have a paved area of not less than three hundred fifty (350) square feet for parking and access, and shall be accessible from a street. (Ord. of 5-22-80, § 3)

Compact parking: A maximum of thirty (30) percent of the total parking may be designated for compact spaces having a minimum footage of eight (8) feet by sixteen and one-half (16 ½) feet in the IP district. (Ord. of 11-10-88, § 1)

9.2 SCHEDULE OF PARKING REGULATIONS

With respect to the following uses, the off-street parking shall be provided as detailed below. If more than one use is included in a single development (excluding shopping centers), then the minimum off-street parking space requirements shall be cumulative (e.g. the parking space standards for each use should be added together). Please reference DDD design guidelines if parcel is located in the DDD zoning district for recommended parking ratios.

Uses	Minimum Parking	Maximum Parking	Comments

	Spaces	Spaces	
RESIDENTIAL			
Single-family, two-family and multi-family dwellings	Two parking spaces for each dwelling unit.	none	
Visitor parking in multi-family dwellings with greater than 4 dwelling units	One visitor parking space for every three dwelling units.	One visitor parking space for every two dwelling units.	Said parking space shall be clearly designated as a visitor's parking space.
Mobile homes / mobile home parks	One parking space for each dwelling unit.	Two parking spaces for each dwelling unit.	
Commercial vehicles parked in residential areas		One allowed per unit., not in a public way.	A single vehicle not to exceed GVW 12,000 lbs., used solely by owner of property
INSTITUTIONAL			
Convalescent or nursing homes	One parking space for each three beds.	One parking space for each two beds.	
Continuing Care Retirement Community	0.4 parking spaces for each dwelling unit.	0.5 parking spaces for each dwelling unit.	
Day care center, family day care home, nursery school, kindergarten and school or other educational institution for persons less than 14 years of age.	One parking space for each employee. Off-street space for loading and unloading shall consist of an additional one space for each 12 clients of the licensed capacity.	One parking space for each employee, plus one space for each six clients of the licensed capacity. Off-street space for loading and unloading shall consist of an additional one space for each 12 clients of the licensed capacity.	
Schools or other educational institution for persons age 14 and over.	One parking space for each employee, plus one space for each eight students based on the licensed capacity.	One parking space for each employee, plus one space for each five students based on the licensed capacity.	Sufficient off-street space for safe and convenient loading and unloading of clients shall be provided.
Municipal uses and structures	One parking space for every three employees,* plus two additional spaces, plus one parking space per municipal vehicle customarily used in operations or stored on the premises.	One parking space for each employee,* plus one parking space per municipal vehicle customarily used in operations or stored on the premises.	*Based upon the largest working shift in any 24 hour period.
Church, synagogue, or other place of worship.	One parking space for each five seats, or for each 200 s.f. of gross floor area if there are not fixed seats.	One parking space for each four seats, or for each 50 s.f. of gross floor area if there are no fixed seats.	
Cemetery	One parking space for every one full-time employee.	Same as minimum.	Parking allowed on internal driving lanes so long as traffic is not obstructed.
Hospitals: licensed by the Commonwealth of Massachusetts as such	One for every dentist, physician, nurse & other employee, plus at least 3.5 for visitors per every dentist/physician rendering services on-premise.		
BUSINESS			

Motel, hotel and rooming house	One parking space for each guest room, plus one parking space for each 500 s.f. of meeting, banquet or restaurant area.	0.75 parking spaces for each guest room, plus one parking space for each 400 s.f. of meeting, banquet or restaurant area.	
Museum, community center, private membership club, civic, social, professional, fraternal or philanthropic organization	One parking space for each 300 square feet of gross floor area.	One parking space for each 100 square feet of gross floor area.	
Theater, public hall and auditorium	One parking space for each five seats, or for each 100 s.f. of auditorium area if there are not fixed seats.	One parking space for each four seats, or for each 50 s.f. of auditorium area if there are no fixed seats.	
Personal service establishment, business support services, banks and financial institutions, dry cleaning and laundry, and conveniences stores.	One parking space for each 250 s.f. of gross floor area on the first floor of a building and one parking space for each 500 s.f. of gross floor area thereafter.	One parking space for each 200 s.f. of gross floor area on the first floor of the building and one parking space for each 400 s.f. of gross floor area thereafter.	.
Commercial dry cleaning establishment	One parking space for each 350 s.f. of gross floor area.	One parking space for each 250 s.f. of gross floor area.	
Clinic or medical building, including medical offices as an accessory use in a residential dwelling. Includes veterinary offices and kennels	One parking space for each 250 s.f. of gross floor area, excluding basement storage area.	One parking space for each 200 s.f. of gross floor area, excluding basement storage area.	.
Live / Work	One parking space per unit.	Two parking spaces per unit.	
Shopping Center or mercantile	One parking space for each 250 s.f. of gross leasable area.	One parking space for each 225 s.f. of gross leasable area.	Parking should be calculated for the whole shopping center and without reference to the multiple uses contained therein.
Restaurant, lunchroom, cafeteria or bar, whether or not entertainment is provided or alcohol is served (including outdoor dining)	One space for each three seats or two parking spaces for each 150 s.f. of gross floor area, excluding basement storage area, whichever is greater.	One space for each 1.5 seats or one parking space for each 100 s.f. of gross floor area, excluding basement storage area, whichever is greater.	
Fast food restaurant and restaurant with drive-through window (including outdoor dining)	One space for each 150 s.f. of customer service or dining area, plus three stacking spaces for the drive-through window. One parking space for each 200 s.f. if there is no customer service or dining area.	One space for each 75 s.f. of customer service or dining area, plus five stacking spaces for the drive-through window. One parking space for each 200 s.f. if there is no customer service or dining area.	
The sale and rental of automobiles, other motor vehicles, boats and their accessories	One parking space for each 7,000 s.f. of outdoor display per sales area, plus one parking space for each 250	One parking space for each 5,000 s.f. of outdoor display per sales area, plus one parking space for each 150	

	s.f. of interior display per sales area, plus parking requirements for auto service establishments (if applicable).	s.f. of interior display per sales area, plus parking requirements for auto service establishments, if required (if applicable).	
Automotive repair and service shops, marine/boat repair	Two parking spaces per service bay.	Three parking spaces per service bay.	
Storage warehousing and wholesaling activities	No less than two parking spaces for the caretaker quarters, if any, plus a minimum of four additional parking spaces for use in connection with the on-site office.	Same as Minimum.	
Health club	One parking space for every 200 s.f. of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the health club, if retail is provided.	One parking space for every 150 s.f. of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the health club, if retail is provided.	
Outdoor recreation	One parking space for every four visitors expected at designed capacity for peak use.	One parking space for every two visitors expected at designed capacity for peak use.	
Indoor recreation	One parking space for every 200 s.f. of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the facility, if retail is provided. An additional 40 spaces per athletic field.	One parking space for every 150 s.f. of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the facility, if retail is provided. An additional 50 spaces per athletic field.	
INDUSTRIAL			
Research and development	One parking space for each 500 s.f. of gross floor area, excluding basement storage area.	One parking space for each 300 s.f. of gross floor area, excluding basement storage area.	
All industrial, manufacturing and other uses	One parking space for each three employees employed, plus one parking space for every company-owned and operated vehicle, plus parking spaces for customer vehicles as determined adequate by the Building Inspector.	One parking space for each two employees employed, plus one parking space for every company-owned and operated vehicle, plus parking spaces for customer vehicles as determined adequate by the Building Inspector.	Based upon the largest working shift in any 24 hour period.

9.2.1 CENTRAL BUSINESS PARKING REQUIREMENTS

A. For all non-residential uses in the B-C zoning district, parking spaces are not required.
B. For all residential uses in the B-C zoning district, parking requirements will be as follows:

1. Dwelling Units established in newly constructed buildings and/or Dwelling Units established in space that expands the envelope of an existing building shall comply with the Schedule of Parking Regulations in Section 9.2.

2. For Dwelling Units established in rehabilitated buildings within the existing envelope of the building, parking requirements will be as follows:

   a) Parking management and utilization of parking best practices is encouraged in order to: (i) promote the most efficient use of available parking spaces; and (ii) reduce the number of residential automobiles in the B-C zoning district and, thus, the total amount of required parking spaces. A parking management plan shall be presented within the Special Permit application and, in addition to the site plan, shall include the elements specified in the Special Permit application. Parking management plans approved by the Special Permit Granting Authority shall be revised annually and submitted to the Building Commissioner for review and approval to ensure such plan remains relevant and actively managed and enforced.

   b) The two hundred (200) feet distance set forth in Section 9.1.1 shall be relaxed to require only that the contiguous or nearby lot be located in the B-C zoning district.

   c) If a contiguous or nearby lot is used for parking, the ownership of the lot must, for all times, be held by the same ownership as the lot on which the building is erected. If the parking lot ownership is separated from the ownership of the building, the parking management plan must be revised and such revised plan must be reviewed and approved by the Special Permit Granting Authority and any such change lacking such approval shall be deemed a violation, and the Building Commissioner shall void the certificate of occupancy. This provision shall not apply to parking spaces utilized in municipal lots where parking may be made available under the provisions of the ordinances of the City of Peabody

   d) Each Dwelling Unit consisting of one or less bedrooms shall require a minimum of one (1.0) parking spaces inclusive of visitor parking.

   e) Each Dwelling Unit consisting of two bedrooms shall require a minimum of 1.5 parking spaces inclusive of visitor parking.

   f) Each Dwelling Unit consisting of three or more bedrooms shall require a minimum of two (2.0) parking spaces inclusive of visitor parking.

   g) If when adding the total number of parking spaces required, the resulting number of parking spaces includes a fraction of a parking space, this fraction shall be rounded up to the next whole number.

(AMENDED 06/22/2017)

9.3 DRIVEWAYS

Driveway entrances in all districts excluding R-1, R-1A, R-1B and R-2 zoning districts shall be a minimum of 12 feet in width for one-way traffic and 20 feet wide for two-way traffic. Driveway entrances in R1, R1A, R1B, and R2 zoning districts shall be a minimum of twelve (12) feet in width with minimum paved area for off-street parking as required in Section 9.

A permit from the Building Inspector shall be required for driveways and curbcuts. Driveways located on lots with up to three (3) dwelling units shall cover no more than fifteen (15) percent of the lot, with a minimum landscape buffer of two (2) feet from the property line.
(AMENDED 09/12/2013)

9.4 CONSTRUCTION REQUIREMENTS

The construction of three or more parking spaces shall meet the following standards, subject to the approv plans therefor by the Building Inspector:

A. The parking spaces shall be smoothly graded, properly drained and treated with bituminous or other all-weather hard surface and shall have appropriate bumper or wheel guards, where needed.
B. Where the land on which the parking spaces are located abuts a residential zoning district, the parking spaces shall be at least five feet from the lot line abutting the residential zoning district, and a wall or fence of solid appearance or a tight evergreen hedge having a height of no less than five feet shall be erected and maintained between such land and the lot line abutting the residential zoning district.
C. Any light used to illuminate said parking area shall be so arranged as to reflect light away from adjoining premises and streets.
D. Parking areas shall include adequate provisions for on-site retention and treatment of stormwater in accordance with the applicable state and federal regulations, as they may be amended.
E. Parking areas serving all structures shall be paved, unless an alternative surface is approved by the Board of Appeals. This provision does not apply in the R-1, R-1A, R-1B and R-2 zoning districts.

9.5 LANDSCAPING

Commercial or multi-family parking lots with twelve (12) spaces or more shall meet the landscaping requirements found in Section 10.7 of this ordinance.

9.6 OFF-STREET LOADING

Where a business or industrial district adjoins a residence district on the same street frontage, with a side street intervening or serving as access to a residence district in the rear, such business or industrial buildings shall have no openings for loading or unloading vehicles on such a side street.

In Business and Industrial Districts, adequate off-street loading, maneuvering and parking facilities shall be provided on the site for both company-owned and freight and delivery trucks. No storage or loading area shall be permitted nearer than fifty (50) feet of an abutting residence district, and no storage or loading area shall be located on the side of a building facing a public way. In any event, no open storage shall be permitted on the premises.

Loading areas shall be subject to the same construction requirements as described for parking areas in Section 9.5.

Section 10: LANDSCAPING

SECTION SUMMARY

10.1 Purpose
10.2 General Requirements
10.3 Applicability
10.4 General Regulations Applicable in all Zoning Districts
10.5 Specific Regulations by Zoning District
10.6 Plant Specifications
10.7 Landscaping for Parking Areas
10.8 Streetscape
10.9 Maintenance and Enforcement
10.10 Notice of Violation
10.11 Nonconformity

10.1 PURPOSE

The purpose of this section is:

A. To prevent pollution, by improving air quality, reducing noise levels, conserving soil, and reducing, filtering, and slowing stormwater runoff;
B. To conserve health and secure safety by moderating temperatures, filtering and reducing glare and reflection, protecting against harsh winds, and cooling and shading paved surfaces and structures; and
C. To conserve the value of land and buildings by softening the built landscape, providing seasonal form, color and texture, defining and protecting views, emphasizing focal points, creating visual continuity, buffering incompatible uses, and improving the visual character of the City of Peabody.

10.2 GENERAL REQUIREMENTS

A. Plants and landscaped areas shall be properly maintained in a healthy and attractive condition.
B. Plant species shall be selected for their form, texture, color and suitability to the specific location required. Every effort shall be made to incorporate native species within the landscaped areas.
C. Conservation of natural resources and protection of the environment shall be sought by incorporating species which require minimal water or chemical treatment.
D. Wherever possible, existing vegetation, especially woodlands, shall be preserved in accordance with the specific guidelines contained herein.
E. All plants shall be guaranteed for a period of one (1) year from the date of installation.
F. Whenever landscaping is required in accordance with the provisions of this Section, the landscaping shall be permanently maintained in such a manner as to accomplish the purpose for which it was initially required.
G. All plans prepared to meet the requirements of this Section shall be prepared by a design professional.
H. Plant material found on the Massachusetts Department of Agriculture Resources "Prohibited Plant List" shall not be allowed.

10.3 APPLICABILITY

The provisions of this Section 10 shall apply to all projects for which a building permit is required and applied for after the effective date of this ordinance, except for (a) renovations and additions to single-family or two-family dwellings; or (b) additions to non single- or two-family dwellings which comprise less than a 10% increase in floor area of the building, or for other renovations to non one- or two-family dwellings which are less than a 10% increase in the value of the building.

10.4 GENERAL REGULATIONS APPLICABLE IN ALL ZONING DISTRICTS

A. Street trees shall be planted within fifteen (15) feet of the front property line, evenly spaced to create a row of trees at the street edge, or driveway edge, whichever is appropriate.
B. Landscaping shall not conflict with the safety of those using adjacent sidewalks or with traffic safety. Safety features shall be discussed at the time of site plan review, if necessary. Location of plant material must account for growth over time.
C. All outside service areas, including but not limited to dumpsters, outdoor storage areas, tanks and loading docks, shall be screened from view from streets, walks and parking areas by sight-impervious fencing and landscaping a minimum of five (5) feet in depth unless it is determined by site plan review that such landscaping is not necessary because stored materials are visually unobtrusive. The five foot deep landscaped area can occur within the street right of way abutting the property line, so long as it does not impede the flow or vision of pedestrian traffic or safety.
D. Where side or rear yards abut land zoned for residential use, a landscaped buffer shall be required. A landscaped buffer shall be a vegetative edge of at least three feet in depth and six feet in height at installation and contain a mix of evergreen and deciduous trees and shrubs such that the buffer shall be sight-impervious even during winter (as in Section 10.6). A fence may be used in addition to landscaping.
E. Existing street trees within the city's right-of-way and/or existing trees within fifteen (15) feet of the front property line, and at least six (6) inches in diameter, may substitute for one or both required street trees, on a one-for-one basis.
F. All portions of a lot not devoted to a building, future building, parking, storage, or accessory uses shall be landscaped in a manner appropriate to the stated purpose of this chapter.
G. Required landscaping areas shall be provided with adequate drainage.
H. The use of low impact development landscape strategies (i.e. rain gardens, bioretention cells) is strongly encouraged.
I. All site work involving changes in topography, grade or elevation, including removal, trenching or filling in of land, shall require a building permit. (Amended 3/28/13)

10.5 SPECIFIC REGULATIONS BY ZONING DISTRICT

10.5.1 Single- and two-family districts

A. *R-1, R-1A, R-1B, and R-2 districts.*

1. A minimum of two (2) street trees shall be required per lot.

10.5.2 Multi-family residence districts

A. *R-3 and R-4 districts.*

1. A minimum of four (4) street trees shall be required per one hundred (100) linear feet of all street frontages.

2. For lots of five (5) acres or larger, a minimum of four (4) street trees or ornamental trees shall be required per one hundred (100) linear feet of driveways.
3. Where buildings or parking areas are within fifty (50) feet of the side or rear property lines, a site perimeter buffer, as specified in Section 10.6.E, shall be provided at the property lines.
4. Natural woodlands at least twenty-five (25) feet in depth are encouraged to be substituted for the street and driveway street trees.

B. *R-5 district.*

1. A minimum of four (4) street trees shall be required per one hundred (100) linear feet of frontage.
2. A minimum of four (4) street trees or ornamental trees shall be required per one hundred (100) linear feet of driveways.
3. Natural woodlands at least fifty (50) feet in depth may be substituted for the frontage and driveway trees.
4. A minimum of one (1) street tree or ornamental tree shall be required per four (4) off-street parking spaces regardless of number of parking spaces provided.
5. A neighborhood buffer meeting the standards in Section 10.6.F shall be required between any development under this section and the surrounding area.

10.5.3 Commercial districts

A. *BR district.*

1. The front yard setback shall contain a continuous landscaped strip at least twenty-five (25) feet in depth, broken only to provide appropriate egress and access. A minimum of four (4) street trees shall be required per one hundred (100) linear feet of all street frontages.
2. A minimum of one-half the required side and rear yard setbacks shall be landscaped with a site perimeter in accordance with the provisions of Section 10.6.C.
3. Where side or rear yards abut land zoned for residential use, a neighborhood buffer meeting the standards of Section 10.6.D shall be required.

B. *BN district.*

1. A landscaped front yard at least twenty-five (25) feet in depth shall be provided, with a minimum of four (4) street trees per one hundred (100) linear feet of all street frontages.

C. *BC district.*

1. Where buildings are set back more than ten (10) feet from a street, a minimum of four (4) street trees per one hundred (100) linear feet of street frontage shall be required, within a landscaped front yard at least ten (10) feet in depth. Said landscaped yard shall consist of a minimum of twenty (20) shrubs per one hundred (100) linear feet of frontage.
2. Where buildings are set back less than ten (10) feet from the property line, the front yard shall be landscaped with a minimum of twenty (20) shrubs or four (4) ornamental trees per one hundred (100) linear feet of frontage.

10.5.4 Industrial districts

A. *IL district.*

1. Where buildings are set back more than ten (10) feet from streets, a minimum of four (4) street trees per one hundred (100) linear feet of street frontage shall be required, within a landscaped front yard at least ten (10) feet in depth.
2. Where buildings are set back less than ten (10) feet from streets, the front yard shall be landscaped with a minimum of twenty (20) shrubs or four (4) ornamental trees per one hundred (100) linear feet of frontage.
3. A minimum of one-third the required side and rear yard setbacks shall be landscaped to provide a site perimeter landscape buffer, as specified in Section 10.6.C.
4. A foundation planting bed at least five (5) feet in depth shall be provided at all exterior building walls which are visible from streets, walks or parking areas.

B. *IP district.*

1. The front yard setback shall contain a continuous landscaped strip at least twenty-five (25) feet in depth, broken only to provide appropriate egress and access. A minimum of four (4) street trees shall be required per one hundred (100) linear feet of all street frontages.
2. A minimum of one-third the required side and rear year setbacks shall be landscaped to provide a site perimeter landscape buffer. Natural woodlands at least twenty-five (25) feet in depth may be substituted for this requirement.
3. A foundation planting bed at least ten (10) feet in depth shall be provided at all exterior building walls which are visible from streets, walks or parking areas.

10.6 PLANT SPECIFICATIONS

A. Street trees, ornamental trees, shrubs, and other plantings shall be selected from the list held and updated by the Community Planning Department of the City, or as otherwise acceptable to the tree warden. The Community Planning Department shall update the list to ensure invasive, non-native, and otherwise unfavorable species are prohibited from being planted.
B. All plants must be planted by a landscape contractor.
C. At installation, street trees shall have a minimum size of two and one-half (2.5) to three (3) inches caliper, and shall have a minimum branching height of seven (7) feet. Street trees shall have at least twenty-five (25) square feet of planting bed per tree, and the centerline of the tree shall be a minimum of four feet (4) from all paved areas.
D. At installation, ornamental trees shall have a minimum size of two and one-half (2.5) to three (3) inches caliper. Ornamental trees shall have at least twenty-five (25) square feet of planting bed per tree, and the centerline of the tree shall be a minimum of four (4) feet from all paved areas.
E. A site perimeter landscape buffer shall be a vegetative edge, that shall be at least six (6) feet in height at installation, and shall consist of a mix of evergreen and deciduous trees and shrubs such that the buffer shall be sight-impervious even during winter.
F. A neighborhood buffer shall be:

1. An area no less than two hundred (200) feet wide at any point, having as its vegetative cover natural woodlands, complemented by a sight-impervious fence five (5) to eight (8) feet in height; or
2. An area no less than one hundred (100) feet wide at any point, having as its vegetative cover natural woodlands, complemented by a hedge of evergreen trees spaced no more than ten (10) feet apart, and a sight-impervious fence five (5) to eight (8) feet in height; or

3. An area no less than fifty (50) feet wide at any point, having a staggered double row of evergreen trees each spaced no more than ten (10) feet apart, a single row of canopy trees spaced no more than fifteen (15) feet apart, accent plantings of ornamental trees and shrubs, at least ten (10) per one hundred (100) linear feet of buffer, grass or evergreen ground cover, with a sight-impervious fence five (5) to eight (8) feet in height.

G. The ground plane of landscaped areas shall be planted with ground cover or lawn. Bark mulch, gravel or other non-vegetative materials shall only be used in conjunction with landscaping to assist vegetative growth and maintenance or to visually complement plant material; it is not a substitute for plant material.

H. The use of native, salt and drought tolerant, low water use plants shall be incorporated into landscape design plans. Such plants shall be ones known to be able to withstand urban conditions.

I. Landscape plans shall include where feasible a diversity of native plant species which promote native wildlife habitat.

10.7 LANDSCAPING FOR PARKING AREAS

A. Ground level parking facing streets or open spaces shall be screened from the sidewalk and the open space. Screening may include buildings and/or landscaping. The minimum width of a landscaped area screening parking shall be five (5) feet. Landscaping may be supplemented by rolling earth berms, changes in elevations, fences and walls.

B. For parking lots with more than twelve (12) parking spaces, a minimum of one (1) street tree or ornamental tree shall be required per four (4) off-street parking spaces, except in the B-C and I-L Districts where one street tree shall be required per six (6) off-street parking spaces.

C. Large surface parking lots (greater than 50 parking spaces) should be visually and functionally segmented into several small lots with raised landscaping strips and pedestrian paths, to reduce the apparent mass of paved surfaces. A minimum area equal to 10% of the gross interior parking area shall be landscaped.

D. Parking lot design should incorporate methods of storm water management utilizing low impact development techniques.

E. Lot design and landscaping should make orientation and circulation legible and intuitive.

F. Parking lot design should provide safe and convenient through-routes for pedestrians. Walkways should be attractive and well-defined by pavement treatment, landscaping and lighting.

G. Landscaping.

(1) Landscaping within the parking areas shall consist of a combination of end-row islands and linear islands between rows of parking stalls. No parking row shall be longer than fifteen parking stalls without a curbed planting area. Linear islands shall be no less than six feet wide and a minimum of seven feet long, densely planted area shall be provided at the end of each parking aisle.

(2) Eighty-five percent of the available landscape island and perimeter zone shall be planted with trees, shrubs, grasses and groundcovers.

(3) Expansive areas of bark mulch are not permitted.

(4) Within the parking lot, shade trees should be located in islands protected by curbs and bollards.

(5) Plantings supplemented by walls and fencing consistent with security issues are strongly encouraged. Walls and fences should be no less than 20% and no more than 50% transparent.

10.8 STREETSCAPE

A. Hardscape / Paving.

1. Hardscape consists of bricks, brick pavers, paved stone, or stamped concrete and may or may not be a walking surface.
2. If the hardscape is not a walking surface, there must be a walking surface for pedestrian access from the curb to the sidewalk located every 20 linear feet (20') and must be a minimum of 3 feet (3') in width (max is 5'0").
3. Historic paving features shall be retained wherever possible and incorporated into streetscape improvements.
4. Subtle variations in hardscape patterns and materials shall be used to enrich sidewalks and plazas, such as by highlighting patterns in street lights, trees, furniture, street crossings and entryways.

B. Street Furniture.

1. Street furniture or other amenities are allowed on any sidewalk as long as 5 feet of clear walkway is left unencumbered. If the sidewalk is 21 feet wide or greater, a minimum of 8 feet of clear sidewalk must be provided.
2. Placement of street furniture, including benches, tables and trash receptacles, which is appropriate to the context, attractive, and durable shall be encouraged. Placement of furniture shall be based upon careful study of how people tend to use a street.
3. Recycled plastics or similar material are strongly encouraged.
4. *Sight Distance Safety Issues*: Street furniture or amenities must not create sight distance problems for pedestrians, bicycles, vehicles, and traffic, and must comply with the standards published by the American Association of State & Highway Traffic Officials (AASHTO) and all other Peabody directives for sight distance standards;
5. *Access Issues*: Street furniture or amenities cannot create access problems to the public rights-of-way;
6. *Safety Issues*: Street furniture or amenities cannot create safety hazards;
7. *Drainage Issues*: Street furniture or amenities cannot obstruct the existing drainage that may cause a problem on the ROW. Water must not collect on sidewalks, street or alley.

C. Fences.

1. Fences, regardless of whether they are used for screening or not, shall be designed to harmonize with the character of the building adjacent to which it is located.

10.9 MAINTENANCE AND ENFORCEMENT

A. All landscape treatments shall be maintained in a safe, presentable, and good material condition at all times. This shall mean the absence of dead or decaying plant material, of existing rust, of broken or dangling parts, and of cracked, peeling, and flaking paint, and the replacement of defective parts. All dead trees and plants shall be replaced within one (1) growing cycle.
B. The Building Inspector or his authorized designate is authorized to order the repair or removal of any landscaping feature and its supporting structure which in the judgment of the Building Inspector is deemed unsafe, in disrepair, or which is erected or maintained contrary to this ordinance.

C. Any proposal to remove an established tree must receive special approval from the Building Inspector or his authorized designate. For purposes of this section, "established tree" shall mean any live, self-supporting woody perennial plant which has a trunk diameter of six (6) inches or more measured at a point four and one half (4 ½) feet above ground level and which normally obtains a height of at least ten (10) feet at maturity, usually with one main stem or trunk and many branches.

10.10 NOTICE OF VIOLATION

Failure to complete all of the required landscaping or any part of it within six months of the issuance of a certificate of occupancy shall constitute a violation of this section. The Building Inspector is herby authorized and empowered to notify the owner of any property required to be landscaped, or the agent, tenant, lessee, or assignee of any such owner, that the landscaping has not been installed or is not being adequately maintained and the specific nature of such failure to maintain. The notice shall specify the date by which the planting or maintenance must be accomplished, and shall be sent by certified mail, addressed to the owner at his last known address.

Any person, firm, or corporation violating any section or provision of this ordinance which pertains to landscaping shall be issued a warning and be given seven (7) days to comply. If violation continues unabated past such time, a ticket with a fine of $25.00 shall be issued for each day willful violation continues. The Building Inspector or his authorized designate shall be responsible for issuing such warnings and tickets for such violations to provisions of this ordinance.

10.11 NONCONFORMITY

Landscape plans that conform to these requirements shall be submitted for any alteration to an existing structure requiring site plan review or a special permit that does not currently meet the standards of this Section.

Section 11: Signs

* **Cross References:** Advertising and signs, Code Ch. 3.

SECTION SUMMARY

11.1 Purpose
11.2 Applicability
11.3 Calculations
11.4 General Regulations Applicable in All Zoning Districts
11.5 Specific Regulations by Zoning District
11.6 (REPEALED JULY 18, 2017)
11.7 Signs Requiring Building Inspector Review and Approval
11.8 Prohibited Signs
11.9 Permit Requirements and Sign Review Process
11.10 Maintenance and Enforcement

11.1 PURPOSES

It is the purpose of this ordinance to place such limitations on the display of all such signs as will assure the following goals are met:

A. to encourage the effective use of signs as a means of communication in Peabody;
B. to maintain and enhance the aesthetic environment and Peabody's ability to attract sources of economic development and growth;
C. to improve pedestrian and traffic safety;
D. to minimize the possible adverse effect of signs on nearby public and private property; and
E. to enable the fair and consistent enforcement of these sign restrictions;
F. that the design of the sign respect and be compatible with the architecture of the building, surrounding buildings, and the general character of the surrounding neighborhood;
G. that signs will be adequate, but not excessive for the intended purpose of identification, protection or advertisement.

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 shall be deemed to be accessory and incidental to such land, building or use.

With respect to signs advertising business uses, such regulations have been devised after considering, among other matters, shopping habits, extent of trade area, and means of access to such uses.

11.2 APPLICABILITY

A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance. The effect of this ordinance as more specifically set forth herein, is:

A. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;
B. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective

lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;

C. To prohibit all signs not expressly permitted by this ordinance; and
D. To provide for the enforcement of the provisions of this ordinance.

Signs placed or erected by governmental agencies on the premises of governmental property and uses shall be included herein. However, this section shall be used as a guide in the placement or erection of any governmental agency signs. This section shall be subject to all sign ordinances.

11.3 CALCULATIONS

The following principles shall control the calculation of sign area and sign height.

11.3.1 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 face) shall be 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.

11.3.2 Calculation of Height

The height of a sign shall be 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 shall be construed to be 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 shall be computed on the assumption that the elevation of the nearest point of the crown of the public 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.

11.3.3 Calculation of Area of Façade

The area of a façade shall be calculated by means of the smallest rectangle that will encompass the extreme limits of the wall behind which the business or establishment is located.

11.4 GENERAL REGULATIONS APPLICABLE IN ALL ZONING DISTRICTS

All signs must meet the following restrictions regardless of zoning district.

11.4.1 Sign Location

Signs shall be located so as not to detract from a building's architecture. A sign shall 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, and may not exceed maximum sign height. A business' wall sign may only be placed on the building in which the advertised business resides.

11.4.2 Style and Design of Sign

Lettering, shape, and color employed in a sign shall be compatible with the form, color, and materials of the building that the sign identifies.[1] Letters shall be carefully formed and properly spaced, to be neat and uncluttered. This section shall be used as a guide.

11.4.3 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, shall be of similar style and design, but not necessarily the same color scheme.

11.4.4 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 may include but is not limited to: service or facility conducted on the premises, the year the business was established, a slogan, hours of operation, website address, and time and temperature, provided that the sign meets all requirements provided in this section.

11.4.5 Trademark

The use of pictorial symbols or logos is encouraged. However trademarks may occupy no more than 30% of the area of a sign, unless sale of the specific product is the major business conducted on the premises, in which case 100% of the sign can be occupied by the trademark.

11.4.6 Illumination

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 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 and that the sign is not one specifically prohibited by section 11.8. Colored lighting, open flame, or bare bulbs shall not be used. All lighted signs shall be lighted by continuous light and contain a factory-applied label supplied to the manufacturer and controlled by an approved testing agency.

11.4.7 Nonconforming Signs

Any nonconforming temporary or permanent sign may continue as nonconforming until such time as the sign is altered in any way. However, upon change of use, removal, or closing of any commercial or industrial use, any nonconforming sign existing related to that use, either on the premises or off, shall be eliminated and new signs erected by a succeeding use shall be conforming.

11.4.8 Electronic Message Board Signs

[1] It is important to note that color is often most effective when used simply. The use of too many colors on any sign is often confusing. The single most significant factor in sign color is often the degree of contrast between the sign message and the sign background.

All electronic message board signs, whether free standing or wall mounted, shall be approved by Special Permit. (AMENDED 09/12/2013)

Cross references-Projecting signs permit required, Code 3-1; construction of projecting signs, etc., to be in accordance with requirements of building inspector, Code 3-7; banners, flags, etc., not to be suspended across public ways without permit, Code 3-4.

11.5 SPECIFIC REGULATIONS BY ZONING DISTRICT

11.5.1 Signs Permitted in Any BC , GB, GBD or BN or BN2 District

A. **Wall Sign**: Two (2) permanent wall signs not to exceed 10% of the area of the wall to which such signs are attached, but not to exceed 60 square feet, are permitted for a ground floor use's primary and secondary façades, provided that such facades face a public way or parking lot. The sign shall be placed in the building's sign band, if one exists and the sign shall be placed so it does not obscure architectural detail of the building. The top of such sign shall be placed no higher than whichever of the following is lowest: twenty-five (25) feet above grade; bottom of the sills of the first level of windows above the first story; or the height of the building line. The letters in the sign shall not be larger than two and one-half (2 ½) feet high. In the BN district, signs shall not project more than 15 inches out from the building.

Mounting hardware shall be placed to minimize its view from the sidewalk. If architectural detail of the building necessitates, the sign may be broken up into two (2) pieces provided that the sign is still within the sign band and the total area of the two signs does not exceed the maximum allowable of 10% of the wall face.

B. In the BC district, one (1) **Hanging Sign** is allowed in lieu of a wall sign.
   1. Size: Sign face shall not exceed ten (10) sq. ft.
   2. Projection: Shall project not more than four feet eight inches (4' 8") or two-thirds the width of the sidewalk, whichever is less.
   3. Clearance: Minimum 10' and maximum 15' clear space between the bottom of the sign and the ground. The top of the sign shall be suspended in line with one of the following:
      a. Suspended between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or
      b. The lowest point of the roof of a one story building.
   4. Signs that project from the building are to be designed in such a way that they are compatible with the historic nature of downtown Peabody (e.g. wooden "antique-style" signs). These projecting signs must have mounting hardware approved by the building inspector.
   5. **Sign Materials in the BC district for hanging signs**: Traditional-looking materials such as wood, brass, bronze, or others are encouraged, as they are most appropriate. Wooden signs should be constructed of dense wood that will accept paint readily.

C. **Freestanding Sign:** No freestanding sign shall be permitted in the **BC, BN, BN2, GB, GBD** district except in cases where a building is set back greater than thirty (30) feet from the property line on its street side. In such cases, one (1) freestanding sign up to forty (40) square feet in area whose top is no higher than twelve (12) feet in height shall be permitted, provided that the sign has no more than two faces, that letters in the sign are no larger than two and one-half (2 ½) feet high, the sign is placed such that it does not overhang any public way, and the sign is no more than twenty (20) inches deep. If the building has more than one use, or if several buildings are grouped together into a shopping center, then only one freestanding sign structure is allowed for the building or combination of buildings and their signs must be clustered into one integrated sign no greater than sixty (60) square feet in area. The individual signs shall be of similar style and design.

D. **Permanent Window Signs:**
   1. Upper floor uses: One (1) sign is permitted per window and a maximum of two (2) window signs per use for businesses on upper floors provided that the sign(s) do not exceed 30% of the area of any window.
   2. Ground floor uses: Any number of window signs are permitted for ground floor uses provided they do not cover any more than 30% of any window.

E. **Awning Signs**: One (1) awning sign is permitted per ground floor use, or a maximum of two (2) awning signs are permitted per ground floor use provided that there are no other wall signs on the building. Awning signs must be located on the vertical face of the awning, the letters must be in a maximum of two (2) lines and may be no larger than sixteen (16) inches in height, and the area of the sign (the letters and/or logo) must not exceed the area allowed for a wall sign in this district.

F. **Temporary signs**: Temporary signs (banners, window signs, and A-frames and the like), pertaining to special sales or events are permitted provided that the signs are located on private property, for a duration of no longer than thirty (30) days. Each temporary sign requires a permit from the Building Inspector. No more than four (4) such permits per calendar year will be issued to any business. The area of banners must conform to the same dimensional requirements as those for permanent wall signs. A-frames, pole signs and the like may not exceed nine (9) square feet in area. The total area of window signs, temporary and permanent, may not exceed 30% of any window.

G. **Sandwich Boards:** Signs displayed during business hours only, such as those which are removed every evening and displayed again the following day, constitute an on-going advertising format and shall be construed as being permanent signs rather than temporary signs. Each of these signs requires a permit from the Building Inspector. These signs must not obstruct the flow of pedestrian traffic on the sidewalk or obstruct access to any other use. The date when such sign was first displayed shall be affixed to the sign so as to be readily seen. These signs shall be freestanding and the total sign area may not exceed nine (9) square feet.

H. **Gasoline Filling Stations**: In addition to gasoline filling station price signs specified in Section 11.5.1.H and pump signs, a maximum of three (3) permanent signs (i.e. freestanding, wall, canopy) are permitted on the premises of any gasoline filling station in any combination, provided that such signs meet the dimensional requirements of this section and the number of freestanding signs does not exceed one (1) sign.

I. **Gasoline Filling Station Price Signs**: In addition to signs specified in Section 11.5.1.G and pump signs, Gasoline Filling Stations are also permitted one (1) sign not to exceed twenty-five (25) square feet in size for the purpose of identifying to motorists passing by the price(s) of gasoline. The sign can have a maximum of two (2) faces and can be mounted to the station's freestanding sign if it has one.
   (AMENDED 09/12/2013)

11.5.2 Signs Permitted in any BR District

A. **Wall Sign:** Two (2) permanent wall signs not to exceed 20% of the area of the wall face to which such signs are attached, but not to exceed seventy-five (75) square feet, are permitted for a ground floor use's primary and secondary façades, provided that such façades face a public way or parking lot. The sign shall be placed in the building's sign band, if one exists and the sign shall be placed so it does not obscure architectural detail of the building. .

   The sign shall project no more than fifteen (15) inches out from the building. Mounting hardware shall be placed to minimize its view from the sidewalk. If architectural detail of the building necessitates, the sign may be broken up into two (2) pieces provided that the sign is still within the sign band and the total area of the two signs does not exceed the maximum allowable or 20% of the wall face. Theatres are permitted a bonus of (50) square feet for a marquee sign that allows for interchangeable message.

B. **Freestanding Sign**: One (1) freestanding sign up to one hundred (100) square feet in area whose top is no higher than 25 feet above the ground shall be permitted provided that the sign has no more than two (2) faces, the sign pole is placed a minimum of five (5) feet from the public way, the sign does not overhang any public way, and is no more than twenty (20) inches deep. If the building has more than one use, or if several buildings are grouped together into a shopping center, then only one freestanding sign structure is allowed for the building or combination of buildings and their signs must be clustered into one integrated sign no greater than sixty-five (65) square feet.

1. Any sign that identifies three or more uses (cluster sign) may, if it meets the other requirements of this Section, employ a sign size bonus of:

Number of businesses	Sign size bonus
3-20	20 square feet
21-50	40 square feet
over 50	60 square feet

2. So long as the sign identifies the uses as one entity (e.g. "Route One Plaza").

3. A message board sign for an electronic message board sign, such as those announcing special events or sales, is permitted as part of the design of the freestanding sign, provided the sign size, including the message board, does not exceed the maximum allowed. The individual signs shall be of similar style and design. Electronic message board signs shall not exceed thirty (30) percent of the base sign area. The message on the electronic message board sign shall not scroll or flash and shall alternate on not less than a fifteen-second cycle. The messaging shall be limited to advertising services offered at the site after business hours of operation. Lighting of the sign will be subject to ambient adjustments and shall provide for an automatic dimming apparatus. No advertising for any business not located upon the premises shall be conducted, with the only exception being if the sign is utilized as part of Peabody public services announcement program. No change in the message shall constitute a public safety or traffic hazard in the judgment of the building inspector.

4. In determination of the size permitted for a theatre complex freestanding sign, each theatre will be counted as one business.

C. **Permanent Window Sign**

1. Upper floor uses: One (1) sign is permitted per window and a maximum of two (2) window signs per commercial or retail use located on the upper floors provided that the sign(s) do not exceed 30% of the area of any window.
2. Ground floor uses: Any number of window signs is permitted for uses located on the ground floor provided they do not cover more than 30% of any window.

D. **Awning Sign**: One (1) awning sign is permitted for each use located on the ground floor, or a maximum of two (2) awning signs are permitted per use located on the ground floor, provided that there are no wall signs on the building. Awning signs must be located on the vertical face of the awning, the letters must be in a maximum of two (2) lines and may be no larger than sixteen (16) inches in height, and the area of the sign (the letters and/or logo) must not exceed the area allowed for a wall sign in this district.

E. **Temporary sign**: Temporary signs (banners, window signs, and sandwich boards and the like), pertaining to special sales or events are permitted provided that the signs are located on private property, for a duration of no longer than thirty (30) days. Each temporary sign requires a permit from the Building Inspector. No more than six (6) such permits per calendar year will be issued to

any single use. The area of banners must conform to the same dimensional requirements as those for permanent wall signs. Sandwich boards, pole signs and the like may not exceed nine (9) square feet in area. The total area of window signs, temporary and permanent, may not exceed 30% of any window.

F. **Sandwich Board:** Signs displayed during business hours only, such as those which are removed every evening and displayed again the following day, constitute an on-going advertising format and shall be construed as being permanent signs rather than temporary signs. Each of these signs requires a permit from the Building Inspector. These signs must not obstruct the flow of pedestrian traffic on the sidewalk or obstruct access to any other use. The date when such sign was first displayed shall be affixed to the sign so as to be readily seen. These signs shall be freestanding and the total sign area may not exceed nine (9) square feet.

G. **Gasoline Filling Stations**: In addition to gasoline filling station price signs specified in this section and pump signs, a maximum of three (3) permanent signs (i.e. freestanding, wall, canopy) are permitted on the premises of any gasoline filling station in any combination, provided that such signs meet the dimensional requirements of this section and the number of freestanding signs does not exceed one (1) sign.

H. **Gasoline Filling Station Price Sign**: In addition to signs specified in this section and pump signs, Gasoline Filling Stations are also permitted one (1) sign not to exceed twenty-five (25) square feet in size for the purpose of identifying to motorists passing by the price(s) of gasoline. The sign can have a maximum of two (2) faces and can be mounted to the station's freestanding sign if it has one. (AMENDED 09/12/2013)

11.5.3 Signs Permitted in the IL District

A. **Wall Sign**: Two (2) permanent wall signs not to exceed 10% of the area of the wall face to which such signs are attached, but not to exceed 60 square feet, are permitted for a ground floor use's primary and secondary façades, provided that such facades face a public way or parking lot. The sign must be placed in the building's sign band, if one exists and the sign must be placed so it does not obscure architectural detail of the building. . The letters in the sign shall not be larger than two and one-half (2 ½) feet high.

Mounting hardware shall be placed to minimize its view from the sidewalk. If architectural detail of the building necessitates, the sign may be broken up into two (2) pieces provided that the sign is still within the sign band and the total area of the two signs does not exceed the maximum allowable of 10% of the wall face.

B. **Freestanding sign**: No freestanding sign shall be permitted in the IL district except in cases where a building is set back greater than thirty (30) feet or greater from the property line on its street side. In such cases one (1) freestanding sign up to forty (40) square feet in area whose top is no higher than twelve (12) feet in height shall be permitted provided that the sign has no more than two faces, that letters in the sign are no larger than two and one-half (2½) feet high, the sign is placed such that it does not overhang any public way, and the sign is no more than twenty (20) inches deep.

If the building has more than one use, or if several buildings are grouped together into a shopping center, then only one freestanding sign structure is allowed for the building or combination of buildings and their signs must be clustered into one integrated sign no greater than sixty (60) square feet. The individual signs shall be of similar style and design.

C. **Permanent Window Sign**
   1. Upper floor uses: One (1) sign is permitted per window and a maximum of two (2) window signs per use located on the upper floors provided that the sign(s) do not exceed 30% of the area of any window.
   2. Ground floor uses: Any number of window signs are permitted for uses located on the ground floor provided they do not cover any more than 30% of any window.

D. **Awning Sign**: One (1) awning sign is permitted per use located on the ground floor, or a maximum of two (2) awning signs are permitted per use located on the ground floor provided that there are no wall signs on the building. Awning signs must be located on the vertical face of the awning, the letters must be in a maximum of two (2) lines and may be no larger than sixteen (16) inches in height, and the area of the sign (the letters and/or logo) must not exceed the area allowed for a wall sign in this district.

E. **Temporary sign**: Temporary signs (banners, window signs, and sandwich boards and the like), pertaining to special sales or events are permitted provided that the signs are located on private property, for a duration of no longer than thirty (30) days. Each temporary sign requires a permit from the Building Inspector. No more than four (4) such permits per calendar year will be issued to any industrial use. The area of banners must conform to the same dimensional requirements as those for permanent wall signs. Sandwich boards, pole signs and the like may not exceed nine (9) square feet in area. The total area of window signs, temporary and permanent, may not exceed 30% of any window.

F. **Sandwich Boards:** Signs displayed during business hours only, such as those which are removed every evening and displayed again the following day, constitute an on-going advertising format and shall be construed as being permanent signs rather than temporary signs. Each of these signs requires a permit from the Building Inspector. These signs must not obstruct the flow of pedestrian traffic on the sidewalk or obstruct access to any other use. The date when such sign was first displayed shall be affixed to the sign so as to be readily seen. These signs shall be freestanding and the total sign area may not exceed nine (9) square feet.

G. **Gasoline Filling Stations**: In addition to gasoline filling station price signs specified in this section and pump signs, a maximum of three (3) permanent signs (i.e. freestanding, wall, canopy) is permitted on the premises of any gasoline filling station in any combination, provided that such signs meet the dimensional requirements of this section and the number of freestanding signs does not exceed one (1).

H. Gasoline Filling Station Price Sign: In addition to signs specified in this section and pump signs, Gasoline Filling Stations are also permitted one (1) sign not to exceed twenty-five (25) square feet in size for the purpose of identifying to motorists passing by the price(s) of gasoline. The sign can have a maximum of two (2) faces and can be mounted to the station's freestanding sign if it has one.

11.5.4 Signs Permitted in any IP District

A. **Wall Sign**: Two (2) permanent wall signs not to exceed 10% of the area of the wall face to which such signs are attached, but not to exceed 60 square feet, are permitted for the primary and secondary façades of a use located on the ground floor, provided that such façades face a public way or parking lot. The sign must be placed in the building's sign band, if one exists and the sign must be placed so it does not obscure architectural detail of the building. The letters in the sign shall not be larger than two and one-half (2 ½) feet high.

The sign shall project no more than fifteen (15) inches out from the building. Mounting hardware shall be placed to minimize its view from the sidewalk. If architectural detail of the building necessitates, the sign may be broken up into two (2) pieces provided that the sign is still within the sign band and the total area of the two signs does not exceed the maximum allowable of 10% of the wall face.

B. **Freestanding Sign:** No freestanding sign shall be permitted in the IP district except in cases where a building is set back more than fifty (50) feet from the property line on its street side. In such cases one (1) freestanding sign up to fifty (50) square feet in area whose top is no higher than ten (10) feet in height shall be permitted provided that the sign has no more than two faces, the sign pole is placed a minimum of ten (10) feet from the public way, the letters in the sign are no larger than two and one-half (2½) feet high, the sign is placed such that it does not overhang any public way, and the sign is no more than twenty (20) inches deep. If the building has more than one use, or if several buildings are grouped together into a shopping center, then only one freestanding sign structure is allowed for the building or combination of buildings and their signs must be clustered into one integrated sign no greater than sixty (60) square feet. The individual signs shall be of similar style and design.

C. **Permanent Window Sign**
   1. Upper floor uses: One (1) sign is permitted per window and a maximum of two (2) window signs per use for uses located on upper floors provided that the sign(s) do not exceed 30% of the area of any window.
   2. Ground floor uses: Any number of window signs are permitted for uses located on the ground floor provided they do not cover more than 30% of any window.]

D. **Awning Sign**: One (1) awning sign is permitted per use located on the ground floor, or a maximum of two (2) awning signs are permitted per use located on the ground floor provided that there are no wall signs on the building. Awning signs must be located on the vertical face of the awning, the letters must be in a maximum of two (2) lines and may be no larger than sixteen (16) inches in height, and the area of the sign (the letters and/or logo) must not exceed the area allowed for a wall sign in this district.

E. **Temporary sign**: Temporary signs (banners, window signs, and sandwich boards and the like), pertaining to special sales or events are permitted provided that the signs are located on private property, for a duration of no longer than thirty (30) days. Each temporary sign requires a permit from the Building Inspector. No more than four (4) such permits per calendar year will be issued to any use, except properties in the DDD district which have frontage on Route One shall be allowed six (6) temporary sign permits per year. The area of banners must conform to the same dimensional requirements as those for permanent wall signs. Sandwich boards, pole signs and the like may not exceed nine (9) square feet in area. The total area of window signs, temporary and permanent, may not exceed 30% of any window.

F. **Sandwich Boards:** Signs displayed during business hours only, such as those which are removed every evening and displayed again the following day, constitute an on-going advertising format and shall be construed as being permanent signs rather than temporary signs. Each of these signs requires a permit from the Building Inspector. These signs must not obstruct the flow of pedestrian traffic on the sidewalk or obstruct access to any other use. The date when such sign was first displayed shall be affixed to the sign so as to be readily seen. These signs shall be freestanding and the total sign area may not exceed nine (9) square feet.

G. **Gasoline Filling Stations**: In addition to gasoline filling station price signs specified in this section and pump signs, a maximum of three (3) permanent signs (i.e. freestanding, wall, canopy) is permitted on the premises of any gasoline filling station in any combination, provided that such signs meet the dimensional requirements of this section and the number of freestanding signs does not exceed one (1).

H. **Gasoline Filling Station Price Sign**: In addition to signs specified in this section and pump signs, Gasoline Filling Stations are also permitted one (1) sign not to exceed twenty-five (25) square feet in size for the purpose of identifying to motorists passing by the price(s) of gasoline. The sign can have a maximum of two (2) faces and can be mounted to the station's freestanding sign if it has one.

I. **In addition to directional signs specifically allowed in Section 11.7, the following directional signs are allowed:** Signs not to exceed six (6) square feet whose purpose is giving only direction to employees, customers and visitors whether on vehicle or on foot, which indicate an entrance to an industrial or commercial property. Such signs may carry the name or symbol of the business indicated by the sign but shall not be illuminated.

11.5.5 Residential Districts

A. With the exception of those signs listed in Section 11.8, all signs proposed in a residential district must be approved by the Building Inspector and, if necessary, the Zoning Board of Appeals, for approval. The following restrictions shall apply:

1. Signs whose purpose is to identify a house of worship or a community building shall not exceed ten (10) square feet.
2. Signs which give the place name of a multi-family dwelling complex or single-family subdivision, and not more in addition thereto than direction to the location of features in such neighborhood shall not to exceed twenty (20) square feet in area and six (6) feet in height. These signs are to be located at not more than two (2) entrances to such a neighborhood.
3. Home signs indicating the name and address of the occupant(s) of a dwelling shall not exceed two (2) square feet.
4. A sign which indicates a permitted accessory use or home occupation shall not exceed four (4) square feet.
5. Signs for businesses which pre-exist adoption of this ordinance or businesses allowed by right in residential districts shall follow the restrictions for the BN district.
6. Illumination of signs shall be restricted to the hours of operation.

[NOTE – SECTION 11.6 BILLBOARD REPEALED BY CITY COUNCIL ON JULY 18, 2017]

11.7 SIGNS REQUIRING BUILDING INSPECTOR REVIEW AND APPROVAL

A. Signs erected by or on the order of a governmental agency when limited to governmental purposes, and excluding any advertising.
B. Names of building, date of erection, monument citation and commemorative tablets when made a permanent and integral part of a building, or site not exceeding ten (10) square feet.
C. Banners or flags emblematic of or issued by national, state, or local governments.
D. Holiday decorations and lights when in season.
E. Signs not to exceed two (2) square feet which indicate warnings, hazards, or public conveniences such as "trespass", "beware of dog", and rest room signs.
F. Signs not to exceed two (2) square feet which are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, provided that such signs do not

carry the name or symbol of any business or product.

G. Signs not to exceed two (2) square feet whose purpose is giving only direction and distance to specified house of worship, community buildings, or real estate for sale, rent, lease, or trade, provided that no such sign shall be illuminated.
H. One (1) sign, not to exceed ten (10) square feet in all residential districts or thirty-two (32) square feet in all other districts, which announces the prospective sale, rent, lease, or trade of real estate property by the owner thereof or his/her agent, provided that the sign shall be removed within three (3) days after the sale, rental, lease, or trade of the real estate. (AMENDED 09/12/2013)
I. Signs for structures listed on the National Register.
J. Gasoline filling station price sign using electronic display. (AMENDED 09/12/2013)

11.8 PROHIBITED SIGNS

A. Any sign of which all or any part is in motion by any means, including fluttering, rotating or other moving signs set in motion by movement of the atmosphere.
B. Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity.
C. Any lighting either by exposed tubing or string of lights, either outlining a part or all of a building or affixed to any ornamental feature thereof. An exception would be those items temporarily affixed to a building or other portions of the premises, which denote a particular season of the year or universally celebrated holiday.
D. Any sign that obscures a sign displayed by public authority for the purpose of giving traffic instructions or directions or other public information.
E. Any sign that uses the word "stop" or "danger" to imply the need or requirement of stopping or caution or the existence of danger, or which is a copy or imitation of or which for any reason is likely to be confused with any sign displayed by public authority.
F. Any sign that obstructs any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress, or egress for any building, as required by law.
G. Any sign or illumination that causes any overt and direct glare into or upon any residential building other than the building to which the sign may be related.
H. Signs constructed, erected, or maintained upon or extending over the roof of any building.
I. Any off premises sign which indicates a use or product not specifically available on the property on building or portion thereof where the sign is located unless a billboard is approved under the provisions of Section 11.6 (Section 11.6 repealed 7/18/17).
J. Any sign, which due to its placement obscures the visibility of motor vehicles thus creating a traffic hazard.
K. Banners, temporary window signs, and any other temporary sign, unless specifically approved by the Building Inspector with a submitted application.
L. Any static or digital billboard.
M. Any additional face to an existing billboard, billboard structure, or billboard monopole.
(AMENDED 09/12/2013)
(AMENDED 07/18/2017)

11.9 PERMIT REQUIREMENTS AND SIGN REVIEW PROCESS

Except as provided for in this ordinance and with the exception of copy changes on changeable message boards, clocks, or thermometers, no sign shall be erected, or existing sign altered in any way, without review and approval by City of Peabody Building Inspector, or City of Peabody Zoning Board of Appeals and without issuance of a building permit as required by the Building Inspector. All such signs shall be subject to the following sign review process.

11.9.1 The submitted application must be complete in every way or shall not be accepted.

The following information must be indicated on the drawings supplied at the time of application for review of signs:

A. Drawings to scale indicating the dimensions of the sign, mounting fixtures, lettering, graphics, and separate areas or ornamentation on the sign or fixtures;
B. Representative colors on the sign and all fixtures;
C. If applicable, a table indicating the difference between the proposed sign and any former sign and the current regulations;
D. A list of the contractors and/or suppliers for the sign.
E. A site plan for freestanding signs.
F. If illuminated or electrical, include all listing and manufacturer information.
(AMENDED 09/12/2013)

11.9.2 Application process for signs:

A. Any application for a sign to be located in a BC, BN, or R district shall be reviewed by Building Inspector, who shall use this Sign Review Ordinance to ensure that all requirements have been met, including the following standards:
   1. That the sign is consistent with the general policy and adhere to the design guidelines as defined in Section 11.4 of this ordinance; and
   2. That the sign meets all of the specific standards as defined in Section 11.5 for the zoning district in which it is located.
B. Hanging Signs:
   1. Proposals for Hanging Signs in the BC district must be reviewed by the Building Inspector to ensure that appropriate mounting hardware will be used for the erection of the sign.
   2. Permits for Hanging Signs shall not be effective until a surety company bond in the amount of ten thousand dollars ($10,000.00) has been filed with the city clerk for the purpose of indemnifying the city against liability to others or damages to the property of the city, by reason of the maintenance of the structure which was the subject of the permit issued; or, in lieu of a ten thousand-dollar bond for the purpose stated herein, a certificate of public liability for personal injury and property insurance in an amount not less than ten thousand dollars ($10,000.00) with the city as an additional insured.
C. All applications for a sign shall be submitted to the Building Inspector. The applicant shall submit one (1) copy of a complete application, including the above-mentioned material ("A" through "H"), to be reviewed within fourteen (14) days of submittal. If said application conforms in every way to the conditions set forth in this ordinance, as per Sections 11.4 and 11.5, the application shall be approved. A building permit will be issued upon payment of sign permit fee.
D. Zoning Board of Appeals
   The applicant must appear before the Zoning Board of Appeals if requesting a sign not explicitly allowed by this ordinance. The applicant must submit eight (8) copies of the application, including the above-mentioned material, and other material as may be required by the board. The submittal of the application shall be in form and format as specified by the Zoning Board of Appeals. The board may revise such application requirements, as necessary, from time to time. Upon approval of the sign by the Zoning Board of Appeals an applicant must apply for a building permit as specified in Section 15.2 of this ordinance.

11.10 MAINTENANCE AND ENFORCEMENT

A. Every sign shall be maintained in a safe, presentable, and good structural material condition at all

times. This shall mean the absence of existing rust, of broken or dangling parts, and of cracked, peeling, and flaking paint, the replacement of defective parts, and clean copy that is not obscured.

B. The Building Inspector or his authorized designate is authorized to order the repair or removal of any sign and its supporting structure which in the judgment of the Building Inspector is deemed unsafe, in disrepair, or which is erected or maintained contrary to this ordinance.

C. Any person, firm, or corporation violating any section or provision of this ordinance which pertains to signage other than temporary signage shall be issued a warning and be given seven (7) days to comply. If violation continues unabated past such time, a ticket with a fine of $50.00shall be issued for each day willful violation continues. The Building Inspector or his authorized designate shall be responsible for issuing such warnings and tickets for such violations to sign provisions of this ordinance.

D. Violations of a temporary sign permit shall result in an immediate ticket and a fine of $50.00for each day the violation continues.

E. Any sign erected without approval and without a permit must follow the application guidelines and procedure, and will result in a permit fee of twice the regular sign permit fee.

Section 12: Site Plan Review

SECTION SUMMARY

12.1 Purpose and Authority
12.2 Applicability
12.3 Procedure
12.4 Construction Review Committee
12.5 Application and Site Plan Contents
12.6 Waiver of Technical Compliance
12.7 Review Criteria – Generally
12.8 Effect
12.9 Lapse
12.10 Guidelines, Regulations and Standards
12.11 Approval, Conditions, and Continuation of Site Plan Review
12.12 Advertising, Consultant Fees and Reports
12.13 Performance Guarantees – Generally
12.14 Modifications to Approved Site Plans
12.15 Appeal
12.16 Conflict with Planning Board Regulations
12.17 Severability

12.1 PURPOSE AND AUTHORITY

12.1.1 The Peabody Planning Board shall administer the Site Plan Review process for new development and redevelopment within the City of Peabody. This Site Plan Review process is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution for the following purposes:

A. to protect and promote the health, safety, convenience, and general welfare of the inhabitants of the City of Peabody, and to insure the integrity of the neighborhood;
B. to oversee acceptable site planning practices and to promote desirable architectural design within the City of Peabody;
C. to address development issues comprehensively while ensuring a streamlined and efficient development review process;
D. to provide for appropriate mitigation measures as a result of increased impacts to municipal services and infrastructure;
E. to ensure consistency in the application of development standards and guidelines, and;
F. to ensure proper monitoring and enforcement of Peabody zoning and development regulations.

12.1.2 The Peabody Department of Community Development and Planning shall serve as professional staff to the Planning Board and will assist the Board in all informal project review, including the Construction Review Conference and coordination of all comments and recommendations from City officials, agencies, departments, commissions or councils, including, but not limited to: the Building Inspector, Public Services Director, Board of Health, Conservation Commission, Fire Chief, and Police Chief.

12.2 APPLICABILITY

Individual single-family or two-family and accessory structures thereto, which are not part of a

project involving the construction of three or more dwelling units, are exempt from Section 12. The following types of activities and uses require Site Plan Review prior to construction in the City of Peabody:

A. all buildings and structures which are to be newly constructed or enlarged by one thousand (1,000) square feet or greater shall be subject to Site Plan Review;
B. residential development projects involving the construction of three or more dwelling units;
C. exempt uses shall be subject to reasonable regulation via site plan review as set forth in M.G.L. c. 40A, s. 3;
D. a change in use, other than single- or two-family, that has an increased requirement for parking or an increase in impervious surface other than building footprint;
E. drive-in or drive-through window facilities;
F. wireless telecommunications facilities.

12.3 PROCEDURE

An application for Site Plan Review shall be submitted to the Clerk of the Planning Board, who shall, within five (5) days after the receipt of a complete application, transmit one (1) copy of the Site Plan Review application and plan to the Building Inspector, Director of Public Services, Fire Chief, Police Chief, Municipal Light Plant, City Clerk and all Councilors who may, at their discretion, investigate the application and report in writing their recommendations to the Planning Board in a timely manner, either individually or via comments of the Construction Review Committee. The Planning Board shall not take final action on such application until it has received a report from said officials or from the Construction Review Committee, or until thirty (30) days from the date of such transmittal have elapsed without a submission of said report(s), in which case failure to respond shall be deemed a lack of opposition to the application.

The Planning Board shall schedule a meeting for all Site Plan Review applications within forty-five (45) days from the date stamp. The Planning Board shall, within forty-five (45) days of meeting on a site plan approve, approve with conditions, or deny the Site Plan Review application and file a written decision with the City Clerk and Building Inspector. The applicant may request, and the Planning Board may grant by regular majority vote, an extension of the time limits set forth herein.

12.4 CONSTRUCTION REVIEW COMMITTEE

Applicants for Site Plan Review are required to attend the monthly Construction Review Committee meeting prior to Site Plan Review consideration by the Planning Board. At the Construction Review Committee, Planning Staff will familiarize the applicant with the Site Plan Review permit process and will discuss with the applicant issues to be considered in the design of the project. The purpose of this consultation is to familiarize the applicant with the requirements and criteria for Site Plan Review and to address questions that the applicant may have prior to the submittal of a Site Plan Review application.

The conference will provide the applicant an opportunity to elicit comments and recommendations from the Peabody Building Inspector, Public Services Director, Fire Chief, Police Chief, Municipal Light Plant and all Councilors during the schematic design phase when the general scope, scale, and relationship of project components are preliminary. Comments and suggestions will provide the applicant the opportunity to incorporate agency and community concerns before significant financial resources are committed to the development of a site plan. The applicant shall submit, in the least, a sketch plan containing the basic information regarding the project. Other information submitted to the Construction Review Committee is left to the discretion of the applicant.

12.5 APPLICATION AND SITE PLAN CONTENTS

A. In General

Applicants shall submit a complete application for Site Plan Review to the Clerk of the Planning Board. All such applications shall include an application fee in the amount of one hundred dollars ($100) along with twenty (20) copies and one (1) electronic copy of the following required materials:

1. Form entitled **"Application for Site Plan Review"**.
2. A letter of intent detailing the proposal including:
   a. description of the project;
   b. existing site conditions;
   c. gross square feet of floor area;
   d. estimated number of employees and/or residents;
   e. tabulation of area in square feet devoted to building footprint;
   f. parking and circulation areas;
   g. open space.
3. A list of names and addresses of all the abutters using current City Assessor's data.
4. Applications for Multi-family developments shall include a summary of the proposed development indicating:
   a. the number of dwelling units to be built and the acreage in residential use;
   b. provisions for the private maintenance thereof, including, but not limited to, trash, utilities, and landscaping;
   c. identification of all land that will become common or public land.
5. A statement indicating the estimated time required to complete the proposed project and all phases thereof.
6. Drainage calculations, stormwater management and water/sewer impact analysis prepared by a registered professional engineer. Storm drainage calculations and design shall conform to the City's subdivision regulations, drainage criteria of the Department of Public Services, and applicable Federal, state and local regulations/stormwater management policy. Water and sewer impact analysis shall conform to the criteria of the Department of Public Services.
7. A zoning evaluation table shall be provided to show how the development meets or fails to meet the requirements of the City of Peabody Zoning Ordinance.
8. A development impact statement to address the impacts of the proposed development on:
   a. traffic generation and traffic flow and circulation;
   b. impacts to abutting properties;
   c. utilities;
   d. the environment; and
   e. municipal services.
9. Title Block, to include:
   a. title of plan, including an address and City Assessor's map and lot;
   b. owner's name and address;
   c. the date the plan was prepared and date of subsequent revisions and reasons for revision;
   d. scale of the plan;
   e. name, address and seal of the preparer of the plan;
   f. the building code use classification as defined by the MA State building code;
   g. the type of construction as defined by the MA State building code.
10. Plan and details shall:
    a. be submitted on eleven inch by seventeen inch sheets (11"x 17")
    b. have a scale of 1 inch equals 40 feet, or greater;
    c. be prepared by one or more of the following, as applicable: a registered land surveyor, registered architect, registered professional engineer, or a registered landscape architect;

d. contain a Site Locus Plan showing the entire project and its relation to abutting properties, buildings, and roads abutting streets and ways, list of all 'parties of interest' and their addresses, certified by the city assessor, and names of all abutters;

e. contain a Site Layout Plan, which shall include:
   1) the boundaries of the lot(s) in the proposed development;
   2) property boundaries;
   3) rights-of-way and easements and their uses within the lot;
   4) footprint of existing and proposed buildings and structures;
   5) access and circulation patterns for pedestrians and vehicles;
   6) roadways and curbs;
   7) walkways and sidewalks;
   8) drives and aprons;
   9) parking areas;
   10) fences;
   11) walls;
   12) signage location and dimensions;
   13) location and size of refuse facility;
   14) location of handicapped parking;
   15) outdoor lighting;
   16) building entrances;
   17) service and loading facilities;
   18) areas for snow storage after plowing, if any;
   19) final selection of site materials, sizes, dimensions, and areas;
   20) all proposed recreational facilities and open space areas, if any;
   21) indicate graphic scale, date, north arrow, and vertical datum (NVGD);
   22) identify any special site characteristics and noteworthy natural features, such as, but not limited to:
      a) views;
      b) existing vegetation;
      c) wetlands;
      d) topographic changes;
      e) soils;
      f) bedrock;
      g) required setbacks that are being considered in the siting and design of the building, roads, and parking areas.

f. contain a Topography and Drainage Plan, which shall include;
   1) the existing and proposed final topography at two-foot intervals;
   2) existing and proposed utilities including water, sewer, drain, gas, electrical, cable television, telephone and other gate valves, shut off valves, cleanouts, manholes, storm drainage structures and proposed water meter locations on and adjacent to the site;
   3) details and specifications for handling stormwater drainage, including stormwater management areas and all existing wetlands, watercourses and floodplain areas.

g. contain a Detailed Utility Plan, which shall include;
   1) all facilities for refuse and sewage disposal or storage of all wastes;
   2) the location of all fire protection systems including hydrants, fire alarm and firefighting facilities on and adjacent to the site.
   3) location of utility poles, manholes and handholes.

h. contain a Landscaping Plan that complies with Section 10 of the zoning ordinance, which shall include:
   1) the limits of work;

2) existing tree lines.
3) all proposed landscape features and improvements including:
   a) open space;
   b) conservation areas;
   c) screening and visual buffers;
   d) planting areas with size, type and number of all existing and proposed trees, shrubs, and other site amenities;
   e) the location of proposed erosion control measures.

i. contain a Site Lighting/Photometric Plan, which shall provide:
   1) location of and specifications for all proposed outdoor lighting fixtures, including freestanding and building mounted;
   2) a photometric grid of site showing average horizontal foot candle levels at grade with proposed property in ten foot squares;
   3) a narrative of off-site impacts

j. contain a Detail Sheet(s) indicating typical site construction details;

k. contain roadway and driveway apron profiles and cross sections that conform to the Peabody Planning Board Rules and Regulations;

l. contain detailed plans relevant to proposed project appearance:
   1) architectural renderings, to include all elevations and descriptions of exterior building materials;

12.6 WAIVER OF TECHNICAL COMPLIANCE

The Planning Board may, upon written request of the applicant, waive any of the Application Requirements listed under technical Section 12.5 only when it determines that:

A. literal compliance is impractical due to the nature of the use;
B. the location, size, width, depth, shape or grade of the lot makes compliance impossible;
C. such waivers would be in the public interest;
D. such waivers would protect natural features.

12.7 REVIEW CRITERIA - GENERALLY

12.7.1 New building construction or other site alteration shall be designed, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

A. minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
B. maximize pedestrian and vehicular safety both on the site and leaving from it;
C. minimize obstruction of scenic views from publicly accessible locations;
D. minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or from residential properties;
E. minimize glare from headlights and light pollution emitted from on-site lighting fixtures;
F. minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
G. minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;
H. provide adequate access to each structure for fire, public safety and service equipment;
I. provide adequate utilities and adequate water and sewer mitigation;

J. provide stormwater drainage and roadway and driveway layouts consistent with the functional requirements of the City of Peabody's Subdivision Rules and Regulations, any applicable Federal, state and local regulations, and to the standards of the Department of Public Services;
K. demonstrate compliance with the intent and provisions of this Zoning Ordinance, including parking, signage, landscaping, inclusionary zoning and environmental performance standards.

12.7.2 The Planning Board shall use, but is not limited to, the above criteria to determine whether an application for Site Plan Review should be approved, approved with conditions or denied. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these goals.

12.8 EFFECT

No building permit shall be issued by the Building Inspector without a written approved Site Plan Review decision from the Planning Board, unless ninety (90) days lapse from the date stamp of the City Clerk, unless there is an extension. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

Where the Planning Board approves a Site Plan Review "with conditions", and/or said Site Plan Review accompanies any other review by a local municipal board, commission or council, the conditions imposed by the Planning Board shall be incorporated into the issued decision by any other reviewing municipal board, commission or council. Where the Planning Board approves a Site Plan Review that has been reviewed and approved with conditions by other local municipal boards, commission or council, the conditions imposed by said board, commission or council shall be incorporated into the decision of the Planning Board.

The applicant shall submit one (1) paper copy and one (1) electronic copy, in a format acceptable to the Building Inspector, of the plan of record that was submitted to the Planning Board for Site Plan Review. The applicant shall submit a letter issued by a registered professional engineer, registered architect or registered landscape architect to certify that, under pains and penalties of perjury, the plan of record is consistent in all aspects with the plan reviewed and approved by the Planning Board and that all conditions of approval have been met.

12.9 LAPSE

The approval of the site plan shall lapse two (2) years after the grant thereof if construction has not begun. The Planning Board may grant an extension for such approval for good cause, upon the written request of the applicant. The written request must be submitted to the Clerk of the Planning Board thirty (30) days prior to the lapse of approval. The Planning Board may grant an extension if the delay has been caused on account of the need to obtain other local, state, and federal permits duly applied for. Extension of the Site Plan Review approval may be extended once for a maximum of one (1) year.

12.10 GUIDELINES, REGULATIONS AND STANDARDS

By majority vote of the members of the Planning Board, the Board may adopt and promulgate reasonable Guidelines, Regulations and Standards to be used for the administration of Site Plan Review under the Massachusetts Constitution, Massachusetts General or Special Laws, the Code of Massachusetts Regulations (CMR), City of Peabody Ordinances, or other legal right or authority granted to or conferred upon said Board.

The proposed Guidelines, Regulations and Standards shall be submitted to all Board members at least 48

hours prior to any vote to adopt the same, provided, however, the Board may make such amendments to the proposed Guidelines or Regulations as it deems appropriate at said meeting.

Upon approval of any Guidelines, Regulations and Standards by the Board, a copy of the same shall be filed with the City Clerk and become effective as of the date of filing thereof unless the specific vote of the Planning Board establishes a later effective date.

12.11 APPROVAL, CONDITIONS, & CONTINUATION OF SITE PLAN REVIEW

The Planning Board shall, within ninety (90) days from date stamp of the City Clerk or approved extension, file a written decision with the City Clerk stating that the application is approved as submitted, approved with conditions, or denied. Failure by the Planning Board to take action within the said ninety (90) day period or approved extension will be deemed as a constructive approval.

The Planning Board, at the time of approval, may impose conditions on any Site Plan Review approval which it deems necessary or desirable to ensure that the subject project addresses the Site Plan Review criteria established herein.

12.12 ADVERTISING, CONSULTANT FEES AND REPORTS

In addition to application and advertisement fees, the Board is authorized, at any time during the hearing process, to require the applicant to pay all the costs and expenses of any expert consultant deemed necessary by the Board to evaluate the Site Plan Review application. This fee is called the "consultant fee." Consultant services may include, but are not limited to, services performed by the following professionals: civil engineer, traffic engineer, and other types of land use experts. Fees shall be based on fair market value of such expertise and shall be paid directly from applicants to the consulting expert unless otherwise established by the Planning Board at the meeting.

The Board may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a revolving fund for consultant expenses and fees is authorized by the Board, City Council, or by any general or special law, the applicant's fee shall be put into such revolving fund, and the Board may draw upon that fund for specific consultant services approved by the Board at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Board decides at a public meeting that additional services will be required.

The exercise of discretion by the Board in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information available only through outside consultants is necessary to make an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

The Board may, at its own discretion, waive the filing fee, consultant fee, and costs and expenses for Site Plan Review if the application is filed by a government agency, including the City and all its departments.

A copy of all consultant reports shall be provided by the Planning Board to the applicant in a timely manner.

12.13 PERFORMANCE GUARANTEES - GENERALLY

12.13.1 As part of a permit issued under this ordinance, except for permits issued for work being performed or contracted by any agency of the Commonwealth or political subdivision thereof, and in addition to any

security required by any other municipal or state board or agency, the Planning Board may require that the installation of municipal services or projects that may affect municipal utilities and municipal roadways, sidewalks or other municipal services, whether on-site or off-site, be secured wholly or in part by a performance guarantee.

12.13.2 To ensure the completion of a project, a financial guarantee, such as a bond, or deposit of money, or negotiable securities, or other undertakings of financial responsibility sufficient in the opinion of the Planning Board, may be required of the applicant. Cash escrows and irrevocable standby letters of credit are the forms of financial guarantees that will be accepted. Property escrows will not be accepted.

12.13.3 Applicants shall submit estimates of what the required improvements will cost, including contractor bids to perform the work, plus a 30% contingency to ensure the completion of construction or alteration of municipal facilities. The Director of Public Services shall review all bond estimates to determine consistency with the most recent cost estimating data compiled by the Department of Public Services. The Department of Public Services shall submit written notification to the Board of its acceptance of the bond estimate. If the estimate is not adequate, DPS shall provide a revised cost estimate to the Board.

12.13.4 Prior to any construction, the applicant shall post a bond with the Planning Board to cover any and all on-site or off-site damages related to site work. The bond shall not be less than 15% of the estimated costs for utilities, roadways, sidewalks or other municipal services. This fund may be used by the Planning Board to repair, clean and/or maintain any on-site or off-site conditions (whether private or public property) related to site work, whether or not arising out of reaction or inaction of the applicant, its contractors, agents or assigns.

A. The term of any financial guarantee must be at least six months beyond the receipt of a certificate of occupancy. The Planning Board, at its discretion, may allow partial or complete release of guaranteed funds as sections of a project are completed. The Planning Board has the right not to release any part of the guaranteed funds until after the project is finished and reviewed by the Department of Public Services, Building Inspector or other agencies, boards, council, and commissions in the City of Peabody
B. The Planning Board has the right to reject the terms of a proposed financial guarantee and to determine the amount of funds that must be guaranteed. The Planning Board's only duty to secure release of guaranteed funds is to certify that required improvements have not been completed on time or to a satisfactory standard, as defined by the Planning Board.
C. At the discretion of the Planning Board, a joint financial guarantee may be used to comply with Planning Board requirements and that of other agencies, boards, and commissions in the City of Peabody, provided however that all relevant parties agree on the terms and the principal and that the guarantee is structured so that all relevant parties agree before any funds are released.

12.14 MODIFICATIONS TO APPROVED SITE PLAN

12.14.1 The City Council shall be notified if at any time before or during development it becomes necessary or desirable to make modifications to a site plan, the applicant shall appear at a regular meeting of the Planning Board and submit, if required by the Planning Board, plans showing the modification. Modifications shall be processed in accordance with the rules governing Site Plan Review, unless, at the sole discretion of the Planning Board, the modification is minor in nature and does not require

another meeting. Listed below are examples of revisions warranting review by the Planning Board. A meeting with Planning staff prior to filing is recommended in the following circumstances, but not limited thereto:

A. relocation or shifting of structures or parking areas;
B. increase in total square footage of structures or changes to building envelope;
C. changes that require additional water/sewer use or the shifting of water and sewer utilities;
D. increases in impervious area, either by changes to structures or paved parking areas, for reason of potential downstream impacts;
E. request by the applicant to revise or amend conditions of approval by the Planning Board;

12.14.2 The applicant shall submit one (1) paper copy and one (1) electronic copy in a format acceptable to the Building Inspector of the revised plan for any project that has received approval for modification by the Planning Board. The applicant shall submit a letter issued by a registered professional engineer stating, under pains and penalties of perjury, that the revised plan is consistent in all aspects with the plan reviewed and approved by the Planning Board and that all conditions of approval have been met.

12.15 APPEAL

Any decision of the Planning Board pursuant to this Section shall be appealed in accordance with M.G.L. c. 40A, s. 8 to a court of competent jurisdiction.

12.16 CONFLICT WITH PLANNING BOARD REGULATIONS

If the site plan review ordinance is in conflict with any regulation of the subdivision rules and regulations of the Peabody Planning Board, the planning board regulations shall supersede the site plan review ordinance.

12.17 SEVERABILITY

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provisions thereof.

Section 13: Development Impact Review

SECTION SUMMARY

13.1 Purpose and Authority
13.2 Applicability
13.3 Project Scoping Meeting
13.4 Development Impact Statement
13.5 Development Impact Standards
13.6 Conditions
13.7 Consultant Fees
13.8 Intermunicipal Coordination
13.9 Compliance
13.10 Waivers

13.1 PURPOSE AND AUTHORITY

13.1.1 The purpose of a Development Impact Statement conducted under this Section is to:

A. ensure that the design and construction of developments will not create detrimental impacts to the neighborhood or the environment;
B. ensure a development will be in harmony with surrounding areas; and
C. ensure compliance with all the requirements set forth in this Section.

13.1.2 A Development Impact Statement shall describe potential impacts of the proposed development, compare them to the impacts of uses which are or can be made of the site without a requirement for site plan review, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts.

13.2 APPLICABILITY

13.2.1 A Development Impact Statement shall be required for the following:

A. all multi-family or apartment developments that contain twenty-five dwelling units or more;
B. all developments where the area of any new structure or extension of an existing structure is 25,000 square feet or more excluding single- and two-family homes;
C. all developments adding greater than fifty parking spaces; and
D. all developments where the new use or extension of an existing use leads to the generation of greater than 500 vehicle trips.

13.2.2 A development impact statement may be submitted with any application for a building permit, special permit, or special permit with site plan review by the petitioner, or the Planning Board may add the requirement at their discretion for developments that meet or exceed the criteria shown above.

13.2.3 Projects that involve redevelopment of an existing site proposed for a similar use as it exists may not require a development impact statement, or may be accompanied with a limited study only. This exception applies only to projects that have had a development impact statement submitted no longer than twenty-four (24) months prior to the current redevelopment application, and subject to approval by the Planning Board.

13.3 PROJECT SCOPING MEETING

It is recommended that the Applicant schedule a project scoping meeting with the Department of Public Services, Police Department, a member of Community Development Staff, and other staff as deemed necessary. Further definition of the scope and type of information to be provided will be discussed at this meeting, including the following.

13.3.1 Study Area

The preliminary study area will be defined as part of the project scoping meeting. Nonetheless, it is possible that there will be some intersections or roadways not originally identified for study, that may be included later once the potential project impacts are better known.

13.3.2 Analysis Scenarios

A. Existing conditions
B. Full-Build Completion + 5 years conditions, including background growth and known area developments, without project development (No-Build Conditions)
C. Full-Build Completion + 5 years conditions, including background growth and known area developments, with project development and no mitigation (Build Conditions with no mitigation)
D. Full-Build Completion + 5 years conditions, including background growth and known area developments, with project development and proposed mitigation (Build Conditions with mitigation)

13.3.3 Additional analysis scenarios may be required for a project for which mitigation is proposed.

13.3.4 Additional analysis scenarios will be required for a project that is to be constructed in multiple phases. These would include:

A. Stage I opening year conditions, including background growth and known area developments, without project development (No-Build Stage I)
B. Stage I opening year conditions, including background growth and known area developments, with Stage I project development and no mitigation (Stage I Build Conditions with no mitigation)
C. Stage I opening year conditions, including background growth and known area developments, with Stage I project development and proposed mitigation (Stage I Build Conditions with mitigation)

13.4 DEVELOPMENT IMPACT STATEMENT

The Development Impact Statement shall consist of the following elements, where applicable:

13.4.1 Traffic Impact Assessment

A. Purpose: To document existing traffic conditions in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic.
B. Format and Scope of Traffic Impact Assessment:
    1. The traffic impact assessment shall be prepared by a Professional Transportation Engineer, registered in Massachusetts, or another professional specializing in transportation planning, who has the experience level necessary to competently conduct said study.
    2. Existing traffic conditions shall include:

a. Average daily and peak hour volumes related to the use(s), i.e. commercial, residential and industrial uses shall provide weekday peak hour data and for retail PM peak weekday and weekend peak hours. For uses involving exceptional hourly, daily or seasonal peak periods, the Planning Board may require that the analysis be conducted for that extraordinary peak period;
b. average and peak speeds;
c. sight distances;
d. accident data;
e. levels of service (LOS);and
f. intersections and streets likely to be affected by the proposed development.

3. Generally, such data shall be presented for all streets and intersections adjacent to or within 1,000 feet of the project boundaries, and shall be no more than 12 months old at the date of application, unless other data are specifically approved by the Planning Board.
4. Where a proposed development will have an impact on a critical intersection or intersections beyond 1,000 feet of the project boundary, particularly intersections of arterial and collector roadways which are integral to the circulation of the proposed development, the Planning Board may require that such intersections beyond 1,000 feet of the project boundary be included in the analysis of traffic conditions.
5. Existing conditions shall also include:
   a. Pedestrian and bicycle counts, concurrent with peak hour turning movements counts, and other times as determined by Department of Public Services;
   b. Description and categorization of pedestrian and bicycle; accommodation in roadway cross-section, as per the MassHighway *Project Development and Design Guide*; and
   c. Description of transit service to the study area, including schedules, capacity, and ridership.
6. Projected traffic conditions for design year of occupancy, statement of design year of occupancy, background traffic growth on an annual average basis, and impacts of proposed developments which have already been approved in part or in whole by the City.

   For the purposes of determining the growth in non-project background traffic along most roadways, an annual rate of growth should be used, unless otherwise directed by the Department of Public Services. Growth rates for traffic along Route 1, Route 114 and Route 128 shall be calculated from historical data and projections by the Massachusetts Highway Department and regional planning agencies.
7. Projected impact of proposed development:

   a. An estimate of the directional distribution of new trips by approach streets and an explanation for the basis of that estimate;
   b. Assignment of new trips to be generated by the proposed development and associated pass-by or diverted trips, including assignment of new trips to major arterials, including state highways;
   c. Sight lines at the intersections of the proposed driveways and streets,
   d. Existing and proposed traffic controls in the vicinity of the proposed development, and
   e. Projected post-development traffic volumes, intersection turning movement counts, and levels of service of intersections and streets likely to be affected by the proposed development (as defined in (3) above); and
   f. Quantify impacts on operations and capacity of pedestrian, bicycle and transit infrastructure.

8. Trip rates may be based on the Institute of Transportation Engineers (ITE) Trip Generation latest edition or data from similar developments in similar settings in Massachusetts.

   a. If ITE is used, the land use code, number of studies; weighted average trip rate, trip

generation equation standard deviation and coefficient for each land use used shall be provided. Use of the weighed average trip rate or trip generation equation to predict trips for each land use shall be based on the procedures set forth in ITE.

b. If local trip rates are used, the methodology used and the applicability of the data shall be provided.
c. If data is available from ITE and local sources, the applicant may demonstrate why the ITE data is not accurate and should not be used. The Planning Board shall determine which data source will be used.

9. All traffic counts including turning movements shall have been taken within 12 months of the date of submission and shall be adjusted for seasonal variation with an explanation as to how the adjustment was made.
10. Projections of ADT'S, turning movements and capacity analyses shall be adjusted for (where appropriate):

    a. background traffic with an explanation as to how said adjustment was made;
    b. truck traffic and buses;
    c. vacant space in existing buildings in the study are; or
    d. trips generated by developments in the study area that are under review or approved by a municipal agency or in the MEPA process.
11. If an exceptional peak period is likely to occur, the Planning Board may require analysis of traffic for said period.
12. Trips from an existing land use that are being replaced by a new land use may be subtracted as follows:

    a. If trip generation and distribution for the new land use have the same characteristics as the land use being replaced, trips generated by the new land use may be reduced by an amount not to exceed the trips generated by the land use being replaced.
    b. If trip generation and distribution for the new land use do not have the same characteristics as the land use being replaced, trips generated by the existing land use may be subtracted from the street system.
13. Where a project accesses or impacts a state highway, evidence of consultation with MHD shall be provided.
14. Parking requirements shall be described, including:

    a. Description of parking access and egress locations, entrance queuing, use restrictions, time limits, wayfinding, and drop-off/pick-up operations.
    b. Document source of parking generation estimates, required vs. projected.
    c. Demonstrate consistency of parking assumptions with trip generation and mode share assumptions.
    d. Compliance with shared parking analysis requirements, where applicable.

13.4.2 Environmental Impact Assessment

A. Purpose: To describe the impacts of the proposed development with respect to on-site and off-site environmental quality.
B. Format and Scope:

    1. Identification of potential impacts:

        a. description and evaluation of potential impacts on the quality of air, surface water, and

ground water adjacent to or directly affected by the proposed development;

b. on-site or off-site flooding, erosion, and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious area;
c. on-site or off-site hazards from radiological emissions or other hazardous materials;
d. impacts on solar access of and/or shadow caused by adjacent properties; and
e. off-site noise or light impacts.

2. Systems capacity: evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.
3. Proposed mitigation measures: description of proposed measures for mitigation of any potential adverse impacts identified above.

13.4.3 Fiscal Impact Assessment

A. Purpose: To evaluate the fiscal and economic impacts of the proposed development on the City.
B. Format and Scope:

1. Projections of costs arising from increased demands for public services and infrastructure.
2. Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided.
3. Projections of the impacts of the proposed development on the values of adjoining properties.
4. Five-year projection of increased City revenues and costs resulting from the proposed development.

13.4.4 Community Impact Assessment

A. Purpose: To evaluate the impacts of the proposed development with respect to the City's visual and historic character and development goals.
B. Format and Scope:

1. Site design and neighborhood impact:
   a. evaluation of the relationship of proposed new structures or alterations to nearby pre-existing structures in terms of character and intensity of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements); and
   b. the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties.

2. Historic impact: identification of impacts on significant historic properties, districts or areas, or archaeological resources (if any) in the vicinity of the proposed development.
3. Development goals: evaluation of the proposed projects consistency or compatibility with existing local and regional plans.

13.5 DEVELOPMENT IMPACT STANDARDS

The following standards shall be used in evaluating projected impacts of proposed developments; provided, however, that an application for site plan review and approval under Section 12 shall be evaluated using only the standards contained in Section 12 and this Section. New building construction or other site alteration shall be designed, to the extent feasible, and after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to comply with the following standards:

13.5.1 Traffic Impact Standards

A. The LOS of all impacted intersections and streets shall be adequate following project development after off-site traffic improvements required or approved by the Planning Board as a condition of approval are accounted for. For purposes of this standard:

1. LOS shall be determined according to criteria set forth by the Transportation Research Board of the National Research Council;

2. "impacted" means intersections projected to receive at least 5% of the expected traffic generated by the proposed development, either based upon the total anticipated peak hour traffic generated by the proposed project, or based upon the total anticipated average daily traffic counts generated by the proposed project.
3. "adequate" shall mean traffic that is no worse than it was with the prior use, based on ITE trip generation rates, or similar data that has been previously approved by the Planning Board.

B. The proposed site plan shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to achieve this standard:

1. Entrance and exit driveways shall be so located and designed as to achieve maximum practicable distance from existing and proposed access connections from adjacent properties.
2. Where possible, driveways shall be located opposite similar driveways.
3. Sharing of access driveways by adjoining properties and uses is encouraged.
4. Left-hand turns and other turning movements shall be minimized.
5. Driveways shall be so located and designed as to discourage the routing of vehicular traffic to and through residential streets.
6. Pedestrian and bicycle circulation shall be separated from motor vehicle circulation as far as practicable.

13.5.2 Environmental Impact Standards

A. The proposed development shall not create any significant emission of noise, dust, fumes, noxious gases, radiation, or water pollutants, or any other similar significant adverse environmental impact.
B. The proposed development shall not increase the potential for erosion, flooding or sedimentation, either on-site or on neighboring properties; and shall not increase rates of runoff from the site to the satisfaction of the Department of Public Services. Provisions for attenuation of runoff pollutants and for ground water recharge shall be included in the proposal. The proposed development shall comply with the latest accepted state and federal Best Management Practices for water quality mitigation and management.
C. The design of the proposed development shall minimize the destruction of unique natural features (see Section 10 Landscaping).
D. The location and configuration of proposed structures, parking areas and open space shall be designed so as to minimize any adverse impact on temperature levels or wind velocities on the site or adjoining properties.
E. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties (see Section 10 Landscaping).
F. Proposed structures and existing structures adjoining the project site shall be free from shadows created by the proposed development from 9:00 a.m. to 3:00 p.m. on December 21. Proposed development within the B-C District shall be exempt from this standard.

G. All outdoor lighting shall be designed and located so that a line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site; except that this requirement shall not apply to:

1. Low-level intensity pedestrian lighting with a height of less than ten feet, or
2. Security lighting directed off the wall of a principal structure.

13.5.3 Fiscal Impact Standards

No projected negative net fiscal impact after design year of occupancy.

13.5.4 Community Impact Standards

A. Design elements shall be compatible with the character and scale of neighboring properties and structures.
B. The design of the development shall minimize the visibility of visually degrading elements such as trash collectors, loading docks, etc.
C. The design of the development shall be consistent or compatible with existing local plans, including plan elements adopted by the Planning Board, Conservation Commission, Parks Commission, and other City bodies having such jurisdiction.
D. The design of the development shall minimize earth removal and volume of cut and fill. Any grade changes shall be in keeping with the general appearance of neighboring developed areas.
E. The design of the development shall minimize the area over which existing vegetation is to be removed. Tree removal shall be minimized and, if established trees are to be removed, special attention shall be given to the planting of replacement trees.

13.6 CONDITIONS

The Planning Board may condition its approval on:

A. Completion of mitigation prior to issuing any Occupancy Permit.
B. Posting surety to guarantee implementation of mitigation.
C. Implementing measures to reduce trips generated by a development, when traffic is a significant impact, including use of:

a. Employer subsidized passes for public transit.
b. Carpools and vanpools.
c. Flex time or staggered work hour.
d. Preferential parking for high occupancy vehicles.
e. Restricting access to or egress from off street parking areas during peak hours.
f. Measures to promote pedestrian access, and
g. Measures to encourage bicycle commuting such as secured bike racks and locker and shower facilities. The Planning Board may require the submission of periodic reports on the effectiveness of the trip reduction programs.

D. Reducing of the size or intensity of the project.
E. Phasing the development of the project.
F. Obtaining all other permits where applicable.

13.7 CONSULTANT FEES

Pursuant to the conditions of Section 12.12 in Site Plan Review, the Planning Board is entitled to secure the peer review of the any Development Impact Study by an outside consultant selected by the Planning Board and approved by the City Council. The Board may require the payment of the consultant fee at any point in its deliberations prior to a final decision.

13.7 INTERMUNICIPAL COORDINATION

A. If a development impacts streets in another Municipality, the traffic study shall be submitted to the municipality for review and comment concurrently with the filing. The Planning Board shall not take final action on a SP or SPR until it has received comments from the municipality or until 35 days have elapsed from the transmittal of the traffic study.
B. The Planning Board may require the study and mitigation of impacted streets in an abutting municipality provided that the abutting municipality has adopted this Section and the development is not being independently permitted by the municipality. An abutting municipality(s) shall approve any mitigation proposed for any street in its jurisdiction.

13.8 COMPLIANCE

If the Planning Board determines that its conditions on traffic are not being met, the Planning Board shall require the applicant to bring the development into compliance.

13.9 WAIVER OF THE REGULATIONS

If the Planning Board finds that any section or provision of this Section does not apply, it may be waived by vote of the Planning Board.

Section 14: Removal of Earth Products

SECTION SUMMARY

14.1 Applicability
14.2 Application
14.3 City-owned Property, Exception

14.1 APPLICABILITY

In all districts, the removal of sod, loam, clay, sand, gravel or quarried stone, and the disposition thereof, except when incidental to and in connection with the construction of a building for which a building permit has been issued, shall be subject to the issuance of an earth removal permit by the City Council and a building permit from the Building Inspector. Where the removal is incidental to and in connection with the construction of a building for which a building permit has been issued, the material shall be stockpiled on the site until the building is 50% complete.
(AMENDED 09/12/2013)

14.2 APPLICATION

14.2.1 The application for an earth removal permit shall be accompanied by a grading and operational plan showing the following:

A. Existing and proposed topography at two-foot contour intervals;
B. All trees over four (4) inches in diameter as measured four (4) feet above natural ground;
C. All trees that will be removed;
D. Existing and proposed drainage facilities;
E. Proposed landscaping (A minimum of four (4) inches of topsoil shall be required.);
F. Proposed haul routes, both on and off the site;
G. Quantity of material to be removed; and
H. Means of draining site and providing dust control during the removal operation.

14.2.2 The city council shall require that a bond be provided in an amount sufficient to ensure completion of the work. The city council shall, in each instance, impose such conditions as will protect the neighborhood and the city against permanent and temporary hazards or injury to the amenities because of conditions which may be left after operations are completed, or because of the methods of handling such material at the site or of transporting such material through the city. The construction of private streets or ways in accordance with lines and grades established by approved subdivision plans shall not be construed as coming within the exemption referred to in the first sentence of this section, and where such construction involves the removal of sod, loam, clay, sand, gravel or quarried stone, a special permit by the city council shall be required. Earth products to be removed from a site shall be first stockpiled on the site until substantial completion of the work.

14.3 CITY OWNED PROPERTY, EXCEPTION

Any earth products removed from city owned property shall remain the property of the City of Peabody, and said excess of earth products shall be stored at a location selected by the director of public services department of the City of Peabody, or by his designee.

If the amount of earth products is in excess of that which the City of Peabody may need, at some point and time, upon the recommendation of the director of public services department or his designee, it shall be at the discretion of the Peabody City Council concerning the disposition thereof.

Earth products removed from or added to city owned land will not be subjected to the requirements of Section 14 of this ordinance.

Section 15: Administration

SECTION SUMMARY

15.1 Enforcement
15.2 Building Permit
15.3 Temporary Permit
15.4 Certificate of Occupancy
15.5 Penalty
15.6 Board of Appeals
15.7 City Council
15.8 Severability
15.9 Effective Date
15.10 Amendment
15.11 Repetitive Petitions
15.12 Noninterference
15.13 Construction Hours

15.1 ENFORCEMENT

Except as otherwise provided, this ordinance shall be enforced by the building inspector. He shall approve no applications or plans or specifications or intended uses of any kind which are not in all respects in conformity with this ordinance. If the building inspector is requested in writing to enforce a provision or provisions of this ordinance against any person allegedly in violation of the same and such officer declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen (14) days of receipt of such request.

15.2 BUILDING PERMIT

15.2.1 Permit requirement

No building shall be constructed, reconstructed or moved and no use of land or building shall be begun or changed without a permit having first been issued by the building inspector. No such permit shall be issued until such proposed construction, alteration, or use, as proposed, shall comply in all respects with the provisions of 780 CMR Massachusetts Building Code.
(AMENDED 09/12/2013)

15.2.2 Plat of lot

All applications for building permits shall be accompanied by a plat of the lot and one (a) copy drawn to scale, showing the actual dimensions of the lot, location and size of buildings already upon the lot, and of the additions, building or buildings to be erected, with notation of use of parts, together with streets and alleys on and adjacent to the lot. Said plat of lot shall be stamped and certified by a registered land surveyor. One copy of such applications and plats shall be kept on file in the office of the building inspector, a copy of the plat shall be returned with the permit to the applicant. A copy of the permit shall be displayed in a prominent place on the lot or structure for which it was issued.

15.2.3 Building permit plan

Each application for a building permit shall be accompanied by a building permit plan, and shall comply with 780 CMR MA Building Code.
(AMENDED 09/12/2013)

15.2.4 Time limit on permit as related to ordinance amendment

Construction or operations under a building or special permit shall conform to any subsequent amendment of this ordinance unless the use or construction authorized by said permit is commenced within a period of not more than six (6) months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

15.2.5 Restriction on Number of Building Permits for New Single-Family Residential Dwellings

The number of Building Permits for new single-family residential dwellings issued by the Inspector of Buildings shall be limited to fifty (50) per calendar year.

15.2.6 Denial

Any building permit application not in compliance with this ordinance may be appealed.
(AMENDED 09/12/2013)

15.3 TEMPORARY PERMIT

The building inspector may issue temporary and conditional permits for structures and uses which do not conform to the regulations herein prescribed for use in connection with the construction of permitted structures and uses, provided that no such permit shall be for more than a one-year period, subject to renewal in case of need. No temporary permit shall be issued for a use of a permanent nature.

15.4 CERTIFICATE OF OCCUPANCY

No building or mobile home erected, altered or in any way changed as to construction or use, under a permit or otherwise, and no land used, except as provided herein, shall be occupied or used without a certificate of occupancy signed by the building inspector, which may be on or separate from the building permit and which shall not be issued until the building and its uses and accessory uses and the use of all land comply in all respects with this ordinance and with the permit. The Building Inspector shall be required to inform the City Council on all Certificate of Occupancy Permits issued by the Building Inspector.

15.5 PENALTY

Any person, firm or corporation violating any section or provision of this ordinance shall be fined two hundred dollars ($200.00) for the first offense and three hundred dollars ($300.00) for each subsequent offense. Each day that willful violation continues shall constitute a separate offense.

15.6 BOARD OF APPEALS

15.6.1 Establishment

A board of appeals is hereby established to consist of five (5) members and two (2) associate members appointed by the mayor, subject to city council approval. The initial appointments shall be made for one-, two- and three-year terms for members and one-and two-year terms for associate members, all respectively, and thereafter one of each annually. The chairman of the board of appeals shall designate an associate to sit in place of any member incapacitated by personal interest, illness, or absence.

15.6.2 Powers

The board of appeals shall act as a permit granting authority and shall have the following powers in accordance with the provisions of Massachusetts General Laws, Chapter 40A and this ordinance:

A. ***Appeals.*** To hear and decide an appeal taken by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from the building inspector under the provisions of Massachusetts General Laws, Chapter 40A and this ordinance or by any person including an officer or board of the City of Peabody or of an abutting municipality aggrieved by an order or decision of the building inspector in violation of any provision of Massachusetts General Laws, Chapter 40A or of this ordinance.
B. ***Variances.*** To hear and decide a petition with respect to particular land or structures for a variance from the terms of this ordinance, where the board specifically finds that owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this ordinance would involve substantial hardship consistent with the provisions of MGL Chapter 40A to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance. The board of appeals may impose conditions, safeguards and limitations in respect to both time and any permitted use, including the continued existence of any particular structures but excluding any condition, safeguard or limitation based upon the continued ownership of the land or structure to which the variance pertains by the applicant, petitioner or any owner. If the rights authorized by a variance are not exercised within one year of the date of the authorization, they shall lapse and may be reestablished only after a new notice and hearing. No variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.

15.6.3 Procedure

A. In the case of every appeal made to the board of appeals and every petition for a variance to said board under the provisions of this ordinance, the board shall hold a public hearing thereon.
B. Notice of the hearing shall be given by publication in a newspaper of general circulation in the city once 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 said notice in the city hall for a period of not less than fourteen (14) days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line including owners of land in another municipality all as they appear on the most recent applicable tax lists, the planning board and the planning board of every abutting municipality. The assessors shall certify to the board the names and addresses of the parties in interest.
C. An appeal from a decision of the building inspector and a petition for a variance shall be filed with

the city clerk who shall forthwith transmit it to the board of appeals. The board shall hold a public hearing within sixty-five (65) days of the receipt of the petition from the city clerk and shall render a decision within seventy-five (75) days from the date of filing.

D. If the board of appeals shall fail to act within seventy-five (75) days of the filing of the appeal or petition, as the case may be, then the appeal or petition shall be deemed approved subject to the following requirements:

1. The petitioner, after the expiration of the aforesaid periods, shall file with the city clerk a copy of the petition and an affidavit stating the date of the public hearing or filing as the case may be, and the failure of the board of appeals to render a decision within the required period.
2. Upon receipt of the petition and affidavit the city clerk shall give notice of the filing to those persons entitled to a notice of the decision under Massachusetts General Laws, Chapter 40A, section 11. The filing of a petition and affidavit in the office of the city clerk shall be deemed the equivalent of the filing of a decision for purposes of the provisions of Massachusetts General Laws, Chapter 40A, sections 11 and 17.
3. If no appeal is taken within the required statutory period, then the city clerk shall furnish the petitioner with a certified copy of the petition and affidavit together with a certificate that no appeal has been filed, all of which shall be recorded in the manner prescribed under Massachusetts General Laws, Chapter 40A, section 11 in lieu of the documents required to be recorded under that section.

15.6.4 Rules

The board of appeals shall adopt rules and procedures not inconsistent with this ordinance and the provisions of General Laws, Chapter 40A for the conduct of its business in deciding on appeals and granting variances and shall file a copy thereof with the city clerk. Such rules shall include provisions for submission of petition in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision, and for notifying the parties at interest including the building inspector and the planning board, as to each decision.

Wherever proceedings under this ordinance require the giving of notice by publication in a newspaper, mailing or service by a civil officer, the costs thereof shall be borne by the applicant. The board of appeals shall require estimated costs to be advanced by the applicant in accordance with provisions in the rules.

15.6.5 Variances from frontage requirements for the subdivision of land not requiring approval under the subdivision control law

A. Any applicant seeking a variance from the lot frontage requirements set forth in this ordinance for lots set forth on a plan where one (1) or more of the lots as shown fail to meet said frontage requirements, and where the applicant intends subsequently to submit said plan to the planning board for an endorsement indicating that approval of said plan under the subdivision control law is not required, Massachusetts General Laws, Chapter 41, Sections 81L, 81P, shall proceed as follows:

1. The applicant shall simultaneously with his application for a variance submit the plan to the planning board for their review and recommendation pertaining to varying the frontage requirements prescribed by this ordinance.

2. The planning board within twenty-one (21) days of presentation may issue a recommendation in writing to the board of appeals.

3. Failure of the planning board to issue a written recommendation within the twenty-one-day period shall be deemed a waiver of the requirements of this section.
4. In the absence of said recommendation, the applicant shall certify in writing under the pains and penalties of perjury that the planning board has failed to issue such a recommendation within the time period set forth in this section.

B. The recommendation of the planning board shall not be binding upon the board of appeals, but said recommendation shall be part of the public record of the hearing.

15.7 CITY COUNCIL

15.7.1 Powers and duties

The city council shall have all the power and perform all of the duties conferred or imposed upon it under Massachusetts General Laws, Chapter 40A, as a special permit granting authority and assigned to it by the provisions of this ordinance as follows:

Special permits: To hear and decide an application for a special permit, as provided in this ordinance, only for uses in specified districts which are in harmony with the general purposes and intent of this ordinance and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards and limitations on time and use. A special permit shall lapse within a two-year period or a shorter period if so specified and if a substantial use thereof has not sooner commenced except for good cause or in the case of a permit for construction if construction has not begun within the period except for good cause.

15.7.2 Rules

The city council acting as the special permit granting authority shall adopt rules and procedures not inconsistent with this ordinance and the provisions of Massachusetts General Laws, Chapter 40A for the conduct of its business in granting a special permit as authorized by Subsection 15.7.1 and shall file a copy thereof with the city clerk. Said rules shall be similar to those required of the board of appeals under Subsection 15.6.4 herein.

15.7.3 Procedures

An application for a special permit shall be submitted to the city council acting as the special permit granting authority for uses designated in Section 4.2 Schedule of Use Regulations and where a special permit is required in other subsections of this ordinance, except that an application for a special permit for a cluster development under Section 7.3 shall be filed with the City Council, designated as the special permit granting authority for cluster developments only. The city council shall be the special permit granting authority for the hillside protection overlay district under Section 7.6. The planning board shall hold a public hearing on the application filed with the city council. Said hearing shall be held within forty-five (45) days of receipt of the application by the planning board, and they shall make a recommendation as they deem appropriate to the city council; provided, however, that if the planning board fails to make recommendations within twenty-one (21) days after their public hearing, the city council shall take their action on the application without benefit of planning board recommendation.

Each application shall be filed with the special permit granting authority designated in paragraph #1 of this section and copies thereof, together with copies of the site plan, shall be transmitted forthwith by petitioner to the city clerk, city council, planning board, conservation commission, community development authority, board of health and department of public services. The special permit granting

authority shall hold a public hearing within sixty-five (65) days of the filing date and shall render a decision within ninety (90) days from the date of the public hearing. Notice of the public hearing shall be in accordance with the requirements of Massachusetts General Law of Chapter 40A, section 11. The city council, planning board, conservation commission, community development authority, board of health, department of public services and other interested officials or departments of the city may, in their discretion, investigate the proposed special permit use and site plan and report in writing recommendations to the special permit granting authority, provided, however, that if such reports and recommendations are not received at the time of public hearing, the special permit granting authority may act without the submission of such reports and recommendations.

Failure to take action within the said ninety (90) day period shall be deemed to be a grant of the special permit applied for subject to the requirement of Massachusetts General Laws Chapter 40A, section 9.

15.8 SEVERABILITY

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

15.9 EFFECTIVE DATE

The effective date of this ordinance or any amendment thereto shall be the date on which the city council adopts such ordinance or amendment by a two-thirds vote.

15.10 AMENDMENT

This ordinance may be amended from time to time by the city council. An amendment may be initiated by the submission to the city council of a proposed change by the city council, the board of appeals, an individual owning land in the city to be affected by the amendment, ten registered voters in the city and the planning board, within fourteen (14) days of the receipt of a proposed change, the city council shall submit it to the planning board. A public hearing shall be held by the planning board within sixty-five (65) days after the proposed change is submitted to the board.

Petitioners other than the city council, board of appeals, or planning board seeking to amend this ordinance by changing the zoning district designation of a particular parcel or parcels shall be required to give notice of the public hearings to "parties in interest" as defined in Massachusetts General Laws Chapter 40A, section 11. The cost of notifying said "parties in interest" shall be borne by the petitioner.

15.11 REPETITIVE PETITIONS

15.11.1 To city council

No proposed change in this ordinance which has been unfavorably acted upon by the city council shall be considered by the city council within two (2) years after the date of such unfavorable action unless adoption of the proposed change has been recommended in the final report of the planning board to the city council.

15.11.2 To board of appeals or special permit granting authority

No appeal or petition for a variance which has been unfavorably and finally acted upon by the board of appeals or no application for a special permit which has been unfavorably and finally acted upon by the special permit granting authority shall be acted favorably upon within two (2) years after the date of final

unfavorable action unless (a) all but one of the members of the planning board consent to a repetition after notice is given to parties in interest of the time and place of the proceedings to consider consent and (b) the board of appeals or special permit granting authority, as the case may be, finds specific and material changes in the conditions upon which the previous unfavorable action were based, describes such changes in its records and similarly consents.

15.12 NONINTERFERENCE

The provisions of this ordinance are not intended to repeal, amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted bylaw, covenants, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance or other regulation, that provision which imposes the greater restriction or the higher standard shall govern.

15.13 CONSTRUCTION HOURS

No construction activities on a building permit shall start prior to or after the hours listed as follows:

Monday through Friday 7:00 a.m. to 6:00 p.m.; Saturdays 9:00 a.m. to 6:00 p.m.; Sundays, Federal and State holiday work shall be requested in writing and shall be approved at the discretion of the Building Commissioner.

AMENDMENTS TO ZONING ORDINANCE.

SECTION 1.5 - AMENDED 12/08/2016
SECTION 1.7 – AMENDED 1/24/2013
SECTION 2 – AMENDED 3/28/2013
AMENDED 09/12/2013
AMENDED 08/27/2015
AMENDED 12/08/2016
AMENDED 03/14/2019
SECTION 3.1 – AMENDED 10/25/2012
AMENDED 08/27/2015
SECTION 3.2 - AMENDED 10/25/2012
AMENDED 3/28/2013
AMENDED 08/27/2015
SECTION 4.2.2 AMENDED 3/28/2013
(See separate use table)
SECTION 4.2.4 AMENDED 3/28/2013
(See separate use table)
SECTION 4.2.5 - AMENDED 10/25/2012
AMENDED 3/28/2013
AMENDED 11/14/2013
AMENDED 03/14/2019
(See separate use table)
SECTION 4.2.6 - AMENDED 10/25/2012
AMENDED 3/28/2013
AMENDED 12/08/2016
(See separate use table)
SECTION 4.2.7 AMENDED 3/28/2013
(See separate use table)
SECTION 5.2.2 AMENDED 12/08/2016
SECTION 6 AMENDED 3/28/2013
SECTION 6.6.8 – AMENDED 10/25/2012
SECTION 6.12 – AMENDED 10/22/2015
SECTION 6.13 – ADDED NEW 06/22/2017
SECTION 6.14 – ADDED NEW 06/22/2017
SECTION 6.14 – AMENDED 06/28/2018
SECTION 6.15 – ADDED 03/14/2019
SECTION 6.16 – ADDED 04/25/19
SECTION 6.16.3 (H) – AMENDED 9/26/2019
SECTION 7 – AMENDED 3/28/2013
AMENDED 12/08/2016
SECTION 7.2 - AMENDED 10/25/2012
AMENDED 3/28/2013 (See separate schedule of dimensional table)
SECTION 7.11 - AMENDED 08/27/2015
SECTION 8.3 – AMENDED 8/23/2012
SECTION 9.2 - AMENDED 09/12/2013
SECTION 9.2.1 – ADDED NEW 06/22/2017
SECTION 9.3 - AMENDED 09/12/2013
SECTION 10 – AMENDED 3/28/2013
SECTION 11.4 - AMENDED 09/12/2013
SECTION 11.5.1 - AMENDED 09/12/2013

SECTION 11.5.2 - AMENDED 09/12/2013
SECTION 11.6.2 - AMENDED 10/25/2012
SECTION 11.6.2 – AMENDED 05/22/2014
SECTION 11.6.2 – AMENDED 12/11/2015
SECTION 11.6.3 - AMENDED 10/25/2012
SECTION 11.6.5 - AMENDED 10/25/2012
SECTION 11.6.6 - AMENDED 10/25/2012
AMENDED 09/12/2013
SECTION 11.6 AMENDED 07/18/17 - REPEALED
SECTION 11.7 - AMENDED 09/12/2013
SECTION 11.8 - AMENDED 09/12/2013
AMENDED 07/18/2017
SECTION 11.9.1 - AMENDED 09/12/2013
SECTION 14.1 - AMENDED 09/12/2013

SECTION 15.2.1 - AMENDED 09/12/2013
SECTION 15.2.2 - AMENDED 09/12/2013
SECTION 15.2.3 - AMENDED 09/12/2013
SECTION 15.2.6 - AMENDED 09/12/2013
SECTION 15.13 – AMENDED 07/18/2017

Section 4: Table 4.2 Schedule of Use Regulations
A = allowed by-right, sp = special permit, blank = prohibited

Uses	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
4.2.1 Residential																		
Single-family dwelling	A	A			A	A	A	A	A					A				
Two-family dwelling		A					A	A	A					A				
Multi-family dwelling								A	A	sp			sp					
Rooming house								sp	sp				sp					
Cluster development/single-family	sp				Sp	sp	sp	sp	sp									
Community garage (10 or fewer spaces)	A				A	A	A	A	A	A			sp					
Mobile home/mobile home park											A							

Uses	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
4.2.2 Agricultural and others																		
Farm for cultivating and harvesting of general crops and for the raising of cattle, horses or poultry on property of more than five acres	A	A			A	A	A	A	A	A		A	A	A			A	A
Commercial greenhouse	sp	sp	sp		Sp	sp	sp	sp	sp			A		sp	A	sp	sp	A
Salesroom or stand for the sale of nursery, garden or farm products			A	A									A					
Removal of earth products	sp	sp			Sp	sp	sp	sp	sp	sp		sp	sp	sp	sp	sp	sp	sp
Mulching/composting operation and/or outdoor storage												sp			sp		sp	

Uses	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
4.2.3 Institutional																		
Church, parish house and other religious facility[1]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Cemetery	sp				Sp	sp	sp	sp	sp			sp	sp					sp
Medical facility	sp		sp	sp	Sp	sp	sp	sp	sp			sp	sp		sp	sp	sp	sp
Nonprofit museum, philanthropic institution or cultural facility		sp	sp	sp			sp	sp	sp	sp	sp	sp	sp	sp	sp			sp
Community center	sp		sp	sp	Sp	sp	sp	sp	sp		sp	sp	sp					sp
Continuing Care Retirement Community								sp	sp	sp		A						A
Assisted Living Facility								sp	sp	sp		A						A
Convalescent Home	sp				sp	sp	sp	sp	sp	sp		A						A
Hospital			sp									sp				sp	sp	sp
Licensed day care center, family day care home, and nursery school or kindergarten[1]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

School for education of children in the elementary through high school grades and other nonprofit educational institutions, licensed by the Mass. Department of Education and/or the Department of Public Health[1]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
College/university, satellite university/college campus, technical or trade school[1]	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Municipal police, fire station, library and any other municipal structure	sp	sp	sp	sp	Sp	sp	sp	sp	sp		sp	sp	sp	sp	sp	sp	sp	sp

[1]Pursuant to MGL Chapter 40A, these uses shall be permitted by-right in all districts and subject to "reasonable regulations" as defined in this statue. See also Section 8.3.10 in this Ordinance

Uses	**Districts**																	
	R-1	**B-N2**	**GB**	**GBD**	**R-1A**	**R-1B**	**R-2**	**R-3**	**R-4**	**R-5**	**MH**	**B-R**	**B-C**	**B-N**	**I-L**	**I-P**	**DDD**	**BR1**
4.2.4 Utilities																		
Electric, gas, or steam generator or storage plant	sp	sp	sp	sp	Sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp
Water treatment, sewerage treatment, sewer pumping station, water pumping station, reservoir	sp	sp	sp	sp	Sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp
Utility transmission line and tower, exchange or regulatory station with no auxiliary storage of material or equipment	sp	sp	sp	sp	Sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp

Uses	**Districts**																	
	R-1	**B-N2**	**GB**	**GBD**	**R-1A**	**R-1B**	**R-2**	**R-3**	**R-4**	**R-5**	**MH**	**B-R**	**B-C**	**B-N**	**I-L**	**I-P**	**DDD**	**BR1**
4.2.5 Business																		
Ambulance service			sp						sp			sp	sp	sp	sp			sp
Limousine, charter service, and taxi		sp	sp									A		sp	A			A
Motel and hotel			sp	sp					sp			A	sp			sp	sp	A
Big box retail or retail facility larger than 50,000 square feet in size												sp				sp	sp	sp
Retail store for packaged alcoholic beverages		sp	sp	sp								sp	sp	sp		sp		sp
Convenience store		sp	sp	sp					A	A		A	A	sp		sp		A
Drive through establishment, other than restaurants		sp	sp	sp								sp	sp	sp	sp		sp	sp
Bakery, retail		sp	sp	sp								sp	sp	sp				
Self Service Storage Facility with Manager Caretaker Quarters												sp						

Uses	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
Retail facility of less than 50,000 square feet in size, including but not limited, to the sale of general merchandise, furniture, food, household goods, dry goods, clothing, hardware, paint, interior decorations, household appliances, books, tobacco, flowers, drugs and antiques including gift shops, department stores, variety stores and newsstands		sp	A	A					A		sp	A	A	sp			sp	A
Personal service establishment, including but not limited to barber shop, beauty shop, shoe repair shop, self-service laundry, retail dry cleaning establishment, tailoring shop, upholstery shop and photographic studio		sp	A	A					A		sp	A	A	sp		sp	sp	A
Commercial dry cleaning establishment and commercial hand laundry, provided only nonflammable solvents are used for cleaning															A	sp	sp	
Business support services including but not limited to actuarial, advertising, copying and printing shops, credit reporting, janitorial, office or business equipment rental or leasing, photofinishing, telecommunications, window cleaning, blueprinting and photocopying, and other such services		sp	A	A					A			A	A	sp	A	A	A	A
Banks and financial institutions		sp	A	A					sp		sp	A	A	sp		sp	A	A
Office for doctors, dentists, engineers and other professionals		sp	A	A					sp			A	A	sp	A	A	A	A
Live/work									sp				sp					
Office and shop for contractors, plumbers, carpenters, electricians, painters, decorators, masons and builders provided all vehicles and materials are stored within a building		sp	A	A								A	sp	sp	A		sp	A
Office and shop for contractors, plumbers, carpenters, electricians, painters, decorators, masons and builders with outdoor storage of vehicles and materials permitted, provided the area so used is surrounded by a six-foot high sight-impervious fence, but is not used for the storage of junk, scrap metal, rags, waste papers and other hazardous materials			sp									sp			sp	sp	sp	
Restaurant without alcoholic beverages		sp	A	A					A			A	A	sp		A	sp	A

Uses	Districts																	
	R-1	**B-N2**	**GB**	**GBD**	**R-1A**	**R-1B**	**R-2**	**R-3**	**R-4**	**R-5**	**MH**	**B-R**	**B-C**	**B-N**	**I-L**	**I-P**	**DDD**	**BR1**
Restaurant with alcoholic beverages		sp	sp	sp								A	A			sp	sp	A
Restaurant with alcoholic beverages offered for sale from a service bar only		sp	sp	sp								A	A			sp	sp	A
Fast food restaurant		sp	sp									sp	sp	sp		sp	sp	sp
Restaurant with drive-through window		sp	sp						sp			sp	sp	sp		sp	sp	sp
Theater and public hall		sp	sp	sp					sp		sp	sp	sp	sp			sp	sp
Outdoor recreation	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	sp	A	sp
Indoor recreation		sp	A	A								A	sp	sp	sp	sp	sp	A
Health club		sp	A	A					sp			A	A	sp		A	sp	A
Funeral establishment	sp	sp	sp		sp	sp	sp	sp	sp		sp	sp	sp	sp				sp
Veterinary establishment with no outside live animals		sp	A	A					sp			A	A	sp	A	A	sp	A
Kennel			sp	sp								sp	sp		sp	sp		sp
Public Garage (greater than 10 spaces)			sp	sp								sp	sp		sp	sp	sp	sp
Automotive sales or rental including sales of tires or other motor vehicle accessories			sp	sp								sp			A	A		sp
Automotive storage of undamaged and operable vehicles limited to parcels of three (3) or more acres of previously undeveloped land. For such purposes, land divided by a public or private way or a waterway shall be construed as one parcel.					sp													
Automotive storage of undamaged and operable vehicles												**sp**			**sp**	**sp**	**sp**	**sp**
Automotive service station			sp	sp								sp		sp	A	A		sp
Automotive repair shop, provided all work is carried on inside a building			sp	sp								sp			sp			sp
Automotive body or paint shop, provided all work is carried on inside a building			sp	sp								sp			sp			sp
Marine / boat sales or rental			sp									sp			sp	sp	sp	sp
Marine / boat repair facility for repair, service, or storage			sp												sp	sp	sp	
Auto washing establishment using mechanical equipment or hand power-washing equipment			sp									sp			sp			sp
Storage warehouse and wholesaling activities			sp									sp			A	A	sp	sp
Storage, self service			sp									A			sp	sp	sp	A
Radio and television broadcasting studios			A	A								A	A		A	sp	sp	A
Reference laboratory to receive tissues and fluids for testing by mail or by other delivery, and not to receive patients			sp	sp								sp			sp	sp	sp	sp
Adult bookstore (see Section 6.5.2)												sp						sp
Adult motion picture theater (see Section 6.5.2)												sp						sp

Uses	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
Adult paraphernalia store, adult video store, establishment which displays live nudity for its patrons (see Section 6.5.2)												sp						sp
Studio, motion picture and television filming															sp	sp	sp	
Charitable retail facilities of less than 12,000 sf in size where such charitable entity is a nonprofit organization with an IRS 501 (c) (3) designation and is engaged in the sale of general merchandise, furniture, household goods, dry goods, clothing, hardware, paint, household appliances, and/or books.															sp			

Uses	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
4.2.6 Industrial																		
Printing, binding, publishing and reproduction establishments and engraving plants			A	A								A	A		A	A	A	A
Electrical laboratories and shops			sp									sp	sp		A	A	A	
Bakery, wholesale			sp												A	A	A	
Brewery, distillery or winery with tasting room			sp	sp								sp	sp		sp	sp	sp	
Food processing, wholesale, provided all work including storage is carried on inside a building			sp												A	A	A	
Glass fabrication and installation			sp	sp											A	A	A	
Research and development			sp	sp											A	A	A	
Machine shop			sp	sp											A	A	A	
Trucking terminal												sp			sp	sp	sp	sp
Manufacturing, light															A	A	A	
Materials testing and research			sp	sp											A	A	A	
Metal fabrication, light			sp	sp											A	A	A	
Molding, shaping of assembly or products for sale from prepared materials															A	A	A	
Monument works and stone cutting, shaping and finishing provided all work is carried on inside a building and there is no outdoor storage or display			sp									Sp			A	A	A	sp
Optical and scientific instruments, jewelry manufacturing			sp	sp								sp			A	A	A	sp
Paint, oil, shellac, turpentine or varnish manufacture															sp	sp	sp	
Recycling and recovery of solid waste materials provided all activities are carried on inside a building															sp	A	A	
Recycling Collection Center															sp	A	A	
Sign painting shop			A	A								A	A		A	A	A	
Truck service and repair provided all work is carried on inside a building and outdoor storage is surrounded by six foot, sight impervious fence.												sp			sp	sp	sp	sp
Wearing apparel fabrication and processing			sp	sp											A	A	A	
Welding shop			sp	sp											A	A	A	
Uses																		
4.2.7 Accessory	Districts																	
	R-1	B-N2	GB	GBD	R-1A	R-1B	R-2	R-3	R-4	R-5	MH	B-R	B-C	B-N	I-L	I-P	DDD	BR1
Family accessory living area, in any single-family dwelling	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Home occupation	A	A	A	A	A	A	A	A	A	A			A	A				
Office within a residence of a physician or other professional with a maximum of two (2) employees	A	A	A	A	A	A	A	A	A	A			A	A				
Renting of rooms to not more than five (5) persons	A	A			A	A	A	A	A					A				

The storage or keeping of not more than one commercial vehicle:																		
Salesrooms and display rooms incidental to permitted uses		A	A	A								A	A	A	A	sp	sp	A

AMENDED 10/25/2012
AMENDED 3/28/2013
AMENDED 11/14/2013
AMENDED 05/12/2016
AMENDED 12/08/2016
AMENDED 03/14/2019

Dimensional Controls

Districts	Minimum Lot Dimensions		Minimum Yard Depths			Maximum Height	Maximum Lot Coverage	Floor Area Ratio	Minimum Buildable Area	
	Area (s.f.)	Frontage (ft.)	Front (ft.)[a]	Side (ft.)	Rear (ft.)	(ft.)		(FAR)	Depth (m) (ft.)	Width (ft.)
R-1										
Single-Family	20,000	125	25	20	35	30	25%	0.6	60	40
R-1A										
Single-Family	15,000	125	20	15	35	30	30%	0.7	60	40
R-1B										
Single-Family	10,000	100	25	20	35	30	30%	0.7	50	35
R-2										
Single-Family	5,000	50	15	10	35	30	35%	0.7	25	35
Two-Family	7,500	50	15	10	35	30	35%	1.0	25	35
R-3										
Multi-Family	10,000 and 750 s.f. per bedroom	60	20	10	35	35	20%	0.6	30	20
R-4										
Multi-Family	30,000 and 750 s.f. per bedroom	75	20	15	35	35	35%	1.6	35	25
R-5										
Multi-Family	20 acres	none	25	25	25	35	35%	1.0	--	--
DDD										
As of Right uses	2 acres		[h]	[h]	[h]	72 (6 stories)	35% - 40%	1.8	--	--
Special Permit Uses	2 acres					72 (6 stories)	35% - 40%	2.0	--	--
MH										
Mobile Homes	3,000 s.f. (14 homes/ acre)	30	15[f]	10[f]	25[f]	20	35%	0.2	--	--
B-R and B-R1										
Regional Business	none	40	50[c]	40[c]	50[c]	40	35%	1.0	**--**	**50**
B-C										
Central Business	none	none	0	0	10	4 stories or 50 feet	none	3.7	--	--
GB										
General Business	5,000 s.f.	50	30	25	25	3 floors/36 ft	none	2.0	--	--
GBD										
Gen. Bus. Downtown	none	none	0	0	10	3 floors/36 ft	none	3.7	--	--
B-N and B-N2										
Neighborhood Business	5,000	50	30[b]	25	50	30	35%	0.8	--	--
I-L										
Light Industry	none	none	50[b]	40	30	40	35%	1.0	--	--
I-P										
Industrial Park	50,000	100	50[b]	40	30	40	35%	1.2	--	--
CCRC										
Continuing Care Retirement Communities	25 acres[j]	none	50[k]	50[k]	50[k]	85	none	--	--	--

Dimensional Controls

AMENDED 3/28/2013

Footnotes to schedule:

(a) In the case of a corner lot, any yard parallel to a street shall be considered a front yard.
(b) In B-H, B-N, G-B, I-L and I-P Districts, the depth of the front yard shall be measured from the property line.
(c) In areas adjacent to a residence district, the minimum yard shall be one hundred (100) feet. This requirement supersedes all other yard and set-back distances affecting the regional-business district.
(f) For individual mobile home parcels. A minimum of 20 feet shall be required between mobile homes, and at least 10 of that 20 feet shall Be landscaped. Furthermore, structures associated with a mobile home park shall not be located within 50 feet of any property line or boundary line of a residence district.
(h) Setbacks for all uses except access include the following:
100 feet from Route 1 and residential abutters;
50 feet from District Access Road R.O.W.; and
30 feet from other property lines.
(i) Setbacks for all uses except access include the following:
100 feet from Route 1 and residential abutters;
40 feet from District Access Road R.O.W.; and
30 feet from other property lines.
(j) Maximum density is 15 independent living units per acre. This calculation shall not include any assisted living units, nursing home units or medical beds, or any other uses that may be contained within the CCRC.
(k) No parking area or vehicular circulation shall be nearer than 20 feet to the any lot line.
(l) For all 100% residential structures, the maximum lot coverage shall be 50%.
(m) At no point between the frontage line and principal structure shall the lot be narrower than seventy-five (75) per cent of the required lot frontage.

AMENDED 3/28/2013